

HOUSE BILL 525

K4, L1

9lr1171

By: **Delegate Schuh**

Introduced and read first time: February 5, 2009

Assigned to: Appropriations

A BILL ENTITLED

AN ACT concerning

State Retirement and Pension System – Employer Contributions – Educators and Educational Staff

FOR the purpose of altering the membership of the Board of Trustees for the State Retirement and Pension System under certain circumstances to include certain individuals appointed by the Board of Directors for the Maryland Association of Counties; providing for the calculation of a payment of a certain portion of employer contributions for certain members of the Teachers' Retirement System or the Teachers' Pension System; requiring counties to pay a certain amount of employer contributions for certain members of the Teachers' Retirement System or the Teachers' Pension System; requiring the State to pay, under certain circumstances, a certain portion of certain employer contributions for certain members of the Teachers' Retirement System or the Teachers' Pension System; altering the amount of employer contributions the State is required to pay for certain members of the Teachers' Retirement System or the Teachers' Pension System; providing for the method of payment each county is required to make to the Board of Trustees for the State Retirement and Pension System regarding a certain portion of employer contributions for certain members of the Teachers' Retirement System or the Teachers' Pension System; defining certain terms; and generally relating to the Board of Trustees for the State Retirement and Pension System and the payment of employer contributions for members in the State Retirement and Pension System who are educators or educational staff.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 21–104(a) and (b) and 21–304
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

BY adding to
Article – State Personnel and Pensions

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 21-104(a-1) and 21-309.1
Annotated Code of Maryland
(2004 Replacement Volume and 2008 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

21-104.

(a) [The] **EXCEPT AS PROVIDED IN SUBSECTION (A-1) OF THIS SECTION,** THE Board of Trustees consists of the following [14] **15** trustees:

- (1) the Secretary of Budget and Management, ex officio;
- (2) the State Comptroller, ex officio;
- (3) the State Treasurer, ex officio, who may appoint a deputy treasurer as designee; and

(4) [11] **12** trustees elected or appointed as follows:

(i) one trustee who is a member of the Correctional Officers' Retirement System, the Employees' Pension System, the Employees' Retirement System, the Judges' Retirement System, the Legislative Pension Plan, the Local Fire and Police System, or the Law Enforcement Officers' Pension Plan, who shall be elected as provided in subsection (b) of this section and may not be an employee of the State Retirement Agency;

(ii) one trustee who is a retiree of the Correctional Officers' Retirement System, the Employees' Pension System, the Employees' Retirement System, the Judges' Retirement System, the Legislative Pension Plan, the Local Fire and Police System, or the Law Enforcement Officers' Pension Plan, who shall be elected as provided in subsection (b) of this section and may not be an employee of the State Retirement Agency;

(iii) one trustee who is a member of the Teachers' Pension System or the Teachers' Retirement System, who shall be elected as provided in subsection (b) of this section and may not be an employee of the State Retirement Agency;

(iv) one trustee who is a retiree of the Teachers' Pension System or the Teachers' Retirement System, who shall be elected as provided in subsection (b) of this section and may not be an employee of the State Retirement Agency;

(v) one trustee who is either a member or retiree of the State Police Retirement System, who shall be elected as provided in subsection (b) of this section and may not be an employee of the State Retirement Agency;

(vi) one trustee who represents the interests of participating governmental units in the Employees' Pension System and the Employees' Retirement System; [and]

(VII) ONE TRUSTEE WHO REPRESENTS THE INTERESTS OF THE LOCAL SCHOOL BOARDS AND COMMUNITY COLLEGES PARTICIPATING IN THE TEACHERS' PENSION SYSTEM AND THE TEACHERS' RETIREMENT SYSTEM; AND

[(vii)] **(VIII)** five trustees who:

1. represent the interests of the public;
2. are not members of any of the several systems;
3. are not employees, directors, partners, or officers of any of the external investment managers for the several systems;
4. do not have an ownership interest in any of the external investment managers of the several systems that is greater than 5% of the issued or outstanding stock;
5. are not directors, partners, or officers of any corporation or large organization in which any of the external managers for the several systems own 10% or more of the issued or outstanding stock of the corporation or large organization; and
6. have at least 10 years of substantial experience overseeing similar pension systems, large foundations, or other similar large organizations with fiduciary responsibilities relating to different classes of participants.

