

CHAPTER 337

(Senate Bill 583)

AN ACT concerning

Alternate Contributory Pension Selection – Clarifications

FOR the purpose of requiring certain participating governmental units to pay certain liabilities associated with the alternate contributory pension selection for certain employees; clarifying that membership in the Employees' Pension System or the Teachers' Pension System ends under certain circumstances; providing that certain members of the Employees' Pension System or the Teachers' Pension System may combine certain prior service credit with their current service credit under certain circumstances; requiring certain members of the Employees' Pension System or the Teachers' Pension System who choose to combine certain prior service credit with their current service credit to pay the Board of Trustees of the State Retirement and Pension System certain member contributions; requiring the Board of Trustees to refund certain member contributions under certain circumstances; providing that certain members of the State Retirement and Pension System are eligible to receive certain eligibility service credit under certain circumstances; providing that certain members of the Employees' Pension System or the Teachers' Pension System may purchase certain prior service credit with their current service credit under certain circumstances; requiring certain members of the Employees' Pension System or the Teachers' Pension System who choose to purchase certain prior service credit to pay the Board of Trustees certain member contributions; providing that certain members of the Employees' Pension System or the Teachers' Pension System are entitled to certain eligibility service credit under certain circumstances; requiring that certain members of the Employees' Pension System or the Teachers' Pension System who apply for an ordinary or special disability, file an application within a certain period of time; exempting certain transfers between the Employees' Pension System or the Teachers' Pension System from certain provisions of law; permitting certain transfers of service credit between certain State or local retirement and pension systems and the Employees' Pension System or the Teachers' Pension System; repealing certain obsolete provisions; defining certain terms; providing certain conforming changes to reflect the addition of the alternate contributory pension selection; and generally relating to the alternate contributory pension selection of the Employees' Pension System and the Teachers' Pension System.

BY adding to

Article – State Personnel and Pensions
 Section 20–101(d–1), (j–1), and (aa–1), 21–307(m), and 37–101(n–1) and (n–2)
 Annotated Code of Maryland
 (2004 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions
 Section 20–205(c), 21–305.5(a), (d), and (f), 21–307(k), (l), and (m), 23–215,
 23–302(d), 23–303(b), 23–303.1, 23–304, 23–306.2, 23–306.3, 23–310,
 29–104, 29–303(h), 29–425(b), 37–101(j), 37–201, 37–203(a) and (f), and
 37–203.1
 Annotated Code of Maryland
 (2004 Replacement Volume and 2006 Supplement)

BY repealing

Article – State Personnel and Pensions
 Section 23–309(c)
 Annotated Code of Maryland
 (2004 Replacement Volume and 2006 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Personnel and Pensions

20–101.

(D–1) “ALTERNATE CONTRIBUTORY PENSION SELECTION” MEANS THE PART OF THE EMPLOYEES’ PENSION SYSTEM AND THE TEACHERS’ PENSION SYSTEM THAT PROVIDES THE ALTERNATE CONTRIBUTORY PENSION SELECTION UNDER TITLE 23, SUBTITLE 2, PART III OF THIS ARTICLE.

(J–1) “CONTRIBUTORY PENSION BENEFIT” MEANS THE PART OF THE EMPLOYEES’ PENSION SYSTEM AND THE TEACHERS’ PENSION SYSTEM THAT PROVIDES THE CONTRIBUTORY PENSION BENEFIT UNDER TITLE 23, SUBTITLE 2, PART II OF THIS ARTICLE.

(AA–1) “NONCONTRIBUTORY PENSION BENEFIT” MEANS THE PART OF THE EMPLOYEES’ PENSION SYSTEM AND THE TEACHERS’ PENSION SYSTEM

THAT DOES NOT PROVIDE THE CONTRIBUTORY PENSION BENEFIT UNDER TITLE 23, SUBTITLE 2, PART II OF THIS ARTICLE OR THE ALTERNATE CONTRIBUTORY PENSION SELECTION UNDER TITLE 23, SUBTITLE 2, PART III OF THIS ARTICLE.

20–205.

(c) (1) This subsection applies to a member **OF THE EMPLOYEES' PENSION SYSTEM OR TEACHERS' PENSION SYSTEM WHO IS SUBJECT TO THE NONCONTRIBUTORY PENSION BENEFIT AND** who was on authorized leave of absence at partial pay or without pay during the last 3 years of employment as a member.

(2) If the period used to determine average final compensation is the period that immediately precedes the date of retirement or other separation from employment, the Board of Trustees:

(i) may not include in the computation of average final compensation the period of months of the leave of absence, not exceeding 12, that otherwise would be included in the computation; and

(ii) shall substitute an equal number of months immediately preceding that period.

21–305.5.

(a) (1) In this section the following words have the meanings indicated.

(2) “Complement of the participant funding ratio” is a ratio equal to 100% minus the participant funding ratio, and may not be less than zero.

(3) “Employees’ systems” means the Employees’ Pension System and the Employees’ Retirement System.

