

**Department of Legislative Services**  
Maryland General Assembly  
2013 Session

**FISCAL AND POLICY NOTE**

Senate Bill 137 (Senator Manno)  
Budget and Taxation

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**State Government - Death of Account Holder - Distribution of Account Balance**

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This bill requires a State government unit with which an individual has an account, in the event the surviving spouse of the account holder submits a request, to (1) refund any balance in the account to the surviving spouse; (2) transfer any balance in the account to an existing account held by the surviving spouse; or (3) transfer the account to the name of the surviving spouse. The unit must distribute the account balance to the surviving spouse in one of the ways specified within 90 days after the request is submitted. A unit may require proof that the individual is the surviving spouse of an account holder before distributing the account balance. "Unit" means a department, agency, board, office, or other body in State government.

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**Fiscal Summary**

**State Effect:** General fund revenues decrease to the extent the bill's provisions cause property of a deceased individual to be distributed to the surviving spouse where the property otherwise would have been subject to inheritance and/or estate tax. Other potential impacts of the bill include (1) increased nonbudgeted expenditures and decreased nonbudgeted revenues for the College Savings Plans of Maryland to the extent the bill applies to accounts held under the plans; (2) larger State contributions to the State Retirement and Pension System to the extent the bill requires employee retirement contributions to be refunded that otherwise would not have been; and (3) increased special fund expenditures from the Uninsured Employers' Fund to the extent the bill applies to a workers' compensation award. The full impact of the bill, however, cannot be quantified.

**Local Effect:** Local government expenditures may increase for the approximately 120 participating governmental units in the State Retirement and Pension System to make larger contributions to the system.

**Small Business Effect:** None.

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## Analysis

### Current Law:

#### *Disposition of Property, Authorizations, or Benefits Provided or Held by State Government upon an Individual's Death*

There are a number of provisions under the Maryland Code that govern the disposition of certain authorizations or benefits provided by State government upon an individual's death, such as licenses, retirement, or death benefits. However, it does not appear that there are any broad provisions similar to the bill's provisions governing the disposition, when an individual dies, of any "account" the individual may hold with a State government unit.

#### *Distribution of Property Upon Death – In General*

Upon an individual's death, his or her property is distributed pursuant to the estates of decedents law, with the exception of property that passes to another person by the terms of the instrument under which it is held, or by operation of law. Property subject to the estates of decedents law passes directly to the personal representative, who holds the legal title of the property for administration and distribution.

**State Fiscal Effect:** General fund revenues decrease to the extent the bill's provisions cause property of a deceased individual to be distributed to the surviving spouse where the property otherwise would have been subject to inheritance and/or estate tax. The bill could also have varying impacts on agencies with which individuals have "accounts," ranging from impacts that could be handled with existing resources to more significant impacts.

#### *Estate and Inheritance Tax Revenue*

Property passing from a decedent to the surviving spouse is exempt from inheritance tax and property passing to the surviving spouse can be claimed under the marital deduction against the estate tax. Therefore, general fund revenues decrease to the extent the bill's provisions cause property held in an account of a deceased individual to be distributed to the surviving spouse where the property otherwise would have been subject to inheritance tax and/or part of the taxable estate for purposes of the estate tax. The extent of any general fund revenue decrease, however, cannot be quantified.

### *Impact on State Government Units*

Because the bill does not define “account,” it appears it could potentially apply not only to what most would consider “accounts” – such as a college savings plan account, a prison inmate financial account, or an E-ZPass account – but also to other circumstances such as tax refunds, unclaimed property, retirement benefits, and workers’ compensation awards. Based on responses from various agencies, it appears the bill can be implemented without a significant fiscal impact in at least some cases. The Department of Public Safety and Correctional Services (prison inmate financial accounts) and the Maryland Department of Transportation (*e.g.*, E-ZPass accounts), for example, both indicate that the bill can be implemented with existing resources. The Comptroller’s Office indicates that application of the bill to taxpayer accounts and unclaimed property would have limited impact on operations and revenues.

