

**Department of Legislative Services**  
 Maryland General Assembly  
 2000 Session

**FISCAL NOTE**  
**Revised**

House Bill 176 (Delegate Proctor)

Appropriations

---

**State Police Retirement System - Military Service Credit**

---

This bill eliminates, in a limited circumstance, the prohibition against a member of the State Police Retirement System receiving military service credit in that system for prior military service if the member will also receive a federal military pension based on that service. Specifically, a member, former member, or retiree is exempt from the prohibition if the member was hired by the Department of State Police as an aviator to operate a helicopter for the State Emergency Medical System.

The bill takes effect July 1, 2000, and applies retroactively to individuals hired by the Department of State Police on or after July 1, 1987. The bill sunsets after July 31, 2000.

---

**Fiscal Summary**

**State Effect:** Increase in liabilities of the State Police Retirement System of \$292,000, resulting in increased pension contributions by the Department of State Police of \$19,800 (general funds) beginning in FY 2002, increasing 5% per year thereafter based on actuarial assumptions.

| (in dollars)    | FY 2001 | FY 2002    | FY 2003    | FY 2004    | FY 2005    |
|-----------------|---------|------------|------------|------------|------------|
| GF Revenues     | \$0     | \$0        | \$0        | \$0        | \$0        |
| GF Expenditures | 0       | 19,800     | 20,800     | 21,800     | 23,000     |
| Net Effect      | \$0     | (\$19,800) | (\$20,800) | (\$21,800) | (\$23,000) |

*Note: ( ) = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** None.

---

## Analysis

**Current Law:** Members of the State Retirement and Pension System (SRPS), including employees of participating local governments, may claim military service credits (up to the maximum five years) in one of two ways:

- (1) they may claim service credits upon return to membership (with certain restrictions) for active military service that interrupts membership in the system; or
- (2) they may claim military service credits for active duty that occurred prior to membership in the system after earning ten years of creditable service.

Under Section 38-104 of the State Personnel and Pension Article, a member may not receive military service credit if the member receives credit for that military service from another retirement system for which retirement benefits have been or will be received. Currently, there are four exceptions to this provision, whereby a member may receive two benefits based on the same military service:

- the Social Security Act;
- the National Railroad Retirement Act;
- Title 3 or Title 10, Chapter 67, Sections 1331 through 1337 of the United States Code (military reserve pension); and
- disability payments from a pension or retirement system.

**Bill Summary:** HB 176 adds another exception to the prohibition. A member, former member, or retiree of the State Police Retirement System who was hired as an aviator to operate a helicopter for the State Emergency Medical System may receive up to five years of military service even if the member is receiving or will receive retirement benefits for this military service from another retirement system.

**Background:** This legislation is related to a recent decision by the board of trustees of the SRPS. The board recently voted to grant five years of pension credit to a member of the Maryland State Police based on the member's military service, even though that member will receive a federal military pension based on that same service. State law provides that a member may not receive military credit if the member is eligible for another pension based on that service.

On November 30, 1999, the board heard the appeal of a member of the State Police

Retirement System regarding the State Retirement Agency's denial of his application for five years of military credit. The member had at least 20 years of service with the military. The agency denied the member's application based on Section 38-104, as discussed above. The member appealed the agency's denial to the Office of Administrative Hearings for a preliminary hearing. The basis of his appeal was his reliance on verbal and written information given to him by the Maryland State Police at the time of his recruitment, indicating that he would be eligible for the five years of military credit despite his eligibility for a military pension. The administrative law judge (ALJ) recommended upholding the agency's initial decision. The ALJ found that: (1) the statute in question denying the "double" pension credit clearly applied to the member's circumstances; and (2) that the remedy of estoppel is not available against the State in the performance of its governmental, public, or sovereign duties. In other words, while the member may have been given misinformation and relied on that misinformation, that reliance cannot require the State to act contrary to State law.

The member then appealed to the board of trustees for a final determination, which was held on November 30. At the board hearing, the board's assistant attorney general advised the board that State law prohibited the granting of military credit if it resulted in "double-dipping," as defined by Section 38-104(b). The board, however, was persuaded that the member had received a "commitment" from the State, which the State was obliged to honor. The board therefore voted to grant the additional five years of military credit.

**State Expenditures:** The Department of State Police reports that there are two individuals who would be affected by this bill. One of these individuals has already retired while the other individual would be eligible for the additional credit as of July 1, 2000. Granting an additional five years of military credit increases the liabilities of the State Police and Retirement System by \$292,000 for the two individuals (based on an estimated increase in each member's benefits of approximately \$6,600 per year). Amortizing these additional liabilities over the 19 years from fiscal 2002 through fiscal 2020 results in a first-year amortization payment of \$19,800 in fiscal 2002, increasing 5% per year thereafter based on actuarial assumptions.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - February 4, 2000  
drg/jr Revised - House Third Reader - March 23, 2000

---

Analysis by: Matthew D. Riven

Direct Inquiries to:  
John Rixey, Coordinating Analyst  
(410) 946-5510  
(301) 970-5510