(4) “Noncontributory participating governmental unit” means a participating governmental unit that did not elect to provide its employees with the contributory pension benefit [under Title 23 of this article] **OR THE ALTERNATE CONTRIBUTORY PENSION SELECTION** as provided in § 31–116 of this article.

(5) “Noncontributory system funding ratio” means the ratio determined by the actuary as provided under subsection (e) of this section.

(6) “Participant funding ratio” means the ratio determined under subsection (d) of this section.

(7) “Transition amount” means the amount determined by the actuary as provided under subsection (i) of this section.

(d) (1) This subsection applies to a participating governmental unit that elected to provide its employees with the contributory pension benefit [under Title 23 of this article] **OR THE ALTERNATE CONTRIBUTORY PENSION SELECTION** as provided in § 31–116 of this article.

(2) As of June 30 of each fiscal year, the actuary shall determine the participant funding ratio for the participating governmental units as provided in this subsection.

(3) The participant funding ratio shall be a fraction that has:

(i) as its numerator, the assets to the credit of the participating governmental units in the accumulation fund and the annuity savings fund of the employees’ systems as adjusted under paragraph (4) of this subsection; and

(ii) as its denominator, the actuarial liabilities of the participating governmental units.

(4) The assets to the credit of the participating governmental units as of the valuation date shall be:

(i) increased by the sum of the outstanding balances of:

1. the special accrued liability attributable to each participating governmental unit under § 21–305.3 of this subtitle;

2. the deficit allocated to each participating governmental unit under § 21–305.4(c) of this subtitle; and

3. the withdrawal liability contribution attributable to each participating governmental unit under subsection (h) of this section; and

(ii) decreased by the sum of the outstanding balances of the surplus allocated to each participating governmental unit under § 21–305.4(b) of this subtitle.

(f) (1) This subsection applies to a participating governmental unit that elected to provide its employees with the contributory pension benefit [under Title 23 of this article] **OR THE ALTERNATE CONTRIBUTORY PENSION SELECTION** as provided in § 31–116 of this article.

(2) The assets that are allocable to the employees of a participating governmental unit who elect to withdraw from the employees' systems shall be computed by the actuary as provided in this subsection.

(3) If the participant funding ratio for the fiscal year preceding the effective date of withdrawal of the participating governmental unit is less than 100%, the actuary shall multiply the participant funding ratio for the fiscal year preceding the effective date of withdrawal of the participating governmental unit by the actuarial liability allocable to the employees of the participating governmental unit who elect to withdraw.

(4) If the participant funding ratio for the fiscal year preceding the effective date of withdrawal of the participating governmental unit is 100% or greater and less than 110%, the actuary shall multiply the actuarial liability allocable to the employees of the participating governmental unit who elect to withdraw by 100%.

(5) If the participant funding ratio for the fiscal year preceding the effective date of withdrawal of the participating governmental unit is 110% or greater, the actuary shall multiply the actuarial liability allocable to the employees of the participating governmental unit who elect to withdraw by the difference between the participant funding ratio and 10%.

(6) Any assets computed under paragraph (3), (4), or (5) of this subsection shall be reduced by the sum of:

(i) the outstanding balance of the deficit allocable to the participating governmental unit as of the effective date of withdrawal;

(ii) the outstanding balance of the special accrued liability contribution allocable to the participating governmental unit as of the effective date of withdrawal; and

(iii) any transition amount as determined under subsection (i) of this section.

21–307.

(k) For each employee who is subject to the contributory pension benefit [under Title 23, Subtitle 2, Part II of this article], Frederick County shall pay the additional liabilities that result from the contributory pension benefit according to a schedule of amortization that is subject to the approval of the Board of Trustees.

(l) For each employee of a participating governmental unit that initially elects to provide its employees with the contributory pension benefit [under Title 23, Subtitle 2, Part II of this article] between July 1, 2002 and December 31, 2002, inclusive, the participating governmental unit shall pay the additional liabilities that result from the contributory pension benefit according to any increase in the normal cost percentage plus a schedule of amortization that is subject to the approval of the Board of Trustees.

(M) FOR EACH EMPLOYEE OF A PARTICIPATING GOVERNMENTAL UNIT THAT INITIALLY ELECTS TO PROVIDE ITS EMPLOYEES WITH THE ALTERNATE CONTRIBUTORY PENSION SELECTION BETWEEN JULY 1, 2006, AND JUNE 30, 2007, INCLUSIVE, THE PARTICIPATING GOVERNMENTAL UNIT SHALL PAY THE ADDITIONAL LIABILITIES THAT RESULT FROM THE ALTERNATE CONTRIBUTORY PENSION SELECTION ACCORDING TO ANY INCREASE IN THE NORMAL COST PERCENTAGE PLUS A SCHEDULE OF AMORTIZATION THAT IS SUBJECT TO THE APPROVAL OF THE BOARD OF TRUSTEES.

[(m)] (N) For each employee of the Maryland Transit Administration who is a member of the Law Enforcement Officers' Pension System, the Maryland Transit Administration shall pay to the Board of Trustees the employer contributions otherwise required to be made by the State on behalf of the member.

