

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 339

(Senator Reilly)

Budget and Taxation

Appropriations

**State Employee and Retiree Health and Welfare Benefits Program -
Participation**

This bill requires that, for the purpose of determining eligibility to enroll in the State Employee and Retiree Health and Welfare Benefits Program (State plan) as a retiree, the calculation of a specified individual's years of service with the State must include the individual's employment by Anne Arundel Community College (AACC). The individual must also be considered as having begun service as a State employee on or before June 30, 2011. **The bill takes effect July 1, 2020.**

Fiscal Summary

State Effect: No discernible effect on State retiree health care service costs and long-term liabilities for other postemployment benefits (OPEB). However, the benefits provided by the bill to a single individual with prior service with a community college may expose the State to further claims of eligibility for benefits under the State plan by employees of local community colleges who participate in the Optional Retirement Program (ORP). No effect on revenues.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill applies to an individual who:

- was a member of ORP;
- participated in ORP during employment with AACC beginning August 2002 and ending November 2013;

- participated in ORP during employment with the University of Maryland, Baltimore Campus (UMB) beginning November 2013;
- ended service with UMB with at least 16 years of service in ORP; and
- is a retiree of ORP.

Current Law:

Eligibility for the State Plan and Subsidy

Under specified circumstances, a retiree from a State institution of higher education is eligible to participate in the State plan as a retiree, and may be eligible to receive the same premium subsidy that the individual received as an employee. Eligibility for participation in the State plan and for the premium subsidy is based on an individual's years of service *with a State institution of higher education*, with different eligibility requirements applying to individuals hired before July 1, 2011, and those hired on or after that date. The definition of "State institution of higher education" does not include local community colleges.

Individuals who (1) retire from a State institution of higher education; (2) participated in ORP; and (3) began service *before July 1, 2011*, are eligible to participate in the State plan when they retire if they:

- ended service with the State institution of higher education with at least 10 years of service and were at least age 57;
- ended service with a State institution with at least 16 years of service; or
- retired directly from, and had at least five years of service with, a State institution and received periodic distributions from ORP.

If the individual has at least 16 years of service at the time of retirement, the retiree is eligible to receive the same premium subsidy provided to them as an active employee. If the individual has between 5 and 16 years of service, the amount of the subsidy is prorated.

Individuals who (1) retire from a State institution of higher education; (2) participated in ORP; and (3) began service *on or after July 1, 2011*, are eligible to participate in the State plan when they retire if they:

- ended service with the State institution of higher education with at least 10 years of service and were at least age 57;
- ended service with a State institution with at least 25 years of service; or
- retired directly from, and had at least 5 years of service with, a State institution and received periodic distributions from ORP.

If the individual has at least 25 years of service at the time of retirement, the retiree is eligible to receive the same premium subsidy provided to them as an active employee. If the individual has between 10 and 25 years of service, the amount of the subsidy is prorated.

Optional Retirement Program

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 the State Retirement and Pension System (SRPS):

- University System of Maryland (USM);
- Morgan State University (MSU);
- St. Mary's College of Maryland (SMCM);
- 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. In general, ORP members are not eligible to participate in any of the defined benefit plans offered by the State.

Background: In fiscal 2019, there were a total of 76,660 retirees, spouses, and surviving spouses participating in the State plan. The annual service cost of providing coverage for

retirees and spouses was \$337.3 million. As of June 30, 2019, the net State liability for retiree health coverage over the next 30 years is \$14.3 billion.

Additional Comments: Although the bill is tailored to pertain only to a single individual with past years of service with AACC, it could result in past years of service with other community colleges in the State being used to calculate service credit with a State institution of higher education. Any such interpretation or legal ruling could open the State plan to a dramatic increase in participation, resulting in significant increases in service costs and long-term liabilities for the State.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 537 (Delegates Saab and M. Jackson) - Appropriations.

Information Source(s): Maryland Association of Community Colleges; Anne Arundel County; Department of Budget and Management; State Retirement Agency; Maryland Supplemental Retirement Plans; Department of Legislative Services

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