

**BOARD OF TRUSTEES FOR THE  
MARYLAND STATE RETIREMENT AND PENSION SYSTEM  
MINUTES OF MEETING**

August 21, 2018

The Board of Trustees for the Maryland State Retirement and Pension System convened at the Board Room of the SunTrust Building, 120 East Baltimore Street, 16<sup>th</sup> Floor Board Room, Baltimore, Maryland beginning at 9:36 a.m.

The Trustees present included:

Peter Franchot, Vice Chairman, Presiding  
David Brinkley (via phone)  
Susanne Brogan (Designee)  
Eric Brotman (via phone)  
Jamaal Craddock  
David Hamilton  
James Harkins (via phone)

Linda Herman (via phone)  
Sheila Hill  
F. Patrick Hughes  
Theresa Lochte  
Richard Norman  
Douglas Prouty  
Michael Stafford

Agency Staff members attending included: R. Dean Kenderdine, Executive Director/Board Secretary

Melody Countess	Angie Jenkins	Harvey Raitzyk
Patricia Fitzhugh	Van Lewis	David Rongione
Anne Gawthrop	Kim O'Keefe	Janet Sirkis
Michael Golden	Andrew Palmer	Toni Voglino
Ira Greenstein		

Assistant Attorneys General present included: Jody Shaw and Kathleen Wherthey

Other attendees included: John Kenney, Justin Hayes, Jeannette Fernandez, Michael Rubenstein and Dana Tagalicod

**Consent Agenda**

On a motion made by Ms. Hill and seconded by Mr. Hughes, the Board approved the consent agenda, which included:

- July 17, 2018 Open Meeting Board Minutes
- August 7, 2018 Administrative Committee Meeting Summary

**Ratification of the  
Board of Trustees'  
Electronic Vote  
Concerning  
Changes to the  
Optional  
Retirement  
Program Line-Up**

On July 20, 2018, R. Dean Kenderdine, Executive Director, electronically provided to the Board of Trustees a memorandum which outlined changes to the investment line-up for Fidelity in the Optional Retirement Program, previously approved by the Board, at the recommendation of the Investment Committee, at its May 15, 2018 meeting. The memorandum also provided staff's recommendation to amend one of the replacement funds in the Fidelity line-up to reflect a more efficient share class. Specifically, the staff recommendation was to change the share class of the AQR Global Equity fund from the Institutional class AQGIX to the R6 class AQGRX.

Having received an electronic recommendation from the Investment Committee, on a motion electronically made by Mr. Hughes and electronically seconded by Treasurer Kopp, the Board electronically approved the recommendation to change the share class of the AQR Global Equity fund from the Institutional class AQGIX to the R6 class AQGRX in the Fidelity line-up. This matter was brought to the Board of Trustees to ratify that vote. Trustee Stafford abstained.

On a motion made by Mr. Hughes and seconded by Ms. Hill, the Board of Trustees ratified its vote to approve the recommended changes to amend the share class of the AQR Global Equity fund from the Institutional class AQGIX to the R6 class AQGRX in the Fidelity line-up

**BOARD OF TRUSTEES FOR THE  
MARYLAND STATE RETIREMENT AND PENSION SYSTEM  
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August 21, 2018

**Recommendation  
of the  
Administrative  
Committee  
regarding Board  
Requested  
Legislation**

Mr. Harkins, Chairman of the Administrative Committee reported that Ms. Gawthrop presented to the Committee, at its August 7, 2018 meeting, a document outlining the details of several legislative proposals for the Board's consideration for inclusion in its 2019 legislative proposals to the Joint Committee on Pensions (JCP).

Mr. Harkins reported that after discussion, the Committee approved for recommendation to the Board the legislative proposals, as presented. (See *Attachment A*).

On a motion made by Mr. Harkins and seconded by Ms. Hill, the Board of Trustees, approved the legislative proposals for the 2019 legislation session, as presented.