23-215.

(A) Membership ends if the member:

(1) is separated from employment for more than 4 years;

(2) IS SEPARATED FROM EMPLOYMENT, AND REHIRED INTO A POSITION THAT REQUIRES ENROLLMENT IN A PART OF THE EMPLOYEES' PENSION SYSTEM OR THE TEACHERS' PENSION SYSTEM THAT IS SUBJECT TO A DIFFERENT RATE OF MEMBER CONTRIBUTIONS AND BENEFIT ACCRUAL;

[(2)] **(3)** withdraws the member's accumulated contributions;

[(3)] (4) becomes a retiree; or

[(4)] (5) dies.

(B) SUBSECTION (A)(2) OF THIS SECTION DOES NOT APPLY FOR PURPOSES OF DETERMINING ELIGIBILITY FOR A DISABILITY RETIREMENT BENEFIT UNDER § 29-104(A) OF THIS ARTICLE.

23-302.

(d) If a member who is subject to the contributory pension benefit [under Subtitle 2, Part II of this title] **OR THE ALTERNATE CONTRIBUTORY PENSION SELECTION** completes less than 500 hours of employment while a member, the Board of Trustees shall prorate the member's eligibility service based on the number of hours worked.

23-303.

(b) (1) This section applies to a member of the Employees' Pension System or the Teachers' Pension System who was a member of one of those State systems.

(2) This section does not apply to:

(i) a retiree of the Employees' Pension System or the Teachers' Pension System; or

(ii) a member of the Employees' Pension System or Teachers' Pension System who is subject to the contributory pension benefit [under Subtitle 2, Part II of this title] **OR THE ALTERNATE CONTRIBUTORY PENSION SELECTION.**

23-303.1.

(a) This section applies [only] to a member of the Employees' Pension System or Teachers' Pension System who [is subject to the contributory pension benefit under Subtitle 2, Part II of this title] **HAS PRIOR SERVICE IN A PART OF THE EMPLOYEES' PENSION SYSTEM OR TEACHERS' PENSION SYSTEM THAT IS SUBJECT TO A DIFFERENT RATE OF MEMBER CONTRIBUTIONS AND BENEFIT ACCRUAL.**

(b) A member **WHO IS SUBJECT TO THE CONTRIBUTORY PENSION BENEFIT OR ALTERNATE CONTRIBUTORY PENSION SELECTION** is entitled to

COMBINE the **MEMBER'S PRIOR** eligibility service [to which the member was entitled before the separation from employment] **WITH THE MEMBER'S CURRENT SERVICE** if the member:

(1) at the time of separation from employment, was entitled to a vested allowance from:

(i) the Employees' Pension System; or

(ii) the Teachers' Pension System;

(2) did not transfer to the Employees' Pension System or the Teachers' Pension System from the Employees' Retirement System or Teachers' Retirement System after April 1, 1998; and

(3) has completed 1 year of employment as a member who is subject to the contributory pension benefit under Subtitle 2, Part II of this title.

(C) A MEMBER WHO IS SUBJECT TO THE NONCONTRIBUTORY PENSION BENEFIT IS ENTITLED TO COMBINE THE MEMBER'S PRIOR ELIGIBILITY SERVICE WITH THE MEMBER'S CURRENT SERVICE IF THE MEMBER DID NOT TRANSFER TO THE EMPLOYEES' PENSION SYSTEM OR TEACHERS' PENSION SYSTEM FROM THE EMPLOYEES' RETIREMENT SYSTEM OR TEACHERS' RETIREMENT SYSTEM AFTER APRIL 1, 1998.

[(c)] **(D) (1) A member may [receive] COMBINE THE MEMBER'S PRIOR credit for eligibility service [by completing] WITH THE MEMBER'S CURRENT SERVICE under this section IF THE MEMBER:**

(I) COMPLETES a claim for the service credit and [filing] **FILES** it with the Board of Trustees on the form that the Board of Trustees provides at any time before retirement; **AND**

(II) DEPOSITS INTO THE ANNUITY SAVINGS FUND THE MEMBER CONTRIBUTIONS, IF ANY, THAT WOULD HAVE BEEN DUE IF THE MEMBER HAD EARNED THE PRIOR SERVICE IN THE SAME PART OF THE EMPLOYEES' PENSION SYSTEM OR TEACHERS' PENSION SYSTEM IN WHICH THE MEMBER IS CURRENTLY ENROLLED, PLUS REGULAR INTEREST ON THE CONTRIBUTIONS.

(2) When a member [receives] **COMBINES** credit for eligibility service under [subsection (b) of] this section [from another system], the member has no further rights in the [other] **PRIOR** system.

(3) SUBJECT TO § 414(H)(2) OF THE INTERNAL REVENUE CODE, AN INDIVIDUAL'S ACCUMULATED CONTRIBUTIONS IN EXCESS OF THE AMOUNT DETERMINED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE REFUNDED ON REQUEST.

