

**Department of Legislative Services**  
 Maryland General Assembly  
 2003 Session

**FISCAL AND POLICY NOTE**

House Bill 508  
 Appropriations

(Delegate Shank, *et al.*)

**Military Service Credit - National Guard Membership**

This pension bill provides members of the State Retirement and Pension System (SRPS) with four months of military service credit for each year of service with the National Guard units of states neighboring Maryland, up to a maximum of 12 months of military service credit for such service, with certain conditions.

The bill takes effect July 1, 2003.

**Fiscal Summary**

**State Effect:** State pension liabilities could increase by approximately \$20 million from the grant of additional pension military credit, resulting in increased annual pension contributions of approximately \$1 million (all funds) beginning in FY 2005, and increasing 5% per year thereafter based on actuarial assumptions. State Retirement Agency administrative expenditures (special funds) could increase by \$10,000 in FY 2004.

(in dollars)	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	10,000	0	0	0	0
GF/SF/FF Exp.	0	1,000,000	1,050,000	1,102,500	1,157,600
Net Effect	(\$10,000)	(\$1,000,000)	(\$1,050,000)	(\$1,102,500)	(\$1,157,600)

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

**Local Effect:** For local governments that participate in SRPS, aggregate liabilities could increase by approximately \$500,000, resulting in increased annual pension contributions of approximately \$25,000 beginning in FY 2005, and increasing 5% per year thereafter.

**Small Business Effect:** None.

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## Analysis

**Bill Summary:** For participants in SRPS (including participating governmental unit employees), the bill allows for up to an additional year of military credit for service with the National Guard units of:

- Delaware;
- District of Columbia;
- Pennsylvania;
- Virginia; and
- West Virginia.

Because these employees are already eligible for service credit for active duty during their two-week training periods, it is assumed that the service granted under the bill will apply to general annual participation as members of the National Guard.

**Current Law:** Under Section 38-103 of the State Personnel and Pensions Article, members of a State or local pension system in Maryland may receive up to five years of military service credit for service that interrupts employment. A recent opinion by the Attorney General concludes that this provision also applies to members of the National Guard or a reserve component of the U.S. armed forces who are also State or local government employees: (1) if the member's unit is called into active duty; or (2) during the member's annual two-week training.

Section 38-104 of the same Article provides additional service credit to SRPS members for prior military service not covered by Section 38-103. In addition, Chapter 699 of 2000 amended Section 38-104 to allow members of SRPS who are also Maryland National Guard members to receive four months of military service credit for each 12 months of service in the Maryland National Guard. Thus, they may earn 16 months of service in a year – 12 months of service credits for their normal State employment plus 4 months of military service for their year of service in the guard.

There is some disagreement about the interpretation of current law when a National Guard member is called to active duty by the President of the United States (“federalized”) under Title 10 of the U.S. Code. In response to last year's SB 497 (see discussion below), the Military Department advised that members of the National Guard who were called to active duty were eligible for the extra service credit in SRPS under Chapter 699 of 2000. An assistant attorney general for the State Retirement Agency,

however, has subsequently advised that all days during the period of the call-up are considered active duty in the U.S. military under Section 38-103, and hence that time cannot be used to claim the additional four months of military service credit for military service in the National Guard under Section 38-104.

**Background:** Unlike current law that requires credit for military service that interrupts employment, which serves to ensure that the employee does not receive less than 12 months for that year, this bill allows non-Maryland National Guard members to receive 16 months of service in a year (12 months of normal service plus 4 months of military service). This pension credit would be in addition to any federal military pension for which the member is eligible. The bill is therefore parallel to Chapter 699 (HB 897/SB 21) of 2000, which provided similar credit for service in the Maryland National Guard, except that this bill provides a maximum of one year of additional credit, rather than three years under Chapter 699.

**State Expenditures:** The number of members of non-Maryland National Guard units who are also State employee members of SRPS cannot be reliably estimated at this time because neither the State Retirement Agency, the Military Department, nor the other National Guard units track this data. For illustrative purposes, it is known that approximately 245 State employee members of the Maryland National Guard have been called to active duty under the current war threat, and an unknown additional number of Maryland guard members who remain on inactive duty. It is assumed that there are a corresponding number of State teachers who participate in the Maryland National Guard. Given the close proximity of many Marylanders to the borders of other states, it is assumed that there are 450 such eligible members, or about 10% less than the estimated number of Maryland National Guard members who are SRPS members and called to active duty.

This estimate includes: (1) SRPS members with ten or more years of State service who are active or former non-Maryland National Guard members (and who could apply for credit immediately under the bill); (2) SRPS members with less than ten years of State service who participate in these guard units and who would be eligible for military credits upon attaining ten years of service. Assuming that all these State SRPS members have served (or will serve) at least three years in the National Guard, these members would each be eligible for the one year of additional military credit based on four months for each year of service.

Based on prior year informal estimates by the State's actuary (and adjusting for the increased estimate in participation), if these 450 SRPS members were to receive an additional year of military service credit and 45 more State members of SRPS were to join these units each year thereafter, the increased liability to SRPS would be

approximately \$20 million, which would be amortized over the statutory 25 years, with a first-year cost beginning in fiscal 2004 of \$1 million, increasing 5% per year thereafter based on actuarial assumptions. The actuarial impact is based not only on the number of employees, but also on the pension systems in which they participate. Because it is estimated that a relatively high number of National Guard members participate in the State Police Retirement System and the Law Enforcement Officers' Pension System, the actuarial costs of the additional credit are higher because those systems are more generous.

In addition, the State Retirement Agency could incur approximately \$10,000 in administrative expenses in fiscal 2004 for additional contractual employment or overtime costs to process the initial backlog of claims for additional service credit. The additional workload in future years could be handled with existing resources.

**Local Expenditures:** For systems that participate in SRPS, it is assumed that there are approximately 50 local employees participating in non-Maryland National Guard units who may be eligible for the additional year of credit, with five members added each year thereafter. Based on prior years' actuarial estimates, it is estimated that the bill would increase total liabilities by approximately \$500,000 based on these participants. This amount would be amortized over the next 25 years at a first-year cost of approximately \$25,000 beginning in fiscal 2004. Future year expenditures would increase 5% annually.

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### **Additional Information**

**Prior Introductions:** HB 319 of 2002 received an unfavorable report from the House Appropriations Committee.

**Cross File:** None.

**Information Source(s):** Military Department, State Retirement Agency, Milliman USA, Department of Legislative Services

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