**Recommendation  
of the  
Administrative  
Committee  
regarding  
Proposed  
Amendments to  
COMAR**

The Board was presented with proposed amendments to the following regulations:

- 22.01.01 – Definitions and General Provisions
- 22.01.02 – Public Information Act Requests
- 22.01.03 – Domestic Relations Orders
- 22.01.04 – Average Final Compensation
- 22.01.05 – Proof of Date of Birth

On a motion made by Mr. Harkins and duly seconded, the Board of Trustees, approved sending to the Administrative Executive and Legislative Review Committee, and publishing in the Maryland Register for Comment, the proposed amendments to COMAR 22.01.01 through 22.01.05, as presented.

**CIO Report**

Mr. Palmer reported that the fund tearsheet has been expanded, at the request of the Trustees, to include information on the performance of each asset class. Mr. Palmer reported that as of July 31, 2018 the total fund return for the month was up 1.14% and the total fund value was \$52.455 billion. Citing a three-month lookback, Mr. Palmer attributed the increase to good performance in the U.S. equity market and poor performance overseas, with U.S. stocks up almost 8% and emerging market stocks down 10%.

Mr. Stafford asked if there were any changes to the hedge fund portfolio.

Mr. Palmer responded that one manager has been terminated and two new strategies were added. Mr. Palmer added that a more detailed report on the portfolio would be provided at the Investment Committee meeting on September 18, 2018.

**Executive  
Director's Report**

Mr. Kenderdine reminded the Board that the Education Session is being held on October 16, 2018 at a central location near the BWI Airport and that more information would be forthcoming.

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Mr. Kenderdine reported that a half-day Board Governance retreat is scheduled for October 24, 2018.

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August 21, 2018

Mr. Kenderdine reported that at the conclusion of this Board meeting the website designer, Digital Deployment, would be giving a demonstration on the new redesign of the Agency's website.

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Mr. Kenderdine reported that the Agency's contract with CliftonLarsenAllen for participating employer compliance audits has been extended for an additional three years.

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Mr. Kenderdine reported that the Board of Public Works approved the Board of Trustees' recommendation to appoint Lamont "Monte" Tarbox as Public Advisor to the Investment Committee.

On a motion made by Mr. Hughes and seconded by Mr. Brotman, the Board voted to meet in a Closed Session, beginning at 9:58 a.m., in the Board Room of the SunTrust Building at 120 East Baltimore Street, 16<sup>th</sup> Floor, for the purpose of:

- a) reviewing the July 17, 2018 closed session Board minutes, pursuant to General Provisions Art., § 3-103(a)(1)(i), the exercise of an administrative function;
- b) reviewing the Medical Board reports from July 19, July 25, August 2, August 8 and August 16, 2018, regarding individual participants' claims for disability retirement benefits, pursuant to General Provisions Art., § 3-305(b)(13), to comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter, namely General Provisions Art., § 4-312 regarding the prohibition on disclosing retirement records, and General Provisions Art., § 4-329 regarding the prohibition on disclosing medical and psychological information;
- c) reviewing a report regarding extraordinary salary increases, pursuant to General Provisions Art., § 3-305(b)(13), to comply with a specific statutory requirement that prevents public disclosure, namely General Provisions Art., § 4-312 regarding the prohibition on disclosing retirement records; and
- d) discussing the recommendation of the Evaluation Committee regarding the Request for Proposals for a Compensation Consulting Services Provider, pursuant to General Provisions Art., § 3-305(b)(14), to discuss before a contract is awarded or bids are opened, a matter directly related to a negotiating strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process and General Provisions Art., § 3-305(b)(13), to comply with a specific statutory imposed requirement that prevents public disclosure about a particular proceeding or matter, namely General Provisions Art., § 4-335, regarding the protection of confidential commercial information.