For other agencies, however, implementation may result in significant additional administrative costs and/or funding being distributed upon an individual’s death. The College Savings Plans of Maryland, for example, manages two college savings plans, the Maryland Prepaid College Trust and the Maryland College Investment Plan. There is a trust established for each plan and a participant holds an account in the plan in which they participate. The contract of an account holder allows the account holder to designate a successor in the event of the account holder’s death or incapacitation. Between the two plans, the College Savings Plans of Maryland manages over 200,000 accounts and \$2.7 billion of invested funds.

To the extent the bill applies to accounts in the plans, the agency’s nonbudgeted expenditures (paid for with fee revenues received from plan participants) could increase by \$500,000 in fiscal 2014 for:

- modification of records administration software to collect and maintain spousal information; and
- temporary staff and expenses to manage inquiries and records administration and to provide legal support associated with the change in policy.

The change in policy might also reduce participation in the plans to the extent an account holder or prospective account holder wants more flexibility to determine the disposition of an account upon his or her death, which could reduce nonbudgeted fee revenues. Further, the bill’s requirement that a distribution be made within 90 days could create a conflict with contracts under the Maryland Prepaid College Trust which retain the right of the College Savings Plans of Maryland Board to delay a refund for up to one year to preserve the actuarial soundness of the trust.

Aside from administrative costs an agency may incur to implement the bill, it is possible that the bill could cause funds that otherwise would not be paid out upon an individual's death to be distributed to a surviving spouse. State retirement benefits, for example, provide benefits to a deceased individual's survivors in some cases, but not in others. A retiree may choose a basic allowance, which provides the maximum benefit during the individual's retirement but no survivor benefits upon the individual's death, whereas other options provide reduced benefits during retirement, but provide for survivor benefits. The State Retirement Agency indicates that to the extent the agency is required to refund employee retirement contributions that would not otherwise have been paid, there is a corresponding decrease in the State Retirement and Pension System's assets, requiring larger contributions from the State and other participating employers. The extent of any impact, however, cannot be quantified due to the unavailability of data.

Special fund expenditures could also increase for the Uninsured Employers' Fund, which pays workers' compensation to claimants who have not been properly compensated by an employer, to the extent an individual's workers' compensation award is considered an "account." The right to compensation in certain cases can survive a person's death due to an unrelated cause and be paid to surviving dependents (with dependency determined by the Workers' Compensation Commission), a surviving spouse the individual had a legal obligation to support, and/or minor children of the individual. The bill may require payments to be made to a surviving spouse where the right to compensation would not otherwise survive if there were no surviving dependent or minor children and no legal obligation to support the surviving spouse. The extent of any such additional special fund expenditures cannot be quantified. Currently, the Uninsured Employers' Fund issues over \$35,000 in benefit payments to injured workers on a bi-weekly basis.

Given the bill's broad applicability to all State government units and the potentially broad interpretation of the term "account," the above examples may only represent a portion of the potential impact of the bill on State government units.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Comptroller's Office; Department of Public Safety and Correctional Services; Maryland Department of Transportation; College Savings Plans of Maryland; State Retirement Agency; Office of the Attorney General; Department of Budget and Management; Maryland Supplemental Retirement Plans; Uninsured Employers' Fund; Subsequent Injury Fund; Maryland Department of Agriculture;

Department of Health and Mental Hygiene; Maryland Automobile Insurance Fund; Board of Public Works; Department of Labor, Licensing, and Regulation; State Department of Assessments and Taxation; Department of Human Resources; University System of Maryland; Register of Wills; Maryland Energy Administration; Department of General Services; Department of Natural Resources; Department of Housing and Community Development; Department of Business and Economic Development; Treasurer's Office; Judiciary (Administrative Office of the Courts); Maryland State Bar Association (Estate and Trust Law Section); Department of Legislative Services

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