(A-1) BEGINNING WITH THE FISCAL YEAR AFTER THE FIRST FISCAL YEAR THAT THE TOTAL AMOUNT OF EMPLOYER CONTRIBUTIONS PAID BY ALL COUNTIES UNDER § 21-304(C) OF THIS TITLE EQUALS THE TOTAL EMPLOYER CONTRIBUTIONS PAID BY THE STATE IN FISCAL YEAR 2010 UNDER § 21-304(C) OF THIS TITLE, IN ADDITION TO THE TRUSTEES LISTED IN SUBSECTION (A) OF THIS SECTION, THE BOARD OF TRUSTEES SHALL CONSIST OF TWO ADDITIONAL TRUSTEES WHO REPRESENT THE INTERESTS OF THE LOCAL SCHOOL BOARDS AND COMMUNITY COLLEGES PARTICIPATING IN THE TEACHERS' PENSION SYSTEM AND THE TEACHERS' RETIREMENT SYSTEM AND WHO ARE APPOINTED BY THE BOARD OF DIRECTORS OF THE MARYLAND ASSOCIATION OF COUNTIES.

(b) (1) (i) The trustees who are members or retirees of the Correctional Officers' Retirement System, the Employees' Pension System, the Employees' Retirement System, the Judges' Retirement System, the Legislative Pension Plan, the Local Fire and Police System, or the Law Enforcement Officers' Pension Plan shall be elected by the members and the retirees of those State systems.

(ii) The trustees who are members or retirees of the Teachers' Pension System or the Teachers' Retirement System shall be elected by the members and the retirees of those State systems.

(iii) The trustee who is a member or retiree of the State Police Retirement System shall be elected by the members and the retirees of that State system.

(iv) The elections shall be conducted under regulations that the Board of Trustees adopts.

(2) The trustee who represents the interests of participating subdivisions in the Employees' Pension System and the Employees' Retirement System shall be appointed by the Governor.

(3) The trustees who represent the public shall be appointed by the Governor with the advice and consent of the Senate.

(4) THE TRUSTEE WHO REPRESENTS THE INTERESTS OF THE LOCAL SCHOOL BOARDS AND COMMUNITY COLLEGES IN THE TEACHERS' PENSION SYSTEM AND TEACHERS' RETIREMENT SYSTEM SHALL BE APPOINTED BY THE BOARD OF DIRECTORS FOR THE MARYLAND ASSOCIATION OF COUNTIES.

21-304.

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

(2) "Full funding rate" means the sum of:

(i) the aggregate normal rate that is based on the normal contribution rate calculated under [subsection (c)] **SUBSECTION (D)** of this section and adjusted to incorporate legislative changes in benefits to reflect changes to the normal cost; and

(ii) the aggregate unfunded accrued liability contribution rate that is based on the unfunded accrued liability contribution rate under [subsection (d)(1) and (2)] **SUBSECTION (E)(1) AND (2)** of this section.

(3) “Funding ratio for the employees’ systems” means the actuarial value of assets for the employees’ systems divided by the actuarial accrued liability for the employees’ systems.

(4) “Funding ratio for the teachers’ systems” means the actuarial value of assets for the teachers’ systems divided by the actuarial accrued liability for the teachers’ systems.

