

Department of Legislative Services  
Maryland General Assembly  
2000 Session

FISCAL NOTE  
Revised

House Bill 136 (Delegates Owings and O'Donnell)

Appropriations

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**Pensions and Retirement - Accidental Disability Applications**

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This pension bill eliminates the current restriction requiring an application for accidental disability be filed by a member or former member of the Correctional Officers' Retirement System (CORS) within five years of the date of the claimed accident. The retirement system is also required to study the possible effects of infectious diseases, if any, on applications for accidental or special disability.

The bill takes effect July 1, 2000, and is retroactive to July 1, 1999.

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**Fiscal Summary**

**State Effect:** Increase in special fund expenditures of \$25,000 to \$50,000 per year for the State Retirement Agency for administrative costs, due to increased disability appeals. Minimal increase in State pension contribution expenditures (all funds) if such appeals are successful.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** The Board of Trustees of the SRPS may not accept an application for accidental disability filed by a member or former member more than five years after the date of the claimed accident. (The five-year restriction does not apply to the State Police Retirement System.) Current law also provides that a former member may file an application

for accidental disability within 36 months of the end of his/her membership if the former member proves to the satisfaction of the medical board of the SRPS that failure to submit an application while a member was attributable solely to physical or mental incapacity during the filing period.

To be eligible for accidental disability, a member must be permanently and totally disabled from performing the duties of their position as a result of the accident. The resulting disability must be the natural and proximate result of an accident that occurred in the actual performance of duty without willful negligence by the member.

**Background:** The five-year limit for the filing of an accidental disability was added to pension law in 1992, at the request of the Board of Trustees of the SRPS. From 1992 to 1997, a former member could file for accidental disability more than five years after the accident **only if** the former member proved that failure to submit an application while a member was attributable solely to physical or mental incapacity during the filing period. At the request of the board of trustees, the Joint Committee on Pensions sponsored legislation (Chapter 158 of 1997) which eliminated this “incapacity” provision so that there would be a fixed limitation period for such applications, providing repose to members and the State Retirement Agency. Members may still invoke the incapacity provision within three years of termination of membership, as noted above.

The above legislation was prompted by the board’s concern with the increasing number of disability requests filed based on accidents that occurred 10, 15, or 20 years prior to the filing for disability benefits. According to the board, in most cases the passage of time did not aid the member in proving their claim for disability because the board found it difficult, if not impossible, to substantiate the member’s basis for the accidental disability after such a long passage of time.

A 1992 survey by the State Retirement Agency (when the five-year limit was initiated) found that no other state provided a filing period as generous as five years for general employees’ pension systems. Most public systems indicated that they had no more than a one-year filing limit. It is also noted that State workers’ compensation law requires that permanent disability claims be filed within two years from the date of the alleged accident, without exception.

**State Expenditures:** The State Retirement Agency advises that it currently receives between five and ten accidental disability applications annually that are rejected because they are outside the limitation period. Under the bill, an additional one or two such applications are expected, due to the increase in benefits under an accidental disability benefit versus an ordinary disability or normal service benefit.

While the majority of these cases will not be approved for medical reasons, each case (successful or not) will result in an increase in administrative costs associated with additional

staff attorney work, medical board appeals, independent medical examinations, appeals to the Office of Administrative Hearings, and, in some cases, appeals to the circuit court. These additional costs are estimated to be \$25,000 per case, or between \$25,000 and \$50,000 per year.

In addition, if such a case was successful, there would be an increase in the pension liabilities of the SRPS, resulting in increased annual pension amortization payments. A successful application for accidental disability under CORS could result in additional pension liabilities of approximately \$200,000 (versus ordinary disability and depending on the member's characteristics) and additional annual State contributions of approximately \$15,000 per year.

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State Retirement Agency; Milliman & Robertson, Inc.; Department of Legislative Services

**Fiscal Note History:** First Reader - January 31, 2000  
cm/jr Revised - House Third Reader - April 3, 2000

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