



House Bill 971

Local Pension Systems - Special Disability Retirement Allowance

MACo Position: **OPPOSE**

To: Appropriations Committee

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From: Robin Clark Eilenberg

The Maryland Association of Counties (MACo) **OPPOSES** HB 971. This legislation creates several mandates for county and municipal pension systems that would upset the structure of benefits and programs available to public safety officers injured on the job. The retroactive and finely prescriptive nature of the bill would overturn a wide range of reasonable local decisions.

Twelve Maryland counties operate local pension systems and several of those counties provide pension benefits for public safety employees, including law enforcement. Counties with local pension systems include Anne Arundel, Baltimore, Calvert, Caroline, Carroll, Charles, Frederick, Howard, Montgomery, Washington, and Wicomico.

This legislation overlays a new structure of pension benefits, according to certain new definitions that would single out a range of special cases within public safety employment for particular and high-level benefits. For counties that negotiate certain benefits for these special classes of employees, this legislation could undercut those allowances.

In the case of a public safety employee who suffers an on-the-job injury, county governments seek to get that employee back to work as quickly as possible. When the injury will not allow for a return to a duty post, the county's first objective is to find another position for that employee. When an injury is so severe that work is not an option, the county governments MACo consulted generally ensure that a former employee is provided with retirement benefits and other income that equal 60% or more of the employee's average final compensation. In some counties, the benefits may be greater than that amount (and greater than the amounts provided in the legislation), subject to union negotiations.

Under this legislation, those provisions might be inadequate. For example, finding an injured employee a new county government position and providing appropriate training and re-training would not be sufficient, unless the new position includes substantially similar pay,

benefits, and advancement opportunities as the employee's former post. Even in counties with large public safety departments, fulfilling these standards while seeking to place an employee in a vacant post would pose challenges, and in smaller departments, it may not be possible.

If it is not possible, then the county would be required to provide an injured employee with a permanent retirement allowance equal to 100% of his or her final pay, or an annuity of the employee's retirement contributions and a permanent retirement allowance equal to 2/3 of his or her final pay. A former employee in such a scenario would likely find employment elsewhere, while still earning a level of retirement benefit typically reserved for employees who are unable to work at all.

Serious injuries may be considered "catastrophic" or "non-catastrophic," according to current county human resources offices. The catastrophic and non-catastrophic definitions inform employers regarding an employee's ability to find other employment and their qualifications for other income streams, such as long-term disability benefits and social security. Some offices of smaller counties rely on the U.S. Social Security Administration to determine levels of injury, and, on that basis, proceed to find employment or to provide benefits for injured employees.

This bill does not use a catastrophic injury category, but instead describes a mental or physical injury that permanently and totally prevents (incapacitates) an employee from performing her prior job. It is not clear to county human resources officers how broadly that definition might be applied – another concerning ambiguity in the bill. The legislation also requires the determination to be certified by a physician or medical board; language which could invite dispute and administrative issues.

In addition to these issues, the bill's provisions would also apply retroactively – to anyone injured on the job in a law enforcement, public safety, or emergency response position since July 1, 2015. Opening the door to new benefits for cases already settled creates administrative and cost concerns, in addition to creating fiscal unpredictability in a county's debt profile.

As an unfunded mandate that interferes with the local ability to provide coverage for special circumstances while sustaining retirement support for a broad spectrum of county government employees, MACo requests an **UNFAVORABLE** report on HB 971.