[(d)] **(E)** If a member withdrew the member's accumulated contributions after the prior separation from employment, the member shall:

(1) redeposit any of the amounts withdrawn with regular interest to the date of redeposit; or

(2) on retirement, the individual's retirement allowance shall be reduced by the actuarial equivalent of the accumulated contributions withdrawn with regular interest to the date of retirement.

23-304.

A member is entitled to eligibility service that equals:

(1) the member's service credit transferred from a retirement or pension system under Title 37 of this article;

(2) for a member who has transferred to the Employees' Pension System from the Employees' Retirement System or to the Teachers' Pension System from the Teachers' Retirement System, the member's creditable service recognized under the previous system through the date before the member became a member of the current system;

(3) for a member of the Employees' Pension System, the member's service credit transferred from a retirement or pension system under Title 31, Subtitle 1 of this article; and

(4) for a member who has transferred between the Employees' Pension System and the Teachers' Pension System, the member's eligibility service under the previous system through the date before the member became a member of the current system if the member:

(i) is not subject to the [contributory] **NONCONTRIBUTORY** pension benefit [under Subtitle 2, Part II of this title] in **BOTH** the current and previous systems; [or]

(ii) is subject to the contributory pension benefit [under Subtitle 2, Part II of this title] in **BOTH** the current and previous systems; **OR**

(III) IS SUBJECT TO THE ALTERNATE CONTRIBUTORY PENSION SELECTION IN BOTH THE CURRENT AND PREVIOUS SYSTEMS.

23-306.2.

(a) A member who is subject to the contributory pension benefit [under Subtitle 2, Part II of this title] **OR THE ALTERNATE CONTRIBUTORY PENSION SELECTION** may purchase service credit as provided in subsection (b) of this section for periods of employment described in subsection (c) of this section for which the member is not otherwise entitled.

(b) (1) A member who purchases service credit under this section shall:

(i) complete a claim for the service credit and file it with the Board of Trustees on a form that the Board of Trustees provides; and

(ii) pay to the Board of Trustees in a single payment the member contributions the member would have made for the period of employment for which service credit is being purchased **IF THE MEMBER HAD EARNED THE PRIOR SERVICE IN THE SAME PART OF THE EMPLOYEES' PENSION SYSTEM OR TEACHERS' PENSION SYSTEM IN WHICH THE MEMBER IS CURRENTLY ENROLLED**, plus regular interest to the date of payment.

(2) A member may pay for service credit purchased under this section at any time before retirement.

(3) SUBJECT TO § 414(H)(2) OF THE INTERNAL REVENUE CODE, AN INDIVIDUAL'S ACCUMULATED CONTRIBUTIONS IN EXCESS OF THE AMOUNT DETERMINED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE REFUNDED ON REQUEST.

(c) (1) Except as provided in paragraph (2) of this subsection, a member may purchase service credit for a period of employment as a member of the Employees' Pension System or Teachers' Pension System if the member:

(i) has withdrawn the member's accumulated contributions after a prior termination of membership; and

(ii) was subject to the contributory pension benefit [under Subtitle 2, Part II of this title] **OR THE ALTERNATE CONTRIBUTORY PENSION SELECTION** when the member previously terminated membership in the Employees' Pension System or the Teachers' Pension System.

(2) A member may not purchase eligibility service credit that exceeds the member's creditable service credit.

23-306.3.

(a) This section applies to a member of the Employees' Pension System or the Teachers' Pension System who is subject to the contributory pension benefit [under Subtitle 2, Part II of this title] **OR THE ALTERNATE CONTRIBUTORY PENSION SELECTION**.

(b) A member **WHO IS SUBJECT TO THE CONTRIBUTORY PENSION BENEFIT** is entitled to the eligibility service to which the member was entitled before the separation from employment if the member:

(1) separated from employment on or before June 30, 1998;

(2) was not entitled to a vested allowance from the Employees' Pension System or the Teachers' Pension System at the time of the separation from employment;

(3) becomes a member who is subject to the contributory pension benefit [under Subtitle 2, Part II of this title] on or before June 30, 2003;

(4) completes 1 year of employment as a member who is subject to the contributory pension benefit [under Subtitle 2, Part II of this title];

(5) did not transfer to the Employees' Pension System or the Teachers' Pension System from the Employees' Retirement System or the Teachers' Retirement System after April 1, 1998; and

(6) applies for the prior eligibility service credit by completing a claim for the service credit and filing it with the Board of Trustees on the form that the Board of Trustees provides.

