

Department of Legislative Services  
 Maryland General Assembly  
 2018 Session

FISCAL AND POLICY NOTE  
 Enrolled - Revised

Senate Bill 299

(The President, *et al.*) (By Request - Administration)

Budget and Taxation

Appropriations

Correctional Officers' Retirement System – Membership

This Administration bill makes specified employees of the Department of Juvenile Services (DJS) and Department of Public Safety and Correctional Services (DPSCS) members of the Correctional Officers' Retirement System (CORS) as a condition of their employment. It also requires that service credit earned in the Employees' Pension System (EPS) be combined with service credit in CORS for specified individuals. **The bill takes effect July 1, 2018.**

Fiscal Summary

**State Effect:** State pension contributions increase by *at least* \$3.36 million beginning in FY 2020; out-year expenditures increase according to actuarial assumptions, and costs are assumed to be allocated 60% general funds, 20% special funds, and 20% federal/other funds. Special fund expenditures increase by \$200,000 in FY 2019 for programming costs.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	2,016,000	2,100,000	2,184,000	2,250,000
SF Expenditure	200,000	672,000	700,000	728,000	750,000
FF Expenditure	0	672,000	700,000	728,000	750,000
Net Effect	(\$200,000)	(\$3,360,000)	(\$3,500,000)	(\$3,640,000)	(\$3,750,000)

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

**Local Effect:** None.

**Small Business Effect:** The Administration has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

## Analysis

**Bill Summary:** The bill makes DJS employees in the following positions members of CORS as a condition of their employment:

- community detention officer or community detention supervisor;
- youth transportation officer, youth transportation officer lead, youth transportation officer supervisor, or youth transportation officer trainee;
- resident advisor, resident advisor lead, resident advisor supervisor, or resident advisor trainee; or
- youth recreation specialist.

The bill also makes DPSCS employees in the following positions members of CORS as a condition of their employment:

- parole and probation assistant regional administrator;
- psychology services chief;
- correctional maintenance officer supervisor;
- correctional maintenance officer manager;
- correctional maintenance services officer;
- correctional maintenance services supervisor; or
- correctional maintenance services manager.

An individual who is in one of the specified positions on or before June 30, 2018, is eligible to retire from CORS if vested in CORS with a combined total of at least 20 years of *eligibility* credit in CORS and either EPS or the Employees' Retirement System (ERS). Any such individual who retires under this provision is entitled to a normal service retirement benefit based on *creditable* service in CORS. Provisions in current law related to the transfer of service credit do not apply to individuals affected by the bill or by specified previous legislation that transferred members from EPS to CORS. By January 1, 2019, the State Retirement Agency (SRA) must notify individuals affected by the bill of their *right* to transfer *creditable* service from EPS or ERS to CORS. Except for specified individuals discussed below, there is *no requirement* in the bill that creditable service be transferred.

### *Prior Legislation*

CORS active members affected by Chapters 218 or 219 of 2016 or Chapters 688, 689, or 690 of 2017 who have no creditable service in EPS before July 1, 2008, and who have not already transferred their service credit from EPS to CORS must have their service credit

from EPS transferred and combined with their service credit in CORS. Individuals affected by the bill who also do not have service credit in EPS prior to July 1, 2008, must also have their service credit transferred and combined. If any of these individuals is granted an ordinary disability benefit, the Board of Trustees of the State Retirement and Pension System (SRPS) must pay the ordinary disability benefit that is greater under either CORS or EPS.

**Current Law/Background:** Eligibility for CORS membership is limited to (1) correctional officers in the first six job classifications; (2) security attendants at the Clifton T. Perkins Hospital Center; (3) correctional dietary, maintenance, supply, and laundry officers; (4) designated employees of Maryland Correctional Enterprises; (5) certain local detention center officers; (6) specified correctional officers serving as security chiefs, facility administrators, assistant wardens, or wardens; (7) correctional case management specialists, supervisors, or managers; (8) parole and probation agents, supervisors, or regional administrators; and (9) specified counselors, social workers, psychologists, and recreation officers within DPSCS.

