

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
 First Reader - Revised

House Bill 76
 Appropriations

(Delegate Lehman, *et al.*)

Public Safety Officer - Performance of Duties - Death and Disability Benefits

This bill (1) requires that the State pay public safety death benefits to the surviving family of specified law enforcement personnel who commit suicide; (2) requires, under specified circumstances, that “line-of-duty” disability benefits be paid to specified law enforcement officers and volunteer fire and rescue personnel diagnosed with post-traumatic stress disorder (PTSD) or related disorders; and (3) makes local 9-1-1 specialists eligible for public safety death benefits and membership in the Law Enforcement Officers’ Pension System (LEOPS).

Fiscal Summary

State Effect: State pension liabilities decrease by \$820,000 and the normal cost increases by \$3.96 million, resulting in a first-year increase in State employer contributions of \$3.93 million. Those costs increase annually according to actuarial assumptions and are assumed to be allocated 60% general funds, 20% special funds, and 20% federal/other funds. General fund expenditures may increase beginning in FY 2026 for firefighter benefits, as discussed below. The bill otherwise likely has no immediate material effect on State finances, as discussed below. **This bill may increase the cost of an entitlement beginning in FY 2026.**

| (in dollars) | FY 2026 | FY 2027 | FY 2028 | FY 2029 | FY 2030 |
|----------------|---------|---------------|---------------|---------------|---------------|
| Revenues | \$0 | \$0 | \$0 | \$0 | \$0 |
| GF Expenditure | 0 | 2,358,000 | 2,424,000 | 2,478,000 | 2,538,000 |
| SF Expenditure | 0 | 786,000 | 808,000 | 826,000 | 846,000 |
| FF Expenditure | 0 | 786,000 | 808,000 | 826,000 | 846,000 |
| Net Effect | \$0 | (\$3,930,000) | (\$4,040,000) | (\$4,130,000) | (\$4,230,000) |

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Pension contributions for participating governmental units (PGUs) in LEOPS and the Correctional Officers’ Retirement System (CORS) increase by \$950,000 in FY 2027. Those costs are expected to increase annually according to actuarial assumptions and be allocated proportionally among approximately 35 PGUs. Provisions

related to 9-1-1 specialists participating in LEOPS are authorizing in nature and affect only PGUs that choose to include 9-1-1 specialists in LEOPS. No effect on revenues.

Small Business Effect: None.

Analysis

Bill Summary/Current Law:

Public Safety Death Benefits

Current Law: The Department of Public Safety and Correctional Services is required to pay a death benefit to the surviving spouse, child, dependent parent, or estate of each of the following individuals who is killed or dies in the performance of duties: (1) a law enforcement officer; (2) a correctional officer; (3) a volunteer or career firefighter or rescue squad member; (4) a sworn member of the Office of the State Fire Marshal; (5) a public safety aviation employee; (6) a Maryland resident who was a member of the uniformed services of the United States serving in the Afghanistan or Iraq conflict; or (7) a hazardous material response team employee of the Maryland Department of the Environment. With the exception of a member of the uniformed services serving in Afghanistan or Iraq, reasonable funeral expenses up to \$25,000 must also be paid.

Generally, an application for a death benefit must be submitted within three years after the death of the decedent. Beginning in fiscal 2009, the \$125,000 death benefit is adjusted annually by the Consumer Price Index (CPI), and beginning in fiscal 2026, the \$25,000 funeral benefit is adjusted annually by the CPI.

On a case-by-case basis, the Secretary of Public Safety and Correctional Services may award a death benefit under these provisions if (1) the decedent's death was caused by the decedent's intentional misconduct; (2) the decedent intended to bring about the decedent's death; (3) the decedent's voluntary intoxication was the proximate cause of the decedent's death; or (4) additional evidence arises that the decedent's death resulted from an act committed against the decedent by another due to the nature and performance of the decedent's duties.

A death benefit under these provisions is in addition to (1) any workers' compensation benefits; (2) the proceeds of any form of life insurance, regardless of who paid the premiums; and (3) the funeral benefit provided under these provisions.

Payments of death or funeral benefits must be made out of money that the Governor includes for that purpose in the State budget.

The Bill: 9-1-1 specialists are eligible for the public safety death benefit described above (but not the funeral benefit). The bill also (1) repeals the authorization for the Secretary of Public Safety and Correctional Services to, on a case-by-case basis, award a public safety death benefit if the decedent intended to bring about the decedent's death and (2) instead specifies that an individual who dies by suicide is presumed to have died as a direct and proximate result of an injury sustained in the performance of duties if the individual was diagnosed by a licensed medical or mental health professional with PTSD, acute stress disorder, or a trauma- and stress-related disorder and the diagnosis resulted due to the nature and performance of the individual's duties.

