Department of Legislative Services

Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1261 (Baltimore City Delegation, *et al.*)
Appropriations Finance

Baltimore City - Representation of Child Support Enforcement Administration - Transfer of Employees

This bill expresses the intent of the General Assembly that 12 positions be created within the Department of Human Resources (DHR) in fiscal 2013. If any of the 12 employees of the Office of the State's Attorney for Baltimore City who will no longer be providing legal support to the Child Support Enforcement Administration (CSEA) in the city are appointed to continue providing services to CSEA as a State employee on or after October 1, 2012, the bill specifies the terms under which the employees may transfer service credit from employment with Baltimore City to the State Personnel Management System (SPMS), the Employees' Pension System (EPS), and the State Employee and Retiree Health and Welfare Benefits Program.

Fiscal Summary

State Effect: General fund expenditures increase by $354,000 and federal fund expenditures increase by $687,100 in FY 2013 to establish 12.2 full-time equivalent (FTE) positions; $1,024,200 of that amount is already included in the FY 2013 State budget for DHR, resulting in a net increase of $17,000 in the first year. Future years reflect annualization. State pension and retiree health liabilities increase slightly, but there is no discernible effect on State pension contribution rates and no effect on current State payments for employee or retiree health benefits.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Revenues	$0	$0	$0	$0	$0
GF Expenditure	354,000	450,500	481,000	502,800	525,600
FF Expenditure	687,100	874,500	933,700	976,100	1,020,400
Net Effect	($1,041,100)	($1,325,000)	($1,414,700)	($1,478,900)	($1,546,000)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: No effect on Baltimore City finances.

Small Business Effect: None.

Analysis

Bill Summary: A current employee of the Office of the State's Attorney for Baltimore City who is appointed to one of the positions in DHR under the bill:

- must be placed in a comparable position within SPMS;
- may not receive a diminution in compensation solely due to the fact that the State's Attorney's Office is no longer providing legal support to CSEA;
- must be credited with the years of service for employment with Baltimore City for the purposes of seniority within SPMS;
- retains annual and sick leave credit earned with Baltimore City, even if it is in excess of the amount allowed by SPMS, unless the employee first retires from the Baltimore City Employees' Retirement System (BCERS);
- is credited with years of service with Baltimore City with regard to eligibility for retiree health benefits under the State health plan, unless the individual retires from BCERS; and
- may transfer service credit from BCERS to EPS in accordance with Title 37 of the State Personnel and Pensions Article. Individuals who joined BCERS prior to July 1, 2011, become members of the Alternate Contributory Pension Selection (ACPS) within EPS, and individuals who joined BCERS on or after that date become members of the Reformed Contributory Pension Benefit (RCPB) within EPS.

A current employee who is eligible to retire from BCERS may do so prior to being employed by the State. Such an employee may become a member of EPS as of the date of employment with the State, does not receive a transfer of service credit, and may not carry over any accumulated sick leave or annual leave to SPMS.

Current Law:

Pension Transfers

In general, an employee may transfer service credit from a State or local retirement or pension system to another State or local system if (1) both systems are operated on an actuarial basis; and (2) contributions under each system are computed to be sufficient to cover the benefits that are accrued during employment. Title 37 of the State Personnel and Pensions Article governs transfers of service credit among systems. It establishes different requirements based on the characteristics of the former (or "old") system and the current (or "new") system into which the credit is being transferred. It allows transfers for a member who, without incurring a break in employment (defined as more than 30 days) accepts employment in a position that requires the individual to participate in a new system and does not allow the individual to accrue benefits in the old system. An application for service credit transfer must be completed within one year of becoming a member of a new system, subject to appeal procedures established in statute.

In the case of a transfer from a noncontributory system to a contributory system, the contributory system must, at the time of retirement, reduce the benefit paid to the member by the actuarial equivalent of the member contributions that the member would have paid if the individual had earned the "old" credit while a member of the "new" contributory system. The benefit reduction also includes regular interest that would have been earned on the foregone member contributions. Regular interest is defined in statute as interest payable on accumulated contributions.

For an individual who retires within five years of transferring into a new system, the benefits paid for transferred service credit cannot be greater than the benefits that would have been paid by the old system.

Retiree Health Benefits

State employees hired before July 1, 2011, are eligible to retain the same health care coverage they had when they were active employees if they satisfy any of the following criteria:

- retire directly from State employment with a State retirement allowance and at least 5 years of creditable service;
- leave State employment with at least 16 years of creditable service;
- leave State employment with at least 10 years of creditable service and within 5 years of the age at which a vested retirement allowance would begin; or
- retire directly from State employment with a State disability retirement allowance.

The State subsidizes up to 80% of the health insurance premiums paid by retirees for themselves and their spouses (the maximum premium subsidy is 75% for prescription drug benefits). Retirees with at least 16 years of service qualify for the full subsidy; retirees with between 5 and 16 years earn a pro-rated subsidy. Retirees of the Optional Retirement Plan (primarily university and community college faculty) must have 25 years of service in order to earn a full subsidy for their spouses.

Eligibility criteria for retiree health benefits are more stringent for State employees hired on or after July 1, 2011. Key differences include needing to have at least 10 years of creditable service (instead of 5) if retiring directly from State service, and needing 25 years of service (instead of 16) to earn the full State premium subsidy.

