

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 642

(Senator Elfreth)(Chair, Joint Committee on Pensions)
and Senator Jackson

Budget and Taxation

Appropriations

**State Retirement and Pension System - COVID-19-Related Death Benefits -
Clarification**

This bill makes members of the State Retirement and Pension System (SRPS) who die while employed before July 1, 2022, and for whom COVID-19 caused or contributed to their death, eligible for a line-of-duty death benefit, subject to specified conditions. **The bill takes effect June 1, 2021, terminates June 30, 2022, and applies retroactively to the death of a member occurring on or after March 5, 2020.**

Fiscal Summary

State Effect: Since it is assumed that the bill applies in a limited number of cases, there is no material effect on State pension liabilities or contribution rates, as discussed below. No effect on revenues.

Local Effect: As with the State, the bill is assumed to apply in a limited number of cases and, therefore, has no material effect on the pension liabilities or contribution rates of participating governmental units in SRPS. No effect on local revenues.

Small Business Effect: None.

Analysis

Bill Summary: In determining whether a member qualifies for the line-of-duty death benefit, SRPS must accept as proof, subject to a rebuttable presumption, that the death of the member arose out of or in the course of actual performance of duty if the member:

- reported to the member's usual work location or to an alternative work location provided by the employer that is not the member's home;
- contracted COVID-19 within 14 days after reporting to work, subject to specified documentation;
- the member died on or after March 5, 2020, but before July 1, 2022; and
- COVID-19 was the cause of death or contributed to the cause of death, subject to specified documentation.

In addition, the bill requires medical documentation regarding the timing of the member's contraction of COVID-19 and that COVID-19 was the cause of death or contributed to the death.

If a general or other specified death benefit has already been paid or awarded to a member who dies on or after March 5, 2020, but before the bill's effective date, an application for a line-of-duty death benefit may still be submitted. SRPS must discontinue payment of the other specified death benefits as of the effective date of the bill and instead pay the line-of-duty death benefit provided by the bill. The bill includes procedures to ensure that benefits are not double paid and/or that line-of-duty death benefits are adjusted to account for any prior payments of general death benefits. However, any such reduction may not result in a monthly payment that is less than the amount required for State-approved or employer-provided monthly medical insurance premiums normally deducted from the benefit payment (as also required in current law).

Death benefits paid under the bill are considered payable under a statute in the nature of a workers' compensation act for purposes of taxation under the federal Internal Revenue Code.

By September 15, 2021, the State Retirement Agency (SRA) must report to the Joint Committee on Pensions (JCP) on the number of line-of-duty death benefits provided under the bill for deaths occurring between March 5, 2020, and June 1, 2021; in addition, beginning September 15, 2021, SRA must report quarterly on benefits awarded in the preceding three months. In addition, by December 1, 2021, SRA must report to JCP (1) the number of applications for line-of-duty death benefits under the bill that were denied and (2) an aggregate summary of the reasons why applications were denied. All required reports must include information on the unit of State government or other employer that employed each deceased member at the time of death. Information must be presented in a manner that protects the privacy of the deceased member.

Current Law: Although the language used in current statute varies, there are three types of death benefits payable under current law to surviving family members of active members of SRPS who die or are killed: general, special, and line-of-duty death benefits.

When any active member of SRPS dies, SRPS pays a *general death benefit* to the member's beneficiary or estate consisting of the member's accumulated contributions. If the member dies in the course of the performance of duty or has at least one year of eligibility service, SRPS also pays the beneficiary or estate an amount equal to the member's annual compensation. If a member designates more than one beneficiary, these lump sum death benefit payments are paid in equal shares to each of the designated beneficiaries.

Current law includes two other types of survivor benefits. A *special death benefit* is paid when an active member of the State Police Retirement System (SPRS) or the Law Enforcement Officers' Pension System (LEOPS) dies without willful negligence by the member and with at least two years of eligibility service. The benefit is paid to a surviving spouse or a surviving child who is younger than age 26 or disabled, and consists of a return of the member's accumulated contributions and a monthly allowance of 50% of an ordinary disability allowance.

A *line-of-duty death benefit* is paid when an active member of SPRS, LEOPS, the Correctional Officers Retirement System, the Employees' Combined Systems, or the Teachers' Combined Systems dies without willful negligence by the member and the death occurred out of or in the course of the actual performance of duty. The benefit consists of a return of the member's accumulated contributions and a regular monthly allowance of two-thirds of the member's average final compensation.

The general death benefit is not paid if either a special or line-of-duty death benefit is paid.

Background: In December 2019, a novel strain of coronavirus known as severe acute respiratory syndrome coronavirus 2 emerged in Wuhan, China. Coronavirus disease (COVID-19) is an infectious disease caused by this virus. As the number of cases spread globally by March 2020, the World Health Organization declared COVID-19 a pandemic.

Maryland's first three confirmed cases of COVID-19 were recorded on March 6, 2020, with the first two deaths occurring March 16, 2020. As of January 27, 2021, Maryland reported a total of 346,559 confirmed cases, 31,468 individuals ever hospitalized, and 6,821 confirmed deaths. The jurisdictions with the highest number of cases have been Baltimore, Montgomery, and Prince George's counties and Baltimore City. Statewide, 8.4% of cases (28,954) and 45.9% of COVID-19 deaths (3,130) occurred in congregate living settings (*i.e.*, nursing homes, assisted living, and group homes). Updated data on COVID-19 in Maryland is available on the Maryland Department of Health dashboard: <https://coronavirus.maryland.gov>.

State/Local Fiscal Effect: Under the bill, deceased members of SRPS who would otherwise be eligible for only a general death benefit are instead eligible for a more generous line-of-duty death benefit if they meet specified criteria. As of the publication of

this fiscal and policy note, SRA is aware of 10 deceased members whose death was likely caused by COVID-19. Of those, however, only 2 have surviving spouses or children who would be eligible for a death benefit. Therefore, this analysis assumes that the bill applies in only a limited number of instances and has no material effect on pension liabilities or contribution rates.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 922 (Delegate Lierman)(Chair, Joint Committee on Pensions)
- Appropriations.

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

Fiscal Note History: First Reader - February 17, 2021
rh/vlg Third Reader - March 23, 2021
Revised - Amendment(s) - March 23, 2021

Analysis by: Michael C. Rubenstein

Direct Inquiries to:
(410) 946-5510
(301) 970-5510