

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 409

(Senator Elfreth, *et al.*) (Chair, Joint Committee on Pensions)

Budget and Taxation

Appropriations

State Retirement and Pension System – COVID–19–Related Death Benefits –
Sunset Extension

This bill extends, by one year, the termination dates and application of Chapters 421 and 422 of 2021, which make members of the State Retirement and Pension System (SRPS) who die while employed and for whom COVID-19 caused or contributed to their death, eligible for a line-of-duty death benefit subject to specified conditions. Chapters 421 and 422 are scheduled to terminate June 30, 2022; the bill extends their termination to June 30, 2023, and expands their application to include members who die before July 1, 2023. It also makes a conforming change to existing reporting requirements. **The bill takes effect June 1, 2022.**

Fiscal Summary

State Effect: Since it is assumed that this bill applies in a limited number of cases, as discussed below, it has no material effect on State pension liabilities or contribution rates. Quarterly reporting can be continued with existing resources. No effect on revenues.

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

Small Business Effect: None.

Analysis

Current Law:

Line-of-duty Death Benefits under Chapters 421 and 422

Chapters 421 and 422 of 2021 require that SRPS, in determining whether a member qualifies for the line-of-duty death benefit, 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;
- the member 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 (the bill extends this to July 1, 2023); and
- COVID-19 was the cause of death or contributed to the cause of death, subject to specified documentation.

In addition, the Acts require 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 Acts' 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 Acts and instead pay the line-of-duty death benefit provided by the Acts. The Acts include 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 other provisions of current law).

Death benefits paid under the Acts 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) was required to report to the Joint Committee on Pensions (JCP) on the number of line-of-duty death benefits provided

under the Acts 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. By December 1, 2021, SRA was also required to report to JCP (1) the number of applications for line-of-duty death benefits under the Acts 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. (The bill requires another update by December 1, 2022.)

Death Benefits

Otherwise, 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 the benefit 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.

State Expenditures: As of March 15, 2022, SRA has received 67 claims for COVID-related death benefits. Of those, 53 have been approved, including 31 State employees and 22 local government employees. Seven claims have been denied because they did not satisfy the conditions in the law, and 7 claims are pending while the agency waits for additional information from the families. As the number of claims being filed overall is relatively low and has slowed since the worst days of the COVID-19 pandemic and the release of vaccines, the bill is expected to apply in only a limited number of cases in the year after June 30, 2022. Moreover, at least some additional claims may have been eligible for a line-of-duty death benefit (or a special death benefit) absent the bill; however, the bill establishes a rebuttable presumption that certain deaths caused by COVID-19 are eligible for line-of-duty death benefits.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 742 (Delegate Lierman)(Chair, Joint Committee on Pensions)
- Appropriations.

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

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