

# **Joint Committee on Pensions 2014 Interim Report (DRAFT)**

---

## **Board Requested Legislation**

### **Judges' Retirement System – Withdrawal of Accumulated Contributions**

When members of the several systems leave prior to vesting in their respective plans, the State Retirement Agency (the Agency) advises these individuals of the options to either withdraw their accumulated contributions or leave them in the State Retirement and Pension System (System) if they think they may be returning to State service prior to their membership period ending. However, those members who may initially choose to leave their contributions with the System may reconsider their decision and withdraw their contributions at any time.

In 2012, legislation was enacted that would require new members of the Judges' Retirement System (JRS) to accrue five years of service in order to vest in the JRS. Prior to this time, members of the JRS enjoyed immediate vesting in their plan. As a result of the vesting requirement, an individual could be appointed to the bench and leave the judiciary within five years and never vest in the plan. Yet, unlike members of the other plans in the System who may withdraw their contributions at any time after terminating employment, language under § 27-405 of the State Personnel and Pensions Article restricts JRS members to withdrawing their employee contributions "at the time of termination of service, or within 6 months thereafter." As no other plan includes a similar limiting provision, the board of trustees (the board) recommends removing the limitations in place for a JRS member to withdraw employee contributions.

#### **Draft Committee Recommendation:**

**Option A: The joint committee will sponsor the requested legislation.**

**Option B: The joint committee will not sponsor the requested legislation.**

### **Judges' Retirement System – Reemployment**

Section 27-406 of the State Personnel and Pensions Article governs reemployment of JRS retirees. During the 2010 legislative session, this provision was amended to exempt a retiree of the JRS from a reemployment earnings limitation if the retiree returned to work for the State. This provision sunsetted June 30, 2014. Instead of extending the sunset date on this exemption during the 2014 legislative session, § 27-406 was amended to provide similar language included in the provisions governing the other several systems, stating that a member would only be subject to the earnings limitation for the first five calendar years following retirement. The Agency has found that this amendment, in addition to others that have been made to § 27-406 since 2010, have created inconsistencies and duplicative language in this section, making it difficult to implement. The board recommends clarifying, non-substantive changes to § 27-406 to remove the duplicative and inconsistent language.

**Draft Committee Recommendation:****Option A: The joint committee will sponsor the requested legislation.****Option B: The joint committee will not sponsor the requested legislation.****Correctional Officers' Retirement System – Chapter 188 of 2014**

Chapter 188 of 2014 (Senate Bill 665) added correctional officers who begin serving as security chiefs, facility administrators, assistant wardens, or wardens, on or after July 1, 2014, as members of the Correctional Officers' Retirement System (CORS) as a condition of their employment. Chapter 188 further provides that correctional officers who were serving in those positions on June 30, 2104, would have six months to transfer their service credit from the Employees' Pension System (EPS) to the CORS if they continue serving in those positions on July 1, 2014. The legislation also stipulated that these transfers of service credit would be done in accordance with Title 37 of the State Personnel and Pensions Article.

The Agency has determined that the legislation only allows correctional officers who were members of the EPS the opportunity to transfer their EPS service credit into the CORS. The Agency has found two members of the Employees' Retirement System (ERS) who meet the criteria of the bill; however, due to their membership in the ERS, they are currently not eligible to transfer their service credit back to the CORS. The board recommends legislation to include members of the ERS.

**Draft Committee Recommendation:****Option A: The joint committee will sponsor the requested legislation.****Option B: The joint committee will not sponsor the requested legislation.****State Retirement and Pension System – “Non-contributory Pension Benefit” Definition**

Section 20-101(aa-1) of the State Personnel and Pensions Article defines “non-contributory pension benefit” to mean “the part of the Employees' Pension System and Teachers' Pension System that does not provide the contributory pension benefit under Title 23, Subtitle 2, Part II of this article or the Alternate Contributory Pension Selection under Title 23, Subtitle 2, Part III of this article.” When the Reformed Contributory Pension Benefit (RCPB) was created under Title 23, Subtitle 2, Part IV of the State Personnel and Pensions Article in 2011, it was inadvertently omitted from this definition. The board recommends amending § 20-101(aa-1) to include the RCPB in the definition of “non-contributory pension benefit.”

