



House of Representatives

General Assembly

File No. 7

January Session, 2003

Substitute House Bill No. 6215

House of Representatives, March 4, 2003

The Committee on Labor and Public Employees reported through REP. RYAN, of the 139th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING DISABILITY RETIREMENT BENEFITS FOR CORRECTION OFFICERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2003*) (a) Whenever a
2 correction officer who is a member of a state employee organization
3 and a member of the state employees' retirement system, as a result of
4 a special hazard inherent in the duties of a correction officer, becomes
5 (1) permanently disabled or permanently unable to render service as a
6 correction officer, and (2) permanently unable to engage in other
7 suitable, comparable employment, the state employee organization
8 representing such member may, but is not required to, petition the
9 Secretary of the Office of Policy and Management on behalf of such
10 member for a designation of extraordinary circumstances for the
11 purpose of calculating such member's disability retirement income.

12 (b) If such petition is granted by the Secretary of the Office of Policy

13 and Management, or a designee, or as a result of an arbitration
14 conducted pursuant to subsection (c) of this section, the Department of
15 Correction shall (1) elevate such correction officer to the highest pay
16 grade in the member's bargaining unit, effective not later than the
17 member's last day of active state service, and (2) prepare an application
18 for disability retirement benefits under the state employees' retirement
19 system that reflects the salary of such highest pay grade. The
20 Retirement Commission shall use the salary of such highest pay grade
21 in determining such member's disability retirement income in
22 accordance with the provisions of chapter 66 of the general statutes.

23 (c) (1) If such petition is denied by the Secretary of the Office of
24 Policy and Management, or a designee, the state employee
25 organization representing such member may initiate arbitration by
26 filing with the State Board of Mediation and Arbitration the sole issue
27 of whether such member is entitled to a designation of extraordinary
28 circumstances for the purpose of calculating such member's disability
29 retirement income. A copy of the filing shall be served on the Secretary
30 of the Office of Policy and Management. Not later than seven days
31 after such copy has been served, the parties shall jointly select an
32 arbitrator. The person selected shall have substantial, current
33 experience as an impartial arbitrator of labor-management disputes.
34 Persons who serve partisan interests as advocates or consultants for
35 labor or management in labor-management relations or who are
36 associated with or are members of a firm that performs such advocate
37 or consultant work may not be selected. If the parties fail to agree on
38 an arbitrator within the seven-day period, the selection shall be made
39 using the procedures under the voluntary labor arbitration rules of the
40 American Arbitration Association.

41 (2) In any arbitration proceeding initiated under this section, the
42 sole issue before the arbitrator shall be whether such member is
43 entitled to a designation of extraordinary circumstances for purposes
44 of calculating such member's disability retirement income. The
45 arbitrator's decision shall be final and binding on all parties and shall
46 not be subject to appeal under any provision of the general statutes or

47 under any collectively bargained agreement.

48 (d) Nothing in this section shall be construed to alter the amount of
49 compensation due any member of a correctional institution pursuant
50 to the provisions of subsection (a) of section 5-142 of the general
51 statutes or chapter 568 of the general statutes.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>

LAB *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Fund-Type	Agency Affected	FY 04 \$	FY 05 \$
State Employees Retirement Fund - Potential Cost	State Comptroller, Retirement Commission	Indeterminate	Indeterminate

GF=General Fund

Municipal Impact: None

Explanation

The bill provides for a higher rate of disability retirement compensation for a corrections officer whose case is designated an "extraordinary circumstance". If a corrections officer receives this designation then his or her disability retirement benefit will be calculated using the highest pay grade in the employee's bargaining unit. For any corrections officer not already at the highest pay grade, this would increase the employee's benefit since the pay grade is a factor in calculating a disability retirement.

It is not known at this time if any corrections officers currently receiving disability retirement benefits would qualify for increased benefits as the result of the bill. To the extent that correction officers receive higher rate of disability retirement compensation as a result of the bill, there will be an increased cost to the State Employees Retirement Fund that cannot be determined at this time.

This same disability retirement benefit was extended to members of the Connecticut State Police Union through a collective bargaining agreement with the State of Connecticut in 2002. The provisions of that agreement affected 6 disabled retired Troopers and resulted in an

increased annual cost of approximately \$65,000 to the State Employees Retirement Fund.

