SB 1051

Department of Legislative Services

Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 1051 (Senator Rosapepe)
Budget and Taxation

Maryland Private Sector Employees Pension Plan and Trust

This bill establishes the Maryland Private Sector Employees Pension Trust and Pension Plan to provide a retirement savings plan to employees of private-sector employers. Before the program begins operation, the trust and pension plan must obtain any necessary approvals, rulings, opinions, and confirmations from federal authorities, including the Internal Revenue Service, U.S. Department of Labor, and the Securities and Exchange Commission. A workgroup is established to study the feasibility of implementing the plan created by the bill and to make recommendations to the Governor and General Assembly by December 31, 2013.

The bill takes effect July 1, 2013; authorization for the workgroup terminates June 30, 2015.

Fiscal Summary

State Effect: General fund expenditures by the Department of Legislative Services (DLS) increase on a one-time basis by $200,000 in FY 2014 for third-party consulting services to assist the workgroup established by the bill. Other affected agencies can participate on the board and the workgroup with existing budgeted resources. No effect on revenues.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Revenues	$0	$0	$0	$0	$0
GF Expenditure	200,000	0	0	0	0
Net Effect	($200,000)	$0	$0	$0	$0

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

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Pension Plan and Trust

The bill establishes a board to oversee and manage the trust and pension plan. The board is authorized to employ a staff and hire consultants and other professionals as necessary, with all of its operating expenses to be paid with money collected by or for the trust or pension plan.

The board is charged with various responsibilities related to implementing employer and employee participation in the pension plan, including establishing (1) a process and amount for employee contributions to the trust; (2) a process and recommended amount for voluntary employer contributions to the trust on behalf of employees; (3) retirement eligibility criteria and the benefits to be paid at retirement; and (4) other related responsibilities. The board is authorized to consult with the Board of Trustees of the State Retirement and Pension System for guidance.

The pension plan must be audited annually in accordance with generally accepted auditing principles by an independent certified public accountant selected by the board.

The trust may be used only to (1) hold accumulated employee and (if applicable) employer contributions; (2) purchase deferred annuities for plan participants; and (3) pay administrative costs of the pension plan. Annuities purchased by the plan must provide a lifetime guaranteed stream of income to employees upon their retirement.

Plan Participation

Employers eligible to participate in the pension plan are those that are engaged in a for-profit or nonprofit business, industry, profession, trade, or any other enterprise in the State. The federal government, State, or any local governments are not eligible to participate in the plan.

Once the pension plan is open to participation, each eligible employer may elect to participate by establishing a payroll deduction arrangement to allow direct employee contributions to be made to the pension plan. If an employer elects to participate, each employee is automatically enrolled in the plan unless the employee opts out; a decision to opt out is not permanent and may be reversed, subject to authorization by the employer.

An employee who participates, however, may elect to make smaller contributions to the plan than those set by the board and may terminate participation at any time.

An employee who separates from employment with a participating employer may continue to participate in the plan, but the employer may no longer make voluntary contributions on behalf of the employee.

State Liability

The bill does not create or authorize any obligation of the State to provide any guarantee of investment return or any other guaranteed benefit for plan participants. Assets of the trust or plan are not assets of the State, and debts or obligations of the plan or trust are not considered debts or obligations of the State. The State cannot pledge its faith, credit, or taxing power to the payment of any debts or obligations of the trust or plan.

Workgroup

The workgroup must study the feasibility of implementing the plan created by the bill, including (1) authorizing employees to make contributions to a private trust through a payroll deduction; (2) authorizing contributions to be used to purchase deferred annuities; and (3) any other alternatives that may be used to provide a guaranteed stream of retirement income.

DLS must staff the workgroup. Members of the workgroup are not entitled to compensation but may be reimbursed for their expenses.

