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**Testimony in Support of House Bill 753
State Retirement Agency - Monitoring and Recording of Automated Outgoing Telephone
Calls - Authorization
House Appropriations Committee
February 4, 2020
1:00 P.M.**

**Anne Gawthrop
Director of Legislative Affairs
State Retirement Agency**

The Board of Trustees for the State Retirement and Pension System wishes to express its support for House Bill 753, State Retirement Agency - Monitoring and Recording of Automated Outgoing Telephone. House Bill 753 is legislation sponsored by the Joint Committee on Pensions at the request of the Board.

Chapter 214 of the Acts of 2009 authorized the Board to adopt regulations allowing managers to monitor and record incoming telephone conversations to employees of the Member Services Division of the State Retirement Agency (Agency) for training and quality control purposes. Following enactment of Chapter 214, COMAR 22.01.13, Member Services Unit — Telephone Recording or Monitoring, was adopted by the Agency. Specifically, COMAR 22.01.13.02 states that the Agency may only record or monitor incoming calls to the Automated Call Distribution System (ACDS), within the Member Services Division. Additionally, this regulation also states that the Agency may not record or monitor calls to or from direct individual lines in the Agency.

In 2015, the Agency began providing members and retirees who call into the ACDS and are faced with long wait periods, the opportunity to “lock in” their place in the call-in queue. By doing this, members and retirees are not required to wait on hold for an available counselor but instead can disconnect the call, while still maintaining their place in the queue. When their position in the queue moves to the second spot, the ACDS will automatically reconnect the call with the individual. It is important to note that throughout this entire process, no counselor from the Member Services Division is personally returning the individual’s initial phone call. Because of this, staff had not considered this feature an actual outbound phone call.

Accordingly, the Agency continued to record these call backs. However, following a review of this issue by the Agency’s legal counsel, there was concern that despite the ACDS reconnecting the original call, these calls could be interpreted as outbound telephone calls, and therefore, the Agency would not have the authority to record these types of telephone calls. Section 9-602 of

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the Criminal Law Article of the Maryland Annotated Code of Maryland provides that a State official or employee may not directly or indirectly monitor or record in any manner a telephone conversation made to or from a State unit. This section of the law further provides that a person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000. Such a conviction is also grounds for immediate dismissal from State employment. As a result, the Agency has stopped recording these types of outbound telephone calls. Nevertheless, the Agency believes that recording these calls would provide staff with a valuable tool for training and quality control of the counselors in its Member Services Division. To address this issue and in light of the provisions of § 9-602 of the Criminal Law Article, House Bill 753 amends current provisions of the State Personnel and Pensions Article to permit the Agency to record outbound calls from the Member Services Division that are placed through the Agency's ACDS.

Therefore, on behalf of the Board of Trustees, I would request a favorable report on House Bill 753.