SB 799

Department of Legislative Services

Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 799 (Senator Jones-Rodwell)(Chair, Joint Committee on Pensions)

Budget and Taxation Appropriations

State Retirement and Pension System - Retirees and Beneficiaries of Retirees - Annual Retirement Allowance Adjustments

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This bill precludes annual cost-of-living adjustments (COLAs) for retirees of the State Retirement and Pension System (SRPS) from being less than zero. In years in which COLAs would be less than zero due to a decline in the Consumer Price Index (CPI), retirees will not receive any COLA. COLAs in succeeding years are adjusted until the difference between the negative COLA that would have applied and the zero COLA is fully recovered.

The bill repeals the termination date and other provisions of Chapters 56 and 57 of 2010 that are rendered moot by this bill. It also requires the Maryland State Retirement Agency (SRA) to review the COLA provisions in State pension law for accuracy and clarity and recommend changes to the Joint Committee on Pensions by November 1, 2011.

The bill takes effect July 1, 2011.

Fiscal Summary

State Effect: None. CPI has declined just once in more than 50 years, in 2009, and is not expected to decline within the 5-year period covered by this analysis. Any increase in State pension liabilities and contribution rates in a zero-COLA year will be offset the following year (or in multiple succeeding years) when the actuarial loss is recovered. SRA can handle the bill's reporting requirement with existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Each year, retirement allowances paid to SRPS retirees and beneficiaries are adjusted for inflation. All COLA calculations are based on average annual changes to CPI for all urban consumers, but the amount and type of COLA varies by system. In general, the various statutory COLA provisions do not prohibit a negative adjustment. However, Chapters 56 and 57 of 2010 specified that, if the calculation of the 2010 COLA for retirees and beneficiaries of designated SRPS systems resulted in a negative adjustment, retirement allowances were not to be adjusted for fiscal 2011. They also required, if fiscal 2011 allowances were not adjusted because of a negative COLA calculation, that fiscal 2012 allowances be reduced by the difference between the fiscal 2010 allowances and the allowances that would have been paid in fiscal 2011 if they had been adjusted. They also included a related study and reporting requirement for the SRPS Board of Trustees.

Retirees of the State Police Retirement System (SPRS), the Correctional Officers' Retirement System (CORS), and the Employees' and Teachers' Retirement Systems (ERS/TRS) who are subject to the unlimited COLAs cannot receive an allowance in a given year that is less than their initial allowance. Therefore, retirees of those systems who are in their first year of retirement are protected against a negative COLA because the initial allowance they are receiving in that year cannot be reduced.

COLAs are applied to retiree and beneficiary allowances effective July 1 of each fiscal year based on the average CPI as of December 31 of the previous fiscal year.

State Employees' and Teachers' Pension Systems (EPS/TPS) and the Law Enforcement Officers' Pension System (LEOPS) retirees and beneficiaries receive annual compounded COLAs, subject to a 3% cap. However, EPS/TPS retirees and beneficiaries of the noncontributory (pre-1998) EPS receive simple (noncompounding) COLAs, also subject to a 3% annual cap. Only six participating governmental units, most notably Prince George's County government, participate in noncontributory EPS.

SPRS, CORS, and ERS/TRS retirees and beneficiaries subject to Selection A (*i.e.*, contributed 7% of earnable compensation while active) receive unlimited, compounded COLAs.

ERS/TRS retirees and beneficiaries subject to Selection B (*i.e.*, contributed 5% of earnable compensation while active) receive annual compounded COLAs, subject to a 5% cap. ERS/TRS retirees and beneficiaries subject to Selection C (a bifurcated benefit) receive a two-part COLA. For service credit earned under ERS/TRS, the COLA is unlimited. For service credit earned after choosing Selection C, the COLA is subject to a 3% cap.
Chapter 122 of 1999 increased the retirement allowances of SPRS retirees and beneficiaries of retirees who retired before June 30, 1999, by providing annual lump-sum payments, as follows:

- $1,200 for retirees who had been retired not more than 5 years;
- $1,500 for retirees who had been retired more than 5 but less than 10 years;
- $1,800 for retirees who had been retired more than 10 but less than 15 years; and
- $2,100 for retirees who had been retired more than 15 years.

