

Department of Legislative Services
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FISCAL AND POLICY NOTE

Senate Bill 575

(Senator Jones-Rodwell)(Chair, Joint Committee on
Pensions)

Budget and Taxation

State Retirement and Pension System - Code Simplification and Clarification

This bill clarifies, corrects, or simplifies several sections of State law governing the State Retirement and Pension System (SRPS).

The bill takes effect July 1, 2014, except that provisions related to installment payments take effect January 1, 2015.

Fiscal Summary

State Effect: None. The changes are technical and clarifying in nature and have no effect on pension liabilities or contribution rates. Some provisions, however, may cause selected benefit payments to retirees and beneficiaries to increase or decrease marginally. The net effect is expected to be negligible.

Local Effect: None. Any changes affecting participating governmental units (PGUs) are technical and clarifying in nature and have no effect on their pension liabilities or contribution rates.

Small Business Effect: None.

Analysis

Bill Summary: This bill amends various sections of the State Personnel and Pensions Article in order to clarify that:

- nonspouse beneficiaries may, under specified circumstances, roll over benefit payments to Roth individual retirement accounts (Roth IRAs) and other eligible IRAs that agree to account separately for the amounts transferred and earnings received from those transfers;
- individuals who were members of the Alternate Contributory Pension Selection (ACPS), separated from employment for four years or less, and returned to employment with a participating employer may resume membership in ACPS only if the rehiring employer participates in ACPS;
- the Reformed Contributory Pension Benefit (RCPB) does not apply to employees of a PGU that was participating in the Employees' Pension System (EPS) before July 1, 2011, but has not elected to participate in ACPS;
- retirees of the Law Enforcement Officers' Pension System (LEOPS) or the State Police Retirement System (SPRS) who are enrolled in the Deferred Retirement Option Program (DROP) and are awarded a special or accidental disability retirement may not elect to continue participating in DROP;
- retirees of the Local Fire and Police System who are reemployed by their former employers are not subject to a retirement offset if their average final compensation at the time of retirement was less than \$25,000 or if they have been retired for at least five years;
- former members of pension systems who request and receive a return of accumulated contributions before a vested allowance begins forfeit any future benefits from SRPS;
- nonvested former members are not entitled to regular interest on their accumulated contributions after their membership in SRPS ceases; and
- members of the Teachers' Pension System (TPS) may not purchase credit for past service using installment payments.

Current Law/Background:

Benefit Rollovers. SRPS benefits may be rolled over into eligible retirement plans; since January 1, 2008, Roth IRAs have qualified as eligible plans. Legal counsel to the SRPS board of trustees has advised that statute is not clear regarding the eligibility of Roth IRAs and other eligible plans to receive rollovers in some circumstances. The bill reflects clarifying language recommended by legal counsel.

ACPS and RCPB Eligibility. Chapter 397 of 2011 established RCPB, a new contributory benefit tier for EPS and TPS members hired after June 30, 2011. RCPB has longer vesting periods and retirement eligibility criteria as well as a lower benefit multiplier than ACPS, which includes most EPS and TPS members hired since 1980. However, when ACPS was enacted in 1998, PGUs had the option of remaining in the previous noncontributory system or participating in ACPS. Only a handful of PGUs chose to remain in the noncontributory system, most notably Prince George's County government.

Chapter 397 included provisions allowing ACPS members who separated from employment for fewer than four years to resume membership in ACPS if they became reemployed after June 30, 2011, rather than be required to participate in RCPB. However, the provisions were not clear that ACPS members who are reemployed by PGUs that do not participate in ACPS are not eligible to resume their membership in ACPS. Moreover, the legislative intent of Chapter 397 was to specify that participating PGUs that were not in ACPS were not subject to RCPB. However, this created ambiguities for new PGUs; legislative intent was that they be required to participate in RCPB. The bill clarifies legislative intent that new PGUs must participate in RCPB and that existing PGUs that were not in ACPS are not subject to RCPB.

DROP and Disability. DROP allows members of LEOPS or SPRS to “retire” but remain employed for up to either four or five years, depending on the plan to which they belong. During their time in DROP, they are paid their regular salary, but their retirement allowances are paid into DROP accounts to their credit and earn 4% interest annually. When they finish their time in DROP, they receive the contents of their DROP account as a lump sum. Although they are technically retired, DROP participants may still receive disability retirements if they are injured. Current law allows them to choose whether to accept the disability retirement or remain in DROP. However, State disability law requires that the individual be certified as permanently mentally or physically incapacitated for further performance of normal duties. Therefore, it is inappropriate to allow the DROP participant to remain on the job.

Exemptions for Reemployment Offsets. Previous legislation raised the cap from \$10,000 to \$25,000 on the average final compensation under which retirees could be reemployed and still be exempt from an offset to their benefit. It also reduced the number of years a retiree is subject to the earnings limitation from nine to five. When these changes were enacted, the Local Fire and Police system had no active members and was closed to new members; as a result, it was inadvertently omitted from the legislation. The bill conforms the requirements for the Local Fire and Police system to those in place for all other SRPS plans.

Withdrawal by Former Members of Pension Plans. Individuals who withdraw their accumulated contributions from SRPS forfeit all rights to future benefits in the system. Although statute is clear that former members of the retirement systems forfeit their rights when they withdraw their contributions, statute is silent with regards to the consequences for former members of the *pension* systems who withdraw their contributions. The bill makes the consequences consistent for all former members.

Regular Interest for Nonvested Former Members. Nonvested members who separate from employment with a participating employer retain membership in SRPS for four years, except Teachers' Retirement System (TRS, a closed system). Statute also specifies that they earn regular interest on their accumulated contributions, but it is silent regarding whether nonvested accounts continue to earn interest when membership ends after four years (or five years for TRS membership). It has been SRPS practice to stop interest payments when membership ends. The bill conforms statute to existing practice.

Installment Payments for TPS. Previously, statute allowed SRPS members to purchase credit for past service using installment payments. This authority was seldom used and eventually repealed. However, one reference to installment payments for TPS members inadvertently remains in statute. The bill repeals the authority for TPS members to use installment payments for purchases of credit, subject to a six-month delay that was put in place for the earlier repeal.

Additional Information

Prior Introductions: None.

Cross File: HB 612 (Delegate Griffith)(Chair, Joint Committee on Pensions) - Appropriations.

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

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