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To: The Honorable Guy Guzzone  
Chair, Budget and Taxation Committee  
The Honorable Sarah Elfreth  
Chair, Budget and Taxation Pension Subcommittee

From: Rachel S. Cohen, Principal Counsel, Maryland State Retirement and Pension System

Re: Senate Bill 47 – Pension and Retirement – Forfeiture of Benefits – Law Enforcement Officers (LETTER OF INFORMATION)

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The Office of the Attorney General (“OAG”) for the Maryland State Retirement and Pension System has reviewed Senate Bill 47, introduced by Senator Jill P. Carter. On conviction of a law enforcement officer of a qualifying crime, this bill would require the Attorney General or a State's Attorney to file a complaint in circuit court to forfeit the law enforcement officer's benefits in whole or in part. The court is to enter a forfeiture order if it determines that the officer was convicted of a qualifying crime, and must also determine the amount of benefits to be forfeited and whether any benefits should be paid to the officer's spouse, former spouse, children, or other dependent.

This bill may benefit from clarification regarding the forfeiture process in several areas. First, the bill requires either the Attorney General or a State’s Attorney to file a forfeiture complaint but does not specify the circumstances under which each office should take the lead in filing a forfeiture complaint following a criminal conviction. Second, it is unclear how the OAG or a State's Attorney would receive the notice needed to begin timely implementing the bill's requirements, particularly for a conviction in federal court brought by federal authorities. Third, the Committee may wish to consider whether an alternative process might be more efficient under some circumstances. Specifically, at

least with respect to a qualifying criminal conviction in a State circuit court, the legislation could specify that the court that entered the qualifying criminal conviction must automatically take up the issue of pension forfeiture. That requirement would promote judicial efficiency by negating the need for a separate complaint, and allowing the same judge who presided over the criminal case, and who thus would already be familiar with the relevant facts, to determine the extent of any forfeiture order and whether to provide for payment to a spouse or other dependents.

Finally, I note for the Committee's information that members of the Maryland State Police do not participate in Social Security, and the State Police Retirement System serves as a Social Security replacement plan. The same might be the case with respect to some local pension plans. Thus, forfeiture of pension benefits for individuals in the State Police Retirement System and certain local pension plans could have a more significant impact than for officers that participate in Social Security.

We hope this information is helpful to you as the Committee considers this legislation.

cc: Committee Members