

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 179

(Senator Griffith)(Chair, Joint Committee on Pensions)

Budget and Taxation

Optional Retirement Program - Regulations

This bill requires the Board of Trustees of the State Retirement and Pension System (SRPS) to adopt and maintain a written plan document for the Optional Retirement Program (ORP), and it authorizes SRPS to adopt regulations it deems necessary to carry out its ORP responsibilities. **The bill takes effect July 1, 2019.**

Fiscal Summary

State Effect: None. The bill conforms statute to current practice.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background: ORP is a tax-favored defined-contribution retirement savings plan available to designated employees of the institutions listed below, as an alternative to membership in SRPS:

- University System of Maryland (USM);
- Morgan State University (MSU);
- St. Mary's College of Maryland (SMCM);
- the Maryland Higher Education Commission (MHEC); and
- community colleges or regional community colleges in the State, including Baltimore City Community College.

To join ORP, individuals in employing institutions must be eligible for membership in SRPS and be:

- members of the faculty of an employing institution;
- professional employees of MHEC;
- professional employees of a community college;
- employees of USM who are exempt from the federal Fair Labor Standards Act (FLSA);
- executive or professional administrative employees of MSU; or
- employees of SMCM who are exempt from FLSA.

ORP provides an employer contribution of 7.25% of a member's compensation, which is paid by employing institutions. ORP is authorized under § 403(b) of the federal Internal Revenue Code, which applies only to employees of educational institutions and specified nonprofit organizations. A decision to join ORP is a one-time, irrevocable decision that must be made within one year of becoming eligible to join ORP. ORP members are not eligible to participate in any of the defined benefit plans offered by the State. Upon retirement, ORP members may elect to purchase annuities with their accumulated funds.

With regard to ORP, the SRPS Board of Trustees is charged with the selection of plan vendors and the approval of the form and content of annuity contracts offered by the vendors. It is explicitly not responsible for (1) retirement counseling; (2) preparing or disseminating information with respect to annuity contracts; or (3) enrolling, terminating, or retiring participating employees. Those tasks typically are carried out by employing institutions. ORP assets are not considered assets of the State, and payment of ORP benefits is not an obligation of the State.

Statute requires the SRPS board to adopt regulations necessary to carry out its role with respect to ORP. The State Retirement Agency advises that, since 1993, the board has instead maintained a written plan document for ORP as required by federal regulations. As a result, it asked the Joint Committee on Pensions (JCP) to sponsor legislation to conform statute to its current practice, and JCP agreed to do so.

Additional Information

Prior Introductions: None.

Cross File: HB 267 (Delegate B. Barnes)(Chair, Joint Committee on Pensions) - Appropriations.

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

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