HB 1437

Department of Legislative Services

Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 1437 (Delegate Clagett)
Appropriations

State Operating Budget - State Prescription Drug Program Subsidy - Lump Sum Payment

This emergency bill authorizes the State to enter into a contract with a provider of a computerized actuarial method to convert future retiree drug subsidy (RDS) payments to the State under the federal Medicare program into a lump sum payment that complies with federal law and applicable accounting standards. The lump sum payment must be deposited into the general fund.

Fiscal Summary

State Effect: No direct effect on State finances as the bill is authorizing in nature. To the extent that the Secretary of Budget and Management exercises the bill's authority, general fund revenues decrease by approximately $23.0 million annually through FY 2019. General fund revenues increase on a one-time basis due to the payment of a lump sum amount by the vendor; the amount and timing of the payment depends entirely on the assumptions used by the vendor to calculate the present value of the State's future income stream from RDS payments.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The provider must determine the value of future payments from any subsidy provided under the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003 or similar federal subsidy received as a result of the State's prescription drug program for Medicare-eligible retirees. The contractual agreement with the provider must require that the Secretary of Budget and Management (1) complete a notice of assignment of future payments required by federal law; and (2) submit the notice of assignment to the Centers for Medicare and Medicaid Services.

Current Law/Background: The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 established a voluntary prescription drug benefits plan as Medicare Part D. In an attempt to encourage group health plans to maintain existing prescription drug coverage, Part D provides a per-employee subsidy to plans that provide a prescription drug benefit to Medicare-eligible retirees that is at least actuarially equivalent to the benefit provided by Part D. The State's subsidy payments from Part D have consistently been between $20 million and $25 million on an annualized basis since the program's inception. DBM advises that the fiscal 2012 subsidy payment is approximately $23 million.

Chapter 466 of 2004 established the Postretirement Health Benefits Trust Fund to assist the State in financing the retiree health insurance subsidy paid by the State. The fund is a tax-exempt trust in accordance with § 115 of the Internal Revenue Code. Beginning in fiscal 2006, any subsidy received by the State that is provided to employers as a result of the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003 or other similar federal subsidy was to be deposited into the fund. However, Chapter 444 of 2005 (the Budget Reconciliation and Financing Act) diverted the Medicare Part D subsidy from the fund to pay for employee and retiree health premiums in fiscal 2006 and 2007. Chapter 355 of 2007 authorized the transfer of funds from the trust fund to the Department of Budget and Management to assist in defraying the current costs of retiree health care costs beginning in fiscal 2009.

Proceeds from the Medicare Part D federal subsidy were restored to the Postretirement Health Benefits Trust Fund beginning in fiscal 2008. However, Chapter 487 of 2009 redirected the federal Medicare Part D employer subsidy from the Postretirement Health Benefits Trust Fund to the State Employee Health and Welfare Benefits Fund, a special fund from which State employee and retiree health insurance costs are paid, for three years beginning in fiscal 2010.

Chapter 397 of 2011 (the Budget Reconciliation and Financing Act) redirected the fiscal 2012 payment from the fund to the general fund, and it required that all future RDS payments be deposited in the general fund. Chapter 397 also requires the State to discontinue prescription drug benefits for Medicare-eligible retirees beginning in fiscal 2020, which would result in the termination of RDS payments from Medicare.

Additional Comments: Legislative Services advises that it is not clear whether the State would receive fair value for giving up its future income stream from RDS payments.

Such contracts are typically subject to auction bidding under State procurement law, which enhances the State's position with respect to receiving the most advantageous deal from a vendor. However, given the bill's narrow scope, auction bidding may not be feasible, which diminishes the likelihood that the State would receive favorable terms in the calculation of the present value of future income.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Budget and Management, Department of Legislative Services

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ncs/rhh

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