

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 683
Appropriations

(Delegate Hettleman)

Optional Retirement Program - Membership

This bill prohibits specified individuals from enrolling in the Optional Retirement Program (ORP). **The bill takes effect July 1, 2020.**

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, 1986, began employment in the State Personnel Management System (SPMS) as an assistant Attorney General (AAG) assigned to the Maryland Department of Transportation and enrolled in the Employees' Pension System (EPS) as a condition of employment;
- on or before August 1, 1993, transferred to the University System of Maryland (USM) personnel system while still employed as an AAG and elected to enroll in ORP;
- on or before March 1, 1997, transferred to SPMS as an AAG and resumed participation in EPS; and
- on or before April 1, 1997, withdrew accumulated contributions from ORP.

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):

- 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 spms 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.

Designated Cross File: SB 960 (Senator Hettleman) - Budget and Taxation.

Information Source(s): University System of Maryland; Maryland Department of Transportation; State Retirement Agency; Department of Legislative Services

Fiscal Note History: First Reader - February 14, 2020
mr/vlg

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