Although the bill applies to members of both ERS and EPS, this analysis assumes that all current individuals affected by the bill participate only in EPS (ERS was closed to new members in 1980); **Exhibit 1** shows the key provisions for CORS and EPS. As the exhibit shows, Chapter 110 of 2006 phased in a higher EPS employee contribution rate, from 2.0% in fiscal 2006 to 5.0% in fiscal 2009. Chapter 397 of 2011 made additional changes, raising the member contribution rate to 7.0% and reducing the benefit multiplier to 1.5% for members hired after June 30, 2011. Prior to July 1, 1998, EPS was noncontributory for most members.

Chapter 397 also raised the vesting requirement from 5 to 10 years for all members of SRPS hired on or after July 1, 2011. However, Chapters 608 and 609 of 2012 allow a member of any SRPS system who was a member on June 30, 2011, and who transfers into another SRPS system on or after July 1, 2011, without a break in employment (of more than 30 days) to be subject to the same requirements for the new system that were in effect on June 30, 2011. For the purposes of this bill, individuals who were members of EPS before July 1, 2011, and who transfer to CORS under the bill, require only 5 years (instead of 10) to vest in CORS. Individuals who joined EPS on or after July 1, 2011, and transfer under the bill still need 10 years to vest in CORS.

“Eligibility service” means service credit that is recognized for determining eligibility for a retirement benefit. In general, a member of EPS receives one year of eligibility service credit for completing at least 500 hours of employment in a fiscal year. “Creditable service” is service credit that is recognized for computing a retirement benefit. In general, it equals eligibility service credit plus credit for unused sick leave.

**Exhibit 1  
Pension Plan Provisions**

	<b>Employees' Pension System</b>		
	<b><u>Hired Before July 1, 2011</u></b>	<b><u>Hired After June 30, 2011</u></b>	<b><u>CORS</u></b>
Normal Retirement Age	62 <sup>1</sup>	65 <sup>2</sup>	55 <sup>3</sup>
Years of Service for Normal Retirement	30	Age and service add to 90	20
Employee Contribution	None prior to 1998 2.0% (1998-2006) 3.0% in 2007 4.0% in 2008 5.0% (2009-2011) 7.0% after June 30, 2011	7.0%	5.0%
Benefit Multiplier	1.8% (after 1998) 1.2% (before 1998)	1.5%	1.82% of AFC

AFC: average final compensation

CORS: Correctional Officers' Retirement System

<sup>1</sup>Retiree must have at least 5 years of service.

<sup>2</sup>Retiree must have at least 10 years of service.

<sup>3</sup>Retiree must have 5 years of service if hired before July 1, 2011; otherwise, retiree must have 10 years of service if hired on or after July 1, 2011.

Source: Maryland Annotated Code; State Personnel and Pensions Article

Title 37 of the State Personnel and Pensions Article governs transfers from EPS to another contributory pension system (like CORS). Under Title 37, a “new system” means the system into which the member is transferring service credit, and “previous system” means the system from which the individual is transferring. Members transferring creditable service from EPS to another contributory system must pay the member contribution rates in effect for the period of service covered by the transferred service credit, plus interest. They are also refunded any accumulated contributions in the previous system that are in excess of the member contributions required by the new system.

Under the terms of Title 37, therefore, EPS members transferring creditable service to CORS have to pay the difference between the contribution rate paid to EPS, if any, and the 5.0% CORS contribution rate, plus interest, for any service credit earned prior to

fiscal 2009, when the EPS member contribution rate was less than the 5.0% CORS contribution. For service credit earned prior to 1998, they likely must pay the full CORS contribution of 5.0% (plus interest) since EPS was noncontributory for most members. However, they will also receive credit for the higher member contributions (7.0%) paid in EPS since June 30, 2011, because those contributions are also transferred to CORS and credited to their account. Any net deficiency in their member contributions results in an actuarial reduction to their benefit at the time of retirement. DLS notes that there is no actual transfer of assets between plans because CORS and EPS/ERS are considered a single plan for the purpose of valuing their assets and liabilities.