(C) A MEMBER WHO IS SUBJECT TO THE ALTERNATE CONTRIBUTORY PENSION SELECTION IS ENTITLED TO THE ELIGIBILITY SERVICE TO WHICH THE MEMBER WAS ENTITLED BEFORE THE SEPARATION FROM EMPLOYMENT IF THE MEMBER:

(1) WAS SEPARATED FROM EMPLOYMENT FOR LESS THAN 4 YEARS;

(2) WAS NOT ENTITLED TO A VESTED ALLOWANCE FROM THE EMPLOYEES' PENSION SYSTEM OR THE TEACHERS' PENSION SYSTEM AT THE TIME OF SEPARATION;

(3) BECOMES A MEMBER WHO IS SUBJECT TO THE ALTERNATE CONTRIBUTORY PENSION SELECTION ON OR BEFORE JUNE 30, 2010;

(4) COMPLETES 1 YEAR OF EMPLOYMENT AS A MEMBER WHO IS SUBJECT TO THE ALTERNATE CONTRIBUTORY PENSION SELECTION;

(5) DID NOT TRANSFER TO THE EMPLOYEES' PENSION SYSTEM OR THE TEACHERS' PENSION SYSTEM FROM THE EMPLOYEES' RETIREMENT SYSTEM OR TEACHERS' RETIREMENT SYSTEM AFTER APRIL 1, 1998;

(6) APPLIES FOR THE PRIOR ELIGIBILITY SERVICE CREDIT BY COMPLETING A CLAIM FOR THE SERVICE CREDIT AND FILING IT WITH THE BOARD OF TRUSTEES ON A FORM THAT THE BOARD OF TRUSTEES PROVIDES; AND

(7) DEPOSITS INTO THE ANNUITY SAVINGS FUND THE MEMBER CONTRIBUTIONS, IF ANY, THAT WOULD HAVE BEEN DUE FOR THE PERIOD OF SERVICE IF THE MEMBER HAD BEEN SUBJECT TO THE ALTERNATE CONTRIBUTORY PENSION SELECTION, PLUS REGULAR INTEREST ON THE CONTRIBUTIONS.

[(c)] (D) (1) A member shall receive eligibility service credit under this section by completing a claim for the service credit and filing it with the Board of Trustees on the form that the Board of Trustees provides at any time before retirement.

(2) When a member receives credit for eligibility service under subsection (b) of this section from another system, the member has no further rights in the other system.

[(d)] (E) If a member withdrew the member's accumulated contributions after the prior separation from employment, the member shall:

(1) redeposit any of the amounts withdrawn with regular interest to the date of redeposit; or

(2) on retirement, the individual's retirement allowance shall be reduced by the actuarial equivalent of the accumulated contributions withdrawn with regular interest to the date of retirement.

23-309.

[(c)] (1) This subsection applies only to a member who is:

(i) subject to the contributory pension benefit under Subtitle 2, Part II of this title; and

(ii) entitled to eligibility service for military service credit granted under Title 38 of this article.

(2) The Board of Trustees shall adjust a member's eligibility service for military service credit granted under Title 38 of this article as provided in this subsection.]

23-310.

The Board of Trustees shall treat a member's credit for unused sick leave as creditable service on or after July 1, 1998, if at the time of retirement, the member is:

(1) subject to the contributory pension benefit [under Subtitle 2, Part II of this title] **OR THE ALTERNATE CONTRIBUTORY PENSION SELECTION**; and

(2) entitled to service credit for unused sick leave under § 20-206 of this article.

29-104.

(a) Except as provided in subsection (c) of this section and subject to subsection (d) of this section, an application for disability retirement must be submitted before the date membership ends.

(b) (1) [(i)] This subsection applies only to an application for an ordinary or accidental disability retirement allowance [under] **FILED BY A MEMBER OF** the Employees' Pension System[, Local Fire and Police System, Law Enforcement Officers' Pension System,] or the Teachers' Pension System **WHO IS NOT SUBJECT TO THE CONTRIBUTORY PENSION BENEFIT OR THE ALTERNATE CONTRIBUTORY PENSION SELECTION AND WHO SEPARATED FROM EMPLOYMENT ON OR BEFORE JUNE 30, 2005.**

[(ii)] This subsection does not apply to a member of the Law Enforcement Officers' Pension System who is subject to the Law Enforcement Officers' Modified Pension Benefit under Title 26, Subtitle 2, Part II of this article.

[(iii)] This subsection does not apply to a member of the Employees' Pension System or Teachers' Pension System who is subject to the contributory pension benefit under Title 23, Subtitle 2, Part II of this article.]

(2) For the purpose of submitting an application for disability, membership continues for 4 years after paid employment ends.

(c) (1) Except as provided in [paragraphs (2) through (4)] **PARAGRAPH (2)** of this subsection, the Board of Trustees may accept an application for ordinary, accidental, or special disability retirement from a former member within 24 months after the month membership ended if the former member proves to the satisfaction of the medical board that failure to submit an application while a member was attributable solely to physical or mental incapacity during the filing period.

(2) The Board of Trustees may accept an application for ordinary or accidental disability retirement from a former member of the Teachers' Retirement System within 12 months after the month membership ended if the former member of the Teachers' Retirement System proves to the satisfaction of the medical board that failure to submit an application while a member of the Teachers' Retirement System was attributable solely to physical or mental incapacity during the filing period.