**BOARD OF TRUSTEES FOR THE  
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August 21, 2018

**CLOSED SESSION**

The Trustees present included:

Peter Franchot, Vice Chairman, Presiding  
David Brinkley (via phone)  
Susanne Brogan (Designee)  
Eric Brotman (via phone)  
Jamaal Craddock  
David Hamilton  
James Harkins (via phone)

Linda Herman (via phone)  
Sheila Hill  
F. Patrick Hughes  
Theresa Lochte  
Richard Norman  
Douglas Prouty  
Michael Stafford

Agency Staff members attending included: R. Dean Kenderdine, Executive Director/Board Secretary

Melody Countess	Angie Jenkins	Harvey Raitzyk
Patricia Fitzhugh	Van Lewis	David Rongione
Anne Gawthrop	Kim O'Keeffe	Janet Sirkis
Michael Golden	Andrew Palmer	Toni Voglino

Assistant Attorneys General present included: Jody Shaw and Kathleen Wherthey

Other attendees included: John Kenney and Justin Hayes

On a motion made by Mr. Norman and seconded by Mr. Brotman, the Board returned to open session at 10:09 a.m. in the Board Room of the SunTrust Building at 120 East Baltimore Street, 16<sup>th</sup> Floor.

**OPEN SESSION**

During closed session, the Board of Trustees discussed and took action on the following matters:

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| Closed Session Minutes  | The Board reviewed and approved the July 17, 2018 closed session minutes.  |
| Medical Board Reports   | The Board reviewed and adopted the medical board reports from July 19, July 25, August 2, August 8 and August 16, 2018.                          |
| Extraordinary Salary Increases  | The Board reviewed and approved the recommendations regarding the extraordinary salary increases as presented.                                   |
| Request for Proposals for a Compensation Consulting Services Provider | The Board reviewed and approved the recommendations regarding a Compensation Consulting Services Provider.                                       |
| Adjournment   | There being no further business before the Board, on a motion made by Mr. Norman and seconded by Ms. Lochte, the meeting adjourned at 10:10 a.m. |

Respectfully submitted,



R. Dean Kenderdine  
Secretary to the Board

**BOARD OF TRUSTEES  
MARYLAND STATE RETIREMENT AND PENSION SYSTEM**

**ADMINISTRATIVE COMMITTEE MEETING SUMMARY  
AUGUST 7, 2018**

Board Requested Legislation	<p><b>THIS MATTER WILL BE DISCUSSED AND VOTED ON OUTSIDE THE CONSENT AGENDA IN OPEN SESSION.</b></p> <p>Ms. Anne Gawthrop presented a document outlining the details of several legislative proposals for the Administrative Committee's consideration and recommendation to the Board of Trustees for inclusion in its 2019 legislative proposals to the Joint Committee on Pensions (JCP)</p> <p>On a motion made by Ms. Hill and seconded by Mr. Norman, the Administrative Committee approved the legislative proposals, with suggested amendments, for recommendation to the Board of Trustees.</p>
Adoption of Proposed Amendments to COMAR Regulations – 22.01.01 – Definitions and General Provisions	<p><b>THIS MATTER WILL BE DISCUSSED OUTSIDE OF THE CONSENT AGENDA IN OPEN SESSION.</b></p> <p>Mr. Ken Reott presented to the Administrative Committee proposed amendments to the regulations regarding COMAR 22.01.01 – Definitions and General Provisions.</p> <p>Mr. Reott reported that the amendments add definitions of terms not previously defined and also amend the section to provide for the Agency's ability to accept the electronic submission of forms with electronic signatures through the Agency's secure access participant portal, once the portal is in place.</p> <p>On a motion made by Ms. Hill and seconded by Ms. Lochte, the Administrative Committee voted to recommend that the Board of Trustees vote to send the proposed amendments to COMAR 22.01.01 to the Administrative, Executive, and Legislative Review Committee, and publish them for comment in the Maryland Register, with the minor clarifications suggested by Ms. Brogan.</p>
Adoption of Proposed Amendments to COMAR Regulations:	<p><b>THIS MATTER WILL BE DISCUSSED OUTSIDE OF THE CONSENT AGENDA IN OPEN SESSION.</b></p> <p>Ms. Wherthey presented to the Administrative Committee proposed amendments to the regulations regarding COMAR 22.01.02 – Public Information Act Requests.</p> <p>Ms. Wherthey reported that the amendments are needed to conform the regulations to statutory changes that have taken place since the regulations were last revised. The amendments also reflect current Agency practice.</p> <p>-----</p> <p>Mr. Reott presented proposed amendments to the regulations regarding COMAR 22.01.03 – Domestic Relations Orders.</p> <p>Mr. Reott reported that the amendments are needed to add definitions of terms not previously defined and to clarify that the Agency will only accept an Eligible Domestic Relations Order providing for cost-of-living adjustments to alternate payees, and to provide additional details on how the Agency calculates the split of the retirement allowance based upon a marital share fraction.</p>
■ 22.01.02 – Public Information Act Requests	
■ 22.01.03 – Domestic Relations Orders	

