



Board of Administration

Agenda Item 9e

April 20, 2021

Item Name: Assembly Bill 845 (Rodriguez) – Disability Retirement: COVID-19

Program: Legislation

Item Type: Action

Recommendation

Adopt a **SUPPORT** position on Assembly Bill (AB) 845 (Rodriguez), as introduced February 17, 2021, because the bill provides assurance that public employees who are unable to perform their jobs due to being infected with COVID-19 will be eligible for disability retirement benefits.

Executive Summary

AB 845 establishes COVID-19-related illness(es) as a rebuttable presumption for disability retirement in any retirement system subject to the Public Employees' Pension Reform Act of 2013. This provision is repealed on January 1, 2023. The bill will not impact any existing processes or benefits provided by the California Public Employees' Retirement System (CalPERS) Board of Administration (Board).

Strategic Plan

This proposal does not align with a specific initiative in the 2017-2022 CalPERS Strategic Plan.

Background

Disability Retirement

A CalPERS member may be eligible for a disability or industrial disability retirement if the member has a disabling injury or illness that prevents the member from performing the usual job duties with the member's current employer for a permanent or extended duration (one that is expected to last for at least 12 consecutive months or will result in death).

A member who has at least five years of service credit is eligible for a disability retirement. There is no minimum age requirement for a disability retirement. The cause of the disability does not need to be related to the member's employment. If the member retires, the member will receive a monthly retirement payment for the rest of the member's life or until the member recovers from the disabling injury or illness. The calculation of the monthly unmodified disability allowance is based on the following factors:

- Years of service credit;
- Benefit factor (e.g. 1.8 percent for state first tier and public agency miscellaneous); and
- Final compensation amount (and whether it is based on a 12- or 36-month period).

Industrial Disability Retirement

An industrial disability means that the member is unable to perform the usual duties of the job with the member's current employer because of a job-related injury or illness. There is no minimum service or age requirement for an industrial disability retirement. However, to qualify for this benefit, the member must be employed in a local safety or State of California safety, peace officer/firefighter, patrol, or certain State of California miscellaneous positions. Most State of California miscellaneous and school members are not eligible for an industrial disability retirement.

Local miscellaneous members are eligible for an industrial disability retirement only if the employer agreement with CalPERS provides this benefit. If the disability is not job-related or if the local miscellaneous member's employer agreement with CalPERS does not provide for this benefit, the member may be eligible for a disability retirement.

Safety members who retire on or after January 1, 2013, for an industrial disability will receive a disability retirement benefit equal to the greater of the following:

- 50 percent of the highest consecutive 12-month or 36-month average monthly salary. An additional annuity may be paid if the member has contributions association to non-safety service.
- A service retirement allowance, if qualified for service retirement.
- If under age 50, an actuarially reduced benefit factor (determined by the member's retirement formula and how many quarter years the member is under age 50) multiplied by the number of years of service credit.

SARS-CoV-2/Coronavirus-2019, known as COVID-19

According to the Centers for Disease Control and Prevention (CDC), as of March 22, 2021, there have been 29,652,483 cases of COVID-19 and 539,517 deaths in the United States. As of March 21, 2021, the California Department of Public Health estimates that there have been 3,547,278 cases of COVID-19 in the State of California with 56,545 deaths.

Senate Bill (SB) 1159

On September 17, 2020, Governor Newsom signed SB 1159 (Hill), Chapter 85, Statutes of 2020, into law codifying the Governor's May 2020 Executive Order that, among other things, provided that "...any COVID-19-related illness of an employee shall be presumed to arise out of and in the course of the employment for purposes of awarding workers' compensation benefits..." if the requirements stated within the Executive Order (and subsequent bill) were met and provided that the presumption may be rebutted by evidence to the contrary.

Analysis

Bill Summary

Specifically, AB 845:

- Creates a presumption that if a member retires for a disability that is caused by a COVID-19-related illness, that the disability arose during a member's employment
- Allows for the presumption to be rebutted by evidence to the contrary
- Provides definitions for "COVID-19", "member", and "public retirement system"

Existing CalPERS Processes and Practices

This bill, in its introduced version, does not change any existing CalPERS processes or practices relating to disability or industrial disability retirements. Eligibility for a non-industrial disability retirement does not require the injury or illness to be work-related. While an industrial disability retirement does require the injury or illness to be work-related, an accepted workers' compensation claim is required for approval. Because SB 1159 (2020) makes a COVID-19 injury or illness rebuttably presumed to be work-related, the protections provided by AB 845 are already built into the existing processes and practices for industrial disability retirements.

Budget and Fiscal Impacts

At this time, CalPERS team members do not anticipate any administrative or benefit costs as a result of this bill.

Benefits and Risks

Benefits:

- Provides assurance that public employees who are unable to perform their jobs due to being infected with COVID-19 will be eligible for disability retirement benefits.

Risks:

- No identified risks if the bill is enacted.

Danny Brown, Chief
Legislative Affairs Division

Brad W. Pacheco
Deputy Executive Officer
Communication and Stakeholder Relations

Marcie Frost
Chief Executive Officer