(3) [(i)] This paragraph applies only to a former member of the Law Enforcement Officers' Pension System who is subject to the Law Enforcement Officers' Modified Pension Benefit under Title 26, Subtitle 2, Part II of this article.

(ii) The Board of Trustees may accept an application for ordinary or accidental disability retirement from a former member of the Law Enforcement Officers' Pension System within 24 months after the month membership ended if the former member of the Law Enforcement Officers' Pension System proves to the satisfaction of the medical board that failure to submit an application while a member of the Law Enforcement Officers' Pension System was attributable solely to physical or mental incapacity during the filing period.

(4) (i) This paragraph only applies to a former member of the Employees' Pension System or Teachers' Pension System who is subject to the contributory pension benefit under Title 23, Subtitle 2, Part II of this article.

(ii) The Board of Trustees may accept an application for ordinary or accidental disability retirement from a former member of the Employees' Pension System or Teachers' Pension System within 24 months after the month membership ended if the former member of the Employees' Pension System or Teachers' Pension System proves to the satisfaction of the medical board that failure to submit an application while a member of the Employees' Pension System or Teachers' Pension System was attributable solely to physical or mental incapacity during the filing period.

(5)] If the Board of Trustees accepts a disability retirement application under this subsection and grants a disability retirement allowance, the retirement allowance begins as of the first day of the month after the Board of Trustees receives the application.

(d) (1) This subsection does not apply to an application for special disability under the State Police Retirement System or an application for accidental disability under the Law Enforcement Officers' Pension System or to an application for accidental disability under the Correctional Officers' Retirement System.

(2) The Board of Trustees may not accept an application for accidental disability filed by a member or former member more than 5 years after the date of the claimed accident.

29-303.

(h) (1) If a former member who elected a vested allowance requests the return of accumulated contributions before payment of the vested allowance begins, the Board of Trustees shall return the accumulated contributions to the former member.

(2) (i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, when the former member is eligible to begin receiving a vested allowance, the former member shall receive a pension only.

(ii) When accumulated contributions are returned to a former member of the Law Enforcement Officers' Pension System who is subject to the Law Enforcement Officers' Modified Pension Benefit under Title 26, Subtitle 2, Part II of this article, the former member is not entitled to further benefits on account of the former member's previous membership unless the former member purchases the service credit under § 26-307.1 of this article.

(iii) When accumulated contributions are returned to a former member of the Employees' Pension System or Teachers' Pension System who is subject to the contributory pension benefit [under Title 23, Subtitle 2, Part II of this article] **OR THE ALTERNATE CONTRIBUTORY PENSION SELECTION**, the former member is not entitled to further benefits on account of the former member's previous membership unless the former member purchases the service credit under § 23-306.2 of this article.

29-425.

(b) This Part VI of this subtitle does not apply if:

(1) the member, former member, or retiree was an employee of:

(i) a participating governmental unit that has not elected the contributory pension benefit **OR THE ALTERNATE CONTRIBUTORY PENSION SELECTION** of its employees under § 31-116 of this article; or

(ii) a former participating governmental unit, other than Frederick County, that has withdrawn before July 1, 1998, while a member; or

(2) the member, former member, or retiree:

(i) transferred to the Law Enforcement Officers' Pension System from the Employees' Retirement System; and

(ii) did not elect to participate in the Law Enforcement Officers' Modified Pension Benefit on or before December 31, 2000 as provided in § 26-211 of this article.

37-101.

(j) (1) “Noncontributory system” means a State or local retirement or pension system under which member contributions are not deducted from all compensation.

(2) “Noncontributory system” includes the part of the Employees’ Pension System of the State of Maryland and the part of the Teachers’ Pension System of the State of Maryland that does not provide a contributory pension benefit under Title 23, Subtitle 2, Part II of this article **OR THE ALTERNATE CONTRIBUTORY PENSION SELECTION UNDER TITLE 23, SUBTITLE 2, PART III OF THIS ARTICLE.**

(N-1) “STATE ALTERNATE CONTRIBUTORY EMPLOYEES’ PENSION SYSTEM” MEANS THE PART OF THE EMPLOYEES’ PENSION SYSTEM OF THE STATE OF MARYLAND THAT PROVIDES THE ALTERNATE CONTRIBUTORY PENSION SELECTION UNDER TITLE 23, SUBTITLE 2, PART III OF THIS ARTICLE.

(N-2) “STATE ALTERNATE CONTRIBUTORY TEACHERS’ PENSION SYSTEM” MEANS THE PART OF THE TEACHERS’ PENSION SYSTEM OF THE STATE OF MARYLAND THAT PROVIDES THE ALTERNATE CONTRIBUTORY PENSION SELECTION UNDER TITLE 23, SUBTITLE 2, PART III OF THIS ARTICLE.

37-201.

(a) Subject to subsection (b) of this section, this title applies to transfers from a State or local retirement or pension system to another State or local retirement or pension system only if:

(1) each system is operated on an actuarial basis; and

(2) under each system contributions that are computed to be sufficient to provide the reserves needed to cover the benefits payable on account of the system’s members are made during the employment of members.

