

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 328
Appropriations

(Delegate B. Barnes)

Budget and Taxation

Optional Retirement Program - Annuity Contract Providers

This bill repeals a provision that had established that any company designated by a governing board of an employing institution of the Optional Retirement Program (ORP) to offer annuity contracts on or before March 1, 1993, would maintain that status indefinitely. It keeps the total number of companies that the Board of Trustees of the State Retirement and Pension System (SRPS) may designate to offer annuities through ORP at five, except that the board may now select all five instead of four (with one company permanently designated).

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: None. The bill is procedural in nature and has no effect on governmental finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: ORP is a tax-favored defined-contribution retirement savings plan available to designated employees of the institutions listed below, as an alternative to membership in SRPS:

- University System of Maryland (USM);
- Morgan State University (MSU);
- St. Mary's College of Maryland (SMCM);
- the Maryland Higher Education Commission (MHEC); and
- community colleges or regional community colleges in the State, including Baltimore City Community College.

To join ORP, individuals in employing institutions must be eligible for membership in SRPS and be:

- members of the faculty of an employing institution;
- professional employees of MHEC;
- professional employees of a community college;
- employees of USM who are exempt from the federal Fair Labor Standards Act (FLSA);
- executive or professional administrative employees of MSU; or
- employees of SMCM who are exempt from FLSA.

ORP provides an employer contribution of 7.25% of a member's compensation, which is paid by employing institutions. There are currently two plan administrators: TIAA-CREF and Fidelity Investments. TIAA-CREF was a designated provider prior to March 1, 1993, and, therefore, has remained a provider indefinitely under current law.

ORP is authorized under § 403(b) of the federal Internal Revenue Code, which applies only to employees of educational institutions and specified nonprofit organizations. A decision to join ORP is a one-time, irrevocable decision that must be made within one year of becoming eligible to join ORP. ORP members are not eligible to participate in any of the defined benefit plans offered by the State. Upon retirement, ORP members may elect to purchase annuities with their accumulated funds.

With regard to ORP, the SRPS Board of Trustees is charged with the selection of plan vendors and the approval of the form and content of annuity contracts offered by the vendors. It is explicitly not responsible for (1) retirement counseling; (2) preparing or disseminating information with respect to annuity contracts; or (3) enrolling, terminating, or retiring participating employees. Those tasks typically are carried out by employing institutions. ORP assets are not considered assets of the State, and payment of ORP benefits is not an obligation of the State.

Before enrolling an ORP-eligible employee, each provider must provide to eligible employees, the SRPS Board of Trustees, and employing institutions any information they

request, including a full disclosure of the entire compensation provided to its senior executives. Each provider must provide and pay for all administrative, informational, and counseling services that it offers, and it must cooperate with the employing institution regarding any concerns related to enrollment, termination, or retirement of a participating employee. Each provider must also disclose to the SRPS Board of Trustees all fees, commissions, or other charges it imposes related to annuity contracts.

Additional Information

Prior Introductions: None.

Cross File: SB 752 (Senator Guzzone) - Budget and Taxation.

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

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