

Department of Legislative Services  
 Maryland General Assembly  
 2015 Session

FISCAL AND POLICY NOTE  
 Revised

House Bill 694  
 Appropriations

(Delegate Jackson, *et al.*)

Budget and Taxation

Law Enforcement Officers' Pension System - Division of Parole and Probation -  
 Warrant Apprehension Unit Employees - Membership

This bill requires that employees of the Warrant Apprehension Unit (WAU) in the Department of Public Safety and Correctional Services (DPSCS) who have the powers granted by statute to a peace officer or police officer are members of the Law Enforcement Officers' Pension System (LEOPS) as a condition of their employment. It also gives current WAU employees who have the powers of a peace officer or police officer six months to elect to transfer to LEOPS and sets forth conditions for those transfers.

The bill takes effect July 1, 2015.

Fiscal Summary

**State Effect:** State pension liabilities decrease by \$200,000, and normal cost payments increase by \$100,000. Amortizing the liability decrease and adding the full normal cost increase results in a net increase in State pension contributions of \$94,000 in FY 2018, increasing thereafter according to actuarial assumptions. It is assumed that those expenditures are allocated 60% general funds, 20% special funds, and 20% federal funds. No effect on revenues.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	0	56,400	58,200	59,400
SF Expenditure	0	0	18,800	19,400	19,800
FF Expenditure	0	0	18,800	19,400	19,800
Net Effect	\$0	\$0	(\$94,000)	(\$97,000)	(\$99,000)

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

**Local Effect:** None.

**Small Business Effect:** None.

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## **Analysis**

**Bill Summary:** For every WAU employee who elects to transfer to LEOPS, the Board of Trustees of the State Retirement and Pension System must transfer to LEOPS any employer contributions made on behalf of the employee to the Employees' Pension System (EPS). In addition, the employee must pay to LEOPS the member contribution rate in effect for each year the member is transferring service credit, plus 5% annual interest, reduced by the amount of a member's accumulated contributions transferred from EPS to LEOPS.

### **Current Law:**

#### *LEOPS*

Membership in LEOPS is a condition of employment for 21 classifications of law enforcement officers employed by the State, as specified in statute. LEOPS members pay contributions of 7% of earnable compensation. They are eligible for retirement with at least 25 years of service or at age 50. Upon retirement, they earn a retirement allowance equal to 2% of average final compensation (AFC) for each year of service. As of June 30, 2014, there were 2,484 active members of LEOPS.

LEOPS members may participate in a Deferred Retirement Option Program (DROP) if they have between 25 and 30 years of creditable service. DROP allows retirement-eligible LEOPS members to officially retire while continuing to work and earn salary and health benefits in their current jobs for up to five years. During their participation in DROP, members earn the same retirement benefits that they would have received if they had fully retired, including cost-of-living adjustments. Those benefit payments are deposited into DROP accounts and earn 4% interest, compounded annually. During their participation in DROP, members do not earn service credit and do not make employee pension contributions. Also, their compensation earned while participating in DROP is not used in determining their AFC for the purpose of calculating their normal retirement benefits. DROP is not available to EPS members.

#### *Warrant Apprehension Unit*

Chapter 366 of 2011 codified WAU in statute and authorized its employees to:

- execute warrants for the retaking of offenders;
- execute warrants for the arrest of probationers for whom a warrant is issued for an alleged violation of probation;

- obtain and execute search warrants as authorized by statute; and
- arrest offenders in the State's home detention program as authorized by statute.

WAU employees who are authorized to make arrests must meet minimum qualifications required by the Maryland Police Training Commission and satisfactorily complete training prescribed by the commission. They are authorized to make arrests and to exercise the powers of a peace officer and a police officer.

### *Pension Transfers*

Title 37 of the State Personnel and Pensions Article governs the conditions under which members of one State or local pension system can transfer service credit to another State or local pension system. In general, transfers of service credit must occur within one year of the change in employment that prompted a change in membership. However, the State Retirement Agency executive director may waive the one-year requirement under specified circumstances. In most cases, an individual who transfers service credit receives the same amount of service credit in the "new" system as was earned in the "old" system. However, under Title 37, if an individual retires less than five years after transferring to a "new" system, the retirement benefits paid to the individual may not be greater than those provided by the "old" system. The State Retirement Agency (SRA) advises that its policy is not to apply this provision in cases where a group of individuals transfers from one plan to another without changing jobs.

Under Title 37, transfers from EPS to LEOPS require the individual to deposit into LEOPS member contributions of 4% of earnable compensation for each year of membership in EPS since June 30, 2000, plus annual interest of 5% on those contributions. However, the bill specifies that members must deposit member contributions specified in statute, plus 5% annual interest, as follows: 4% of earnable compensation for each year of service before fiscal 2012; 6% for fiscal 2012; and 7% for fiscal 2013 and thereafter, which is the current LEOPS member contribution rate.

