



House of Representatives

General Assembly

File No. 289

January Session, 2005

Substitute House Bill No. 6639

House of Representatives, April 12, 2005

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

**AN ACT CONCERNING OFFSETS AGAINST DISABILITY
RETIREMENT BENEFITS FOR STATE EMPLOYEES.**

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

1 Section 1. Subsection (c) of section 5-170 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2005*):

4 (c) Retirement income payments shall not be reduced: (1) For a
5 member receiving a specific indemnity award under section 31-307 or
6 31-308; (2) for a member who received a judgment for personal injuries
7 and pain and suffering under the provisions of section 31-293,
8 provided [he] the member has reimbursed the state in full for all sums
9 expended by it under chapter 568; or (3) by the amount of any
10 attorney's fees a member incurs to obtain benefits under the Workers'
11 Compensation Act or federal Social Security disability benefits.

12 Sec. 2. Subsection (d) of section 5-192p of the general statutes is
13 repealed and the following is substituted in lieu thereof (*Effective July*
14 *1, 2005*):

15 (d) Notwithstanding the provisions of subsection (c) of this section,
16 the following maximum benefit limitation shall apply. In order to
17 verify the operation of the maximums, it shall be a condition precedent
18 to receipt of any disability benefits under this section that a member
19 authorize the Social Security Administration to provide the Retirement
20 Commission, on an ongoing basis, any information with regard to
21 covered earnings or Social Security benefits payable. In the event both
22 of the maximums indicated below apply, the lesser disability benefit
23 shall be payable. Such maximums shall be subject to reexamination
24 annually, as indicated in subsection (e) of this section.

25 (1) The disability benefit provided under this subsection shall not
26 exceed (A) one hundred per cent of the member's final average
27 earnings or the rate of salary of the member on date of disability,
28 whichever is greater, less (B) any periodic cash benefit payments being
29 made to a member under the Workers' Compensation Act, less (C) any
30 federal disability Social Security benefits both primary and family paid
31 on account of the member's Social Security earnings history, less (D) all
32 outside earned salary or wages unless the Retirement Commission
33 determines that such salary or wages are being paid as part of the
34 rehabilitation of the disabled member. Any such determination that
35 such earned salary or wages is for rehabilitation must be reapproved
36 by the Retirement Commission no less frequently than every eighteen
37 months, or the offset shall apply. The offset for workers' compensation
38 and federal Social Security disability benefits shall apply when such
39 benefits commence even if such benefits initially commence after the
40 member's disability retirement date.

41 (2) The disability benefit provided under this subsection shall not
42 exceed (A) eighty per cent of the greater of the member's final average
43 earnings or the rate of salary of the member on the date of disability,
44 less (B) any periodic cash benefit payments being made to a member
45 under the Workers' Compensation Act, less (C) any federal disability
46 Social Security benefits, both primary and family being paid on
47 account of the member's Social Security earnings history. The offsets
48 shall apply when such benefits commence even if such benefits

49 initially commence after the member's disability retirement date.

50 (3) The offsets for workers' compensation and federal Social Security
51 disability benefits shall be reduced by the amount of any attorney's
52 fees a member incurs to obtain such benefits.

53 Sec. 3. Subsection (g) of section 5-169 of the general statutes is
54 repealed and the following is substituted in lieu thereof (*Effective July*
55 *1, 2005*):

56 (g) Twenty per cent of all outside earned salary or wages shall be
57 offset against the disability retirement payments by the state during
58 the first two years of disability. On or after October 1, 1987, at the
59 expiration of such period, if the total disability benefits and outside
60 earnings exceed one hundred per cent of the pay of such member at
61 the date of disability, adjusted annually by a percentage increase equal
62 to the cost of living allowances applied to the member's disability
63 retirement benefits pursuant to this chapter, the disability payment
64 will be reduced by the amount such total exceeds such adjusted
65 earnings. Notwithstanding the foregoing provisions of this section, the
66 following maximum benefit limitations shall apply if the member's
67 date of disability occurs on or after January 1, 1984. Such maximum
68 benefit limitations shall apply coincident with the receipt of benefits
69 under subsection (d) of section 5-142 by any member of the Division of
70 State Police within the Department of Public Safety. To verify the
71 operation of the maximums, members shall authorize the Social
72 Security Administration to provide the Retirement Commission, on an
73 ongoing basis, any information with regard to covered earnings or
74 Social Security benefits payable. In the event both of the maximums
75 indicated below apply, the lesser disability benefit shall be payable.
76 Such maximums shall be subject to reexamination annually, as
77 indicated in subsection (h) of this section.