**Draft Committee Recommendation:**

**Option A: The joint committee will sponsor the requested legislation.**

**Option B: The joint committee will not sponsor the requested legislation.**

**Unclaimed Accumulated Contributions**

The Agency reports that there are currently more than 38,000 non-vested accounts of individuals who have terminated employment with a participating employer of the System prior to vesting and did not withdraw their accumulated contributions at the time they ceased employment. Many of the accounts have a balance of less than \$75. In an effort to return these funds to the former members, the Agency makes three mailings to each account holder, requesting the individual to withdraw his or her accumulated contributions. The Agency also posts notices on its website of the names of any inactive participant who is entitled to a refund of accumulated contributions. The Agency previously used a now discontinued service where the Internal Revenue Service would forward letters to former non-vested members.

The Agency believes that the new 10-year vesting period for new members will result in an increase in the number of non-vested accounts. The accumulated contributions associated with an inactive account are deposited in the System's annuity savings fund. A member's accumulated contributions are reserved in this fund until the member retires, at which point the funds are transferred to the System's accumulation fund where payment of the member's retirement benefits begins. Because these former members are not vested, they are not eligible for a retirement allowance and so the account funds are not transferred to the accumulation fund. To avoid carrying these inactive, non-vested accounts indefinitely in the annuity savings fund, the board recommends that after four years the funds from these accounts would be transferred from the annuity savings account to the accumulation fund. Transferring these funds to the accumulation fund would not result in the inactive participant forfeiting the right to a return of the individual's accumulated contributions at any time in the future. The Agency reports it will maintain the necessary records on each inactive participant, making recovery of funds uncomplicated.

The board recommends amending §§ 21-303 and 21-311 of the State Personnel and Pensions Article to allow non-vested accounts of former members to be transferred from the annuity savings fund to the accumulation fund and later be returned to the inactive participant from the accumulation fund.

**Draft Committee Recommendation:**

**Option A: The joint committee will sponsor the requested legislation.**

**Option B: The joint committee will not sponsor the requested legislation.**

**Accumulated Unused Sick Leave**

Section 20-206 of the State Personnel and Pensions Article states that members of the System may receive additional creditable service for unused sick leave at the time of their retirement. "Unused sick leave" is defined as "sick leave credit that has not been used before retirement." At the time of a member's retirement, the employer is required to certify the balance of unused sick leave to the Agency. Based on the unused sick leave balance reported by the employer, the Agency calculates the additional credit that is added to the member's retirement record. A member may receive one month of service credit for 22 days of unused sick leave.

The Agency has found that some participating employers, prior to reporting unused sick leave to the Agency, are converting other types of leave into sick leave. In response to this, the Agency has informed these employers that an employer may only report unused sick leave that was available to the employee as sick leave during employment. To avoid future inconsistent interpretations of § 20-206, the board recommends amending this section to clarify that only unused sick leave that was available to the employee as sick leave during employment may be reported by the employer to the Agency.

**Draft Committee Recommendation:**

**Option A: The joint committee will sponsor the requested legislation.**

**Option B: The joint committee will not sponsor the requested legislation.**

**Combining Prior Service Credit with the Reformed Contributory Pension Benefit**

Chapters 577 and 578 of 2014 (Senate Bill 1082 and House Bill 1483, respectively) allow members of either the EPS or the Teachers' Pension System (TPS) who are subject to the RCPB and have prior service credit in a part of the EPS or the TPS that has a different member contribution and benefit accrual to combine their prior and current eligibility service credit in their RCPB account. In part, this legislation requires that a member may combine this prior eligibility service with their current RCPB eligibility credit if the member deposits the member contributions that would have been due if the member had earned the prior credit in the RCPB, plus regular interest on the contributions.

The member contribution rate for the RCPB is currently 7%, so RCPB members interested in combining previous EPS or TPS service with their current RCPB account will be required to

deposit member contributions at this rate for previous service credit, plus interest. For example, if a member is combining previous service from the member's vested Alternate Contributory Pension Selection (ACPS) account (during which time the member was contributing 5%), the individual would be required to deposit an additional 2% in member contributions, plus regular interest – the difference between the RCPB rate of 7% and the ACPS rate of 5%. For members seeking to combine service from the contributory or non-contributory plans of the EPS or the TPS, the amount to be deposited would be greater due to the difference in contribution rates.

The board is recommending amending § 23-303.1 of the State Personnel and Pensions Article to clarify that when combining service into the RCPB, the member contribution rate in effect for the RCPB at the time the request to combine service is made, is the rate that will be used to determine the amount the participant will be required to deposit, with interest. The Agency reports that this would codify current practice.

**Draft Committee Recommendation:**

**Option A: The joint committee will sponsor the requested legislation.**

**Option B: The joint committee will not sponsor the requested legislation.**