

HOUSE BILL 808

K4

2lr1356
CF SB 879

By: **Delegate Griffith (Chair, Joint Committee on Pensions)**

Introduced and read first time: February 9, 2012

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **State Retirement and Pension Systems – Cost-of-Living Adjustments –**
3 **Clarification**

4 FOR the purpose of clarifying that each type of cost-of-living adjustment to
5 allowances provided by State retirement and pension systems does not apply to
6 benefits paid in a single payment, the return of accumulated contributions, or
7 benefits attributable to additional contributions; clarifying how cost-of-living
8 adjustments are calculated; clarifying that a cost-of-living adjustment in a
9 certain zero-adjustment fiscal year does not apply to a retiree's or former
10 member's first cost-of-living adjustment; clarifying when certain cost-of-living
11 adjustments begin; clarifying that certain retirees may not receive less than
12 their initial allowance; altering a certain definition; defining a certain term;
13 making technical and conforming changes; and generally relating to
14 cost-of-living adjustments to allowances provided by State retirement and
15 pension systems.

16 BY repealing and reenacting, with amendments,
17 Article – State Personnel and Pensions
18 Section 29–401, 29–402, 29–404, 29–406, 29–407, 29–410, 29–412, 29–413,
19 29–416, 29–418, 29–421, 29–427, and 29–432
20 Annotated Code of Maryland
21 (2009 Replacement Volume and 2011 Supplement)

22 BY adding to
23 Article – State Personnel and Pensions
24 Section 29–402
25 Annotated Code of Maryland
26 (2009 Replacement Volume and 2011 Supplement)

27 BY repealing and reenacting, without amendments,
28 Article – State Personnel and Pensions

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 29–405, 29–411, 29–417, 29–422, 29–425, 29–426, 29–430, and 29–431
Annotated Code of Maryland
(2009 Replacement Volume and 2011 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

29–401.

(a) In this [section] **SUBTITLE** the following words have the meanings indicated.

(b) “Consumer Price Index” means the Consumer Price Index (all urban consumers — United States city average — all items) as of December 31 as published by the United States Department of Labor, Bureau of Labor Statistics.

(c) “Initial allowance” means a basic allowance or the allowance elected under §§ 21–402 and [21–403] **21–403(B), (C), (E), OR (F)** of this article, **BEFORE ANY ADJUSTMENT UNDER THIS SUBTITLE.**

(d) **“NONCONTRIBUTORY EMPLOYEES’ PENSION SYSTEM” MEANS THE PART OF THE EMPLOYEES’ PENSION SYSTEM THAT DOES NOT PROVIDE A CONTRIBUTORY PENSION BENEFIT UNDER TITLE 23, SUBTITLE 2, PART II OF THIS ARTICLE, THE ALTERNATE CONTRIBUTORY PENSION SELECTION UNDER TITLE 23, SUBTITLE 2, PART III OF THIS ARTICLE, OR THE REFORMED CONTRIBUTORY PENSION BENEFIT UNDER TITLE 23, SUBTITLE 2, PART IV OF THIS ARTICLE.**

(E) “Selection A (Additional member contributions)” means the retirement selection described in § 22–219 of this article.

[(e)] (F) “Selection B (Limited cost-of-living adjustment)” means the retirement selection described in § 22–220 of this article.

[(f)] (G) “Selection C (Combination formula)” means the retirement selection described in § 22–221 of this article.

29–402.

THIS SUBTITLE DOES NOT APPLY TO:

(1) ANY BENEFITS PAID IN A SINGLE PAYMENT;

1 **(2) THE RETURN OF ACCUMULATED CONTRIBUTIONS; OR**

2 **(3) ANY BENEFITS ATTRIBUTABLE TO ADDITIONAL**
3 **CONTRIBUTIONS.**

4 **[29–402.] 29–403.**

5 (a) This section applies to a retiree of the Employees' Retirement System or
6 Employees' Pension System who:

7 (1) retired from the Employees' Retirement System or Employees'
8 Pension System on or before June 30, 2009;

9 (2) before retirement was an employee of the Maryland School for the
10 Deaf; and

11 (3) before retirement, as an employee for the Maryland School for the
12 Deaf, was a 10-month employee incorrectly classified as a 12-month employee.

13 (b) (1) If a retiree is receiving a benefit that differs from the benefit the
14 retiree is entitled to receive, the Board of Trustees shall, beginning July 1, 2010, and
15 each subsequent July 1, suspend any annual retirement allowance adjustment the
16 retiree may receive under this subtitle.

17 (2) Beginning July 1, 2010, and each subsequent July 1, any
18 adjustment to the retiree's annual retirement allowance described under paragraph
19 (1) of this subsection shall be calculated using:

20 (i) for any adjustment calculated under Part II or Part III of
21 this subtitle, the initial allowance the retiree was entitled to receive and not the initial
22 allowance the retiree did receive;

23 (ii) for any adjustment calculated under Part IV and Part VI of
24 this subtitle, the current retirement allowance the retiree is entitled to receive and not
25 the current retirement allowance the retiree is receiving; or

26 (iii) for any adjustment calculated under Part V of this subtitle,
27 both the initial allowance the retiree was entitled to receive and not the initial
28 allowance the retiree did receive and the current retirement allowance the retiree is
29 entitled to receive and not the current retirement allowance the retiree is receiving.

