

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 644
Appropriations

(Delegate James) (Chairman, Joint Committee on Pensions)

Budget and Taxation

**Disability Retirement Benefits - Reduction for Workers' Compensation Benefits -
Occupational Diseases**

This pension bill applies to members of the State Retirement and Pension System (SRPS) and provides that the member's workers' compensation administrator, rather than SRPS, make any reducing offset in benefits when a member receives both an ordinary disability pension benefit and a workers' compensation award for an occupational disease.

The bill is effective July 1, 2004.

Fiscal Summary

State Effect: None. The bill codifies current practices for offsets to ordinary disability allowances that result from occupational disease. The bill would not materially affect State government operations.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The Board of Trustees of SRPS is required to reduce a disability retirement benefit by any related workers' compensation benefits paid or payable after the effective date of the retirement if the workers' compensation benefits are (1) paid or payable while the retirement benefit is paid or payable; and (2) for an accidental personal

injury or occupational disease arising out of and in the course of the retiree's employment by a participating employer.

Retirees receiving an accidental disability retirement and a workers' compensation award for a related injury must have their accidental disability allowance reduced by the amount of the workers' compensation award. The reduction is required for cases of occupational diseases as well as accidental personal injuries. Members of the teachers' retirement and pension and employees' retirement and pension systems cannot receive an accidental disability for an occupational disease. Those members can only receive an ordinary disability for occupational diseases.

SRA is only required to reduce ordinary disability benefits when the ordinary disability is the result of an occupational disease. SRA has an agreement with the Injured Workers' Insurance Fund (IWIF) for IWIF to make any offsets to the member's workers' compensation award for occupational disease. IWIF is the State's third party administrator for workers' compensation claims.

State Fiscal Effect: SRA indicates that a recent advice of counsel stated that the plain language of statute, legislative history, and case law all supported the imposition of a pension offset in instances where either ordinary, accidental, or special disability benefits or workers' compensation were awarded for occupational disease. Since pension statute does not allow for accidental or special disabilities for occupational diseases, the board does not track workers' compensation data on those cases.

SRA indicates that if current practice is not codified, and the advice of counsel compels the board to apply the offsets in cases of occupational disease, the agency would require one additional attorney and one-half an additional benefits processing administrator.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Retirement Agency, Department of Legislative Services, Workers' Compensation Commission

Fiscal Note History: First Reader - February 20, 2004
ncs/mdr

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