In the event that payments are not made in full, at the time of retirement, the member's allowance is reduced by the actuarial equivalent of the unpaid amounts.

**Background:** Membership in EPS is a condition of employment for most State employees who are not public safety officers or judges. EPS members hired before July 1, 2011, are eligible for retirement at age 62 or after 30 years of service. Upon retirement, they earn a retirement allowance equal to 1.2% of AFC for each year of service prior to July 1, 1998, and 1.8% for each year of service after then. EPS members hired on or after July 1, 2011, are eligible for retirement at age 62 or when their age and years of service add to 90. Upon retirement, they earn a retirement allowance equal to 1.5% of AFC for each year of service. All EPS members currently pay member contributions of 7% of earnable compensation.

Member contributions for both EPS and LEOPS have changed over the years. **Exhibit 1** summarizes the changes for both plans.

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**Exhibit 1**  
**EPS and LEOPS Member Contribution Rates**

<u>Fiscal Year</u>	<u>EPS</u>	<u>LEOPS</u>
1998-2000	2%	0%
2001-2006	2%	4%
2007	3%	4%
2008	4%	4%
2009-2011	5%	4%
2012	7%	6%
2013-present	7%	7%

Source: Department of Legislative Services

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**State Fiscal Effect:** According to DPSCS, there are currently 29 police officers within WAU, of whom 8 are already retired and, therefore, are not eligible to join LEOPS. All 21 remaining individuals are members of EPS. For this analysis, the Department of Legislative Services assumes that all current WAU employees who are eligible to transfer to LEOPS elect to do so. It also assumes that all 21 individuals remain in LEOPS for at least five years so they earn full LEOPS benefits under Title 37; to the extent that some members do not transfer or that some retire in less than five years, the fiscal effect is less than forecast in this analysis.

Based on that assumption, the General Assembly's consulting actuary advises that normal cost payments to EPS decrease by \$100,000, and normal cost payments to LEOPS increase by \$200,000 for a net State increase of \$100,000. As LEOPS benefits are more generous than EPS benefits, LEOPS has a higher normal cost than EPS, with normal cost being the value of benefits earned in the current year. As normal cost payments cover benefits earned in the current year, they are not amortized but instead paid in full each year.

At the same time, accrued pension liabilities in EPS decrease by \$1.4 million due to the departure of 21 members, and accrued pension liabilities in LEOPS increase by \$1.2 million, for a net decrease of \$200,000. Accrued liabilities are amortized over a closed 25-year period, so the net decrease results in a slight negative adjustment to the increased normal cost payments. The net effect of the transfers is a first-year cost of \$94,000, increasing annually thereafter according to actuarial assumptions. Under the bill, WAU

members must complete their transfers by December 31, 2015, so the effects of their transfers will not be captured until the June 30, 2016 actuarial valuation, which determines State pension contributions for fiscal 2018. Therefore, the initial cost of \$94,000 occurs in fiscal 2018. It is assumed that the cost is allocated 60% general funds, 20% special funds, and 20% federal funds.

**Additional Comments:** Some WAU employees who transfer to LEOPS may have to make additional member contributions under the bill or be subject to an actuarial reduction to their benefit. The bill requires that they pay the LEOPS contribution rates under statute for each year of service credit transferred to LEOPS (regular interest on member contributions is 5% in both EPS and LEOPS). As shown in Exhibit 1, member contributions in EPS were less than those required by LEOPS in some years. For instance, from 2001 through 2006, EPS members paid 2% and LEOPS members paid 4%. A transfer of accumulated member contributions from EPS to LEOPS will not cover the full cost of the LEOPS contribution rate in effect at that time; members will have to make up the difference or be subject to a reduced benefit. The actuary estimates that the total payments owed are \$85,000 if all employees transfer to LEOPS. The amount of each individual's payment will vary depending on the dates of service; individuals hired during or after fiscal 2008 should not owe any additional payments.

For years in which EPS contributions exceeded LEOPS contributions (*e.g.*, fiscal 2009 through 2012), members who transfer will receive a refund of the difference in member contributions. However, Internal Revenue Service rules prohibit payment of refunded contributions to an active employee; instead, SRA places the refunded amount in a voluntary annuity account that pays out upon retirement.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** SB 286 (Senator Manno) - Budget and Taxation.

**Information Source(s):** Cheiron, Maryland State Retirement Agency, Department of Public Safety and Correctional Services, Department of Legislative Services

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