Current Law/Background: There is no State program that provides retirement benefits to private-sector employees. The State Retirement and Pension System provides defined benefit (DB) pension plans to all State employees as a condition of their employment; plan participation is also available to local participating governmental units at the employer's discretion. The Maryland Supplemental Retirement Plans provides voluntary tax-preferred defined contribution (DC) plans to State employees. Neither program is available to private-sector employees.

Beginning in the 1980s and accelerating through the 1990s, workers' access to DB pension plans dropped considerably. According to the Center for Retirement Research (CRR) at Boston College, the share of employees with at least a DB pension plan dropped from 88% in 1983 to just 32% in 2010. The trend was most pronounced in the private sector, as most public employers have retained their DB plans. In most cases, DB plans were replaced by DC plans, with coverage from DC plans growing from 38% in 1983 to 81% in 2010 (these figures include workers covered by both types of plans).

DC plans place both the investment risk and the burden to contribute enough money on the employee rather than the employer, and research concludes that the current generation that is approaching retirement has not set aside sufficient resources to provide a comfortable and secure retirement. CRR's National Retirement Risk Index, which measures the percent of households at risk for falling more than 10% below the amount they need for a secure retirement, has been steadily rising since 1992. Most recently, the index rose from 44% in 2007, just before the Great Recession, to 53% in 2010. This is the first time that the index has shown that more than one-half of all Americans are at risk of outliving their retirement savings.

In the private sector, the lack of retirement savings stems in part from both lack of access and from low participation rates for DC plans. According to the U.S. Department of Labor, only 65% of private-sector employees have access to either a DB or DC plan sponsored by their employer. Among the relatively low number (19%) with access to a DB plan, 89% participate. However, among those with access to a DC plan (59%), only 70% participate. Even among those that do participate in a DC plan, however, there is no guarantee that they contribute sufficient savings during their working years to ensure a secure retirement (and the research has shown that they do not).

In 2012, California enacted Chapter 734, the California Secure Choice Retirement Savings Trust Act to make available a retirement savings plan to private-sector employers and their employees. Implementation of the California law is contingent on a market analysis concluding that the program can be self-sustaining; the market analysis has not yet been conducted. A fiscal analysis concluded that initial start-up costs could be as high as $1.0 million to conduct the analysis and obtain necessary IRS approvals. It further concluded that initial annual operating expenses could be as high as $10.0 million, which would ultimately be recouped from program assets, assuming sufficient participation. As a point of reference, the annual operating budget for the Maryland State Retirement Agency (SRA) is approximately $25.0 million.

State Fiscal Effect: The bill specifies that all operating costs for the trust and program must come from trust assets. Therefore, aside from the workgroup, the State has no direct fiscal responsibility for implementing the bill's provisions.

DLS can provide staff to the workgroup with existing resources. However, DLS will need to retain the services of a human resources/actuarial consulting firm to advise it and the workgroup on issues related to implementing deferred annuities, including appropriate employee and employer contributions, the structure of annuity payments, and related legal and financial advice. Therefore, general fund expenditures by DLS increase on a one-time basis by $200,000 in fiscal 2014 to retain an outside consulting firm to advise the workgroup.

Small Business Effect: The bill does not mandate employer participation but does provide private employers with the option of offering, through a payroll deduction arrangement, a retirement savings option to their employees. Employers also have the option of making contributions on behalf of their employees.

Additional Comments: The Department of Legislative Services advises that, based on the provisions in the bill, it is unlikely that the pension plan will be available to employers before fiscal 2016, and possibly later. No work on the plan can likely begin until after the workgroup issues its report in December 2013. Then, obtaining the necessary approvals and confirmations from federal agencies can typically take at least two years. In the absence of State start-up funds, which are not provided for in the bill, the plan must obtain those funds from private or nonprofit sources and then secure the participation of a substantial number of employers before it can effectively operate.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Business and Economic Development, Boston College, U.S. Department of Labor, Department of Legislative Services

Fiscal Note History: First Reader - March 20, 2013
ncs/rhh

Analysis by: Michael C. Rubenstein

Direct Inquiries to:
(410) 946-5510
(301) 970-5510