Background: Since the 1970s, the Office of the State's Attorney for Baltimore City has provided legal support to CSEA under an ongoing agreement authorized by statute. The office has notified CSEA, however, that it will no longer provide legal support beyond September 30, 2012, when the current agreement expires. The office determined that providing legal support to CSEA was not part of its core function because it entailed civil enforcement rather than criminal prosecution.

The fiscal 2013 State budget includes 12.2 FTE new regular positions (and associated benefits) in DHR to accommodate the transfer of the 12 individuals from the State's Attorney Office.

BCERS is noncontributory for any member hired on or after July 1, 1979. Members are eligible for a normal service retirement at age 65 with five years of service or after 30 years regardless of age. The benefit multiplier is 1.60% for each year of service up to 30, plus 0.25% for each year of service up to 30 for compensation that exceeds covered compensation. The multiplier is 1.85% for each year of service that exceeds 30.

From January 1, 1980, when it was established, until June 30, 1998, EPS was noncontributory for most members. Under ACPS, the member contribution rate was 2% of earnable compensation from July 1998 through June 2006. It then increased by one percentage point annually until it reached 5%. As of July 1, 2011, when RCPB was established, all EPS members pay a member contribution of 7% of earnable compensation, but vesting, eligibility, and benefits under EPS differ for ACPS members hired before July 1, 2011, and those hired on or after that date, who became members of RCPB. **Exhibit 1** summarizes the benefits provided under the plans.

Exhibit 1
EPS Plan Characteristics Based on Date of Hire

	ACPS (Before July 1, 2011)	RCPB (On or After July 1, 2011)
Member Contribution	7% of earnable compensation	
Vesting	5 years	10 years
Retirement Eligibility	Age 62 with 5 years of service, or any age with 30 years of service	Age 62 with 10 years of service, or age plus years of service adding to 90
Average Final Compensation	3 highest consecutive years	5 highest consecutive years
Benefit Multiplier	1.2% for service credit prior to 1998; 1.8% for service credit after 1998	1.5%

Source: Department of Legislative Services

State Fiscal Effect: DHR projects that salaries, benefits, and direct costs in fiscal 2013 for the 12.2 FTE new positions cost $1,024,174, which accounts for the October 1, 2012 effective date of the bill. That amount is already included in the fiscal 2013 budget. Including the direct costs, the total cost of the new positions is estimated to be $1,041,128, resulting in a net increase of $16,954 over the budgeted amount.

Costs for child support enforcement are allocated approximately two-thirds federal funds and one-third general funds. Under the current arrangement with the Baltimore City State's Attorney, Baltimore City covers the nonfederal portion of the cost of enforcement, with the two-thirds federal share flowing through the State budget to the city, contingent on the city paying its share. Although federal funds were included in the budget to reimburse the State's Attorney for child support enforcement activities, those funds would not be available to cover the cost of the new positions in DHR because they are contingent on the expenditure of city funds. Therefore, they are not reflected in this analysis. Instead, a separate allocation that is also in the State budget specifically for the new positions in DHR is reflected in the analysis.

The remainder of this analysis assumes that all 12 State's Attorney employees become employed with DHR. To the extent that some employees may retire first from BCERS (if eligible), and others may elect not to transfer BCERS service credit to EPS to avoid having their benefits reduced at the time of retirement, the number of affected employees may be fewer than 12. In that case, the resulting increase in pension and retiree health liabilities may also be lower.

The pension transfer provisions in the bill are consistent with current law, so there is no increase in State pension liabilities from any transfer of accrued credit; former State's Attorney employees who elect to transfer credit from BCERS to EPS will have their retirement benefits reduced by the actuarial equivalent of the contributions they would have made to EPS from 1998 to the present, when EPS was a contributory system. They will also have to wait five years to retire to earn EPS benefits. However, going forward, individuals who joined BCERS before July 1, 2011, and who transfer credit to EPS will earn the higher ACPS benefits instead of the RCPB benefits available to new hires as of that date. Given the small number of affected individuals, this will slightly increase State pension liabilities, but it will not have a discernible effect on State pension contribution rates.

Similarly, former State's Attorney employees who do not first retire from BCERS will accrue retiree health benefits from the State under the pre-2011 rules. Again, given the small number of individuals involved, this will slightly increase the State's accrued retiree health liabilities; as the State is not currently funding those accrued liabilities, there is no effect on current State payments.

Additional Comments: The bill references 11 attorney positions and 1 clerical supervisor, for a total of 12 individuals from the State's Attorney's Office who are affected by the bill; the State's Attorney's Office has confirmed that only 12 individuals are expected to be employed by DHR. However, the budget includes 12.2 FTE positions consisting of 12 attorneys (including 2 at 0.6 FTE each) and 1 clerical position, for a total of 13 individuals. To the extent that the number of individuals transferring from the State's Attorney's Office to DHR exceeds the 12 who are authorized by the bill, at least 1 individual may not benefit from the protections offered by the bill. Regardless, this analysis reflects all funds included in the budget for the 12.2 FTE positions.

Additional Information

Prior Introductions: None.

Cross File: SB 894 (Senator Jones-Rodwell) - Finance.

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

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ncs/ljm	Revised - House Third Reader - April 7, 2012
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