**BOARD OF TRUSTEES  
MARYLAND STATE RETIREMENT AND PENSION SYSTEM**

**ADMINISTRATIVE COMMITTEE MEETING SUMMARY  
AUGUST 7, 2018**

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- 22.01.04 – Average Final Compensation

Mr. Reott presented proposed amendments to the regulations regarding COMAR 22.01.04 – Average Final Compensation.

Mr. Reott reported that the amendments are required due to a change in the law that requires a change in the Agency's calculation of the average final compensation for certain individuals, and to reflect changes to the Agency's process for handling extraordinary salary increases. The change in law requires that for individuals who become members of the System on or after July 1, 2011, the calculation of average final compensation is based upon five (5) years of employment. Previously, the calculation of average final compensation for all members was based upon three (3) years of employment.

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- 22.01.05 – Proof of Date of Birth

Mr. Reott presented proposed amendments to the regulations regarding COMAR 22.01.05 – Proof of Date of Birth.

Mr. Reott reported that the amendments are needed to clarify the Agency's ability to request proof of date of birth from various individuals, the proof of date of birth documents that are acceptable, and the methods by which the Agency may receive those documents.

The Administrative Committee agreed to vote on the above proposed amendments as a whole. Therefore, on a motion made by Ms. Hill and seconded by Mr. Norman, the Administrative Committee voted to recommend that the Board of Trustees vote to send the proposed amendments to COMAR 22.01.02 through 22.01.05 to the Administrative, Executive, and Legislative Review Committee, and publish them for comment in the Maryland Register, as presented.

- Member Services Update

Mr. Reott reported that the Member Services unit was able to meet its goals for the call abandonment rate and average call wait time for the month of June 2018. The unit's call abandonment rate was 3.42% and the average speed of answer was 57 seconds for the month of June. Overall, for the fiscal year, the unit was below the goals for both the call abandonment rate at 6.50% and average speed of answer of 104 seconds.

## ATTACHMENT A

### **2018 Board Requested Legislation**

The following legislative proposals are recommended by the Administrative Committee of the Board of Trustees for the State Retirement and Pension System (System) to the Board for presentment to the Joint Committee on Pensions for the Committee's consideration for the 2019 legislation session. These legislative proposals are intended to clarify or correct perceived inconsistencies within existing law and remove obsolete provisions within the State Personnel and Pensions Article. In addition, some of these proposals will result in more freedom for staff to complete the tasks required to help the State Retirement Agency (Agency) and System run efficiently. These proposals, if approved by the Board, will be presented to the Joint Committee for its consideration to sponsor as legislation for the 2019 legislative session.