Under Title 37, an individual who retires from a new system within five years of transferring to that system receives benefits for the transferred credit that would have been payable under the previous system. However, the bill exempts affected individuals from this provision of Title 37.

Normal retirement age for most CORS members is age 55 if they have vested; they can also retire with 20 years of service regardless of age.

Chapter 340 of 2006 included 647 correctional dietary, maintenance, and supply workers in CORS. Chapters 408 and 409 of 2008 added correctional laundry workers and designated employees of Maryland Correctional Enterprises. Chapters 218 and 219 of 2016 added correctional case management specialists, supervisors, and managers. Chapters 688 and 689 of 2017 added parole and probation agents, supervisors, and regional administrators. Chapter 690 of 2017 added specified counselors, social workers, psychologists, and recreation officers within DPSCS. SRA advises that, as of March 22, 2018, of the 1,137 individuals affected by the 2016 and 2017 legislation, 508 had transferred their service credit from EPS to CORS. Of the remaining individuals, 221 joined EPS on or after July 1, 2008, and, therefore, will be required to transfer their service credit from EPS to CORS under the bill.

Based on data provided by DJS and DPSCS, the actuary has determined that the bill affects approximately 767 current employees (53 in DPSCS and 714 in DJS) in the specified job categories.

**State Expenditures:** As noted above, EPS/ERS and CORS are considered a single plan for actuarial reasons, so the employer contribution rates for each plan are the same. Also, current EPS members transferring creditable service to CORS have to make up any difference in member contributions. Therefore, any difference in member contributions has no effect on plan assets.

On the liability side, several competing factors affect the fiscal effect of the bill. On the one hand, some service credit in EPS accrued at a lower benefit level than CORS, whether

at the 1.2% level, prior to 1998, or the 1.5% level, for those hired on or after July 1, 2011. Under the bill, that service credit may be paid at the 1.818% CORS level for individuals who transfer creditable service from EPS to CORS. This factor increases State pension liabilities because accrued credit is being paid at a higher level.

A countervailing factor is the bill's requirement that members vest in CORS (either 5 or 10 years) before they retire with a CORS benefit. This may cause some individuals to remain employed longer than they otherwise would or not to transfer creditable service to CORS. Delayed retirements reduce State pension liabilities because payments are made for fewer years. The exemption from the provision of Title 37 has no fiscal effect because individuals affected by the bill have to wait at least 5 years to vest in CORS before retiring anyway.

The bill's fiscal effect varies depending on the number and demographic characteristics of the current EPS members who elect to transfer prior creditable service in EPS to CORS. If a substantial number of affected employees with lots of creditable service accrued prior to 1998 elect to transfer, the effect is greater because all of that credit is paid at the 1.818% multiplier instead of 1.2%. The bill requires anyone hired since July 1, 2008, to transfer their service credit from EPS to CORS. This includes everyone hired since July 1, 2011, who are currently earning a benefit of 1.5% in EPS, which increases the cost because that service credit is also being paid at the higher 1.818% rate under the bill.

Finally, the analysis assumes that any individual who is within 5 years of retirement under EPS elects *not* to transfer creditable service to CORS but rather elects to retire with an EPS benefit. This is due to the fact that the individual would have to remain in CORS for 5 or 10 years in order to vest and retire with a CORS benefit. Given that the individual is within 5 years of retirement, the actuary assumes that the individual does not elect to work longer but instead chooses to retire with an EPS benefit. Otherwise, the analysis assumes that all other affected individuals for whom data is available elect to transfer creditable service to CORS and retire with a CORS benefit after vesting with either 5 or 10 years of service. Based on the data provided by DJS and DPSCS, the General Assembly's actuary has determined that 66 of the members affected by this bill are eligible for retirement within 5 years.

