

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 591
Budget and Taxation

(Senator McFadden)(Chair, Joint Committee on Pensions)
Appropriations

**State Retirement and Pension System - Military Service Credit - Clarification
and Simplification**

This bill conforms State pension law to recent changes to the federal Uniformed Service Employment and Reemployment Rights Act (USERRA) of 1994 and the Heroes Earnings Assistance and Relief Tax (HEART) Act of 2007.

The bill takes effect July 1, 2009.

Fiscal Summary

State Effect: No discernible effect on State pension liabilities or contributions. No effect on revenues.

Local Effect: Local pension liabilities may increase for some plans, but there is no significant effect on employer contribution rates. No effect on local revenues.

Small Business Effect: None.

Analysis

Bill Summary: The bill's provisions generally apply to members of any State or local retirement or pension system, including the State Retirement and Pension System (SRPS) and any retirement or pension system operated by a political subdivision of the State.

A member who is assigned to active or inactive duty for training is deemed to be performing military service.

For the purpose of benefit accrual, any member who dies or becomes disabled while performing military service on or after January 1, 2007, is considered to have become reemployed on the day before the death or disability occurred and then terminated on the date of death or disability. The individual is then entitled to any vested benefit and any additional death or disability benefit provided to a member who resumes employment and then dies or becomes disabled. The retirement or pension system may provide either partial or full benefits but must provide the same level of benefit to members in equivalent situations.

Beginning January 1, 2009, differential wage payments paid to members performing military service are considered compensation and members may accrue benefits based on those payments.

Current Law: State pension law defines military service as:

- induction into the armed services for training or service;
- active duty in the reserves;
- enlistment in the armed forces;
- membership in the Maryland National Guard; or
- for members separated from employment since July 1, 1991, active duty with the commissioned corps of the Public Health Service, the National Oceanic and Atmospheric Administration, or the Coast and Geodetic Survey during World War II, the Korean War, or the Vietnam War.

Members whose military service interrupts their membership and are reemployed upon their return receive service credit as if they had not left, up to five years, provided they:

- have not withdrawn from the system or have redeposited their withdrawn contributions;
- return to membership within one year of being discharged from active service; and
- do not take other permanent employment between their discharge and their return to membership.

Members of the Maryland National Guard who are called to national duty receive service credit at the rate of 4 months of service credit for each full year of military service, not to exceed 36 months.

While an SRPS member is absent from employment due to military service, neither the member nor the member's estate is entitled to any disability benefits, death benefits, or optional allowances provided to members.

Chapter 519 of 2008 created a line of duty death benefit for any member of the Employees' Retirement System, Employees' Pension System, Teachers' Retirement System, or Teachers' Pension System who is killed while performing official duties without willful negligence on the member's part. The benefit is available only to a surviving spouse, minor child, or dependent parent, in that order of preference. If the benefit is paid to minor children, the allowance is divided equally among them until each child reaches the age of 18.

The benefit created by Chapter 519 equals:

- a lump-sum distribution of the member's accumulated contributions; and
- an allowance of two-thirds of the member's average final compensation.

Background: USERRA was enacted in 1994 to protect service members called into active duty. Subject to exceptions, it entitles service members to reemployment with their employers at the time they are called to duty and protects their job-related health and retirement benefits. Various changes made in 2005 included an expanded definition of military service to include reservists called to active or inactive duty for training.

The HEART Act of 2007 allows service members who are killed or disabled while performing military service to receive the same vested, death, and disability benefits to which they or their families would be entitled had they returned to employment following their service.

State Fiscal Effect: The bill increases the system's liabilities to the extent that it provides benefits not previously available to members who are killed or disabled while performing military service. The State Retirement Agency (SRA) advises that it will likely interpret the bill to require it to pay the line of duty death benefit to the family of any member who is killed while performing military service. The expanded definition of military service also provides up to five years of additional service credit to members who were not previously eligible for that credit.

Legislative Services does not expect any increase in liabilities resulting from this bill to have a discernible effect on the State's contribution rate. SRA advises that it is aware of just one member who has been killed since January 1, 2007, while performing military service. Further, it is not aware of any members who have requested disability benefits for injuries suffered while performing military service. No more than five members over the past several years have applied for military service credit for active or inactive duty training (and been denied). While the new benefits are meaningful to the members and their families, they are not sufficiently large to have a material effect on the State's contribution rates.

Local Fiscal Effect: Local retirement and pension systems may also experience an increase in pension liabilities to the extent that their members qualify for the benefits provided by the bill. Legislative Services cannot reliably estimate the effect for all public pension plans in the State but does not anticipate that the overall effect on employer contributions is significant.

Additional Information

Prior Introductions: None.

Cross File: HB 975 (Delegate Griffith, *et al.*) (Chair, Joint Committee on Pensions) - Appropriations.

Information Source(s):Carroll County, Queen Anne's County, St. Mary's County, Baltimore County, Harford County, Mercer Human Resources Consulting, Military Department, Montgomery County, Maryland State Retirement Agency, Department of Legislative Services

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