

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 1171
Appropriations

(Delegate Carter, *et al.*)

**State Retirement and Pension System - Correctional, Police, and Law
Enforcement Officers - Forfeiture of Retirement Benefits for Criminal Conviction**

This bill requires that specified police officers and correctional officers who are convicted of – or plead *nolo contendere* to – a crime that was committed while the officers were working, *and* for which the penalty is at least one year in jail, forfeit all retirement and pension benefits payable by the State Retirement and Pension System (SRPS) to the employee or the employee’s beneficiary. However, the officers are entitled to a return of accumulated member contributions, less any benefits already paid. The court that enters the guilty judgment or accepts the plea must issue an order requiring that all pension benefits be forfeited. If the conviction is reversed or overturned, the court that reverses or overturns the conviction must issue an order requiring that benefits be restored. A copy of the order must be provided to the SRPS Board of Trustees within 30 days of being issued.

The bill takes effect July 1, 2014, and applies only prospectively to any crime committed on or after that date.

Fiscal Summary

State Effect: Potential minimal reduction in State pension liabilities and contributions to the extent that affected State public safety officers are convicted of crimes that prompt forfeiture of their benefits. Any effect is expected to be negligible. The Judiciary can comply with the bill’s reporting requirements with existing budgeted resources. No effect on revenues.

Local Effect: Potential minimal reduction in local pension liabilities and contributions to the extent that local correctional or police officers are convicted of crimes that prompt forfeiture of their benefits. Any effect is expected to be negligible. No effect on local revenues.

Small Business Effect: None.

Analysis

Bill Summary: The bill applies to:

- correctional officers, security chiefs, wardens, or assistant wardens employed at State or local correctional facilities or detention centers;
- a police employee of the Department of Public Safety and Correctional Services;
- sheriffs, deputy sheriffs, police officers, or other law enforcement officers employed with a participating governmental unit of the State Retirement and Pension System; or
- an employee of a State agency or public institution of higher education who is a commissioned police officer or has been granted the powers of a police officer.

Current Law: There are no provisions in current law addressing the forfeiture of benefits for correctional or police officers who are convicted of a crime. However, House and Senate Joint Resolutions 5 of 2010 prohibit a retired member of the Legislative Pension Plan (LPP), or a retired member's beneficiary, from receiving a retirement allowance under LPP if the member is convicted of or enters a plea of *nolo contendere* to any felony or to a misdemeanor related to the member's public duties and responsibilities that involves moral turpitude for which the penalty may be incarceration. Such members are subject to the forfeiture of LPP benefits, but they are entitled to a return of contributions with interest, less any benefits paid prior to forfeiture. No other State employees are subject to forfeiture of benefits.

Background: In April 2013, the federal government indicted 13 female guards at the Baltimore City Detention Center for conspiring with inmates to smuggle contraband into the jail. An additional 14 correctional officers at the detention center were charged with corruption in connection with the case in November 2013. If convicted, these individuals are not affected by the bill because their alleged crimes occurred prior to the bill's effective date.

According to the National Association of State Retirement Administrators, at least 19 other states require or authorize that public pension benefits be forfeited under specified circumstances. In some cases, the forfeiture provisions apply only to elected officials, but in others they apply to all public pension members. The types of crime

subject to pension forfeiture also vary from state to state; in some cases only crimes of corruption prompt forfeiture, but in other cases the types of crime are more broad.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Cities of Frederick and Havre de Grace, Montgomery County, Department of Natural Resources, Department of General Services, Comptroller's Office, Department of State Police, Maryland Department of Transportation, Department of Public Safety and Correctional Services, Maryland State Retirement Agency, *USA Today*, *Baltimore Sun*, National Association of State Retirement Administrators, Department of Legislative Services

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