As demographic data is not available on individuals affected by prior legislation, this estimate only reflects the cost of the 767 individuals affected directly by this bill. The requirement that additional CORS members from prior legislation transfer EPS service credit to CORS further increases the cost of the bill because a substantial number of those individuals receive a benefit enhancement (from a 1.5% benefit multiplier to 1.818% for accrued service). A reliable estimate of the additional cost cannot be determined but is likely significant. The remaining individuals who *must* transfer their service credit under

the bill (those hired between July 1, 2008, and July 1, 2011), already earn a 1.8% multiplier in EPS and, therefore, have only a minimal effect on State pension liabilities.

The General Assembly's actuary advises that, with these assumptions, State pension liabilities increase by *at least* \$12.2 million, and the normal cost increases by \$2.3 million. State pension liabilities are amortized over the remaining years of a closed 25-year amortization period. Therefore, adding the increased normal cost to the annual amortization payment results in a first-year cost of \$3.36 million in fiscal 2020. Out-year pension costs increase according to actuarial assumptions. State pension costs in the combined employees' system (which includes both CORS and EPS) are assumed to be split 60% general funds, 20% special funds, and 20% federal/other funds.

For the purposes of this estimate, the actuary calculated the effect of members earning the more generous CORS benefit rather than the EPS benefit and assumed the liabilities are incorporated in the June 30, 2018 valuation. Therefore, the fiscal effect begins in fiscal 2020. However, the full effect of the bill will not be known until affected members who are not required to transfer their service credit notify the system whether they intend to transfer service credit from EPS to CORS. In most cases, they will notify the system after the bill's effective date (they must be told of the opportunity to transfer credit by January 2019), so the transfers will not be recognized until the June 30, 2019 valuation, which determines contribution rates for fiscal 2021. Thus, the actual fiscal impact of the bill will depend on the number of individuals who elect to transfer service credit to CORS and the timing of those transfers and may be less than the actuary's estimate.

This analysis does not include the effect of future individuals hired into the affected positions, including currently vacant positions.

Individuals with at least 20 years of service credit are not eligible to retire immediately from CORS. The bill specifies that, prior to retiring from CORS, they must be vested in CORS; as they are new members, they must acquire either 5 or 10 years of service credit, depending on when they first joined EPS.

### *Administrative Costs*

As noted above, legislation transferring EPS members to CORS was enacted in both 2016 and 2017, affecting approximately 1,100 members. Notification of those members, as also required by this bill, included calculating pension deficiencies that would result for each member if they elected to transfer service credit. In addition, benefit projections were prepared for many of the affected members to help them decide whether it was beneficial for them to transfer service credit or keep the credit in EPS. These tasks occupied a great deal of staff time and SRA resources, including responding to inquiries and complaints from affected members, which affected the agency's ability to carry out other important

functions. Given the large number of members affected by this bill, and the substantial number of individuals affected by the previous legislation who must be renotified under the bill, SRA, therefore, anticipates automating these functions. As much of the agency's information technology (IT) operations and maintenance are outsourced, doing so incurs \$200,000 in programming costs from the agency's IT contractor.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** Although designated as a cross file, HB 354 (The Speaker, *et al.* (By Request – Administration) – Ways and Means) is not identical. However, HB 36 (Delegate Jackson, *et al.* – Appropriations) is identical.

**Information Source(s):** Bolton Partners, Inc.; Department of Juvenile Services; Department of Public Safety and Correctional Services; State Retirement Agency; Department of Legislative Services

**Fiscal Note History:** First Reader - February 20, 2018  
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## ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: **Income Tax Subtraction Modification - Correctional Officers  
(Hometown Heroes Act of 2018)**

BILL NUMBER: SB0299/HB0354

PREPARED BY: Melissa Ross, Governor's Legislative Office

### PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL  
BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL  
BUSINESSES

### PART B. ECONOMIC IMPACT ANALYSIS