#### **MPAS Legislation**

As the Agency's technology and operational re-engineering strategy, known as the "Maryland Pension Administration System" (MPAS) project, enters its last phase, Business Process Re-Engineering and Supporting Technology ("MPAS-3"), it includes the long-anticipated integration of existing applications and modifications to MPAS that will allow members and retirees to access their own account information and transact business with the Agency over the Internet, in real time. In providing these improvements to member service and self-service, the Agency will be moving from its current paper-driven operations to more timely, efficient automated processes. To assist in reaching this goal, staff is recommending two changes to the State Personnel and Pensions Article.

#### **Notarization**

One of the goals of MPAS-3 is to allow members to complete necessary retirement forms on-line, including a form that allows a participant to designate a beneficiary. Currently, the law requires that designation of beneficiary forms be notarized prior to submission to the Agency. With the evolution of MPAS-3, notarization of designation of beneficiary forms that are completed on-line will not be possible. Accordingly, staff is recommending amending this provision of the law to eliminate the requirement that designation of beneficiary forms be notarized. For those forms completed on-line, other electronic identifying features will be put in place to authenticate the identity of the member completing the form. For designation of beneficiary forms that continue to be submitted in writing to the Agency, the Board's regulations will still require notarization.

#### **Certification and Payment of Member Contributions**

Current law states that as each payroll is paid, participating employers are required to submit both member contributions and payroll data supporting these contributions to the Agency. However, the contributions and data are not required to be submitted simultaneously; the law provides for a five-day window between when a participating employer submits the member contributions and when the supporting data follows. What results is that often the member contributions do not match the payroll data. This difference can be attributable to members

withdrawing or dying in the intervening period between when the member contributions and payroll data are submitted. When this occurs, staff reports that the Agency will not accept the member contributions until they are reconciled to the payroll data. This creates an administrative burden on the staff to work with the participating employer to resolve the discrepancies.

To address this issue, one of the features of MPAS-3 will be to accept member contributions and payroll data simultaneously. Staff is recommending that in anticipation of this development, the current law be amended to remove the lag time of five days between submitting member contributions and payroll data, and instead, require participating employers to submit both components, simultaneously.

## **Alternate Contributory Pension Selection - Vesting**

An individual who vested as a member of the Alternate Contributory Pension Selection (ACPS) of the Employees' or Teachers Pension System (EPS and TPS) before July 1, 2011 and then leaves membership for any length of time, may resume membership in the ACPS if the member returns to a position that is eligible for participation in the ACPS. However, a deferred vested member who vested in the ACPS after July 1, 2011, is required to join the Reformed Contributory Pension Benefit (RCPB) tier of the EPS or TPS if the member has a break in service of more than four years. To allow for consistency in dealing with all deferred vested members in the ACPS, staff is recommending that the provisions of law that allow ACPS deferred vested members to re-enter the ACPS, regardless of the length of the break in service, be expanded to include members who vest in the ACPS on or after July 1, 2011.

Staff has asked the System's actuary to determine what the cost to the System will be if this proposed legislation is adopted.

## **Workers' Compensation Offset**

Current law generally prevents a member of the System who is receiving both a workers' compensation award and a disability retirement allowance from recovering twice for the same injury. Section 29-118 of the State Personnel and Pensions Article requires the Board to reduce an accidental or special disability retirement benefit by any related workers' compensation benefit paid during the same time period. Under § 9-610 of the Labor and Employment Article, a workers' compensation award to an employee of a government unit or quasi-public corporation is offset by the amount of similar disability payments that are not subject to an offset under § 29-118 of the State Personnel and Pensions Article. In short, if an individual receives a workers' compensation award and an ordinary disability retirement, the workers' compensation award is offset; if an individual receives a workers' compensation and a line-of-duty disability retirement, the disability retirement is offset.

Because of the complicated offset arrangement governing offsets and reductions for workers' compensation and disability retirements, what has resulted is a process that is disjointed and sometimes inconsistent in its application. Specifically, staff has found that implementing an

offset to a line-of-duty disability can be especially complicated when the Agency retroactively awards a line-of-duty disability after the retiree has begun receiving an ordinary disability and has been subject to an offset on the workers' compensation award by the amount of the ordinary disability. In that instance the Agency is required to reduce the member's line-of-duty disability by the amount of the workers' compensation award, resulting in the member having the same offset taken twice.

