HB 1212

Department of Legislative Services

Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 1212 (Delegate J. Lewis)
Appropriations Budget and Taxation

State Retirement Agency - Director of Diversity, Equity, and Inclusion and Governance Program

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This bill requires the State Retirement Agency (SRA) to employ a Director of Diversity, Equity, and Inclusion to perform specified functions related to enhancing access by and involvement of underrepresented groups. The bill also codifies the governance program of SRA's Investment Division to monitor, evaluate, and quantify the risks and effects of environmental, social, and governance (ESG) factors on the State Retirement and Pension System's (SRPS) investments. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: Special and reimbursable fund expenditures increase by a total of $107,100 in FY 2025 for the new SRA position; special and reimbursable fund revenues increase commensurately for administrative fees to cover that cost. State expenditures (all funds) increase minimally to pay the State's share. Out-years reflect annualization and inflation. Provisions related to the governance program codify existing practice.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
SF Revenue	$64,200	$78,100	$81,600	$85,100	$88,800
ReimB. Rev.	$42,800	$52,100	$54,400	$56,700	$59,200
SF Expenditure	$64,200	$78,100	$81,600	$85,100	$88,800
GF/SF/FF Exp.	$42,800	$52,100	$54,400	$56,700	$59,200
ReimB. Exp.	$42,800	$52,100	$54,400	$56,700	$59,200
Net Effect	($42,800)	($52,100)	($54,400)	($56,700)	($59,200)

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

Local Effect: Expenditures for local participating governmental units (PGUs) and other local employers increase minimally to pay their share of the cost of the new SRA position. No effect on revenues.

Small Business Effect: None.

Analysis

Bill Summary: The Director of Diversity, Equity, and Inclusion must:

- report directly to the SRA Executive Director;
- identify and minimize barriers to open and equitable processes by ensuring that SRA provides access and opportunities to underrepresented groups;
- engage with the SRPS Board of Trustees, staff, and external entities to promote and support diversity of participation and leadership;
- provide assistance as necessary to the Investment Division;
- provide advice and report to the SRPS board on topics including diversity, equity, and inclusion; and
- have the duties and functions that the SRA Executive Director or the SRPS board may delegate.

On the recommendation of the SRA Executive Director and after receiving an affirmative vote from a majority of the Board of Trustees, the executive director must terminate the Director of Diversity, Equity, and Inclusion.

The governance program must be in accordance with the policies of SRPS. The Chief Investment Officer (CIO) must employ an individual to assist in the implementation of the governance program whose responsibilities must be consistent with fiduciary responsibilities. In addition to the responsibilities described above, they include:

- developing appropriate standards, policies, and processes for the implementation and management of the governance program;
- working across asset classes to integrate consideration of material ESG factors into investment due diligence and recommendations;
- providing recommendations to the CIO based on research and analysis of material ESG factors, including diversity, equity, and inclusion;
- assisting the Investment Division in identifying and recommending investment opportunities to the CIO;
- evaluating whether internal and external investment managers represent a diverse set of backgrounds;
- working with specified individuals, identify, analyze, define, and prioritize specific metrics to align with an inclusive environment; and
- supporting the SRPS board with the implementation of the State's minority business policies by the Investment Division, as specified.

On the recommendation of the CIO and after receiving an affirmative vote from a majority of the Board of Trustees, the executive director must terminate the individual employed to implement the governance program.

Current Law: SRPS is established in statute to provide retirement and pension benefits for its members. The SRPS board consists of 15 members and is responsible for the management, general administration, and proper operation of the State's retirement and pension plans. The board must (1) appoint an Executive Director of SRA and (2) on the recommendation of the executive director and the board's Investment Committee, determine the qualification and appointment of the CIO, who is the head of the Investment Division.

Fiduciary Duties

A fiduciary of SRPS is defined as (1) a member of the Board of Trustees; (2) a member of the Investment Committee or other specified committees; or (3) an employee of SRA who exercises any discretionary authority or control over the management of the system or its assets.

A fiduciary must discharge his or her duties solely in the interest of the participants and:

- for the exclusive purposes of providing benefits to the participants and for reasonable expenses;
- with the care, skill, prudence, and diligence under circumstances, then prevailing, that a prudent person acting in a like capacity and familiar with such matters would use;
- by diversifying investments so as to minimize the risk of large losses, unless it is clearly prudent not to do so; and
- in accordance with the laws, documents, and instruments governing the system.

Chapters 24 and 25 of 2022 require an SRPS fiduciary, when managing assets of the system in accordance with statutory fiduciary responsibilities, to consider the potential systemic risks of the impact of climate change on the system's assets. The Acts specify related requirements and reporting responsibilities.

Administrative Costs

Prior to fiscal 2013, SRA's budget was funded solely from the system's assets, but Chapter 397 of 2011 instead required participating employers of SRPS, including the State, local school boards, community colleges, and PGUs, to pay their prorated share of the system's administrative costs based on their share of total membership in the system; the

State pays the share of public libraries. Thus, SRA's operating budget is paid through a combination of special funds (60%, with administrative fees paid by local employers) and reimbursable funds (40%, with administrative fees paid by State agencies). Chapters 727 and 728 of 2018 made expenses of the Investment Division nonbudgeted and, therefore, not included in the calculation of administrative fees paid by participating employers.

State Fiscal Effect: In response to Chapters 24 and 25, the CIO established a governance program and created the position of Senior Governance Manager to lead the program. Thus, the bill's provisions related to the governance program have no fiscal effect because they codify the existing program and position.

The bill requires SRA to employ a Director of Diversity, Equity, and Inclusion to perform specified duties. No such position exists in SRA; thus, special and reimbursable fund expenditures increase by $107,058 in fiscal 2025, which accounts for a 90-day start-up delay from the bill's July 1, 2024 effective date. This estimate reflects the cost of SRA hiring one Director of Diversity, Equity, and Inclusion, as required by the bill. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	$99,802
Operating Expenses	7,256
Total FY 2025 State Expenditures	**$107,058**

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

State agency expenditures (all funds) increase by a combined total of about $42,800 to pay the State's share of the cost of the new SRA position. Special and reimbursable fund revenues for SRA increase due to higher administrative fee assessments on the State and local governments.

Local Expenditures: Expenditures for PGUs and other local employers increase minimally due to higher administrative fee assessments to cover the cost of the new SRA position.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

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

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