

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 1135

(Senator Oaks)

Budget and Taxation

Rules and Executive Nominations

Employees' Pension System - Membership - Study

This bill requires the State Retirement Agency (SRA) and the Department of Legislative Services (DLS) to conduct a study regarding membership in the Employees' Pension System (EPS) for individuals who are employed in a position for which less than 500 hours are budgeted per fiscal year. The study must include (1) individuals who are required to join EPS as a condition of employment; (2) individuals who have optional membership in EPS; and (3) the effect of Chapter 182 of 2015 on EPS enrollment. SRA and DLS must make recommendations regarding statutory changes, if any, to the Joint Committee on Pensions (JCP) by December 1, 2017.

The bill takes effect July 1, 2017, and terminates June 30, 2018.

Fiscal Summary

State Effect: None. SRA and DLS can conduct the required study with existing budgeted resources. No effect on revenues.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: In general, a member of EPS who works for at least 500 hours in one fiscal year earns one year of eligibility service credit.

Chapter 182 of 2015 makes membership in EPS optional for (1) specified elected and appointed officials; (2) other specified governmental employees; and (3) any individual who is employed by a local government before it becomes a participating governmental unit (PGU) of the State Retirement and Pension System (SRPS) and who remains an employee after the employer becomes a PGU, with some exceptions.

Specifically, Chapter 182 made membership in EPS optional for:

- an official who is elected or appointed for a fixed term, including an official who does not receive an annual salary;
- an employee of the Governor's office;
- an employee of the Senate or House of Delegates;
- a member of the Prince George's County Board of License Commissioners;
- an employee of Dorchester County who is not a member of the county's general pension and retirement programs; and
- an employee of a PGU who is employed by the PGU before the effective date of participation *and* who remains an employee of the PGU through the effective date of participation, except as provided below.

An individual mentioned above who elects to participate in EPS must file a written application at the start of employment. An employee of a PGU for whom membership is optional and who elects to participate in EPS must make the election in writing prior to the PGU's effective date of participation. If an individual fails to provide the written application in the time specified, the individual is not eligible to participate in EPS. In the case of an individual for whom membership in EPS is optional, an election to join EPS is a one-time, irrevocable decision.

Under Chapter 182, membership in EPS is *not* optional for an individual who was employed in a position on or before June 30, 2015, that required the individual to be a member of EPS, while the individual remains in that position.

Background: Prior to the enactment of Chapter 182, EPS was generally a condition of employment for State employees and elected and appointed officials of the State (except members of the General Assembly, who were required to join the Legislative Pension Plan beginning in 2015). It was also generally a condition of employment for an individual who became an employee of a PGU. However, membership in EPS was optional for an individual who, on June 30, 2004, was employed by a PGU and had been employed by the PGU since its effective date of participation. Various statutes over the years also made membership optional for individuals employed by some local governments before they became PGUs. EPS membership was also optional for an individual who was in any of

the following positions on June 30, 2004, and who remained in the same position after that date:

- an elected or appointed official;
- an employee of the Governor's office;
- an employee of the Senate or House of Delegates;
- a member of the Prince George's County Board of License Commissioners; and
- an employee of Dorchester County who is not a member of the county's general pension and retirement programs.

Elected and appointed officials had to elect to join EPS within one year of employment or by July 1, 2008, whichever was later. Chapter 182 generally makes EPS membership optional for anyone in the enumerated positions regardless of when they become employed.

Chapter 636 of 2014 made membership in EPS optional for employees of Prince George's County who begin serving in one of the following positions on or after July 1, 2014:

- chief administrative officer;
- deputy chief administrative officer;
- director of a county office or department;
- county council administrator;
- deputy director of a county office or department; or
- executive director.

However, Chapter 636 gave these individuals one year from the date of employment to elect to join EPS. A decision to join or not join EPS for these Prince George's County employees is a one-time, irrevocable decision.

Chapter 636 of 2014 also required SRA to conduct a study regarding the membership of elected and appointed officials in EPS and to report its findings to the General Assembly by December 1, 2014. In its report, SRA noted that membership in EPS was made optional for elected and appointed officials from the outset in 1941 because the Employees' Retirement System (the precursor to EPS) had a 20-year vesting period that the officials were unlikely to meet. Chapter 532 of 2004, sponsored by JCP at the board's request, made membership in EPS a *requirement* for elected and appointed officials who began service on or after July 1, 2004, based on EPS having a five-year vesting period. However, membership remained optional for elected and appointed officials who began service before the effective date of Chapter 532, as long as they remained in the same positions.

With the enactment of Chapter 397 of 2011, most EPS members who begin service on or after July 1, 2011, are subject to the Reformed Contributory Pension Benefit, which has a 10-year vesting period. PGUs have expressed reservations about paying employer contributions for their elected and appointed officials, many of whom will not serve long enough to vest in the plan. Similarly, officials themselves have expressed reservations about paying member contributions of 7% of their compensation for the same reason. SRA recommended in its report that statute be amended to make membership optional for elected or appointed officials with fixed terms. JCP's 2014 interim report indicates that JCP discussed the issues in SRA's report and decided not to sponsor the recommended legislation but encouraged the introduction of legislation to foster further discussion of the topic.

There are approximately 120 PGUs in SRPS with almost 25,000 EPS members.

Additional Information

Prior Introductions: None.

Cross File: None designated; however, HB 1178 (Delegate Ghrist, *et al.* – Appropriations) is identical.

Information Source(s): State Retirement Agency; Department of Legislative Services

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