

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 204

(Senator Jackson)

Budget and Taxation

Appropriations

State Retirement and Pension System - Vesting and Retirement Allowance -
Clerk of the Court and Register of Wills

This bill lowers, from 10 years to 8 years, the number of years of eligibility service that clerks of the circuit court and registers of wills need to vest in the Employees' Pension System (EPS). Also, it makes clerks of the circuit court and registers of wills who begin membership in EPS on or after July 1, 2011, eligible for normal service retirement benefits if they reach age 65 with 8 years of eligibility service (instead of age 65 with 10 years). Finally, it clarifies that members of the State Retirement and Pension System with immediate vesting rights are entitled to a normal service allowance when they retire. **The bill takes effect July 1, 2023, but may not be construed to extend or apply to the salary or compensation of any clerk or register until the beginning of the next term of office.**

Fiscal Summary

State Effect: Potential increase in reimbursable and/or special fund expenditures in FY 2024 for programming costs, as discussed below. Since the bill applies to a limited number of EPS members, it has no discernible effect on State pension liabilities or contribution rates, as discussed below. No effect on revenues.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Article III, § 35 of the Maryland Constitution prohibits the salary or compensation of any public officer from being increased or diminished during the

individual's term of office, except those whose full term is fixed by law in excess of four years. Registers of wills and clerks of the circuit courts are each elected to four-year terms.

Registers of Wills

In general, the registers of wills in each of the State's 24 jurisdictions are responsible for the administration of estates by providing proper forms and direction, assisting and advising any person who requests assistance in the preparation of any form for administrative probate, admitting wills to probate and issuing letters of administration, auditing accounts, and maintaining accurate records of all estate matters. The registers also serve as clerks of the orphans' courts.

Registers of wills' salaries and office expenses are paid from fees and inheritance tax revenue collected by the registers, with the remainder of the fees and inheritance tax revenue deposited into the general fund.

Clerks of the Circuit Court

The position of clerk of the circuit court is established by Article 4 of the Maryland Constitution. It is a locally elected State position that serves as the recordkeeper and administrator of circuit courts in each county. Among other duties, clerks of the circuit court issue marriage and local business licenses, administer oaths to local officials, and generally manage court dockets. Salaries and benefits of the clerks of the circuit court are paid from general funds.

Employees' Pension System

Clerks of the circuit court and registers of wills are members of EPS by virtue of their positions.

EPS consists of multiple benefit tiers depending on a member's employer and date of hire. In general, members of EPS who began membership prior to July 1, 2011, are in the Alternate Contributory Pension Selection, and members who began service on or after that date are in the Reformed Contributory Pension Benefit. **Exhibit 1** shows the key differences in vesting and normal service retirement eligibility for the two tiers.

Exhibit 1
Employees' Pension System Vesting and Retirement Eligibility

<u>Requirements</u>	<u>ACPS</u>	<u>RCPB</u>
Vesting	5 years	10 years
Normal Service Retirement Eligibility	30 years of eligibility service or age 65 with at least 5 years of eligibility service	90 years of combined age and years of eligibility service or age 65 with at least 10 years of eligibility service

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

Source: Department of Legislative Services

State Expenditures:

State Retirement Agency Programming Expenses

The State Retirement Agency (SRA) advises that the bill's changes require it to reprogram its pension administration system to reflect the different vesting and retirement eligibility criteria in the bill. SRA indicates the cost could be as high as \$265,000 in fiscal 2024; however, as the effect of the bill's provisions is delayed until fiscal 2027, SRA may be able to absorb the reprogramming cost within existing resources. The Department of Legislative Services (DLS) acknowledges the need for reprogramming but notes that SRA's initial estimate reflects the equivalent of one individual working on this task on a full-time basis for one year. DLS believes the reprogramming can be completed at a lower overall cost and agrees that any cost may be better absorbed over time. SRA's administrative expenses are paid from a combination of reimbursable and special funds.

State Pension Liabilities and Contributions

Based on data provided by the Administrative Office of the Courts and by the Office of the Register of Wills, a total of 10 affected individuals (4 registers and 6 clerks) have fewer than 10 years of service credit in EPS. However, 3 registers have 8 years of service credit; as the constitutional prohibition against changes in compensation prevents the bill's provisions from taking effect until after the November 2026 general election, those

3 individuals will likely accrue 10 years of service before the bill's provisions affect them. Therefore, the bill likely affects only 7 current EPS members.

An actuarial analysis of the potential effect of the bill's provisions on State pension liabilities and employer contributions found that total liabilities increase by less than \$9,500, and the normal cost increases by less than \$3,500. When reflected in the larger EPS membership, which includes almost 47,000 active members, these changes result in no discernible effect on State pension liabilities or contribution rates. Similarly, as new registers and clerks are elected with no EPS service credit, any minimal increase in normal cost rates is insufficient to have a discernible effect on State contributions for EPS.

Provisions in the bill regarding members with immediate vesting rights are clarifying in nature and have no effect on State pension liabilities or contribution rates.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1236 (Delegate Henson) - Rules and Executive Nominations.

Information Source(s): Bolton; Judiciary (Administrative Office of the Courts); Register of Wills; 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