(5) “LOCAL EMPLOYEES” MEANS THOSE MEMBERS OF THE TEACHERS’ RETIREMENT SYSTEM OR THE TEACHERS’ PENSION SYSTEM WHO ARE:

(I) EMPLOYEES OF A DAY SCHOOL IN THE STATE UNDER THE AUTHORITY AND SUPERVISION OF A COUNTY BOARD OF EDUCATION OR THE BALTIMORE CITY BOARD OF SCHOOL COMMISSIONERS, EMPLOYED AS:

- 1. A CLERK;**
- 2. A HELPING TEACHER;**
- 3. A PRINCIPAL;**
- 4. A SUPERINTENDENT;**
- 5. A SUPERVISOR; OR**
- 6. A TEACHER;**

(II) LIBRARIANS OR CLERICAL EMPLOYEES OF A LIBRARY THAT IS ESTABLISHED OR OPERATES UNDER THE EDUCATION ARTICLE; OR

(III) FACULTY, PROFESSIONAL, OR CLERICAL EMPLOYEES OF A COMMUNITY COLLEGE THAT IS ESTABLISHED UNDER THE EDUCATION ARTICLE.

(6) “LOCAL SHARE” MEANS THE LESSER OF:

(I) THAT PORTION OF THE TOTAL EMPLOYER CONTRIBUTION FOR LOCAL EMPLOYEES THAT EXCEEDS THE TOTAL EMPLOYER CONTRIBUTION FOR LOCAL EMPLOYEES THAT WAS CALCULATED FOR FISCAL YEAR 2010; OR

(II) 50% OF THE TOTAL EMPLOYER CONTRIBUTION FOR LOCAL EMPLOYEES.

[(5)] (7) “State member” does not include a member on whose behalf a participating governmental unit is required to make an employer contribution under § 21–305 or § 21–306 of this subtitle.

(8) “TOTAL EMPLOYER CONTRIBUTION FOR LOCAL EMPLOYEES” MEANS THAT PORTION OF THE EMPLOYER CONTRIBUTION CALCULATED UNDER SUBSECTION (B) OF THIS SECTION THAT IS ATTRIBUTABLE TO THE LOCAL EMPLOYEES OF EACH COUNTY.

(b) (1) [Each] **EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, EACH** fiscal year, on behalf of the State members of each State system, the State shall pay to the appropriate accumulation fund an amount equal to or greater than the sum of the amount, if any, required to be included in the budget bill under § 3–501(c)(2)(ii) of this article and the product of multiplying:

(i) the aggregate annual earnable compensation of the State members of that State system; and

(ii) 1. for State members of the Law Enforcement Officers’ Retirement System, State Police Retirement System, and the Judges’ Retirement System, the sum of the normal contribution rate and the accrued liability contribution rate, as determined under this section;

2. for State members of the Employees’ Pension System, Employees’ Retirement System, Correctional Officers’ Retirement System, and Legislative Pension Plan, the employees’ systems contribution rate determined under [subsection (e)] **SUBSECTION (F)** of this section; or

3. for State members of the Teachers’ Pension System and Teachers’ Retirement System, the teachers’ systems contribution rate determined under [subsection (f)] **SUBSECTION (G)** of this section.

(2) The amount determined under paragraph (1) of this subsection for each State system shall be based on an actuarial determination of the amounts that are required to preserve the integrity of the funds of the several systems using:

(i) the entry–age actuarial cost method; and

(ii) actuarial assumptions adopted by the Board of Trustees.

(3) For the purpose of making the determinations required under this section:

(i) the Employees’ Retirement System, the Employees’ Pension System, the Correctional Officers’ Retirement System, and the Legislative Pension Plan shall be considered together as one State system; and

(ii) the Teachers' Retirement System and the Teachers' Pension System shall be considered together as one State system.

(c) (1) (i) **THIS PARAGRAPH DOES NOT APPLY TO BALTIMORE CITY COMMUNITY COLLEGE.**

(ii) **BEGINNING JULY 1, 2010, ON BEHALF OF THE LOCAL EMPLOYEES OF EACH COUNTY, EACH COUNTY SHALL PAY EACH FISCAL YEAR TO THE APPROPRIATE ACCUMULATION FUND AN AMOUNT EQUAL TO OR GREATER THAN THE LOCAL SHARE OF THE TOTAL EMPLOYER CONTRIBUTION FOR LOCAL EMPLOYEES.**

(iii) 1. **FOR A REGIONAL COMMUNITY COLLEGE, AS DEFINED UNDER § 16-202 OF THE EDUCATION ARTICLE, THE OBLIGATION OF THE LOCAL SHARE OF THE TOTAL EMPLOYER CONTRIBUTION FOR LOCAL EMPLOYEES SHALL BE SHARED BY EACH COUNTY SUPPORTING THE REGIONAL COLLEGE.**