Disability Benefits

Current Law: Except for a member of the State Police Retirement System (SPRS) or a member of LEOPS, a member of the State Retirement and Pension System is eligible for an accidental disability retirement benefit if (1) the member is totally and permanently incapacitated for duty *as the natural and proximate result of an accident* (emphasis added) that occurred in the actual performance of duty at a definite time and place without willful negligence by the member and (2) the medical board certifies that 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 should be retired. There is no minimum service requirement for accidental disability.

A member of LEOPS is eligible for an accidental disability retirement benefit if (1) the member is totally and permanently incapacitated for duty arising *out of or in the course of the actual performance of duty* (emphasis added) without willful negligence by the member and (2) the medical board certifies that the member is totally incapacitated, *either mentally or physically* (emphasis added), for the further performance of duty; the incapacity is likely to be permanent; and the member should be retired. A member of SPRS is entitled to the same benefit under the same conditions, except that it is called a "special" disability benefit instead of an accidental disability benefit.

An accidental or special disability benefit is equal to the lesser of (1) a member's average final compensation (AFC) or (2) the sum of an annuity based on the actuarial value of the member's accumulated contributions and a pension equal to two-thirds of the member's AFC.

A member of a volunteer fire company or volunteer rescue squad is eligible for disability benefits from the Maryland State Firemen's Association (MSFA) if (1) the member's fire company or rescue squad recommends that the member receive benefits and (2) the member is permanently or temporarily disabled as a direct result of actively participating in fighting a fire or participating in other related activities, as specified. The benefit is paid

from the treasury of MSFA in the amount and manner determined by the association until the beneficiary is no longer disabled.

The Bill: Members of LEOPS, CORS, and the Local Fire and Police System are presumed to be totally and permanently incapacitated for duty – as the natural and proximate result of an accident that occurred in the actual performance of duty or (specific to LEOPS only) arising out of or in the course of the actual performance of duty – and *must* be granted an accidental disability benefit if the medical board certifies that:

- the member is mentally or physically incapacitated for the further performance of the normal duties of the member's position;
- the member was diagnosed by a licensed medical or mental health professional with PTSD, acute stress disorder, or a trauma- and stress-related disorder;
- the diagnosis resulted due to the nature and performance of the normal duties of the member's position;
- the incapacity is likely to be permanent; and
- the member should be retired.

In addition, a member of SPRS must be granted a special disability benefit under the same conditions as for LEOPS, and a member of a volunteer fire or rescue squad is eligible for disability benefits under similar conditions.

9-1-1 Specialists Eligibility for the Law Enforcement Officers' Pension System

Current Law: A 9-1-1 specialist is an employee of a county public safety answering point (*i.e.*, 9-1-1 call center), or an employee working in a county public safety answering point, whose duties and responsibilities include (1) receiving and processing 9-1-1 requests for emergency services; (2) other support functions directly related to 9-1-1 requests for emergency services; or (3) dispatching law enforcement officers, fire rescue services, emergency medical services, and other public safety services to the scene of an emergency.

LEOPS was established on July 1, 1990, with participation a condition of employment for specified State public safety officers. Members of LEOPS earn 2.0% of their AFC for each year of creditable service. Vested members qualify for a normal service retirement benefit at age 50 or with at least 25 years of creditable service. However, the normal service allowance is capped at 65% of AFC, meaning that members stop accruing benefits after 32.5 years of service ($2\% \times 32.5 = 65\%$).

Counties and municipal corporations are eligible to participate in LEOPS as PGUs. In order to elect participation, (1) the legislative body of the county or municipal government must adopt a resolution in the form prescribed by the Board of Trustees of the State Retirement

and Pension System and (2) the county or municipal government must already participate in a State plan or operate a local plan. Law enforcement officers, emergency medical technicians, and firefighters employed by PGUs are eligible to participate in LEOPS, and at least 60% of eligible participants must petition to become members of LEOPS, among other requirements, in order for a local petition to join LEOPS to be valid.

The Bill: A county or municipal government may elect to include 9-1-1 specialists in LEOPS if the legislative body of the county or municipal government approves their participation.

State Expenditures:

Law Enforcement Death Benefits

Expanding eligibility for the death benefits to 9-1-1 specialists and requiring payments to individuals who die by suicide (instead of deciding such cases on a case-by-case basis) are both expected to apply in limited circumstances. The fiscal 2026 budget as introduced includes \$850,000 for the payment of death benefits to surviving family members of law enforcement officers killed in the line of duty, which is consistent with budgeted amounts in recent years. Total annual death benefit payments for each of the past four years have ranged from a high of \$2.0 million (for 12 deaths) in fiscal 2023 to a low of \$518,600 (for 3 deaths) in fiscal 2024. The bill's changes may increase payments in some years, but any such increase likely can be covered with funds typically budgeted for these payments.

