

Department of Legislative Services  
Maryland General Assembly  
2011 Session

FISCAL AND POLICY NOTE

House Bill 1251

(Chair, Appropriations Committee)(By Request -  
Departmental - State Police)

Appropriations

Budget and Taxation

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State Police Retirement System - Special Disability Retirement Allowance -  
Forfeiture

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This departmental bill prohibits a member or former member of the State Police Retirement System (SPRS) from applying for a special disability benefit if the member or former member is charged with or convicted of committing any of 16 criminal offenses specified in the bill while employed by the Department of State Police (DSP).

The bill takes effect July 1, 2011.

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Fiscal Summary

**State Effect:** The bill has no measurable effect on State pension liabilities or contribution rates. Current and former SPRS members charged or convicted of a crime forfeit only their right to a special disability benefit, but not to a normal service or vested benefit that they have earned. It cannot be assumed that a special disability application would otherwise be granted to these individuals in the absence of the bill, so there is no effect on State pension costs. Moreover, DSP is not aware of any current or former members who are affected by the bill.

**Local Effect:** None.

**Small Business Effect:** DSP has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

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## Analysis

**Bill Summary:** For the purposes of the bill, a person is convicted of a crime if the person is found guilty by a jury or judicial officer, enters a plea of guilty or *nolo contendere*, or is granted a probation before judgment.

A member or former member of SPRS is barred from applying for a special disability benefit if the member is charged with committing a criminal offense at any time while employed by DSP. If a special disability application is pending before the Board of Trustees of the State Retirement and Pension System (SRPS), the board must temporarily suspend the application process. If the member or former member is convicted, any pending application is terminated. However, if the member or former member is acquitted, the charges are dismissed or placed on a stet docket, or a conviction is overturned on appeal, the member or former member may apply for special disability benefits, and any pending applications must be processed.

If at any time the charges are removed from the stet docket to resume criminal proceedings, or an appellate court remands the criminal case against a member or former member for a new trial, the individual is once again barred from applying for a special disability benefit, and any pending applications are suspended.

The Secretary of State Police must notify the board if any applicant for a special disability benefit has been charged with or convicted of a criminal offense while employed by the department.

**Current Law:** There are no provisions in current law addressing the suspension or termination of special disability benefit applications for SRPS members or former members who are charged with or convicted of a crime. However, Joint Resolution 4 of 2010 prohibits a retired member of the Legislative Pension Plan (LPP), or a retired member's beneficiary, from receiving a retirement allowance under LPP if the member is convicted of or enters a plea of *nolo contendere* to any felony or to a misdemeanor related to the member's public duties and responsibilities that involves moral turpitude for which the penalty may be incarceration. Such members are subject to the forfeiture of LPP benefits, but they are entitled to a return of contributions with interest, less any benefits paid prior to forfeiture.

A member of SPRS is entitled to a special disability retirement if the member is totally and permanently incapacitated for duty in the course of performing in the line of duty, without willful negligence on the part of the member. In addition, the SRPS medical board must certify that the member is totally incapacitated for duty, that the incapacity is likely to be permanent, and that the member should be retired.

A special disability allowance is equal to the lesser of the member's average final compensation or the sum of an annuity based on the member's accumulated contributions and a pension equal to two-thirds of the member's average final compensation. The benefits are tax-free. An SPRS member who is at least normal retirement age and eligible for a special disability retirement receives the greater of a normal service retirement or a special disability allowance.

**Background:** As of June 30, 2010, SPRS had 1,354 active members, all of them State Troopers, and 77 vested former members. DSP advises that a number of State Troopers have been arrested and convicted of crimes associated with immoral conduct. During the adjudication of their cases, some of the individuals applied for and were granted special disability benefits from SRPS. Because those individuals already are receiving disability benefits, they are not affected by the bill. DSP is not aware of any individuals who are currently affected by the bill.

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### **Additional Information**

**Prior Introductions:** HB 1458 of 2010, which contained these and additional provisions, passed the House as amended, but no further action was taken by the Senate. Its cross file, SB 894, received a hearing in the Senate Budget and Taxation Committee, but no further action was taken on the bill.

**Cross File:** None.

**Information Source(s):** Department of State Police, Maryland State Retirement Agency, Department of Legislative Services

**Fiscal Note History:** First Reader - March 13, 2011  
ncs/rhh

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## ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: State Police Retirement System – Special Disability Retirement Allowance - Forfeiture

BILL NUMBER: HB 1251

PREPARED BY: Maryland State Police

### PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

### PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.