78 (1) The disability benefit provided under this section shall not
79 exceed one hundred per cent of the member's base salary or the rate of
80 salary of the member on his date of disability, whichever is greater,
81 less any periodic cash benefit payments being made to a member

82 under the Workers' Compensation Act, less any federal disability
 83 Social Security benefits, including primary and family, paid on account
 84 of the member's Social Security earnings history, less all outside earned
 85 salary or wages, unless the Retirement Commission determines that
 86 such salary or wages are being paid as part of the rehabilitation of the
 87 disabled member. Any such determination that such earned salary or
 88 wages is for rehabilitation must be reapproved by the Retirement
 89 Commission no less frequently than every eighteen months, or the
 90 offset shall apply. The offset for workers' compensation and federal
 91 Social Security disability benefits shall apply when such benefits
 92 commence even if such benefits initially commence after the member's
 93 disability retirement date.

94 (2) The disability benefit provided under this section shall not
 95 exceed eighty per cent of the member's base salary or the rate of salary
 96 of the member on the date of disability, whichever is greater, less any
 97 periodic cash benefit payments being made to a member under the
 98 Workers' Compensation Act, less any federal disability Social Security
 99 benefits, including primary and family, being paid on account of the
 100 member's Social Security earnings history. The offsets shall apply
 101 when such benefits commence even if such benefits initially commence
 102 after the member's disability retirement date.

103 (3) The offsets for workers' compensation and federal Social Security
 104 disability benefits shall be reduced by the amount of any attorney's
 105 fees a member incurs to obtain such benefits.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2005	5-170(c)
Sec. 2	July 1, 2005	5-192p(d)
Sec. 3	July 1, 2005	5-169(g)

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:

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
State Comptroller - Fringe Benefits	State Employees Retirement Fund - Cost	Indeterminate	Indeterminate

Municipal Impact: None

Explanation

The bill specifies that offsets against state disability retirement benefits are to be reduced by the amount of any attorney’s fees a member incurs to obtain benefits. Qualifying state retirees will receive increased disability retirement benefits as a result of the bill. Data regarding the average size of awards and the associated attorney’s fees is not available, therefore, the increased benefit cost cannot be estimated at this time.

The exact impact of the benefits increase on the unfunded liability of the State Employees Retirement Fund and the state’s contribution to the retirement system must be calculated by the State Employees Retirement System actuary. State employee retirement benefits are a mandatory subject of collective bargaining.

OLR Bill Analysis

sHB 6639

AN ACT CONCERNING OFFSETS AGAINST DISABILITY RETIREMENT BENEFITS FOR STATE EMPLOYEES**SUMMARY:**

This bill prohibits the state from reducing a state retiree's disability retirement benefit by the amount of attorney's fees the retiree incurs to obtain workers' compensation or federal Social Security disability benefits. Thus, attorney's fees will be removed from the benefit total before the state uses the benefit to offset (reduce) the state disability retirement. The bill adds this provision to the Tier I and Tier II state employee retirement plans.

EFFECTIVE DATE: July 1, 2005

BACKGROUND***Retirement Benefits and Collective Bargaining***

State employee pensions are a mandatory subject for collective bargaining and, by law, state employee contract provisions supersede contrary provisions of state law. Since the current pension contract does not expire until July 1, 2017, any changes in the law enacted by the General Assembly technically should not take effect before that date without the consent of the state employees union coalition. Despite this, the legislature and the governor occasionally enact law, such as with the 2003 Early Retirement Incentive Program, without negotiating first with the state employees union coalition.

State Employee Retirement System

The State Employee Retirement System has three tiers. With some exceptions, employees hired:

1. before July 1, 1984 are Tier I,
2. on or after July 1, 1984 through June 30, 1997 are Tier II, and
3. on or after July 1, 1997 are Tier IIA.

State statutes contain provisions for Tier I and Tier II, but Tier IIA is entirely contained in the state employees union coalition contract.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 13 Nay 0