(b) This title does not apply to:

(1) a transfer to the Judges’ Retirement System of the State of Maryland;

(2) a transfer to or from the Legislative Pension Plan of the State of Maryland except to the extent provided by the Joint Resolution submitted to the General Assembly by the General Assembly Compensation Commission under Article III, § 15 of the Maryland Constitution;

(3) a transfer from the Employees' Retirement System of the State of Maryland to the Employees' Pension System of the State of Maryland on or before December 31, 2004;

(4) a transfer from the Teachers' Retirement System of the State of Maryland to the Teachers' Pension System of the State of Maryland on or before December 31, 2004;

(5) a transfer between the Employees' Retirement System of the State of Maryland and the Teachers' Retirement System of the State of Maryland;

(6) a transfer between the Employees' Pension System of the State of Maryland and the Teachers' Pension System of the State of Maryland if the [member is not]**MEMBER:**

(I) **IS** subject to the [contributory] **NONCONTRIBUTORY** pension benefit [under Title 23, Subtitle 2, Part II of this article] in **BOTH** the previous and current system; [or

(7) a transfer between the Employees' Pension System of the State of Maryland and the Teachers' Pension System of the State of Maryland if the member]

(II) is subject to the contributory pension benefit under Title 23, Subtitle 2, Part II of this article in **BOTH** the previous and current system; **OR**

(III) **IS SUBJECT TO THE ALTERNATE CONTRIBUTORY PENSION SELECTION UNDER TITLE 23, SUBTITLE 2, PART III OF THIS ARTICLE IN BOTH THE PREVIOUS AND CURRENT SYSTEM.**

37-203.

(a) This section does not apply to a transfer of service credit to or from the **STATE ALTERNATE CONTRIBUTORY EMPLOYEES' PENSION SYSTEM, THE STATE ALTERNATE CONTRIBUTORY TEACHERS' PENSION SYSTEM, State Contributory Employees' Pension System, the State Contributory Law Enforcement Officers' Pension System, or the State Contributory Teachers' Pension System.**

(f) (1) Except as otherwise provided in this subsection, after an individual transfers service credit to a new system under this title, the individual:

(i) shall pay the rate of contribution applicable to a member of the new system; and

(ii) is eligible for a pension and annuity as provided under the new system, determined by taking into account the transferred service credit.

(2) Except as provided in § 37–204 of this subtitle, if an individual transfers from a noncontributory system to a contributory system, on retirement the individual's retirement allowance shall be reduced by the actuarial equivalent of the [accumulated] **MEMBER** contributions that would have been deducted if the individual had earned the transferred service credit under the new system, including **REGULAR** interest on those contributions.

(3) If an individual retires within 5 years after transferring into a new system, the benefits payable with respect to the transferred service credit may not be greater than the benefits that would have been payable by the previous system with respect to that service if the individual had remained in the previous system.

37–203.1.

(a) (1) An individual may transfer service credit from a contributory system to **THE STATE ALTERNATE CONTRIBUTORY EMPLOYEES' PENSION SYSTEM, THE STATE ALTERNATE CONTRIBUTORY TEACHERS' PENSION SYSTEM**, the State Contributory Employees' Pension System, the State Contributory Law Enforcement Officers' Pension System, or the State Contributory Teachers' Pension System if, within 1 year after becoming a member of the pension system, the individual:

(i) completes a claim for the service credit and files it with the Board of Trustees of the State Retirement and Pension System on a form that the Board of Trustees provides; and

(ii) deposits in the annuity savings fund of:

1. the Employees' Pension System or Teachers' Pension System member contributions at the rate [of 2% of the individual's earnable compensation while a member of the contributory system after June 30, 1998] **APPLICABLE FOR THE PERIOD OF SERVICE IF THE MEMBER HAD EARNED THE TRANSFERRED SERVICE CREDIT IN THE NEW SYSTEM**, including regular interest on the contributions at the rate of 5% per year compounded annually; or

2. the Law Enforcement Officers' Pension System member contributions at the rate of 4% of the individual's earnable compensation while a member of the contributory system after June 30, 2000, including regular interest on the contributions at the rate of 5% per year compounded annually.

(2) [The] **SUBJECT TO § 414(H) OF THE INTERNAL REVENUE CODE, THE** contributory system shall refund the individual's accumulated contributions in excess of the amount determined under paragraph (1) of this subsection on request.

(b) (1) Subject to paragraph (2) of this subsection, an individual may transfer service credit from a noncontributory system to **THE STATE ALTERNATE CONTRIBUTORY EMPLOYEES' PENSION SYSTEM, THE STATE ALTERNATE CONTRIBUTORY TEACHERS' PENSION SYSTEM,** the State Contributory Employees' Pension System, the State Contributory Law Enforcement Officers' Pension System, or the State Contributory Teachers' Pension System if, within 1 year after becoming a member of the pension system, the individual completes a claim for the service credit and files it with the Board of Trustees for the State Retirement and Pension System on a form that the Board of Trustees provides.