To avoid this inequity to the retiree, staff is proposing that the Board propose the following two options for the Joint Committee's consideration:

1. Amend provisions of current law to require the Workers' Compensation Commission to modify its award and unwind any employer offset for a retiree who has been subject to an employer offset to the retiree's workers' compensation benefit as a result of also receiving an ordinary disability benefit that is later converted to a line-of-duty disability benefit; or
2. Amend provisions of current law to require the Agency to reduce its offset to a line-of-duty disability benefit to reflect any offset awarded to an employer by the Workers' Compensation Commission for the ordinary disability benefit.

## **Pension Simplification and Clarification**

### **Purchase of Eligibility Service by EPS Members**

Chapter 618 of the Acts of 2006 (House Bill 1430) clarified that under federal law a member of the EPS may only purchase up to five years of eligibility service as a post-secondary school teacher. During the 2006 session, House Bill 1430 was amended and provisions in the original bill, as introduced, regarding this limitation of purchasing eligibility service mistakenly remained. The original language that remained in Chapter 618, as enacted (and amended during the 2006 session), inadvertently, negates the purchase limitations added through Chapter 618 and other purchase limitations that were already in the law prior to 2006. Accordingly, staff is recommending correcting this section of law addressing purchases of eligibility service credit.

### **Optional Retirement Program – Regulations**

Title 30 of the State Personnel and Pensions Article establishes the Optional Retirement Program (ORP) and provides that the Board shall adopt regulations that are necessary to carry out this title. This specific provision was included in Chapter 423 of the Acts of 1993 (Senate Bill 316). Chapter 423 expanded the number of companies that could provide annuity contracts to participants of the ORP from one to five. Since the passage of Chapter 423, and to comply with federal regulations that state that a 403(b) plan must be maintained pursuant to a written plan document that must comply in form and operation with the requirements of the Internal Revenue Code and regulations, the Board instead has adopted a plan document to carry out the provisions of Title 30 of the State Personnel and Pensions Article. Consequently, staff is

recommending legislation to require that the Board adopt and maintain a written plan document and permit, but not require, the Board to adopt regulations to implement this title.

## **State Police Retirement System – Reemployment**

Staff for the Agency and the Department of Legislative Services have long agreed that certain provisions governing the reemployment of retirees of the State Police Retirement System (SPRS) are not a model of clarity. Staff for the Agency is recommending working with DLS to clarify these provisions. Any changes made to these provisions would be non-substantive.

## **Unused Sick Leave**

### **Local Employer Cash Outs**

Under current law, a member of the Employees' or Teachers' Retirement System (ERS or TRS), EPS, or TPS may receive additional service credit at the time of retirement for any unused sick leave the individual has accrued over the course of the individual's career with the State. This credit may not be used to qualify for retirement. Moreover, because pension law allows an individual to convert unused sick leave to service credit, the State does not offer cash payments for this time. However, a number of participating employers, including boards of education, libraries, and community colleges that participate in the TRS or TPS do provide payment for some portion of a retiring member's unused sick leave. Those employers that pay for unused sick leave at retirement also certify and include that paid leave in the total days of unused leave reported to the Agency for additional service credit.

This issue was brought before the Joint Committee during the 2007 interim as Board requested legislation to prohibit the receipt of unused sick leave credit to the extent that a member has received a cash payout for the unused sick leave. The Joint Committee agreed to sponsor the legislation and it was crossfiled during the 2008 session by the Joint Committee chairs as House Bill 480 and Senate Bill 376. However, both bills were withdrawn by the Chairs prior to any committee votes. Staff is recommending the proposal again due to the Agency's most recent legislative audit, wherein, it was included as one of the audit findings.

