

Department of Legislative Services
2013 Session

FISCAL AND POLICY NOTE**Revised**

Senate Bill 751

(Senator Robey)

Budget and Taxation

Appropriations

State Police Retirement System - Reemployment of Retirees

This bill extends the termination date of Chapter 644 of 2009 (HB 1495) by four years, to June 30, 2018. The bill also exempts retirees of the State Police Retirement System (SPRS) who are reemployed on a contractual basis as civilians from the reemployment offset to their retirement allowance.

The bill takes effect July 1, 2013, and terminates upon the termination of Chapter 644.

Fiscal Summary

State Effect: Minimal increase in State pension liabilities and contribution rates for the Department of State Police (DSP) from FY 2015 through 2018, but the extent of the increase cannot be determined. The bill's exemption provisions have no effect on State finances. No effect on revenues.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background: Chapters 643 and 644 of 2009 (SB 1019/HB 1495) exempt a reemployed retiree of SPRS from a retirement allowance reduction if the retiree is reemployed on a contractual basis by DSP at a rank of trooper first class. Chapters 643 and 644 also provide (1) a disability benefit to a reemployed SPRS retiree who is incapacitated while reemployed as either a trooper first class or as a Maryland State Police Aviation Command (MSPAC) helicopter pilot and (2) a death benefit to the surviving family members of an SPRS retiree who is killed while reemployed in either of

the same two capacities. The second provision applied retroactively to a MSPAC pilot killed in 2008. DSP must submit an annual report to the State Retirement Agency (SRA) on the number and compensation of retirees it reemploys.

The exemption from the retirement offset applies only to an SPRS retiree who is reemployed on a contractual basis for no more than four years; a retiree older than age 60 may not be reemployed. The retiree must terminate participation in the Deferred Retirement Option Program (DROP) and receive any lump sum payment that is due from DROP before becoming reemployed. While reemployed, the retiree does not make member contributions to any State retirement or pension plan, does not have employer contributions made on his or her behalf, and does not earn service credit in any State Retirement and Pension System plan.

The disability benefit applies to a reemployed retiree who is totally and permanently incapacitated while performing official duties and who was not willfully negligent. The benefit is equal to two-thirds of the retiree's average final compensation (AFC) at the time of retirement, including accumulated cost-of-living adjustments.

The death benefit applies to a reemployed retiree who is killed in the course of performing official duties and was not willfully negligent. The death benefit is equal to a lump sum payment of the member's accumulated contributions and a special allowance equal to two-thirds of the retiree's AFC at the time of retirement, with accumulated cost-of-living adjustments from the date of retirement. It is payable to the retiree's spouse, dependent children, or dependent parents, in that order of preference.

Contractual Reemployment: Prior to the enactment of Chapters 643 and 644, only SPRS retirees employed on a *temporary* basis by the same employer were explicitly subject to the retirement offset; those employed on a *contractual* basis were not subject to the offset. The intent of that legislation was to exempt retirees who are reemployed as police employees on a contractual basis from the offset, but it inadvertently subjected SPRS retirees employed on a contractual basis in nonpolice (*i.e.*, civilian) functions to the offset. This bill reinstates the exemption for SPRS retirees reemployed on a contractual basis in nonpolice functions from the offset, which was the case prior to the enactment of Chapters 643 and 644.

Reemployment Benefit Reduction: In general, retirees who receive a retirement benefit from the State may be reemployed. In most cases, however, their benefit payment is subject to a reduction if they are rehired by the same employer for whom they worked at the time of their retirement. For members who retire directly from State service, the State is regarded as a single employer, so reemployment with any State agency activates the benefit reduction. The purpose of the reduction is to ensure that a retiree cannot enhance his or her income by retiring (and thereby receiving a benefit) and then returning to the

same or similar job at his or her previous salary. The reduction ensures that the sum of a retiree's income and retirement benefit does not exceed the AFC at retirement and, therefore, is calculated as follows:

Benefit Reduction = [Current annual compensation] + [Initial annual retirement allowance] – [AFC at retirement].

As an example, if a member retires with an AFC of \$60,000 and an initial benefit of \$32,400 and is rehired with an annual salary of \$50,000, the offset is equal to:

$$\$50,000 + \$32,400 - \$60,000 = \mathbf{\$22,400}.$$

The retiree's annual benefit therefore becomes \$10,000 (\$32,400-\$22,400), which makes the retiree's total income the same as AFC at the time of retirement (\$60,000).

In addition to the exemption for State police officers, State law includes exemptions for teachers, principals, correctional officers, and health care providers reemployed by their former employers, under specified conditions.

