HB 79

Department of Legislative Services

Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 79 (Delegate B. Barnes)(Chair, Joint Committee on Pensions)

Appropriations

Correctional Officers' Retirement System - Membership

This bill allows correctional officers who are members of the Employees' Retirement System (ERS) on June 30, 2014, and are employed as security chiefs, facility administrators, assistant wardens, or wardens to join the Correctional Officers' Retirement System (CORS) and transfer their service credit from ERS to CORS if they continue serving in those positions on July 1, 2015. The transfers must be completed within six months and must be done in accordance with Title 37 of the State Personnel and Pensions Article, except the State Retirement Agency (SRA) is required to grant a waiver to specified provisions of Title 37 if it is necessary to transfer service credit.

The bill takes effect July 1, 2015, and terminates December 31, 2015.

Fiscal Summary

State Effect: Negligible increase in State pension liabilities due to the bill affecting only two individuals. No discernible change in State pension contributions. No effect on revenues.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Membership in CORS is a condition of employment for individuals who are:

- correctional officers in the first six job classifications;
- security attendants at the Clifton T. Perkins Hospital Center;
- correctional dietary, maintenance, and supply officers; and
- specified employees of Maryland Correctional Enterprises.

CORS members are eligible for a normal service retirement after 20 years, as long as their last five years are in CORS-eligible positions. They receive a retirement allowance equal to one fifty-fifth (1.818%) of their average final compensation for each year of service.

Between July 1, 1980, and July 1, 2014, CORS members who were promoted out of the first six classifications (for instance, into a supervisory or managerial position like those specified in the bill) were no longer eligible for CORS and became members of the Employees' Pension System (EPS) as a condition of employment. EPS has a higher employee contribution than CORS, a longer retirement eligibility period, and a lower benefit for individuals who join after June 30, 2011. Some correctional officers indicated that the loss of CORS membership and its more generous benefits had a deterrent effect on accepting promotions to supervisory positions.

Chapter 188 of 2014 required that correctional officers who begin serving as security chiefs, facility administrators, assistant wardens, or wardens on or after July 1, 2014, become members of CORS as a condition of their employment. It also gave correctional officers in EPS who were serving in those positions on June 30, 2014, six months to transfer their service credit from EPS to CORS if they continued serving in those positions on July 1, 2014. Transfers of service credit had to be done in accordance with Title 37 of the State Personnel and Pensions Article. The executive director of SRA had to waive the one-year statutory time limit on transfers of service credit.

Title 37 of the State Personnel and Pensions Article governs the conditions under which members of one State or local pension system can transfer service credit to another State or local pension system. In general, transfers of service credit must occur within one year of the change in employment that prompted a change in membership. However, the SRA executive director may waive the one-year requirement under specified circumstances. In most cases, an individual who transfers service credit receives the same amount of service credit in the "new" system as was earned in the "old" system. However, under Title 37, if an individual retires less than five years after transferring to a "new" system, the retirement benefits paid to the individual may not be greater than those provided by the "old" system.

The conditions governing transfers of credit vary depending on whether either of the two systems involved in the transfer is noncontributory. For this bill, both ERS and CORS are contributory. The CORS contribution rate is 5% for members; ERS members pay either 5% or 7% depending on whether they elected a capped or uncapped cost-of-living adjustment to their retirement benefits. Transfers between two contributory systems like ERS and CORS require the individual to deposit the sum of the following amounts in the annuity fund of the new system (in this case, CORS):

- the total accumulated contributions made to the individual's credit in the old system;
- the difference, if any, between the member contributions made in the old system and the member contributions that would have been made in the new system, including interest; and
- the accumulated contributions that would have been deducted during the period that the individual was a member of a noncontributory State system, including interest.

In the event that these payments are not made in full, at the time of retirement the member's allowance is reduced by the actuarial equivalent of the unpaid amounts.

Thus, an ERS member paying 5% who transfers to CORS does not have to make any additional payments because the contribution rates are identical. In the case of an ERS member paying 7%, Title 37 is silent regarding the disposition of member contributions made to the old plan that are in excess of the contributions necessary for the new plan. SRA advises that it has been its practice to set aside any excess contribution toward a voluntary annuity for the individual that is available upon retirement. Thus, individuals transferring to CORS from ERS who have paid 7% to ERS would have the 2% excess contribution made during those years set aside for a voluntary annuity. Internal Revenue Code provisions do not allow for that excess amount to be refunded to an individual who remains an active member.

Background: ERS closed to new members in 1980. With very few active State employees still enrolled in ERS, Chapter 188 inadvertently omitted ERS members who are serving in correctional supervisory positions from the opportunity to join CORS and transfer their ERS service credit to CORS.

State Fiscal Effect: SRA advises that there are two members of ERS serving in correctional supervisory capacities who are eligible to transfer ERS credit to CORS under this bill. It also advises that one member pays a 7% member contribution and the other pays a 5% member contribution. This analysis assumes that both members elect to transfer their credit within the six-month window provided by the bill. Therefore, the difference between the 7% ERS contribution and the 5% CORS contribution paid by the one individual will be refunded to him in the form of a voluntary annuity that begins when he retires.

The benefit multipliers in CORS and ERS are identical (one fifty-fifth of average final compensation), but CORS allows a normal service retirement after 20 years of service and ERS allows a normal service retirement after 30 years of service or at age 60. Therefore, on an actuarial basis, a year of service in CORS is more valuable than a year of service in ERS. As a result, a transfer of service from ERS to CORS increases the system's actuarial liability because less valuable service credit is being converted to more valuable service credit. Even so, given that the bill affects only two individuals and that the benefit multipliers are identical, the increase in actuarial liability is expected to be negligible and have no discernible effect on State pension contributions.

As the bill specifies that transfers to CORS are governed by Title 37, both individuals are subject to the provision that requires that they remain in CORS for five years in order to retire under CORS rules. Given that they both have more than 30 years of service credit and could retire under ERS anyway and that the benefit multipliers are identical in the two plans, it is not clear whether enforcement of this provision will have any practical effect on the payment of their retirement benefits. It is possible that the one individual may not receive the voluntary annuity established with the excess contributions if he retires in less than five years; that decision is subject to a determination by the agency.

Additional Information

Prior Introductions: None.

Cross File: SB 104 (Senator Peters)(Chair, Joint Committee on Pensions) - Budget and Taxation.

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

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Analysis by: Michael C. Rubenstein

Direct Inquiries to:
(410) 946-5510
(301) 970-5510