Accidental/Special Disability Benefits

The bill makes two changes to eligibility for accidental/special disability benefits that likely increase the number of disability retirements in CORS, LEOPS, and SPRS. First, it *requires* that a member be awarded an accidental/special disability benefit if the member is diagnosed with PTSD or a related condition. Second, it allows the diagnosis to be made by *any* licensed medical or mental health professional. Together, these changes likely increase the number accidental/special disability claims and also the likelihood that accidental disability benefits are awarded.

In fiscal 2024 and 2025 (through December), the State Retirement Agency received 12 disability claims in the three affected plans that included diagnoses of PTSD. Of those, 8 were awarded accidental disability with 1 case still pending. Under the bill, all of those claims would likely be awarded accidental/special disability benefits, at least a 25% increase.

Therefore, for the purpose of this analysis, the General Assembly's consulting actuary increased the assumed incidence of accidental/special disability retirements by 25%.

Exhibit 1 shows the projected increase in unfunded liabilities, normal cost, and first-year employer contributions based on this assumption change for each plan and overall. As the change affects future benefits, most of the effect is seen in the normal cost.

Exhibit 1
Increase in Pension Liabilities and Employer Contributions
(\$ in Millions)

| <u>System</u> | <u>Unfunded Liability</u> | <u>Normal Cost</u> | <u>First-year Employer Contribution</u> |
|---------------|---------------------------|--------------------|---|
| CORS* | \$0.18 | \$1.42 | \$1.45 |
| LEOPS | (0.13) | 1.47 | 1.48 |
| State Police | (0.87) | 1.07 | 1.00 |
| Total | (\$0.82) | \$3.96 | \$3.93 |

CORS: Correctional Officers' Retirement System
LEOPS: Law Enforcement Officers' Pension System

* CORS is combined with the Employee's Combined Systems for purpose of actuarial valuation, so the fiscal effects are reflected for the combined plans.

Source: Bolton; Department of Legislative Services

Accordingly, State pension liabilities *decrease* by \$820,000 and the normal cost *increases* by a total of \$3.96 million, resulting in a first-year increase in the State's employer contributions of \$3.93 million. Those costs are first recognized in fiscal 2027, are expected to grow annually according to actuarial assumptions, and are presumed to be allocated 60% general funds, 20% special funds, and 20% federal/other funds.

Firefighter Disability Benefits

The Widows and Orphans Fund administered by MSFA is funded by an annual pass-through appropriation of \$625,000 from the Maryland Department of Emergency Management (MDEM). To the extent that the bill's provisions related to disability benefits for firefighters result in higher payments by MSFA to disabled firefighters, general fund expenditures for MDEM may increase to cover the higher payments. A reliable estimate is not feasible but may be significant given the bill's effects on State liabilities.

Local Expenditures: With the same 25% increase in the assumed incidence of accidental/special disability claims under the PGU components of LEOPS and CORS, PGU pension liabilities increase by \$180,000 and the normal cost increases by \$930,000,

resulting in a first-year increase in employer contributions of \$950,000 in fiscal 2027. Those costs are expected to grow annually according to actuarial assumptions and allocated proportionally among 35 PGUs that participate in LEOPS and CORS.

Additional Comments: The State Retirement Agency advises that, as defined by the bill, a “9-1-1 specialist” may not qualify as a public safety officer under federal Internal Revenue Service guidelines for tax-exempt public safety pension plans. Therefore, including them as members of LEOPS could jeopardize the plan’s tax-exempt status. Any financial repercussions from the potential loss of that status are not reflected in this analysis.

The Local Fire and Police System is closed and has no active members.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years; however, legislation with some provisions included in this bill has been proposed. For example, see HB 1389 of 2024; HB 1313 and SB 700 of 2024; and HB 1236 and SB 822 of 2022.

Designated Cross File: SB 396 (Senator McKay) - Budget and Taxation and Judicial Proceedings.

Information Source(s): Baltimore, Cecil, Frederick, and Montgomery counties; Maryland Association of Counties; City of Salisbury; Town of Bel Air; Maryland Municipal League; Department of Public Safety and Correctional Services; Department of State Police; Maryland Institute for Emergency Medical Services Systems; Maryland Department of Emergency Management; State Retirement Agency; Bolton; Department of Legislative Services

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