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**Testimony in Support of Senate Bill 369  
Correctional Officers' Retirement System – Transfer of Membership – Modifications  
Senate Budget and Tax Committee**

**February 16, 2023  
8:30 A.M.**

**Anne Gawthrop  
Director of Legislative Affairs  
State Retirement Agency**

The Board of Trustees for the State Retirement and Pension System wishes to express its support for Senate Bill 369, Correctional Officers' Retirement System – Transfer of Membership – Modifications. Senate Bill 369 is legislation sponsored by the Joint Committee on Pensions at the request of the Board.

This legislation addresses two issues regarding the 2016, 2017, 2018 and 2022 legislation that moved certain groups of employees from the Employees' Pension System (EPS) or Employees' Retirement System (ERS) to the Correctional Officers' Retirement System (CORS).

*Sick Leave Correction*

Chapter 147 of 2022 transferred members of the EPS or ERS who were employed by the Department of Juvenile Services (DJS) serving as certain case management specialists or group life managers on or before June 30, 2022, to the CORS on July 1, 2022. In the past, when similar legislation has been enacted that transferred certain groups from the EPS or ERS to the CORS, those bills included a provision that preserved any unused sick that had been earned in the EPS or ERS prior to being transferred to the CORS. This provision was inadvertently omitted from Chapter 147. Senate Bill 369 corrects this oversight and includes a provision to preserve the unused sick leave accrued in the EPS or ERS by the DJS employees who were transferred into the CORS on July 1, 2022.

*Opt-out Election to Move to Transfer Service to the CORS*

Chapters 218 and 219 of 2016, Chapters 688, 689, and 690 of 2017, Chapters 579 and 580 of 2018, and Chapter 147 of 2022 each transferred various groups of employees from the EPS or ERS to the CORS. The affected employees were employed on and before the effective date of each of these bills by either the Department of Public Safety and Correctional Services (DPSCS) or DJS. While each bill required the impacted employees to begin membership in the CORS, provisions of each bill also allowed these employees to elect to transfer their EPS or ERS service into the CORS.

These bills have had a significant impact on the retirement benefits of the members that were moved from the EPS to the CORS. The benefit multiplier for members who were enrolled in the EPS prior to July 1,

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2011, is 1.2% for each year of service earned prior to July 1, 1998, and 1.8% for each year of service earned on or after July 1, 1998. The benefit multiplier for members who enrolled in the EPS on or after July 1, 2011, is 1.5% for each year of service. The CORS benefit multiplier is 1.82% for all service, regardless of when it is earned or when the member is enrolled in the CORS. Additionally, an individual who became a member of the EPS prior to July 1, 2011, is eligible for an unreduced service retirement allowance after accruing 30 years of eligibility service, regardless of age, or after reaching age 62, with five years of eligibility service. An individual who becomes a member of the EPS on or after July 1, 2011, is eligible for an unreduced service retirement allowance after satisfying the Rule of 90 or reaching age 65 with 10 years of eligibility service. (The Rule of 90 is satisfied when the member's age plus service equals 90.) These eligibility provisions contrast considerably with the eligibility provisions for CORS, which require a member to accrue 20 years of eligibility service, regardless of age, or reach age 55 with five years of eligibility service if the individual became a member prior to July 1, 2011, or age 55 with 10 years of eligibility service if the individual becomes a member on or after July 1, 2011.

The differences in the EPS and CORS benefits can be better appreciated by way of example. Under the provisions of Chapters 218 and 219 of 2016, on June 30, 2016, a 50-year old case manager employed by DPSCS who had accrued 25 years of service in the EPS, would have been eligible to receive an unreduced service retirement allowance from the EPS equal to 42.2% of their average final compensation at the time of retirement, but only after accruing five additional years of service. On June 30, 2016, a member of the CORS with the same demographics would be immediately eligible to receive an unreduced service retirement allowance equal to 45.5% of the member's average final compensation. After considering these two scenarios, one might wonder why the EPS case manager with 25 years of service would not choose to transfer this service to the CORS under the provisions of Chapter 218 and 219. The answer to this can be found by looking more closely at the differing member contribution rates of each plan.

