

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 62
Appropriations

(Delegate McConkey)

Budget and Taxation

State Retirement and Pension System - Disability Retirement - Reemployment
Earnings Limitation

This bill alters the calculation used to determine whether a retiree receiving an ordinary disability benefit is subject to a benefit reduction when that retiree either (1) is a former law enforcement officer reemployed in a law enforcement position or (2) had an average final compensation (AFC) of \$25,000 or more and returned to covered employment.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: State pension liabilities increase minimally as the bill results in fewer disability benefits being offset as a result of reemployment. The actuary for the State Retirement and Pension System (SRPS) does not account for foregone offsets, so the bill may not have an actual effect on State contribution rates. However, it does result in higher benefits being paid to a limited number of retirees than would otherwise be paid to them under current law. No effect on revenues.

Local Effect: The effect on pension liabilities and contribution rates is expected to be minimal, for the same reasons as for the State.

Small Business Effect: None.

Analysis

Bill Summary: The bill modifies the calculation the Board of Trustees of SRPS uses to determine whether it has to reduce the pension of a retiree on ordinary disability who either (1) retired as a law enforcement officer from any of four specified systems and became reemployed in a law enforcement position or (2) had an AFC of \$25,000 or more and

returned to work with a participating employer. A reduction is required when the annual compensation exceeds the difference between the retiree's AFC 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 reexamining 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 suspension and reduction provisions do not apply to retired law enforcement officers who are reemployed in non-law enforcement positions; in addition, Chapter 212 of 2016 exempted retirees whose AFC was less than \$25,000 from the reduction provisions only. Otherwise, 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 AFC 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 AFC 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, in collaboration with the State Retirement Agency, conducted a comprehensive review of State disability benefits and reported its findings and recommendations to the Joint Committee on Pensions (JCP) during the 2015 interim. 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 many 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 and Local Fiscal Effect: 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 or local pension contributions for the foreseeable future. However, a limited number of disability retirees who return to work with a participating employer will not be subject to a benefit offset.

Additional Information

Prior Introductions: HB 38 of 2016, a broader bill that included this bill's provisions, received a hearing in the House Appropriations Committee, but no further action was taken on the bill.

Cross File: None.

Information Source(s): State Retirement Agency; Department of Legislative Services

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