

## STATE POLICE RETIREMENT

### Senate Bill 267 as passed by the Senate First Analysis (12-5-00)

**Sponsor: Sen. Philip E. Hoffman**  
**House Committee: Appropriations**  
**Senate Committee: Appropriations**

#### ***THE APPARENT PROBLEM:***

Regular retirement benefits for state troopers (with 25 years of service) are 60 percent of final average compensation. The duty disability pension is calculated by the same formula, but there is no service credit requirement. For both types of retirement benefits, the calculation of the pension amount depends on the trooper's "final average compensation". "Final average compensation" is defined in the statute to mean the average annual salary for the last two years of service, and includes regular salary, overtime, shift differential, shift differential overtime, compensatory time, emergency response compensation, a certain amount of accumulated annual leave, deferred hours dating from budget reductions in the 1980s, longevity pay, bomb squad pay, Post 29 freeway premium, and on-call pay. It is common for those nearing retirement to make efforts to increase their final average compensation by taking on work schedules and assignments that maximize compensation, in order to increase the pension benefit amount.

It has been pointed out that a trooper who experiences a duty disability may attempt, for weeks or months, to continue working before making a decision to take a duty disability retirement. The period of time worked after the injury and before retirement is likely to be at reduced hours, or at least without the ability to take on overtime, etc., in order to maximize final average compensation. In other cases, the trooper may be receiving workers' compensation payments during that period, which would be less than his or her salary. Thus, the effort to continue working often results in a reduced retirement benefit. Legislation has been proposed to modify the calculation of final average compensation for duty disability retirees.

In another matter, the retirement act requires that the employer's contribution rate (the "annual level percentage of payroll rate") is to be actuarially determined each year. This is based on an estimate of the aggregate compensation paid to state police employees each year. The following fiscal year, any differences between this estimated rate and the actual

aggregate compensation paid during that fiscal year is included in the executive budget for the succeeding fiscal year. Current law governing the other state-administered retirement systems (the State Employees Retirement System and the Public School Employees Retirement System) allows this reconciliation to be paid over a five-year period, rather than requiring that the entire amount be paid each year. This is considered to be sound policy, as the system is structured to recognize the entire liability and because interest is paid on the amount owed. It has been suggested that the same provisions be added to the State Police Retirement System Act to provide consistency between the state-administered systems.

In addition, language is proposed to require the retirement system to correct errors that materially affected a person's benefit payment.

#### ***THE CONTENT OF THE BILL:***

The bill would amend the State Police Retirement System Act (MCL 38.1603 et al.) in the following ways.

- The bill would add a definition of a member's "last 2 years of service" for purposes of calculating a retirement allowance. It would define that term to mean the two-year period immediately preceding the member's last day of service, *or* that period of two consecutive years of service immediately preceding the date that a member's duty disability occurred. Thus, a member's final average compensation (used in calculating the pension amount) would be based on the member's "last 2 years of service", as defined in the bill.
- The bill would require the retirement system to recalculate the retirement benefits of all disability retirees based on the definition of "last 2 years of service" added by the bill. If the recalculation results in a higher benefit amount, a retiree would be entitled to

receive the higher amount beginning the first day of the month following the effective date of the bill.

- The bill would specify that if a change or error in the records of the retirement system resulted in a retiree or beneficiary receiving an underpayment or overpayment, the retirement system would be required to, “as nearly as practical”, correct the error, and could adjust the person’s benefit payment to provide an actuarial equivalent of the benefit to which the person was entitled. The bill specifies that the retirement system could not make an adjustment in benefits for an error totaling \$20 or less annually.

- The bill would add language specifying that, for fiscal years beginning on or after October 1, 2001, differences between the actual aggregate compensation level and the estimated and actual contribution rate would be paid in the following manner: a minimum of 20 percent of the difference could be submitted in the executive budget to the legislature for appropriation in the next succeeding fiscal year, and a minimum of the remaining difference would have to be submitted in the executive budgets in the next four succeeding fiscal years, or until 100 percent of the remaining difference were submitted, whichever occurred first. In addition, interest would have to be included for each year that a portion of the remaining difference was carried forward. The interest rate would have to be at a rate equal to the actuarially assumed rate of investment return for the fiscal year in which the payment was made.

### ***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, the bill’s requirement that duty disability retirement allowances be recalculated would result in a cost increase to the retirement system of approximately \$180,000 to \$270,000 in the first fiscal year. The cost would be expected to increase in an indeterminate amount in subsequent years as future members retired due to duty disabilities. The bill would require a slight increase in the annual contributions for the retirement system made through the state police budget bill. Retirement costs are amortized over a 30-year period.

The bill’s other provisions would result in a small indeterminate cost increase. (12-4-00)

### ***ARGUMENTS:***

#### ***For:***

The current method of determining “final average compensation” can result in a greatly-reduced pension for those troopers who have suffered an on-the-job injury and subsequently take a duty disability pension. This situation unfairly penalizes those who make every effort to keep on working, only to have to end up taking a disability retirement. The bill would resolve this situation by specifying that for disability retirees, the period of time used to calculate the final average compensation would be the two-year period directly preceding the injury that caused the disability retirement. In addition, the bill would allow for a recalculation of benefits for those who have already retired at a lower benefit level.

#### ***Response:***

It has been suggested that the bill’s recalculation of benefits should be made retroactive, so that lost benefits could be made up for those troopers who have suffered because of this inequity.

#### ***For:***

The bill would also provide for two administrative changes – a provision known as “five-year smoothing”, and language to require errors to be corrected – that would bring the State Police Retirement System into conformity with other state-administered pension programs.

### ***POSITIONS:***

The Department of Management and Budget supports the bill. (12-4-00)

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