2. **EACH COUNTY'S SHARE SHALL BE PRORATED BY DIVIDING THE NUMBER OF FULL-TIME EQUIVALENT STUDENTS AS CALCULATED UNDER § 16-305(B)(7) OF THE EDUCATION ARTICLE FOR THE SECOND PRIOR FISCAL YEAR, WHO ARE ENROLLED AT THE REGIONAL COMMUNITY COLLEGE AND ARE RESIDENTS OF THE COUNTY, BY THE TOTAL NUMBER OF FULL-TIME EQUIVALENT STUDENTS AS CALCULATED UNDER § 16-305(B)(7) OF THE EDUCATION ARTICLE FOR THE SECOND PRIOR FISCAL YEAR WHO ARE RESIDENTS OF THE REGION.**

(2) (i) **THE DIFFERENCE BETWEEN THE TOTAL EMPLOYER CONTRIBUTION FOR LOCAL EMPLOYEES AND THE LOCAL SHARE OF THE TOTAL EMPLOYER CONTRIBUTION FOR LOCAL EMPLOYEES FOR EACH COUNTY SHALL BE THE OBLIGATION OF THE STATE.**

(ii) **IN ADDITION TO ANY PAYMENTS MADE BY THE STATE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE STATE SHALL PAY 100% OF THE AMOUNT DETERMINED UNDER SUBSECTION (B) OF THIS SECTION FOR THOSE MEMBERS OF THE TEACHERS' RETIREMENT SYSTEM OR TEACHERS' PENSION SYSTEM WHO ARE:**

1. **FACULTY, PROFESSIONAL, OR CLERICAL EMPLOYEES OF BALTIMORE CITY COMMUNITY COLLEGE;**

2. **FACULTY EMPLOYEES OF AN EDUCATIONAL INSTITUTION, OTHER THAN A COMMUNITY COLLEGE, SUPPORTED BY AND UNDER THE CONTROL OF THE STATE; OR**

3. STAFF EMPLOYEES OF THE UNIVERSITY SYSTEM OF MARYLAND, MORGAN STATE UNIVERSITY, OR ST. MARY'S COLLEGE WHO WERE MEMBERS OF THE TEACHERS' PENSION SYSTEM AS OF JANUARY 1, 1998, OR WHO TRANSFERRED FROM THE TEACHERS' RETIREMENT SYSTEM ON OR AFTER JANUARY 1, 1998.

[(c)] (D) (1) As part of each actuarial valuation, the actuary shall determine the normal contributions, net of member contributions, on account of the State members of each State system.

(2) For each State system, the normal contribution rate equals the fraction that has:

(i) as its numerator, the sum of the normal contributions determined under this subsection; and

(ii) as its denominator, the aggregate annual earnable compensation of the State members of the State system.

[(d)] (E) (1) Beginning July 1, 2001, each year the Board of Trustees shall set contribution rates for each State system that shall amortize:

(i) all unfunded liabilities or surpluses accrued as of June 30, 2000, over 20 years; and

(ii) any new unfunded liabilities or surpluses that have accrued from July 1 of the preceding fiscal year over 25 years to reflect:

1. experience gains and losses;
2. the effect of changes in actuarial assumptions; and
3. the effect of legislation effective on or after July 1, 2001.

(2) If the accrued liability is increased by legislation that provides for early retirement of State employees, the additional liability shall be funded over a period of 5 years beginning on:

(i) July 1, 1997 for legislation effective June 1, 1996; and

(ii) July 1, 1998 for legislation effective June 1, 1997.

(3) If the accrued liability is increased by legislation effective June 1, 1998, that provides for the early retirement of employees of the University System of Maryland who are members of the Employees' Pension System or the Employees'

Retirement System, the additional liability shall be determined by the actuary and funded over a period of 5 years beginning on July 1, 1999 by payment of an annual accrued liability contribution by the University System of Maryland and the Medical System as provided in § 21-307(h) and (i) of this subtitle.

