

Department of Legislative Services  
Maryland General Assembly  
2013 Session

**FISCAL AND POLICY NOTE**

House Bill 1363  
Appropriations

(Delegate Cluster, *et al.*)

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**State Law Enforcement Officers - Compensatory Leave - Cash Compensation and Creditable Service**

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This bill allows specified commissioned State law enforcement officers to receive compensation for up to 250 hours of unused compensatory leave earned during a calendar year, in addition to any compensation paid for compensatory leave accrued above 480 hours. In their last year of service, the same individuals may receive compensation for up to 480 hours of unused compensatory leave. At retirement, the same individuals may receive up to 480 hours of creditable service for unused compensatory leave that is not otherwise compensated.

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**Fiscal Summary**

**State Effect:** Personnel expenditures (multiple funds) increase, potentially by more than \$1.0 million annually, to compensate commissioned officers for unused compensatory leave, but a reliable estimate is not feasible. State pension liabilities increase by between \$7,200 and \$9,400 for each three months of unused compensatory leave converted to additional creditable service by commissioned officers at the time of retirement; the cumulative effect on pension liabilities and contribution rates may be significant. No effect on revenues.

**Local Effect:** None.

**Small Business Effect:** None.

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## Analysis

**Bill Summary:** The bill applies to commissioned law enforcement officers who earn hour-for-hour compensatory time for overtime work and who are employed by the:

- Department of State Police (DSP);
- Maryland Transportation Authority (MDTA) Police;
- Maryland Department of Transportation (MDOT) police forces;
- Department of Natural Resources (DNR) police forces;
- Department of Health and Mental Hygiene (DHMH) police force;
- Department of General Services (DGS) police force; and
- University System of Maryland (USM) police forces.

When a law enforcement officer affected by the bill is promoted, payment for unused compensatory leave earned before the promotion is paid at the salary rate in effect before the promotion. Creditable service awarded to a retiring law enforcement officer for unused and uncompensated compensatory leave must be computed in the same manner as credit for unused sick leave, as specified by State pension law.

**Current Law:** Commissioned law enforcement officers in DSP and law enforcement officers with a rank above sergeant in DNR may not be paid for overtime work, but they may be granted compensatory time for overtime work. The Secretary of Budget and Management may also designate additional employees who may not be paid for overtime work but who may otherwise receive compensatory time.

For nonexempt employees, one hour of compensatory time is awarded for each hour of overtime work for which the employee would otherwise receive the regular rate of pay, and 1.5 hours is awarded for each hour of overtime work for which the employee would receive one and one-half times the regular rate of pay. Nonexempt employees may accrue up to 240 hours of compensatory time in a calendar year, except that public safety, emergency response, and seasonal employees may accrue up to 480 hours. After such an employee has reached the applicable limit of compensatory time, the employee is paid for any overtime work.

Employees in the State Personnel Management System who terminate employment with the State are entitled to compensation for up to two days of unused compensatory leave that was earned that calendar year. Otherwise, employees forfeit any compensatory leave that is not used within one year of being earned.

At retirement, a member of the State Retirement and Pension System is entitled to one additional month of creditable service for every 22 days of unused sick leave. If the

member has fractional unused sick leave adding to 11 or more days, the member is entitled to one additional month of creditable service. However, a member may not accumulate and, therefore, convert to creditable service more than 15 days of sick leave per year. Additional creditable service is not provided for any other type of unused leave.

**Background:** The vast majority of law enforcement officers employed by the State are noncommissioned officers and, therefore, are not subject to the bill. The Department of Budget and Management advises that there are 136 commissioned law enforcement officers in SPMS. This includes 84 officers in DSP, 6 in DHMH, and 4 in DGS. USM and MDTA, which are not part of SPMS, advise that they employ 45 and 47 commissioned officers, respectively (the MDOT figures include 33 officers in MDTA). Salary levels for these officers vary widely, with a low of \$51,476 reported for one individual with DHMH and a high of \$94,543 for DSP.

**State Fiscal Effect:** A reliable estimate of the bill's fiscal effect on the affected agencies cannot be calculated because it depends on the amount of compensatory leave earned by commissioned officers and the extent to which they use it. For individuals at retirement, it also depends on the extent to which they seek either cash compensation for unused compensatory leave or its conversion to creditable service for retirement. The level of compensatory leave earned varies tremendously by individual and by year. For example, annual data provided by DGS for its four commissioned officers shows a minimum of six hours earned by one individual in fiscal 2010 and a maximum of 970 hours earned by another individual that same year. That latter individual, however, earned only 323 hours of compensatory leave in fiscal 2012. Data on use of compensatory leave was not provided by any agency, and several of them advised that use of compensatory leave is not well tracked by SPMS or other personnel systems.

Although a precise estimate of the bill's effect is not possible, there is potential for it to have a significant effect on agency expenditures and pension liabilities. Assuming an average salary of \$60,000 (approximately \$28.85 per hour for a 2,080-hour work year), payment for 250 hours of unused compensatory time to a single individual totals \$7,212. With at least 228 affected individuals, total expenditures could be at least \$1.6 million; those expenditures would be divided among general funds, the Transportation Trust Fund, nonbudgeted funds, and higher education funds in proportion to the payments for unused leave. To the extent that individuals use some of their compensatory leave, or do not earn 250 hours of leave, State expenditures are less.

For individuals who earn significantly more compensatory leave, expenditures could be much higher, depending how the provision allowing for compensation above 480 hours is interpreted. Using the illustrative example of the DGS officer who earned 970 hours of compensatory leave in fiscal 2010, that officer could be paid, under this bill, for a total of

490 hours while still maintaining a compensatory leave balance of 480 hours. Any such impact has not been accounted for in the above estimate.

For individuals with at least 480 hours of unused compensatory leave in their final year of employment, payment to a single individual could be \$13,385 (which accounts for the two days of unused leave for which they are already entitled to compensation).

Commissioned police officers are all members of either the Law Enforcement Officers' Pension System (LEOPS) or the State Police Retirement System (SPRS). A reliable estimate of the extent to which they convert unused compensatory leave to creditable service at the time of retirement cannot be made because it depends on several variable factors, most notably the amount of leave they accrue and the amount for which they seek compensation (since they can only convert unused leave for which they have not already been compensated). Under the bill, they can convert up to a maximum of 480 hours, or 60 days. At the rate of 22 days per month of creditable service, the most creditable service available to a member is three months (including the one month of credit for a fractional amount exceeding 11 days). The General Assembly's consulting actuary advises that, based on a final-year salary of \$100,000 and with 20 years of service credit, a single member who claims three months of creditable service under SPRS increases pension liabilities by \$9,420, and a single member of LEOPS increases pension liabilities by \$7,194.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Budget and Management, Department of General Services, Department of Health and Mental Hygiene, Cheiron, Department of State Police, Maryland State Retirement Agency, Maryland Department of Transportation, University System of Maryland, Department of Legislative Services

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