

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 537
Appropriations

(Delegates Saab and M. Jackson)

State Employee and Retiree Health and Welfare Benefits Program -
Participation

This bill requires that an individual's specified years of service with Anne Arundel Community College (AACC) be included in the calculation of years of service with a State institution of higher education for the purpose of determining eligibility for enrollment in the State Employee and Retiree Health and Welfare Benefits Program (the State Health Plan) as a retiree. **The bill takes effect July 1, 2020.**

Fiscal Summary

State Effect: State retiree health care service costs and long-term liabilities for other postemployment benefits (OPEB) increase, potentially significantly, due to more individuals qualifying for coverage and State subsidies under the State Health Plan, but a reliable estimate is not feasible, as discussed below. No effect on revenues.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: An individual's years of service with AACC from August 2002 through November 2013 must be included in the calculation of eligibility for the State Health Plan if (1) the individual participated in the Optional Retirement Program (ORP) while employed by AACC and (2) the individual retired from the University System of Maryland (USM) under ORP. If an individual with the specified years of service with AACC was

employed by AACC on or before June 30, 2011, the individual must be considered to have begun service with the State on or before that date.

Current Law:

Eligibility for the State Health Plan and Subsidy

Under specified circumstances, a retiree from a State institution of higher education is eligible to participate in the State Health Plan as a retiree, and may be eligible to receive the same premium subsidy that the individual received as an employee. Eligibility for participation in the plan and for the premium subsidy is based on an individual's years of service *with a State institution of higher education*, with different eligibility requirements applying to individuals hired before July 1, 2011, and those hired on or after that date. The definition of "State institution of higher education" does not include local community colleges.

Individuals who (1) retire from a State institution of higher education; (2) participated in ORP; and (3) began service *before July 1, 2011*, are eligible to participate in the State Health Plan when they retire if they:

- ended service with the State institution of higher education with at least 10 years of service and were at least age 57;
- ended service with a State institution with at least 16 years of service; or
- retired directly from, and had at least five years of service with, a State institution and received periodic distributions from ORP.

If the individual has at least 16 years of service at the time of retirement, the retiree is eligible to receive the same premium subsidy provided to them as an active employee. If the individual has between 5 and 16 years of service, the amount of the subsidy is prorated.

Individuals who (1) retire from a State institution of higher education; (2) participated in ORP; and (3) began service *on or after July 1, 2011*, are eligible to participate in the State Health Plan when they retire if they:

- ended service with the State institution of higher education with at least 10 years of service and were at least age 57;
- ended service with a State institution with at least 25 years of service; or
- retired directly from, and had at least five years of service with, a State institution and received periodic distributions from ORP.

If the individual has at least 25 years of service at the time of retirement, the retiree is eligible to receive the same premium subsidy provided to them as an active employee. If the individual has between 10 and 25 years of service, the amount of the subsidy is prorated.

Optional Retirement Program

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 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.

Background: In fiscal 2019, there were a total of 76,660 retirees, spouses, and surviving spouses participating in the State health plan. The annual service cost of providing

coverage for retirees and spouses was \$337.3 million. As of June 30, 2019, the net State liability for retiree health coverage over the next 30 years is \$14.3 billion.

State Expenditures: During the 2019-2020 academic year, there are 4,687 full-time faculty members in USM institutions. More than 80% of eligible faculty participate in ORP rather than SRPS. It is not known how many USM faculty members have prior service with AACC that could be used to calculate eligibility for participation in the State Health Plan or for the State subsidy, but it could be significant. For each individual who qualifies for coverage under the bill, the State's net OPEB liabilities increase by \$159,100 and annual OPEB expenses increase by about \$5,400 annually. In the absence of an estimate of the number of affected individuals, a reliable estimate of the bill's fiscal effect is not feasible.

Additional Comments: Although the bill is tailored to pertain only to past years of service with AACC, it could result in past years of service with other community colleges in the State being used to calculate service credit with a State institution of higher education. Any such interpretation or legal ruling could open the State Health Plan to a dramatic increase in participation, resulting in significant increases in service costs and long-term liabilities for the State.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 339 (Senator Reilly) - Budget and Taxation.

Information Source(s): Maryland Association of Community Colleges; Anne Arundel County; Department of Budget and Management; State Retirement Agency; Maryland Supplemental Retirement Plans; Department of Legislative Services

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