

Department of Legislative Services  
Maryland General Assembly  
2019 Session

FISCAL AND POLICY NOTE  
Third Reader

House Bill 265

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

Appropriations

Budget and Taxation

---

**Alternate Contributory Pension Selection - Return to Employment**

---

This bill expands the pool of members of the Employees' Pension System (EPS) or Teachers' Pension System (TPS) who can resume participation in the Alternate Contributory Pension Selection (ACPS) after a separation from employment to include all those who are vested in ACPS – not just those who vested by June 30, 2011 – under specified circumstances. The bill applies retroactively to any eligible individual who resumed employment in a position covered by TPS/EPS on or after July 1, 2011. **The bill takes effect July 1, 2019.**

---

**Fiscal Summary**

**State Effect:** None. The bill, including the retroactive provisions, conforms statute to existing and prior practice. No effect on revenues.

**Local Effect:** None.

**Small Business Effect:** None.

---

**Analysis**

**Bill Summary:** A member of TPS/EPS who vested in ACPS after June 30, 2011, and then separated (or separates) from employment for more than four years may re-enroll in ACPS on return to active service if the new employer participates in ACPS and the member:

- resumes employment in a position included in TPS/EPS;
- does not withdraw accumulated contributions from the prior enrollment in ACPS; and
- does not retire during the break in service.

For members currently enrolled in the Reformed Contributory Pension Benefit (RCPB) and who benefit from the bill's retroactive provision, any service credit earned under RCPB is credited to ACPS if the member or former member has not withdrawn accumulated contributions from their previous service in ACPS.

**Current Law/Background:** ACPS is a benefit tier within TPS/EPS that closed to new members on June 30, 2011. Chapter 397 of 2011 added RCPB as a new benefit tier to TPS/EPS (and closed ACPS). **Exhibit 1** compares the benefit structures under ACPS and RCPB. In general, except for participating governmental units that have not opted for ACPS or the contributory benefit, any individual who becomes a member of TPS/EPS on or after July 1, 2011, is automatically enrolled in RCPB. Because RCPB provides a less generous benefit than ACPS, Chapter 397 established two exemptions for TPS/EPS members who were subject to ACPS before July 1, 2011, and:

- were separated from employment for four years or less without withdrawing contributions or retiring; or
- were separated from employment for more than four years for specified types of military service and resume employment within one year of leaving approved military service.

In both cases, the individuals had to resume employment with an ACPS-eligible employer by June 30, 2016, in order to be re-enrolled in ACPS. Chapter 163 of 2015 added another exemption for a member of EPS who (1) became vested in ACPS on or before June 30, 2011, and (2) separated from employment for more than four years without withdrawing member contributions or retiring. Under Chapter 163, the June 30, 2016, deadline for reemployment applied to this new exemption as well. However, Chapter 188 of 2016, repealed the deadline for all returning ACPS members.

Following the enactment of Chapter 397 and the exemption it granted for ACPS members returning to work, 1,194 members returning to covered employment after June 30, 2011, qualified for ACPS benefits in fiscal 2012. However, the number of returning members qualifying for ACPS benefits declined substantially for the next two years thereafter, to 338 in fiscal 2013 and 121 in 2014. In fiscal 2015, the number increased to 373, which may be related to a large number of new hires in State government with a new Governor taking office, before declining again to 253 in fiscal 2016, 173 in 2017, and 163 in 2018.

---

**Exhibit 1**  
**Comparison of ACPS and RCPB Benefits**

	<u><b>ACPS</b></u>	<u><b>RCPB</b></u>
Vesting	5 years	10 years
Normal Retirement	30 years of service, or age 62	Age + service add to 90, or age 65
Benefit Multiplier	1.8%/year since 1998 1.2%/year before 1998	1.5%/year
Member Contribution	7.0% of pay	7.0% of pay

ACPS: Alternate Contributory Pension Selection  
RCPB: Reformed Contributory Pension Benefit

Source: Department of Legislative Services

---

The bill potentially benefits two groups of TPS/EPS members or former members:

- TPS/EPS members or former members who (1) began service in ACPS prior to July 1, 2011; (2) did not vest until after June 30, 2011; (3) left (or leave) service after June 30, 2011; and (4) return to covered employment at any time after the bill's effective date; and
- TPS/EPS members who (1) vested in ACPS after June 30, 2011, and (2) returned to covered employment before the bill's effective date and were enrolled in RCPB.

The State Retirement Agency advises that, since the effective date of Chapter 163, no returning vested members of ACPS were enrolled in RCPB, so the bill conforms to existing practice.

---

**Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 153 (Senator Griffith)(Chair, Joint Committee on Pensions) - Budget and Taxation.

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

**Fiscal Note History:** First Reader - February 10, 2019  
mm/vlg Third Reader - March 1, 2019

---

Analysis by: Michael C. Rubenstein

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