

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 60
Appropriations

(Delegate M. Jackson, *et al.*)

Budget and Taxation

Local Pension Systems - Special Disability Retirement Allowance

This bill requires a local defined benefit (DB) pension system to offer, at a minimum, a special disability retirement benefit to specified individuals who, in the line of duty, are totally and permanently incapacitated for duty. A local pension system is exempt from the requirement if it provides the disabled individual with alternative suitable employment, as defined in the bill. **The bill takes effect July 1, 2020.**

Fiscal Summary

State Effect: None. The bill affects only local governments and local pension plans.

Local Effect: Local pension liabilities and costs likely increase minimally for some local governments that are not members of the State Retirement and Pension System (SRPS), as discussed below. No effect on revenues. **The bill may impose a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: The bill applies to any county or municipal government in the State that operates a DB pension plan for its employees; it does not apply to any system under SRPS. The special disability benefit required by the bill is only available to individuals employed as a sworn law enforcement officer, firefighter, or emergency medical technician and who are members of a local pension system either as a condition of employment or by choice.

Unless exempted as specified by the bill, the appropriate local authority must grant a special disability retirement benefit to a member if the member is totally and permanently incapacitated for duty arising out of or in the course of the actual performance of duty without willful negligence by the member, as determined by the appropriate local authority.

For members who have not yet reached normal retirement age, the special disability retirement benefit is the *greater* of:

- an allowance set by terms of collective bargaining or by local pension disability law; or
- an allowance equal to 45% of the member's average final compensation (AFC), offset by any income from workers' compensation, long-term disability, Social Security, and other government-sponsored disability benefits.

For members who have reached normal retirement age, the special disability retirement benefit is the *greater* of:

- a normal service retirement allowance; or
- a special disability allowance as calculated above.

The appropriate local authority is exempt from the requirements of the bill if the local government provides the member eligible for a special disability retirement benefit with alternative suitable employment.

“Alternative suitable employment” provided by a local government is defined as employment with a substantially similar base pay, salary schedule, and grade as the position previously held by the member. In determining whether a position is considered alternative suitable employment, the local government must consider the nature and extent of the incapacity of the member.

Current Law/Background:

State Disability Benefits

Prior to reaching normal retirement eligibility, a member of SRPS is eligible for one of two types of disability benefits:

- **ordinary disability**, if the member is mentally or physically incapacitated for the further performance of the normal duties of the member's position, the incapacity is likely to be permanent, and the member has five years of eligibility service; or

- **accidental disability**, if the member is totally and permanently incapacitated for duty as the natural and proximate result of an accident that occurred in the actual performance of duty at a definite time and place without willful negligence by the member, the member is mentally or physically incapacitated for the further performance of the normal duties of the member's position, and the incapacity is likely to be permanent. There is no minimum service requirement for accidental disability.

The terminology and eligibility criteria vary slightly for State Troopers and other law enforcement personnel employed by the State. For these law enforcement officers, the ordinary disability benefit is the *greater* of their normal service retirement benefit or 35% of their AFC. The accidental (also called "special") disability benefit is the *lesser* of their AFC at the time of disability or the sum of two-thirds of their AFC and an annuity based on their accumulated contributions.

Local Benefits

Approximately 22 local governmental entities participate in the Law Enforcement Officers' Pension System as participating governmental units within SRPS and are already providing disability benefits under the State plan. A number of counties and local governments operate their own retirement and pension plans with the availability of disability benefits varying by plan.

Local Expenditures: The Maryland Association of Counties (MACo) advises that at least 13 counties operate their own pension plans for law enforcement personnel and that *many* of these systems already provide disability benefits. Further, in some cases, the eligibility criteria and benefits required by the bill may exceed the eligibility criteria or benefit levels provided by those counties. According to MACo, some counties use different criteria for determining what constitutes "disabled." Some provide disability allowances slightly less than 45% of AFC and, thus, would have to raise their benefit levels, but most provide benefit levels that exceed 45% of AFC. Charles County advises that its pension plan gives the disability review board discretion to award disability benefits ranging from 15% to 66.6% of final average earnings, depending on the disability. To the extent that the 45% of AFC threshold under the bill is greater than the amount used by any of the counties that operate their own pension plans for law enforcement personnel, local pension liabilities and costs may increase for some counties. Any municipalities that operate their own pension plans for law enforcement personnel are similarly affected.

Additional Information

Prior Introductions: HB 645 of 2019 passed the House and received a hearing in the Senate Budget and Taxation Committee, but no further action was taken. HB 971 of 2018, a similar bill as amended, passed the House and was referred to the Senate Rules Committee, but no further action was taken on the bill.

Designated Cross File: None.

Information Source(s): Charles, and Somerset counties; Maryland Association of Counties; City of Havre de Grace; Maryland Municipal League; State Retirement Agency; Department of Legislative Services

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