### **Preserving Unused Sick Leave for EPS Members Required to Join the Correctional Officers' Retirement System**

Legislation during the 2016, 2017, and 2018 sessions requires that certain members of the EPS and ERS be moved into the Correctional Officers' Retirement System (CORS). The affected members, after being moved into the CORS have the option to transfer their EPS/ERS service into the CORS. Those who elect not to transfer will receive potentially two benefits at retirement – an EPS/ERS benefit based on their previous service and a CORS benefit, if they vest after being moved.

Current law provides that at retirement a member is entitled to receive creditable service for unused sick leave if the member retires on or before 30 days after the member is separated

from employment. Therefore, a member who has been moved to CORS would not be eligible for unused sick leave in the EPS because he or she will not be retiring from the EPS directly upon separation from service. This would suggest that an individual with 28 years of EPS creditable service who does not elect to transfer into the CORS will have all of their unused sick leave earned as both an EPS and CORS member applied to their CORS benefit. However, current law also provides that a member may not accumulate more than 15 days of sick leave per year in the system from which the member is retiring. Therefore, if the total number of days of unused sick leave earned by the employee exceeds 15 per year of service in the current plan, the member does not receive credit for any additional unused sick leave. This typically results in the forfeiture of all or most of the leave earned while a member of the former plan.

Returning to the hypothetical EPS member with 28 years of service when the member was moved into the CORS, for purposes of this example, assume this member never took a sick day. Prior to being moved into the CORS that member would have accrued 420 days of unused sick leave (19 months) of creditable service in the EPS. If, after being moved into the CORS, this member retires after five additional years of service, still without taking any sick days, the most the member will be able to apply towards retirement will be 75 days (15 days x 5). The 420 days accrued as a member of the EPS will be lost.

Staff believes that not addressing the issue of unused sick leave was an oversight in the drafting of the 2016-2018 legislation. This belief is supported by legislation that was passed in 2013 addressing a very similar situation. In that case the individuals were members of CORS and being promoted out of the CORS into EPS positions. The 2013 legislation was drafted specifically to protect the unused sick leave of those individuals who were promoted out of the CORS into the EPS, but who elected not to transfer their CORS service into the EPS. In light of the 2013 legislation, staff recommends proposing similar legislation for the individuals affected by the 2016, 2017, and 2018 legislation that required them to move into the CORS from the EPS.

## **Rescission of Designated Beneficiary Change**

Section 21-404 allows retirees of the several systems (with the exception of retirees of the Judges' Retirement System), to change their designated beneficiary at any time after they have retired. Retirees who opt to change their designated beneficiary have their allowance recalculated based on the value of the balance in the retiree's annuity reserve and pension reserve when the change is made. A change to the designated beneficiary will almost always result in a lower monthly benefit to the retiree. In light of this, it has been the Agency's practice to allow for a rescission of this change up until the first monthly payment following the change. This follows numerous correspondence between the Agency and the retiree, in the Agency's attempts to ensure the retiree comprehends the reduction that will occur as a result of the change in beneficiary. Nevertheless, despite the Agency's best efforts, many retirees continue to be taken aback once they receive their first benefit check and see the new reduction resulting from the change they made for their designated beneficiary. This is evidenced by the number of instances when the retiree has notified the Agency that they did not understand what the Agency communicated to them, and cannot live on their revised monthly retirement benefit after authorizing the Agency to change their beneficiary.

To address this concern, staff is proposing legislation that would allow for retirees to rescind their prior designated beneficiary change if they notify the Board, in writing, before the second payment due date following the month the revised retirement benefit becomes due. Staff also proposes that this proposal only be permitted if the newly designated beneficiary is alive at the time the rescission is requested.