Retirees and beneficiaries receive an annual unlimited COLA on the annual lump-sum payment in addition to their existing benefit and COLA.

Retirees and beneficiaries of the Legislative Pension Plan and the Judges' Retirement System do not receive automatic COLAs, and they are not affected by this bill. Their benefits are linked to the salaries of active legislators and judges, respectively. Therefore, their benefits increase whenever salaries for active members are raised.

Background: Automatic annual COLAs for SRPS members based on CPI date back to 1971 with the enactment of Chapter 424, and CPI had never been negative since that time until December 2009. Specifically, the average CPI index was 214.5 for 2009, compared with 215.3 for 2008. This was the first decline in CPI on an annual basis since 1954. **Exhibit 1** shows the annual percentage changes in CPI since 2000. As the exhibit shows, CPI has exceeded 3% in 4 of the last 11 years, but has not exceeded 5% in any of those years.

Exhibit 1
Annual Percentage Changes in CPI for All Urban Consumers
Calendar 2000-2010

Year	% Annual Change
2000	3.4%
2001	2.8%
2002	1.6%
2003	2.3%
2004	2.7%
2005	3.4%
2006	3.2%
2007	2.85%
2008	3.8%
2009	-0.4%
2010	1.6%

Source: U.S. Bureau of Labor Statistics; Maryland State Retirement Agency

Due to an increase in CPI for calendar 2010, the COLA for fiscal 2012 will be 1.640%. However, for retirees who received a zero COLA in fiscal 2011, the fiscal 2012 COLA will be reduced by the amount of the difference between the zero COLA they received and the negative COLA they would have otherwise received (-0.356%). Therefore, their fiscal 2012 COLAs will be 1.284%.

In response to the reporting requirement in Chapters 56 and 57, SRPS asked the National Association of State Retirement Administrators to survey state pension plans to determine how they addressed the negative CPI in 2009; 27 systems responded to the survey. Of those, 16 indicated that their statutes already precluded a negative COLA for their retirees. Four systems "bank" COLAs, so any portion of a COLA that is not paid in one year (*i.e.*, if CPI exceeds a statutory cap) is "banked" and can be paid in succeeding years when CPI does not exceed the cap. This provision gave these systems the flexibility to offset the negative COLA with banked amounts. Three systems sought legislative remedies, with Virginia following the same approach as Maryland by enacting a temporary fix that mirrored Maryland's approach. Maine and New Mexico enacted permanent changes that preclude the application of negative COLAs; Maine's statute requires that no additional COLAs can be paid until the actuarial loss from not applying a negative COLA is recouped. Vermont allowed the negative COLA to be applied in 2010 but enacted legislation prohibiting future applications of negative COLAs. Other states, including the neighboring states of Delaware, West Virginia, and Pennsylvania, award COLAs only on an *ad hoc* basis through legislative or board initiatives.

Exhibit 2 shows the number of retirees and beneficiaries in each of the State's major employee pension and retirement plans and their average monthly benefit in fiscal 2009.

Exhibit 2
SRPS Retirees and Beneficiaries
June 30, 2010

Plan	Retirees and Beneficiaries	Average Monthly Benefit
TRS	30,271	$2,630
TPS	27,268	1,483
ERS (includes CORS)	23,475	1,557
EPS	35,418	940
SPRS	2,282	3,517
LEOPS	1,182	2,541

Source: State Retirement and Pension System

Additional Information

Prior Introductions: None.

Cross File: HB 727 (Delegate Griffith)(Chair, Joint Committee on Pensions) - Appropriations.

Information Source(s): Maryland State Retirement Agency, Department of Legislative Services

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ncs/rhh

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