The State Employees Retirement Fund had assets valued at \$7.9 billion and liabilities of \$12.8 billion in the most recent valuation on June 30, 2002.

OLR Bill Analysis

sHB-6215

AN ACT CONCERNING DISABILITY RETIREMENT BENEFITS FOR CORRECTION OFFICERS

SUMMARY:

This bill creates a higher level of disability retirement benefits for any state correction officer whose case is designated an “extraordinary circumstances” disability. It establishes guidelines and a mechanism, including the option of binding arbitration, for designating an extraordinary disability.

Under the bill, if an employee receives the designation, his disability retirement benefit is calculated using the highest pay grade in his bargaining unit regardless of his pay grade at the time of the disability. This increases the benefit for any employee not at the highest pay grade since the pay grade is a factor in calculating a disability retirement.

To qualify, the disability must be a result of the special hazards inherent in the duties of a correction officer, and the employee must be permanently (1) disabled and (2) unable to engage in other comparable employment.

By law, collective bargaining agreements prevail over conflicting statutory provisions, and the existing collective bargaining agreement known as State Employees Bargaining Agent Coalition V (SEBAC V) addresses disability retirement benefits (see BACKGROUND).

The bill explicitly states it does not change the benefits due a correctional officer under the state Workers’ Compensation Act or disability compensation law.

EFFECTIVE DATE: October 1, 2003

PAY FACTOR IN DISABILITY RETIREMENT BENEFITS

Under the bill, disability retirement benefits for an employee with an

extraordinary circumstances disability designation are calculated using the highest pay grade in his bargaining unit. Under SEBAC V, the employee's average or annual salary is used, depending upon the retirement system tier.

For example, for Tier I employees, SEBAC's service-connected disability formula uses average salary over three years or annual salary at the time of disability (whichever is greater) as one factor. The bill increases salary at the time of disability for any employee not already at the highest pay grade, and thus increases the retirement benefit. Average salary is a formula factor for Tier II and Tier IIA employees, and using a higher pay grade also increases the retirement benefit in those tiers.

GUIDELINES AND MECHANISM

Extraordinary Circumstances Disability Defined

To qualify, the disability must be a result of a "special hazard inherent in the duties of a correction officer," and the employee must be permanently (1) disabled or unable to render service as a correction officer and (2) unable to engage in other suitable, comparable employment. Currently, SEBAC V defines disability for retirement purposes as being permanently unable to perform the duties of the job.

Seeking Designation

The bill allows the correction officers union to petition the Office of Policy and Management (OPM), on behalf of the employee, to designate the case as an extraordinary circumstances disability. The decision to petition OPM is at the union's discretion.

If OPM does not approve the request, the union may file for binding arbitration with the State Board of Mediation and Arbitration on the sole issue of whether the employee should receive the extraordinary circumstances designation for purposes of determining his disability retirement benefit. A copy of the filing must be served on the OPM secretary.

Arbitrator Selection and Decision

The bill requires the union and OPM jointly to select an arbitrator within seven days after the arbitration filing is served on OPM. The

arbitrator (1) must have substantial, current experience as an impartial arbitrator of labor-management disputes and (2) must not have served as an advocate or consultant for labor or management in labor-management relations or be associated with, or be a member of, a firm that performs such work.

If the parties cannot agree on an arbitrator in seven days, the bill requires the selection to be made using the American Arbitration Association’s voluntary labor arbitration procedures.

The arbitrator’s decision is final and binding on all parties and cannot be appealed.

BACKGROUND

Conflicting Provisions in Statutes and Collective Bargaining Agreements

When a collective bargaining agreement (or an arbitration award) conflicts with the statutes on any matter appropriate to collective bargaining, the statutes provide that the agreement (or arbitration award) prevails (CGS § 5-278(e)). The disability retirement benefit for correction officers is currently part of SEBAC V, which governs a range of state employee benefit issues, including disability retirement, and is valid until 2017. In past situations when the legislature enacted legislation on a retirement issue that appeared to be appropriate for collective bargaining, the State Retirement Commission followed the new legislation. In one example, SEBAC appealed to an arbitrator who later ruled in favor of SEBAC that the matter should be settled through collective bargaining.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute
Yea 13 Nay 1