## **Employees', Teachers', and Correctional Officers' Active Death Benefit**

If an active member of the EPS or TPS dies after reaching age 55 with at least 15 years of service or after accruing 25 years of eligibility service, regardless of age, the member's spouse may elect to receive a survivorship benefit equal to what the member would have received, had the member been retired at the time of death and selected Option 2 (a 100% joint and survivor allowance, subject to an actuarial reduction). Spouses of deceased active members of the ERS, TRS, and CORS are entitled to a similar benefit if the active member dies after reaching age 55 with at least 15 years of service. Additionally spouses of deceased active members of the EPS, ERS, TPS, TRS, or CORS also may elect to receive this death benefit if, at the time of death, the member was eligible to retire from the member's system.

The provisions governing death benefits for active members of the SPRS and the Law Enforcement Officers Pension System (LEOPS) provide that if an active member of either of these systems dies with at least two years of eligibility service, regardless of age, the surviving spouse of the member shall receive an allowance equal to 50% of the member's average final compensation. If there is no surviving spouse, or if the surviving spouse dies, the benefit is paid to any children under the age of 26 years or disabled. A surviving child who is disabled, may receive this benefit as long as the child is disabled, regardless of age. The SPRS and LEOPS also provide that if there is no spouse or minor or disabled child, the benefit may be paid to the member's dependent parents. Similar active death benefits are paid to spouses and minor children of deceased members of the Judges' Retirement System.

It is notable that the EPS, ERS, TPS, TRS, and CORS do not extend the Option 2 active death benefit to minor children of the deceased active members. Staff believes this may have been an oversight when extensive updates were recently enacted by the legislature for all death benefit provisions. In light of this omission, staff would recommend the Board call this issue to the attention of the Joint Committee. Staff has asked the System's actuary to determine the cost for such a change.

## **Modification of Municipal Pension Surcharges**

The 2011 legislative reforms substantially revised the benefit provisions and employee contribution rates for the MSRPS Municipal Employees' Combined System. When plan changes such as the 2011 reforms affect different PGUs differently, equity relationships can be affected to the systematic benefit of some and to the systematic detriment of others. It is recommended that legislation be introduced to convert or phase in a more equitable allocation of contribution requirements among the PGUs.

The 2011 reforms caused the pooled employer cost to decrease by about 2% of pay. Most of that decrease was due to the increase in employee contribution rates for the Alternate Contributory Pension Selection (ACPS) participants, from 5% to 7%. PGUs with participants subject to the Non-Contributory Pension Benefit (NCPB) or the Employees' Contributory Pension Benefit (ECPB) (nine employers) benefitted from the decrease in employer contributions although there was no offsetting increase in employee contributions from their NCPB and ECPB participants. This was the result of a specific provision included in the 2011 reforms that exempted these nine employers from having to participate in the Reformed Contributory Pension Benefit.

The Board of Trustees is recommending the establishment of a new surcharge of 2% of pay for each of the nine employers participating in the NCPB or ECPB. Because of the magnitude of the proposed changes to the employer contribution rate and the impact on these nine PGUs, the Board is also recommending these changes be implemented over a period of five years. This 5-year phase-in would begin with the December 2020 billing and would be fully implemented by the December 2021 billing.

## **Reopening Disability Claims**

Staff has reported several instances where shortly after a member of the several systems has been awarded a disability retirement benefit, staff has learned of information indicating that the individual never was eligible for the benefit. For example, the Agency, after granting a disability benefit, learned of an administrative determination by the former employer that the applicant acted with willful negligence during the occurrence of the allegedly disabling accident. However, current provisions of the State Personnel and Pensions Article do not explicitly address the Board's authority when presented with such facts. In another example, after awarding a disability retirement benefit, it was learned the applicant had accepted a higher paying job in the same field at a federal agency while the applicant was applying for her disability retirement from the State. For this reason, staff is recommending proposing legislation that would provide the Board with the express statutory authority to reopen and reevaluate a disability award when the Agency receives information, post-award, that the retiree may have been ineligible for the benefit at the time of the award.