

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE

House Bill 569
Appropriations

(Delegate Jackson, *et al.*)

**State Police Retirement System and Law Enforcement Officers' Pension System -
Reemployment of Retirees**

This bill allows a retiree of the State Police Retirement System (SPRS) to be reemployed on a permanent basis with a participating employer of the State Retirement and Pension System (SRPS), but not as a police employee by the Department of State Police (DSP). If the participating employer participates in the Law Enforcement Officers' Pension System (LEOPS), the retiree may accrue eligibility and creditable service in LEOPS. Similarly, a LEOPS retiree who is reemployed by a participating employer who participates in SPRS may receive eligibility and creditable service in SPRS. The bill makes permanent certain provisions related to SPRS by repealing the termination of Chapter 644 of 2009, as amended by Chapter 649 of 2013.

The bill takes effect July 1, 2015.

Fiscal Summary

State Effect: Potential significant increase in State pension liabilities and contributions (all funds) due to SPRS and LEOPS retirees earning pension service credit while reemployed with a participating State employer. The extent of the increase depends on the number and demographic characteristics of the reemployed retirees and, therefore, cannot be reliably estimated. No effect on revenues.

Local Effect: Potential increase in local pension liabilities and contributions due to SPRS retirees earning pension service credit while reemployed with a local government that participates in LEOPS (no local governments participate in SPRS, which is open only to State Troopers). The extent of the increase depends on the number and demographic characteristics of the reemployed retirees and, therefore, cannot be reliably estimated; however, it is not expected to be significant given limited local governmental participation in LEOPS. No effect on local revenues.

Small Business Effect: None.

Analysis

Bill Summary: An SPRS retiree who is reemployed on a permanent basis must immediately notify the SRPS Board of Trustees of the retiree's intention to accept employment and the compensation that the retiree will receive. The compensation of an SPRS retiree receiving eligibility and creditable service in LEOPS *or* a LEOPS retiree receiving eligibility and creditable service in SPRS is subject to the employer pickup provisions in current law.

Current Law: A retiree of any SRPS system who is receiving a service retirement allowance and who is reemployed by a participating employer may not earn eligibility or creditable service in any SRPS plan during the period of reemployment.

Under the provisions of the federal Internal Revenue Code, an eligible employer may "pick up" an employee's contribution by deducting the appropriate amount from the member's compensation and paying it to the system.

Chapter 644 of 2009: Chapter 644 of 2009 exempts a reemployed SPRS retiree from a retirement allowance reduction if the retiree is reemployed by DSP at a rank of trooper first class. It also provides 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 a death benefit to the surviving family members of an SPRS retiree who is killed while reemployed in either of the same two capacities. It originally was scheduled to terminate June 30, 2014, but Chapter 649 of 2013 extended its termination date to June 30, 2018, and also included SPRS retirees reemployed on a contractual basis as civilians in the exemption from the benefit offset.

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 SRPS 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.

State Police Retirement Benefits: An SPRS member is eligible to retire at age 50 or after accumulating 22 years of eligibility service, regardless of age. The member must retire at age 60. The retirement allowance is equal to 2.55% of AFC multiplied by the number of years of creditable service. For an SPRS member, AFC equals the average of the member's highest 3 years of compensation. 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 years of service, but less than 28, and be younger than age 60. The maximum period of participation is 4 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% annual interest. 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.

Benefit Reduction for Reemployed Retirees: In general, retirees who receive a retirement benefit from the State may be reemployed, except that they may not be reemployed by the State or any participating employer in SRPS within 45 days of retiring. In most cases, benefits paid to reemployed retirees are subject to a reduction if they are rehired by the same employer for whom they worked at the time of their retirement. The purpose of the reduction is to ensure that retirees do not earn more in retirement than they earned as active members with the same employer. 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, which is calculated as follows:

Benefit Reduction = [Current annual compensation] + [Initial annual retirement allowance] – [Average final compensation (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).

Statute includes several broad exemptions from the offset for retirees who:

- have been retired for at least five years;
- retired with an AFC less than \$25,000 and are reemployed on a permanent, temporary, or contractual basis; and
- are serving in any specified elected position.

There are also targeted exemptions for retired teachers, principals, correctional officers, nurses, judges, and State Police officers (which the bill makes permanent).

Background: There are currently just over 900 active LEOPS members working for local governments that are participating governmental units within SRPS.

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 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.

There are 69 helicopter pilots employed by the State emergency medical system, of whom 8 are SPRS retirees and 1 is a LEOPS retiree. Prior to the enactment of Chapter 644, SPRS retirees serving as 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. A September 2008 crash of an MSPAC helicopter killed four people, including the pilot, who was an SPRS retiree. Chapter 644 applied retroactively to the pilot's family.

State Fiscal Effect: The bill potentially affects State pension liabilities in multiple ways, as discussed below.

Foregone Offsets: Under the bill, reemployed SPRS retirees are exempt from the retirement offset indefinitely, so the State Retirement Agency (SRA) continues to make
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full benefit payments to those retirees instead of reducing their benefits when the current exemption terminates in fiscal 2019. 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. Since the enactment of Chapter 644, DSP reports that it has hired a total of six retirees as troopers, but none in fiscal 2014. Given the lack of meaningful participation in the reemployment program, the amount of foregone offsets is not sufficient to have a meaningful effect on State pension liabilities. 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 and the prohibition against a retiree earning credit in another system is to dissuade a member from retiring with the knowledge that he or she can be reemployed, either in the same job or with another participating employer, 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, thus eliminating the incentive to retire early. The extension of the offset exemption may encourage SPRS members to retire earlier than they normally would. An earlier-than-planned retirement increases State pension liabilities because it requires SRA to make benefit payments over a longer period of time while foregoing member and employer contributions. Those increased liabilities are recognized as actuarial losses and may contribute to increased pension contributions for the State.

Any early retirement effect from the 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 lack of meaningful participation in the reemployment program since its inception indicates that the exemption from the reemployment offset has not had a substantial effect on retirement rates among SPRS members.

Retirees Earning Service Credit: Allowing SPRS and LEOPS retirees to earn service credit with a participating employer may have a significant effect on State pension liabilities, but the extent of that effect cannot be reliably estimated. First, like the benefit offset, it may encourage SPRS and LEOPS members to retire earlier than they normally would because, under the bill, they can earn a benefit while also earning a full salary and service credit toward another benefit. Second, it grants service credit to individuals who are not currently eligible for that credit, thereby increasing pension liabilities. Combined, SPRS and LEOPS have more than 4,000 retirees, any number of whom may seek to return to work with an eligible employer and earn additional service credit. The effect on State pension liabilities depends on the number and demographic characteristics of those who avail themselves of that option, which cannot be reliably estimated but may be significant. To the extent that employment opportunities are limited for retired law enforcement officers, the bill's fiscal effect is mitigated.

Extension of Disability and Death Benefits: The bill extends eligibility for disability and death benefits indefinitely for reemployed troopers and MSPAC pilots who are SPRS retirees. The 2008 helicopter crash referenced above remains the only fatal crash in the history of the program. Future death and disability benefits attributable to reemployed troopers or MSPAC pilots may increase State pension liabilities minimally but cannot be reliably estimated.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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