(2) The noncontributory system may not refund the individual's accumulated contributions.

(3) (i) 1. This subparagraph applies only to an individual who transferred service credit from a noncontributory system to **THE STATE ALTERNATE CONTRIBUTORY EMPLOYEES' PENSION SYSTEM, THE STATE ALTERNATE CONTRIBUTORY TEACHERS' PENSION SYSTEM,** the State Contributory Employees' Pension System or the State Contributory Teachers' Pension System and earned any portion of the transferred service credit in a noncontributory system after June 30, 1998.

2. On retirement, the individual's retirement allowance shall be reduced by the actuarial equivalent of the [accumulated] **MEMBER** contributions that would have been deducted during the period after June 30, 1998, when the individual was a member of the noncontributory system, if the individual had earned the transferred service credit under the [State Contributory Employees' Pension System or the State Contributory Teachers' Pension System] **NEW SYSTEM,** including regular interest on those contributions at the rate of 5% per year compounded annually.

(ii) 1. This subparagraph applies only to an individual who transferred service credit from a noncontributory system to the State Contributory Law Enforcement Officers' Pension System and earned any portion of the transferred service credit in a noncontributory system after June 30, 2000.

2. Upon retirement the individual's retirement allowance shall be reduced by the actuarial equivalent of the [accumulated] **MEMBER** contributions that would have been deducted during the period after June 30, 2000, when the individual was a member of the noncontributory system, if the individual had earned the transferred service credit under the State Contributory Law Enforcement Officers' Pension System, including regular interest on those contributions at the rate of 5% per year compounded annually.

(c) (1) An individual may transfer service credit from **THE STATE ALTERNATE CONTRIBUTORY EMPLOYEES' PENSION SYSTEM, THE STATE ALTERNATE CONTRIBUTORY TEACHERS' PENSION SYSTEM**, the State Contributory Employees' Pension System, the State Contributory Law Enforcement Officers' Pension System, or the State Contributory Teachers' Pension System to a noncontributory system if, within 1 year after becoming a member of the noncontributory system, the individual completes a claim for the service credit and files it with the administrator of the noncontributory system on a form that the administrator provides.

(2) [The State Contributory Employees' Pension System, the State Contributory Law Enforcement Officers' Pension System, or the State Contributory Teachers' Pension System] **SUBJECT TO § 414(H) OF THE INTERNAL REVENUE CODE, THE PREVIOUS SYSTEM** shall refund the individual's total accumulated contributions to the individual on request.

(d) (1) An individual may transfer service credit from **THE STATE ALTERNATE CONTRIBUTORY EMPLOYEES' PENSION SYSTEM, THE STATE ALTERNATE CONTRIBUTORY TEACHERS' PENSION SYSTEM**, the State Contributory Employees' Pension System, the State Contributory Law Enforcement Officers' Pension System, or the State Contributory Teachers' Pension System to a contributory system if, within 1 year after becoming a member of the contributory system, the individual:

(i) completes a claim for the service credit and files it with the administrator of the contributory system on a form that the administrator provides; and

(ii) deposits in the annuity savings fund or other corresponding fund of the contributory system the sum of:

1. the total accumulated contributions to the individual's credit in the annuity savings fund of the [State Contributory Employees' Pension System, the State Contributory Law Enforcement Officers' Pension System, or the State Contributory Teachers' Pension System] **PREVIOUS SYSTEM**;

2. the difference, if any, between the member contributions at the rate provided for in the contributory system, including interest on those contributions, and the total accumulated contributions to the individual's credit in the annuity savings fund of the [State Contributory Employees' Pension System, the State Contributory Law Enforcement Officers' Pension System, or the State Contributory Teachers' Pension System] **PREVIOUS SYSTEM**; and

3. the accumulated contributions that would have been deducted during the period the individual was a member of the State system while it was a noncontributory system if the individual had earned the transferred service credit under the contributory system, including interest on those contributions.

(2) On retirement from the contributory system, the individual's retirement allowance shall be reduced by the actuarial equivalent of the amounts determined under paragraph (1)(ii)2 and 3 of this subsection if the member elects not to deposit those amounts in the annuity savings fund or other corresponding fund of the contributory system.

(e) Except as provided in § 37-204 of this subtitle, an individual who transfers service credit under this title shall receive service credit in the new system in the amount of service credit accumulated under the previous system.

(f) On verification of the service credit, the previous system may not provide any benefit for service credit transferred from the previous system to a new system under this title.

(g) (1) Except as otherwise provided in this subsection, after an individual transfers service credit to a new system under this title, the individual:

(i) shall pay the rate of contribution applicable to a member of the new system; and

(ii) is eligible for a pension and annuity as provided under the new system, determined by taking into account the transferred service credit.

(2) If an individual retires within 5 years after transferring into a new system, the benefits payable with respect to the transferred service credit may not be greater than the benefits that would have been payable by the previous system with respect to that service if the individual had remained in the previous system.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2007.

Approved by the Governor, May 8, 2007.