

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 1379
Appropriations

(Delegate B. Barnes)

Budget and Taxation

Optional Retirement Program - Membership

This bill prohibits specified individuals from enrolling in the Optional Retirement Program (ORP). **The bill takes effect July 1, 2019.**

Fiscal Summary

State Effect: The bill is believed to apply to one individual and has no material effect on State pension liabilities or contribution rates. No effect on revenues.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill applies to an individual who:

- on or before July 1, 1993, began employment with the Maryland General Assembly and enrolled in the Employees' Pension System (EPS);
- on or before December 1, 1997, accepted employment as a legislative liaison for Towson University and elected to participate in ORP instead of the Teachers' Pension System;
- on or before November 1, 2010, began employment in an executive position with the Maryland Department of Transportation and enrolled in EPS as a condition of employment;
- on or before March 1, 2015, began employment with the University of Maryland University College and maintained membership in EPS.

Current Law/Background: 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 the State Retirement and Pension System (SRPS):

- University System of Maryland (USM);
- Morgan State University (MSU);
- St. Mary's College of Maryland (SMCM);
- 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. 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. In general, ORP members are not eligible to participate in any of the defined benefit plans offered by the State. An exception is made for individuals who elected to participate in ORP before July 1, 2017, and are subsequently appointed, promoted, or transferred to another position that is eligible for membership in an SRPS plan but not eligible for membership in ORP. In that instance, the individual must participate in the SRPS plan as a condition of employment.

Background: The State Retirement Agency is aware of one individual who meets the criteria in the bill. Under the bill, that individual must remain in EPS and may not participate in ORP.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 3, 2019
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Analysis by: Michael C. Rubenstein

Direct Inquiries to:
(410) 946-5510
(301) 970-5510