

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 38
Appropriations

(Delegate McConkey)

State Retirement and Pension System - Disability Retirement - Alterations

This bill authorizes the Board of Trustees of the State Retirement and Pension System (SRPS), under specified circumstances, to (1) require a disability retiree to undergo a medical examination and (2) suspend a disability allowance if the retiree is no longer disabled. The bill also alters the calculation used to determine whether a retiree is subject to a benefit reduction when that retiree (1) is receiving an ordinary disability benefit; (2) was not a law enforcement officer; and (3) returns to covered employment.

The bill takes effect July 1, 2016; the provisions related to medical examinations and suspension of benefits apply only to an individual who files a disability application on or after that date and is awarded a disability benefit.

Fiscal Summary

State Effect: The bill's net effect on State pension liabilities and contribution rates cannot be determined, but any net effect is expected to be minimal. The provisions related to medical examinations and suspension of benefits may *decrease* pension liabilities, but they are not expected to do so to a meaningful extent. The reemployment offset provision may *increase* pension liabilities, but it also is not expected to do so to a meaningful extent, as discussed below. Although the net effect cannot be determined, any effect on State pension liabilities is not anticipated to be significant. No effect on revenues.

Local Effect: The net effect on pension liabilities and contribution rates for participating governmental units in SRPS also cannot be determined and is also expected to be minimal, for the same reasons as the State.

Small Business Effect: None.

Analysis

Bill Summary: The board may require a disability retiree to undergo a medical examination if (1) the disability retiree has not yet reached normal retirement age and (2) good cause exists for the examination. Following the examination, if the medical board concludes that the individual is no longer mentally or physically incapacitated for the further performance of the normal duties of the retiree's position at the time of retirement, the board may suspend the disability benefit only after giving notice and the opportunity for a hearing. The suspension lasts only until the individual reaches normal retirement age. The board is authorized to adopt regulations to carry out these provisions.

The bill requires that the board reduce the pension of a retiree on ordinary disability who did not retire as a law enforcement officer from any of four specified systems and who returns to work with a participating employer at an annual compensation that exceeds the difference between the retiree's average final compensation and initial retirement allowance by at least \$5,000, *adjusted for inflation*. Under current law, the \$5,000 cap is not adjusted for inflation.

Current Law: Prior to reaching normal retirement eligibility, a member of SRPS is eligible for one of two types of disability benefits:

- **ordinary disability**, if the member is mentally or physically incapacitated for the further performance of the normal duties of the member's position, the incapacity is likely to be permanent, and the member has five years of eligibility service; or
- **accidental disability**, if the member is totally and permanently incapacitated for duty as the natural and proximate result of an accident that occurred in the actual performance of duty at a definite time and place without willful negligence by the member, the member is mentally or physically incapacitated for the further performance of the normal duties of the member's position, and the incapacity is likely to be permanent. There is no minimum service requirement for accidental disability.

Instead of an accidental disability, members of the State Police Retirement System are eligible for a "special disability," in which the incapacity need only *arise out of* the actual performance of duty (*i.e.*, it need not occur at a specific time and place).

By statute, all incapacities for which disability benefits are paid are assumed to be permanent, so there are no provisions for re-examining disability retirees to determine if the incapacity has ended or for suspending benefits if the incapacity ends.

Under specified circumstances, disability benefits can be suspended or reduced if a retiree has not reached normal retirement age and returns to employment with an employer that participates in SRPS. However, these provisions do not apply to retired law enforcement officers who are reemployed in non-law enforcement positions. Under these provisions, the board must *suspend* ordinary and accidental disability benefits if the retiree (1) began receiving disability benefits on or after July 1, 1998, and (2) annual compensation is at least equal to the retiree's average final compensation at the time of retirement. The board must *reduce* ordinary disability benefits if the reemployed retiree's annual compensation exceeds the difference between the initial retirement allowance and the retiree's average final compensation at retirement by at least \$5,000. The reduction varies according to the number of years the retiree has been receiving an ordinary disability benefit. If the benefit has been paid for less than 10 years, the reduction is \$1 for every \$2 that the compensation exceeds the limit. If the benefit has been paid for at least 10 years, the reduction is \$1 for every \$5 that the compensation exceeds the limit.

Background: In response to a request in the 2015 *Joint Chairmen's Report*, the Department of Legislative Services (DLS), in collaboration with the State Retirement Agency (SRA), conducted a comprehensive review of State disability benefits and reported its findings and recommendations to the Joint Committee on Pensions (JCP). The report included a recommendation to authorize SRPS to require medical examinations for disability retirees and to suspend a retiree's benefits if it found that a retiree's incapacity had ended, largely because almost all other states have similar authorizations; JCP adopted this recommendation. The report did not include a recommendation to index the reemployment compensation cap to inflation.

State Fiscal Effect: Although SRA did not respond to requests for information for this bill, it did assist in the development of the DLS report on disability benefits that was presented to JCP. That review determined that SRA previously had statutory authority to re-examine the disability status of retirees if there was good cause to do so. SRA made infrequent use of the authority, and the statutory authority was inadvertently repealed as part of a larger restructuring of the disability statute. Currently, SRA lacks staffing capacity to conduct regular reviews of the disability status of its retirees, so it will likely do so only if it is presented with evidence that a retiree receiving disability benefits may no longer be disabled. Therefore, this provision is not expected to have a significant effect on disability payments, nor does it require additional staff for SRA to implement its new authority.

The indexing of the reemployment income cap to inflation decreases the frequency with which the system reduces the pension benefits of retirees on disability who are reemployed. It allows the retirees to earn more during reemployment before the benefit reduction is triggered. The number of disability retirees subject to the offset is minimal, and the year-over-year changes to the cap are also small in light of currently low annual inflation

rates. Therefore, this provision is not expected to have a meaningful effect on State pension assets and liabilities for the foreseeable future.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Legislative Services

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