

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 940

(Delegate B. Barnes)(Chair, Joint Committee on
Pensions)

Appropriations

State Retirement and Pension System - Disability Retirement - Alterations

This bill alters eligibility for and payment of disability benefits to members of the State Retirement and Pension System (SRPS). It also makes technical and conforming changes to the disability provisions in statute.

The bill takes effect July 1, 2016, and, except for technical provisions, applies only prospectively to disability applications filed on or after the bill's effective date.

Fiscal Summary

State Effect: State pension liabilities *decrease* substantially over time due to the new formula for calculating ordinary disability benefits for members who apply on or after the bill's effective date. As the fiscal effect depends on the demographic characteristics of members who apply for and receive ordinary disability benefits, a more precise estimate is not feasible. The remaining provisions are generally technical or procedural in nature and have no material effect on State pension liabilities or contribution rates. No effect on revenues.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill makes the following changes to the disability benefit provisions in State pension law:

- It renames “ordinary” disability as “non-line-of-duty” disability and renames both “accidental” and “special” disabilities as “line-of-duty” disabilities.
- It alters the calculation of non-line-of-duty (ordinary) disability benefits to include a projection of service credit to *first eligibility* for normal retirement rather than normal retirement age.
- It requires applications for non-line-of-duty (ordinary) disability to be filed within two years after paid employment ends (instead of before membership ends, which is four years for most systems), but it allows a grace period of two years if the late submission is attributable to physical or mental incapacity.
- It requires applications for line-of-duty disability (accidental and special) to be submitted before membership ends (which is four years for most systems), but it allows a similar grace period as described above; some State plans have no deadline in current law.
- It raises the maximum threshold for a small procurement under State procurement law from \$25,000 to \$50,000 for the State Retirement Agency (SRA).

The bill also authorizes SRA’s Executive Director to require a disability retiree to undergo a medical examination if the retiree is under normal retirement age and the Executive Director believes good cause exists for the examination. The examination must be conducted by a physician chosen by the Executive Director. If the retiree refuses to undergo an examination, the Board of Trustees may suspend payment of the disability allowance. If the refusal lasts for one year or longer, the board may revoke the allowance.

If the examination finds that the retiree no longer meets the criteria for a disability benefit, the board may, after giving notice and an opportunity for a hearing, suspend the retiree’s allowance. The retiree whose benefit is suspended is entitled to a vested allowance that is computed using the creditable service and average final compensation at the time of separation from employment. If the individual returns to covered employment, he or she is entitled to service credit for that employment, unless the individual has withdrawn accumulated contributions and until payment of a retirement allowance begins.

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). For members of the Law Enforcement Officers Pension System, the disability benefit is still referred to as accidental, but the criteria for eligibility are identical to those for the State Police Retirement System in that the incapacity need only *arise out of* the actual performance of duty.

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.

The maximum threshold for small procurements in State procurement law is \$25,000, except that it is \$50,000 for construction contracts awarded by the Department of General Services. In general, small procurements can use simplified administrative procedures but must be consistent with the basic intent of State procurement law.

Background: In response to a request in the 2015 *Joint Chairmen's Report*, the Department of Legislative Services (DLS), in collaboration with SRA, conducted a comprehensive review of State disability benefits and reported its findings and recommendations to the Joint Committee on Pensions (JCP) in October 2015. Among the key findings from the review were:

- The SRA process for reviewing applications for disability benefits is rigorous and multi-layered, relying heavily on assessments by medical professionals.
- At least 90% of applications for disability benefits were approved by the board in each of the last five fiscal years. This includes applications for accidental or special disability that were granted ordinary disability benefits.
- Maryland has the highest percentage of disability retirees of the 50 states (11.67% of all retirees).
- Maryland has the twelfth highest average disability payment (\$20,670) of the 50 states.

- Maryland is one of only a few states that does not authorize suspension or termination of a disability benefit if the retiree is no longer disabled.

JCP adopted several of the report’s recommendations, which are reflected in this bill.

State Fiscal Effect: With one exception, the bill’s provisions have little or no effect on State pension liabilities or on expenditures by SRA. The one exception is the new formula for calculating ordinary (non-line-of-duty) disability benefits, which yields a reduction in State pension liabilities over time, but has little effect in the short term due to the bill’s prospective nature.

Ordinary Disability Calculation: Under current law, an ordinary disability benefit is computed in the same manner as a normal service retirement benefit, except that service credit is projected as if the member continued working until normal retirement age. In many cases, however, a member becomes eligible for normal retirement before reaching normal retirement age by virtue of achieving an eligibility service threshold. The bill changes the calculation to project years of service credit to the member’s first eligibility for a normal service retirement benefit. **Exhibit 1** shows the different eligibility criteria for the major plans within SRPS.

Exhibit 1
Normal Service Retirement Eligibility Criteria

	<u>Normal Retirement Age</u>	<u>Years of Service</u>
EPS/TPS	62 if hired before 7/1/2011 65 if hired on/after 7/1/2011	30, if hired before 7/1/2011 Age+Service = 90 if hired on/after 7/1/2011
State Police	50	22
LEOPS	50	25
Correctional Officers	55	20

EPS: Employees’ Pension System
 TPS: Teachers’ Pension System
 LEOPS: Law Enforcement Officers’ Pension System

Source: Department of Legislative Services

As Exhibit 1 shows, most SRPS members who join the system in their 20s reach retirement eligibility by virtue of their years of service before they reach normal retirement age. For instance, a correctional officer hired at age 22 is eligible for retirement at age 42 (20 years of service credit), well before the normal retirement age of 55. Under current law, that individual would receive 13 additional years of service credit in the calculation of an ordinary disability benefit than under the bill. Similarly, a teacher hired at age 25 before 2011 is eligible for retirement at age 55 (30 years of service credit), or 7 years before reaching the normal retirement age of 62. Therefore, this provision reduces the size of some benefit payments made to recipients of ordinary (non-line-of-duty) disability retirements who are granted their benefit after the bill's effective date. As the actual payments will depend on the demographics of those applying for and receiving disability benefits, a reliable estimate of the fiscal effect is not feasible. Over time, however, the reduction in pension liabilities may be considerable.

Medical Evaluations: SRA used to have authority to require disability retirees to undergo follow-up medical evaluations to determine if their disability had abated enough that they could return to work. The agency advised during the DLS interim review that that provision was inadvertently repealed more than 10 years ago as part of a restructuring of the disability provisions in statute. SRA further advised that the agency had seldom used that authority because (1) it lacked sufficient resources to do so and (2) it lacked criteria and standards for determining when such examinations should be required and how to assess whether a disability had ended. The DLS review completed during the 2015 interim found that Maryland was one of only a few states that lacks such a provision, so JCP decided to restore it. SRA advises that, as before, it does not anticipate using that authority extensively, but it may on occasion require an examination if it becomes aware of a disability retiree who may not be disabled anymore. To the extent that such examinations result in the suspension or revocation of benefits that otherwise would have continued, State pension liabilities decrease. The likely long-term effect is minimal, and SRA does not require additional staff resources to implement the provision.

The remaining provisions of the bill are generally procedural in nature and have no material effect on State pension liabilities or contribution rates.

Additional Information

Prior Introductions: None.

Cross File: SB 820 (Senator Peters)(Chair, Joint Committee on Pensions) - Budget and Taxation.

Information Source(s): State Retirement Agency, Department of General Services,
Department of Budget and Management, Maryland Supplemental Retirement Plans,
Department of Legislative Services

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