

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 971
Appropriations

(Delegate Lisanti, *et al.*)

Rules

Local Pension Systems - Special Disability Retirement Allowance

This bill requires a local defined benefit (DB) pension system to offer, at a minimum, a special disability benefit to specified individuals who, in the line of duty, are totally and permanently incapacitated for duty. A local pension system is exempt from the requirement if it provides the disabled individual with alternative suitable employment, as defined in the bill. **The bill takes effect July 1, 2018.**

Fiscal Summary

State Effect: None. The bill affects only local governments and pension plans.

Local Effect: Local pension liabilities and costs likely increase for some local governments that are not members of the State Retirement and Pension System (SRPS), as discussed below. No effect on revenues. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: The bill applies to any county or municipal government in the State that operates a DB pension plan for its employees; it does not apply to any system under SRPS. The special disability benefit required by the bill is only available to individuals employed as a sworn law enforcement officer, fire fighter, or emergency medical technician and who are members of a local pension system either as a condition of employment or by choice.

Unless exempted as specified by the bill, the appropriate local authority must grant a special disability retirement benefit to a member if the member is totally incapacitated for duty arising out of or in the course of the actual performance of duty without willful negligence by the member, as determined by the appropriate local authority.

For members who have not yet reached normal retirement age, the special disability benefit is the *greater* of:

- an allowance set by terms of collective bargaining or by local pension disability law, or
- the sum of (1) an annuity that is the actuarial equivalent of the member's accumulated contributions and (2) a pension equal to 50% of the member's average final compensation (AFC), offset by any income from workers' compensation and government-sponsored disability benefits.

For members who have reached normal retirement age, the special disability allowance is the *greater* of:

- a normal service retirement allowance; or
- a special disability allowance as calculated above.

“Alternative suitable employment” provided by a local government is defined as employment with a substantially similar base pay, salary schedule, and grade as the position previously held by the member. In determining whether a position is considered alternative suitable employment, the local government must consider the nature and extent of the incapacity of the member.

Current Law/Background:

State Disability Benefits

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.

The terminology and eligibility criteria vary slightly for State Troopers and other law enforcement personnel employed by the State. For these law enforcement officers, the ordinary disability benefit is the *greater* of their normal service retirement benefit or 35% of their AFC. The accidental (also called "special") disability benefit is the *lesser* of their AFC at the time of disability or the sum of two-thirds of their AFC and an annuity based on their accumulated contributions.

Local Benefits

Approximately 21 local governmental entities participate in the Law Enforcement Officers' Pension System as participating governmental units within SRPS and, therefore, are already providing disability benefits that are available under the State plan. A number of counties and local governments operate their own retirement and pension plans; the availability of disability benefits varies by plan.

Local Expenditures: The Maryland Association of Counties (MACo) advises that Baltimore City and at least 11 counties operate their own pension plans for law enforcement personnel (Anne Arundel, Baltimore, Calvert, Caroline, Carroll, Charles, Frederick, Howard, Montgomery, Washington, and Wicomico counties), and that *many* of these systems already provide disability benefits. Further, in some cases the eligibility criteria and benefits provided by the bill may exceed the eligibility criteria or benefit levels provided by those counties. According to MACo, some counties use different criteria for determining what constitutes alternative suitable employment, and most provide a benefit level that is approximately 60% (often with offsets) of AFC. It is unclear whether the 50% of AFC threshold under the bill is greater than the amount used by any of the counties that operate their own pension plans for law enforcement personnel. Therefore, local pension liabilities and costs may increase for some counties.

Information on pension plans provided by municipalities is not readily available. However, the City of Havre de Grace advises that it provides disability *insurance* benefits at 60% of AFC with offsets; transferring disability coverage for law enforcement officers to the local pension plan may increase pension costs for the city. It is unclear whether costs would increase for other municipalities.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Charles and Montgomery counties; *The Aegis*; Maryland Association of Counties; City of Havre de Grace; State Retirement Agency; Department of Legislative Services

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