The member contribution rate for the CORS is 5% and has been since the inception of the plan in 1974. The history of the member contribution rate for the EPS is outlined in Table 1.

<b>Table 1</b>	
<b>Date</b>	<b>Member Contribution Rate</b>
January 1, 1980 – June 30, 1998	0%
July 1, 1998 – June 30, 2006	2%
July 1, 2006 – June 30, 2007	3%
July 1, 2007 – June 30, 2008	4%
July 1, 2008 – June 30, 2011	5%
July 1, 2011 – present	7%

A DPSCS case manager with 25 years of service on June 30, 2016, would have commenced membership in the EPS on July 1, 1991. If that individual elected to transfer their 25 years of EPS service into the CORS, they would have been charged the difference in member contributions between the EPS and CORS for those years when the EPS member contribution rate was less than the CORS member contribution rate (5% for 1991-1998, 3% for 1998-2006, 2% for 2006-2007, and 1% for 2007-2008). This amount would be reduced by the 2% excess member contributions made to the EPS for 2011 to 2016. After transferring the member's service from the EPS to the CORS, the member is not required to pay the difference in member contributions. However, if the member does not pay the difference, their CORS account will carry a deficiency that will accrue interest until the member retires from the CORS. On

retirement from the CORS, the members allowance will be reduced by the actuarial equivalent of this deficiency.

Following the passage of the 2016, 2017, and 2018 legislation, the Agency reached out to all of the members affected by the legislation, alerting them to the deficiencies they would incur if they transferred from the EPS to the CORS. Some of these deficiencies were substantial. The highest deficiency we were able to track down was nearly \$100,000. Yet, even with carrying a deficiency on their accounts after transferring to the CORS, the Agency determined that in every case, it was beneficial to the member to still transfer. The increase to their retirement from the CORS, with the actuarial reduction of the deficiency, was always greater than the retirement allowance they would receive if they did not transfer their EPS service. Nevertheless, many members, fearful of carrying a large deficiency on their account, not trusting that even with paying the deficiency their CORS benefit would still be higher after transferring this service, and not fully understanding the decision before them, elected not to transfer their previous EPS service into the CORS.

With this group of CORS bills becoming effective four to six years ago, many of the members who did transfer their EPS service into the CORS have since retired. The Agency is finding that many of the members who were initially fearful to trust the Agency when it reported their benefit would not be harmed by the deficiency and, as a result, opted not to transfer their service to the CORS, now are asking to do so after seeing that the retirement benefits of their colleagues who have since retired suffered no negative impact. However, the provisions of the State Personnel and Pensions Article that govern transfers of service credit, require a member to make such a transfer within a year of joining their new system. If the member misses this window, the regulations for the Agency provide that the member may request a waiver of this one-year time limit to the Executive Director of the Agency within four years of joining the new system, provided the member's request meets certain criteria. All of the members impacted by the 2016, 2017, and 2018 legislation are now past their four-year window to request a waiver to the requirement that they transfer within a year of joining their new system.

We believe that we will continue to hear from more members who now understand that it would have been to their benefit to transfer their service, and now wish to do so. In retrospect, we also believe that rather than put the onus on the member to affirmatively make an election they may not completely understand, all impacted members should have been automatically transferred into the CORS, unless they requested to opt out. It has only been through the actual experience of implementing these bills, that the Agency has been able to determine that in every instance, it was to the advantage of the member to transfer their prior service. To address this, Senate Bill 369 amends the 2016, 2017, 2018, and 2022 legislation to require the Board of Trustees on June 30, 2024, to transfer the service of an individual from the ERS or EPS to the CORS. Senate Bill 369 also provides that an individual impacted by the 2016, 2017, 2018, and 2022 legislation may elect, on or before June 1, 2024, not to have the Board transfer their ERS or EPS service to the CORS.

We appreciate being given this opportunity to express our support to the Budget and Tax Committee for this legislation and would request a favorable report on Senate Bill 369.]