[(e)] (F) (1) When the funding ratio for the employees' systems is between 90% and 110%, inclusive, the employees' system contribution rate is the rate for the previous fiscal year, adjusted to reflect legislative changes that result in changes in normal cost and to amortize over 25 years any actuarial liabilities of the employees' systems.

(2) When the funding ratio for the employees' systems is below 90%, the employees' system contribution rate shall be the sum of:

(i) the employees' system contribution rate for the previous fiscal year; and

(ii) 20% of the difference between the full funding rate for the current fiscal year and the employees' system contribution rate for the previous fiscal year.

(3) When the funding ratio for the employees' systems is above 110%, the employees' system contribution rate shall be the difference between:

(i) the employees' system contribution rate for the previous fiscal year; and

(ii) 20% of the difference between the employees' system contribution rate for the previous fiscal year and the full funding rate for the current fiscal year.

[(f)] (G) (1) When the funding ratio for the teachers' systems is between 90% and 110%, the teachers' system contribution rate is the rate for the previous fiscal year, adjusted to reflect legislative changes that result in changes in normal cost and to amortize over 25 years any actuarial liabilities of the teachers' systems.

(2) When the funding ratio for the teachers' systems is below 90%, the teachers' system contribution rate shall be the sum of:

(i) the teachers' system contribution rate for the previous fiscal year; and

(ii) 20% of the difference between the full funding rate for the current fiscal year and the teachers' system contribution rate for the previous fiscal year.

(3) When the funding ratio for the teachers' systems is above 110%, the teachers' system contribution rate shall be the difference between:

(i) the teachers' system contribution rate for the previous fiscal year; and

(ii) 20% of the difference between the teachers' system contribution rate for the previous fiscal year and the full funding rate for the current fiscal year.

21-309.1.

(A) EACH YEAR, THE BOARD OF TRUSTEES SHALL CERTIFY TO EACH COUNTY THE STATE'S NORMAL CONTRIBUTION RATE AND THE STATE'S ACCRUED LIABILITY CONTRIBUTION RATE AND THE AMOUNTS PAYABLE UNDER § 21-304(C) OF THIS SUBTITLE.

(B) (1) EACH COUNTY SHALL PAY TO THE BOARD OF TRUSTEES THE AMOUNT OF THE CHARGES CERTIFIED TO THE COUNTY BY THE BOARD OF TRUSTEES UNDER SUBSECTION (A) OF THIS SECTION.

(2) WITHIN 30 DAYS AFTER RECEIVING THE CERTIFICATION BY THE BOARD OF TRUSTEES, THE COUNTY SHALL PAY THAT AMOUNT TO THE BOARD OF TRUSTEES.

(3) IF A COUNTY DOES NOT PAY THE AMOUNTS CERTIFIED UNDER THIS SECTION WITHIN THE TIME REQUIRED, IT IS LIABLE FOR:

(I) A PENALTY OF 10% OF THE AMOUNT DUE; AND

(II) INTEREST ON DELINQUENT AMOUNTS AT 10% A YEAR UNTIL PAYMENT.

(4) THE SECRETARY OF THE BOARD OF TRUSTEES MAY ALLOW A GRACE PERIOD FOR PAYMENT OF THE AMOUNTS CERTIFIED UNDER THIS SECTION NOT TO EXCEED 10 CALENDAR DAYS.

(5) ON NOTIFICATION BY THE SECRETARY OF THE BOARD OF TRUSTEES THAT A DELINQUENCY EXISTS, THE STATE COMPTROLLER IMMEDIATELY SHALL EXERCISE THE RIGHT OF SETOFF AGAINST ANY MONEY DUE OR COMING DUE TO THAT COUNTY FROM THE STATE.

(C) ON RECEIPT OF THE PAYMENTS FROM EACH COUNTY, THE BOARD OF TRUSTEES SHALL CREDIT THESE AMOUNTS TO THE ACCUMULATION FUND OF THE APPROPRIATE STATE SYSTEM.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.