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Commission Studying Pension and Retiree Benefits Plans Public Hearing Today

By Megan Poinski

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The Public Employees' and Retirees' Pension Benefit Sustainability Commission will hear what employee groups, unions and the general public think about some possible changes to retirement benefits Monday afternoon.

Maryland currently has an estimated \$33 billion in unfunded liabilities for benefits it has promised to pay over the next three decades -- \$18 billion for pensions and \$15 billion for retiree health insurance.

Nine potential changes to pension and health benefits – and actuarial calculations showing what they might mean for the state's bottom line - - were circulated to eight employee working groups including unions, retired employees' associations, and the state retirement system's board of trustees. These groups will tell the commission what they think of potential changes to the system, said Michael Rubenstein, a policy analyst for the Department of Legislative Services who is staffing the commission. After that, the commission will hear testimony from the general public.

"They will testify to us on what they believe is good and bad policy, and where we should go in the future," said Casper Taylor Jr., the former speaker of the House of Delegates who chairs the commission.

The eight-member commission was established by legislation as part of this year's budget process. It is supposed to examine the State Employees' Retirement and Pension System, State Employee and Retiree Health Benefits System and Teachers' Retirement and Pension System.

The public testimony, as well as the actuarial calculations, will figure prominently into the recommendations the commission will make to the governor and General Assembly. The commission's preliminary report is due Dec. 15.

Rubenstein said that the potential changes that were calculated by the actuarial firms come from ideas that commission staff has been looking at and discussing. They are intended to be for discussion purposes only, he said, not actual options that the commission is considering.

Monday's hearing is the commission's fifth meeting since the members began work in early October.

Because of ballooning costs in public employee plans across the country, [20 states this year made changes](#) in their retirement systems, according to the National Conference of State Legislatures.

Under a law signed in May, Maryland's commission was given a year to come up with recommendations. Taylor said that at this point, he is concerned that the commission does not have the time it needs to do its job well.

"The ability for us to meet the schedule is very questionable," he said.

Last Wednesday, commission members heard presentations about the actual cost of the pension and benefit plans, as well as legal precedents for some types of reforms.

Pension and health benefit costs are a large part of the projected \$1.6 billion budget gap that the next General Assembly will need to deal with in January, said Warren Deschenaux, director of policy analysis for the legislature. Pensions and benefits costs are growing at a faster rate than state revenues, with revenues expected to increase 5% annually, and pensions and benefits costs climbing at about 10% each year.

"This does suggest that there are serious financial issues that need to be addressed," Deschenaux said.

The exploding pension and benefits costs have many sources. The most immediate is the expiration of federal stimulus dollars. For the next fiscal year, Deschenaux predicts that the general fund will need to contribute \$228 million more to the pension system to make up for the loss of stimulus money, which went into teacher pensions.

The rest of the growth has to do with across-the-board cost increases, and there's not much to cut there.

"This is an irreducible number, based on the services that are being provided," Deschenaux said.

Assistant Attorney General Bonnie Kirkland told the commission that most employees' pension benefits cannot be easily changed. According to case law, pension benefits are considered a contractual condition of employment. Any changes made need to follow contract law – meaning that changes cannot impair the benefits promised to employees.

Any changes are judged by how reasonable and necessary they are, Kirkland said. But this is a difficult standard to meet; case law dictates that the state cannot decide to make changes in benefits just because it wants to spend the money elsewhere.

The easiest way to modify pension benefits is to make changes for employees who are not yet vested in the system, Kirkland said.

“Any changes that are prospective and based on future employment have to be reasonable, but they are less likely to show that you have impaired a contract,” she said.

It is easier to modify health benefits, however. Kirkland said that retiree health benefits are explicitly not a contract, and therefore the terms can be changed by the General Assembly with less of a legal challenge.

Rubenstein said that none of the scenarios that will be discussed today violate current understanding of Maryland case law.



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