

May 18, 2011

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
H-107 State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed Senate Bill 947 – *State Retirement and Pension System – Vested Retirement Allowance – Members and Former Members*.

Senate Bill 947 prohibits a former member of a designated retirement and pension plan within the State Retirement and Pension System (SRPS) from receiving a retroactive vested benefit allowance if the member files for vested benefits after normal retirement age. A member must submit a written application to the SRPS Board of Trustees that states the date on which the member wants to begin receiving a vested allowance. Under the bill, any benefits that the member would have received from normal age of retirement to the time the member actually applies for benefits must be forfeited. The bill also clarifies that members and former members who receive a refund of accumulated contributions are not entitled to further benefits.

Senate Bill 947 applies only prospectively and does not apply to any member or former member who, as of June 30, 2011, has separated from employment and has reached normal retirement age. All vested former members and active employees who leave service and have not yet reached normal retirement age, however, would be affected by the bill.

Under Current law, former vested members who apply for benefits after their normal retirement age are entitled to begin receiving their pensions and receive a lump-sum payment for past benefits not received. Active vested members who leave service upon reaching or exceeding their normal retirement age only receive pension benefits from the time of application forward.

Senate Bill 947 was proposed by the State Retirement Agency to address problems associated with former members who are entitled to either a refund of member contributions or a vested benefit, but who have not claimed those

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benefits. According to the General Assembly's consulting actuary, there are approximately 4,236 vested former members in the State plans who have not claimed their vested benefit despite being older than their normal retirement age. The Retirement Agency is currently undertaking measures to contact these former members with some success.

While I understand the concerns raised by the State Retirement Agency, I believe this legislation unintentionally imposes a very harsh punishment on former teachers and State employees who do not file their application for benefits upon reaching normal retirement age. These former members will be required to forfeit pension benefits that they have earned through years of dedicated service and that consist in part of employee contributions. In some cases, former employees have forgotten they are entitled to a pension benefit because decades have passed since they left teaching or State service, or they are simply not aware of the age of retirement. In some cases, intervening health problems have contributed to their failure to apply for benefits. Lost benefits can range from several thousand dollars to tens of thousands of dollars. I am particularly concerned about the potential impact of lost benefits on seniors who are struggling on fixed incomes.

Another concern I have with Senate Bill 947 is that there is no provision in the bill that allows former vested members to ask the SRPS Board of Trustees for a hardship waiver to allow a member to collect past benefits. As mentioned above, a member's impairment due to health reasons, such as dementia or Alzheimer's disease, may warrant such a waiver. Instead, members or their families would have to ask legislators to sponsor bills to grant statutory exemptions to the law. Finally, I am concerned that the proposed change in this legislation applies to both current and former employees who arguably have a contractually vested right to this pension benefit under State law.

Senate Bill 947 was introduced late in Session and was not included in the package of bills that the State Retirement Agency submitted to the Joint Committee on Pensions. During the 2011 Interim, I encourage the Joint Committee to consider an equitable and more workable alternative to the one proposed in this legislation. I believe a better approach to ensuring that pension benefits are paid upon a member's age of retirement is for the State Retirement Agency to continue its aggressive practice of notifying former members to apply for benefits in a timely fashion.

For the above reasons, I have today vetoed Senate Bill 947.

Sincerely,

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Governor