



Senate

General Assembly

File No. 566

January Session, 2005

Senate Bill No. 1138

Senate, April 28, 2005

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the 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, 2005*) (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 a
4 special hazard inherent in the duties of a correction officer, becomes (1)
5 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.

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 \$
Policy & Mgmt., Off.	GF - Cost	Potential	Potential
Comptroller Misc. Accounts (Fringe Benefits)	SERS - Cost	Potential Indeterminate	Potential Indeterminate

Note: GF=General Fund; SS&MF=Soldiers, Sailors and Marines' Fund

Municipal Impact: None

Explanation

The bill would increase the disability retirement benefits of certain qualifying state corrections officers. The potential cost to the State Retirement System (SERS) and the subsequent impact on the state’s contribution to SERS is indeterminate at this time but may be significant based on the number of cases that may be designated extraordinary circumstances and the associated pay grade increases used in the benefit calculations. The actual impact to SERS and the state’s contribution must be calculated by the SERS actuary. It should be noted that state employee pensions are a mandatory subject for collective bargaining.

The Office of Labor Relations within the Office of Policy and Management (OPM) will require one additional labor specialist¹ with a salary of \$66,000 and associated other expenses of \$3,500. Additionally, OPM will incur potential costs of \$5,000 for each arbitration, the full extent of potential costs is contingent on the

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The estimated fringe benefit reimbursement rate as a percentage of payroll is 53.91%, effective July 1, 2004. However, first year fringe benefit costs for new positions do not include pension costs lowering the rate to 22.65%. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System.

number of arbitrations that occur.

OLR Bill Analysis

SB 1138

AN ACT CONCERNING DISABILITY RETIREMENT BENEFITS FOR CORRECTION OFFICERS**SUMMARY:**

This bill creates a higher level of disability retirement benefits for a 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 this retirement benefit.

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 disabled and unable to engage in other comparable employment.

The collective bargaining agreement, known as State Employees Bargaining Agent Coalition V (SEBAC), provides the existing disability retirement benefit for hazardous duty employees, such as correction officers (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, 2005

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 a 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. It would similarly increase the benefit for Tier II and Tier IIA, which also use average salary in the formula.

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. 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

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 (CGS § 5-278(e)). Since the current pension contract goes to July 1, 2017, any changes in the law enacted by the legislature technically should not take effect before that date without the consent of SEBAC. Despite this, the legislature and the governor occasionally enact legislation, such as with the 2003 Early Retirement Incentive Program, without first negotiating with the state employees union coalition.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Change of Reference
Yea 10 Nay 3

Judiciary Committee

Joint Favorable Report
Yea 39 Nay 0