State Police Retirement Benefits: An SPRS member is eligible to retire at age 50 or after accumulating either 22 or 25 years of eligibility service (depending on whether the member was hired before or after July 1, 2011), regardless of age. Retirement is mandatory at age 60. The retirement allowance is equal to 2.55% of AFC multiplied by the number of years of creditable service. The retirement allowance is subject to a cap of 71.4% of AFC (the equivalent of 28 years of service).

An SPRS member is eligible to participate in a DROP program. To participate, the member must have at least 22 or 25 years of service (depending on date of hire) and be younger than age 60. The maximum period of participation is four years. During the DROP period, the member continues employment but is deemed to be retired, and the retirement allowance is placed in an account earning 4% interest, compounded annually. At the end of the DROP period, the lump sum held in the DROP account is paid to the member, who must then terminate employment and receive a regular retirement allowance.

Surviving family members of an SPRS member with at least two years of service and who dies other than in the line of duty are entitled to a special death benefit equal to 50% of compensation at the time of death. If the SPRS member dies in the line of duty, the death benefit is equal to two-thirds of AFC at the time of death, plus the return of accumulated contributions.

Aviation Command: Since 1970, MSPAC has operated a system of aircraft to provide emergency medical evacuation (Medevac) services and other flight services to the State's

citizens. Special funds from the Maryland Emergency Medical System Operations Fund (MEMSOF) support Medevac and search and rescue functions, and general funds support law enforcement and homeland security functions. Beginning in fiscal 2003, the funding split was made 80% special fund and 20% general fund based on the ratio of Medevac flights to nonmedically related flights.

Approximately 40 helicopter pilots are employed by the State emergency medical system, several of whom are SPRS retirees. Prior to the enactment of Chapters 643 and 644, the reemployed pilots were not eligible for any line-of-duty death benefits in the event they were killed in an accident because they are not members of any State retirement or pension plan. However, upon their death, their spouses automatically receive monthly payments equal to 50% of the retiree's retirement allowance, a benefit that is paid to all surviving spouses of SPRS retirees. A September 2008 crash of an MSPAC helicopter killed four people, including the pilot, who was an SPRS retiree.

State Fiscal Effect: As of June 30, 2012, there are 2,387 SPRS retirees and beneficiaries. The Department of Legislative Services (DLS) cannot determine how many are beneficiaries and how many are older than age 60 and, therefore, not eligible to be employed as State police officers. Since the enactment of Chapters 643 and 644, DSP reports that it has hired a total of six retirees as troopers: four in the first year and one in each of the last two years.

Foregone Offsets: Reemployed SPRS retirees are not subject to the retirement offset under this bill for four additional years, so SRA continues to make full benefit payments to those retirees instead of reducing their benefits as dictated by current law. In most cases, when benefit payments are larger than expected, the difference between the expected benefit and the actual benefit is recognized as an actuarial loss in the annual valuations conducted by the system's actuary. DLS estimates that the six retirees who have been rehired in the last three years would have been subject to a combined offset of almost \$140,000. This amount is sufficiently small as to have no discernible effect on State pension liabilities. It is assumed that future foregone offsets are similarly negligible. Moreover, SRA has consistently advised that its actuary does not recognize foregone offsets in its annual valuations, so there is no effect on State pension liabilities or contribution rates.

Earlier Retirement: The purpose of the reemployment offset is to dissuade a member from retiring with the knowledge that he or she can be reemployed in the same job and still collect a full retirement benefit. The offset reduces total income from the combined retirement benefit and salary to what the member would receive if he or she remained employed. By extending the elimination of the offset, the bill may encourage an SPRS member to retire earlier than he or she normally would. An earlier-than-planned retirement increases State pension liabilities because it requires the State Retirement and

Pension System to make a benefit payment over a longer period of time than expected. Those increased liabilities are recognized as actuarial losses in annual valuations and may contribute to increased pension contributions for the State.

Any early retirement effect from this bill is likely mitigated by the existence of the DROP program, which already allows SPRS members to “retire” earlier than planned while continuing to earn a full salary. The early retirement effect of this bill is confined only to those members who complete their participation in DROP and still want to continue working as a State trooper. DSP has indicated that it will reemploy only retired troopers who are fit for front-line duties, so the early retirement effect is further mitigated because some retirees will not have the desire or conditioning to work in that capacity. Therefore, DLS believes the effect of early retirements stemming from this bill on State pension liabilities and contribution rates is minimal.

Special Death Benefit: The 2008 helicopter crash was the only fatal crash in the history of the program; there have been no fatal crashes since then. Future death benefits attributable to reemployed troopers or MSPAC pilots under the bill through fiscal 2018 may increase State pension liabilities and contributions minimally but cannot be reliably estimated.

Additional Information

Prior Introductions: None.

Cross File: HB 902 (Delegate Guzzone) - Appropriations.

Information Source(s): Department of State Police, Department of Legislative Services

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