

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 744
Appropriations

(Delegate Lierman)(Chair, Joint Committee on Pensions)

Budget and Taxation

State Retirement and Pension System - Administration - Clarifications and
Corrections

This bill clarifies and corrects several provisions of State pension law, including repealing an obsolete provision. It also directs the Board of Trustees of the State Retirement and Pension System (SRPS) to accept a retirement application that was properly completed but not properly notarized due to the death of the member. It further requires at least two members of the Correctional Officers' Retirement System (CORS) to transfer prior service from the Employee's Pension System (EPS) to CORS, as specified. Finally, the bill grants immediate vesting rights in SRPS to the head of a department, office, or any other unit of State government who is appointed by the Governor for a fixed term and is in office on or after June 1, 2022. **The bill takes effect June 1, 2022.**

Fiscal Summary

State Effect: The bill is largely technical and clarifying in nature and has no material effect on State pension liabilities or contribution rates. Provisions requiring the acceptance of a single application for retirement benefits, the transfer of prior service credit between systems, and the granting of immediate vesting rights affect only a limited number of SRPS members and, therefore, have no discernible effect on State pension liabilities or contribution rates. No effect on revenues.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: More specifically, the bill makes the following changes to provisions of State pension law:

- specifies that only *active* (i.e., currently employed) members of specified systems of SRPS may be elected as trustees representing members of their respective systems; however, for the State Police Retirement System (SPRS), only *active* members or retirees may be elected to represent members and retirees of that system;
- corrects an inadvertent drafting error to clarify that survivor benefits for retirees enrolled in the SPRS Deferred Retirement Option Program (DROP) are the same as those for retirees who die when not enrolled in DROP;
- adds an exemption from a benefit offset for retirees of CORS who are reemployed as parole and probation officers, to be consistent with a similar exemption for retirees of the Employees' Retirement System (ERS) or EPS who are also reemployed as parole and probation officers; and
- repeals an obsolete provision allowing members of the Judges' Retirement System (JRS) to purchase credit for specified prior employment that would have occurred at least 45 years ago.

The bill also requires the SRPS Board of Trustees to accept an application for retirement submitted by an individual who meets specified criteria and who, due to the timing of the death of the individual, did not have an opportunity to have the application properly notarized. The State Retirement Agency (SRA) is aware of only one application affected by this requirement.

In addition, the bill requires two members of CORS to transfer their prior EPS service credit to CORS – specifically, individuals identified as having (1) accrued specified prior service credit in EPS; (2) been required to transfer their membership to CORS by either Chapters 218 and 219 of 2016 or Chapters 688 and 689 of 2017; (3) not transferred their prior service credit in EPS to CORS; and (4) applied for disability retirement from CORS with less than five years of eligibility service in CORS. Those individuals must pay the difference, if any, between member contributions for prior service in EPS and member contributions for CORS that would have been payable at that time, with interest, into CORS. However, if the member elects not to make that payment, the individual's retirement allowance must be reduced at the time of retirement by the actuarial equivalent of the unpaid amounts.

Current Law:

Trustee Eligibility

The SRPS Board of Trustees includes five members elected by the members and retirees of the several systems, including the following three trustees:

- a member of CORS, EPS, ERS, JRS, the Legislative Pension Plan, the Local Fire and Police System, or the Law Enforcement Officers' Pension Plan;
- a member of the Teachers' Pension System or the Teachers' Retirement System; and
- an individual who is either a member or retiree of SPRS.

In addition to active members, membership in SRPS includes individuals who have been separated from employment for less than four years. Thus, with respect to members of the specified systems, the bill clarifies that eligibility for trustee positions is limited only to members who remain employed, which is consistent with current practice.

Deferred Retirement Option Program Death Benefits

DROP allows specified members of SPRS to "retire" but remain employed for up to five years. During those five years, the individuals are paid their full salary while their retirement benefits are deposited into an individual account that earns 4% interest compounded annually. When a DROP enrollee reaches the end of the DROP term, the individual ceases employment and receives the amount in the DROP account as a lump sum payment. As a DROP enrollee is technically retired, a surviving spouse or other beneficiaries are eligible for survivor benefits when a DROP enrollee dies.

Chapter 507 of 2008 increased the SPRS retiree death benefit for the surviving spouse and minor children from 50% to 80% of the deceased retiree's allowance, but the legislation did not make the same adjustment to the death benefit for DROP enrollees (which continues to be 50% of the allowance). However, SRA advises that it has not paid any 50% death benefits since the enactment of Chapter 507.

Parole and Probation Officers' Reemployment

In general, a retiree who receives a retirement benefit SRPS may be reemployed, except that the retiree may not be reemployed by the State or any participating SRPS employer within 45 days of retiring. In most cases, a retiree who is rehired by the same employer for whom the retiree worked at the time of retirement is subject to an earnings cap. The purpose of the cap, which is the member's average final compensation at the time of retirement, is to ensure that a retiree does not earn more in retirement than the retiree earned as an active member with the same employer. If the sum of a retiree's earnings and initial retirement allowance exceeds the earnings cap, the retiree is subject to a dollar-for-dollar offset of the retirement benefit for any amount that exceeds the cap. For a member who retires directly from State service, the State is regarded as a single employer, so reemployment with any State agency activates the benefit reduction.

Current law includes an exemption from the benefit offset for retirees of ERS/EPS who are reemployed as parole and probation officers. However, Chapters 688 and 689 of 2017 made parole and probation officers members of CORS (instead of ERS/EPS) as a condition of their employment, but the legislation did not include the same reemployment exemption for retirees of CORS. Therefore, the bill makes the reemployment exemption consistent for retirees of ERS/EPS and CORS.

Judges' Purchase of Service

Members of JRS are eligible to purchase credit for two types of past service, specifically for prior service as (1) a magistrate in chancery or magistrate in juvenile causes on or before June 30, 1975, or (2) a member of the State Workers' Compensation Commission on or before June 30, 1977. SRA has not received an application to purchase service credit under these provisions in more than 20 years.

Correctional Officers' Retirement System Transfers

As noted above, Chapters 688 and 689 of 2017 made parole and probation officers members of CORS (instead of EPS) as a condition of their employment. Similarly, Chapters 218 and 219 of 2016 made correctional case managers members of CORS (instead of EPS) as a condition of their employment. In both cases, members had the option, but were not required, to transfer their past service credit with EPS to CORS. In some cases, transferring past credit to CORS resulted in a lesser benefit, so some affected members elected not to transfer past service credit.

In general, a member of SRPS is eligible for an ordinary disability benefit if the member has at least five years of eligibility service credit in the plan from which the member seeks to retire. SRA advises that it is aware of only two individuals affected by the EPS-to-CORS transfer provisions in the bill; following the transfer of credit required by the bill, those individuals will be eligible for the ordinary disability benefit for which they have applied. If they elect not to make the payment required by the bill, their retirement allowance will be reduced as specified.

Vesting Rights

In general, a member of SRPS employed on or after July 1, 2011, vests after 10 years of service; an individual employed before that date vests after 5 years of service. However, an individual who is a Secretary of a principal department or a head of a department, office, or other unit of State government serving at the Governor's pleasure has immediate vesting rights on taking office. (The bill expands this to include six agency heads appointed by the Governor for a fixed term.)

Additional Information

Prior Introductions: None.

Designated Cross File: SB 502 (Senator Elfreth)(Chair, Joint Committee on Pensions) - Budget and Taxation.

Information Source(s): Department of Budget and Management; Department of Public Safety and Correctional Services; State Retirement Agency; Maryland Supplemental Retirement Plans; Department of Legislative Services

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