30 (3) The Board of Trustees shall suspend any annual retirement
31 adjustment under this subsection until the total amount of retirement allowance the
32 retiree is entitled to receive, including any suspended annual retirement allowance
33 adjustments, equals the total amount of retirement allowance the retiree is receiving
34 on July 1, 2010.

(4) When the total amount of retirement allowance the retiree is entitled to receive, including any suspended annual retirement allowance adjustments, equals the total amount of retirement allowance the retiree is receiving on July 1, 2010, the Board of Trustees shall resume adjusting the retiree's annual allowance on July 1 of each year in accordance with this subtitle.

(c) If a retiree dies before the total amount of retirement allowance the retiree was entitled to receive, including any suspended annual retirement allowance adjustments, equals the total amount of retirement allowance the retiree was receiving on July 1, 2010, and the retiree has selected an optional form of allowance under Title 21, Subtitle 4 of this article, the deceased retiree's beneficiary shall receive a benefit calculated on the retirement allowance the deceased retiree was entitled to receive at the time of the retiree's death and not what the retiree was receiving at the time of the retiree's death.

29–404.

(a) Except as provided in subsection (b) of this section, this Part II of this subtitle applies only to an allowance received by a former member, retiree, or surviving beneficiary of a deceased member, former member, or retiree of:

(1) the **NONCONTRIBUTORY** Employees' Pension System if the deceased member, former member, or retiree was an employee of a participating governmental unit or a former participating governmental unit, other than Frederick County, that has withdrawn while a member; or

(2) the Local Fire and Police System.

(b) This Part II of this subtitle does not apply to an allowance or portion of an allowance that is:

(1) subject to adjustment under [Part II,] **PART III**, Part IV, Part V, Part VI, or Part VII of this subtitle; or

(2) based on creditable service earned on or after July 1, 2011.

29–405.

Each fiscal year, the Board of Trustees shall adjust each allowance as provided in this Part II.

29–406.

(a) Subject to subsection (c) of this section, the cost-of-living adjustment made under this Part II equals the initial allowance multiplied by a [fraction] **RATE** that [has] **IS CALCULATED BY DIVIDING**[:]

(1) as its numerator,] the amount obtained by subtracting the [Consumer Price Index for the calendar year ending December 31 of the preceding fiscal year from the] base year Consumer Price Index described in subsection (b) of this section **FROM THE CONSUMER PRICE INDEX FOR THE CALENDAR YEAR ENDING DECEMBER 31 OF THE PRECEDING FISCAL YEAR**]; and

(2) as its denominator,] **BY** the base year Consumer Price Index described in subsection (b) of this section.

(b) The base year Consumer Price Index referred to in subsection (a) of this section equals the later of:

(1) the Consumer Price Index for the calendar year ending December 31 of the fiscal year that preceded the last adjustment; or

(2) (i) for a retiree, the Consumer Price Index for the calendar year ending December 31 of the fiscal year in which the retiree was last employed as a member; [or]

(ii) for a former member who **BECAME A MEMBER OF THE NONCONTRIBUTORY EMPLOYEES' PENSION SYSTEM ON OR BEFORE JUNE 30, 2011, AND** elected a vested allowance in accordance with § 29–303 of this title, the Consumer Price Index for the calendar year ending December 31 of the fiscal year in which the former member became 62 years old; **OR**

(III) FOR A FORMER MEMBER WHO BECAME A MEMBER OF THE NONCONTRIBUTORY EMPLOYEES' PENSION SYSTEM ON OR AFTER JULY 1, 2011, AND ELECTED A VESTED ALLOWANCE IN ACCORDANCE WITH § 29–303 OF THIS TITLE, THE CONSUMER PRICE INDEX FOR THE CALENDAR YEAR ENDING DECEMBER 31 OF THE FISCAL YEAR IN WHICH THE FORMER MEMBER BECAME 65 YEARS OLD.

(c) The cost-of-living adjustment under this section may not exceed 3% of the initial allowance.

(D) THE COST-OF-LIVING ADJUSTMENT UNDER SUBSECTION (A) OF THIS SECTION SHALL BEGIN THE SECOND JULY 1 AFTER THE DAY PRECEDING THE RETIREE'S DATE OF RETIREMENT OR THE FORMER MEMBER'S EFFECTIVE DATE FOR RECEIPT OF A VESTED ALLOWANCE.

29–407.

(a) Except as provided in subsection (b) of this section, the total allowance payable in any fiscal year shall be the sum of:

(1) the initial allowance;

(2) **THE AMOUNT OF** all prior cost-of-living adjustments;

(3) **THE AMOUNT OF** the cost-of-living adjustment provided for under § 29-406 of this subtitle; and

(4) any additional annuity.

(b) (1) In this subsection, “zero-adjustment fiscal year” means any fiscal year when the **RATE FOR THE** cost-of-living adjustment provided in [§ 29-406] **§ 29-406(A)** of this subtitle is less than [\$0.00%] **0%**.

(2) For any fiscal year, the total allowance payable may not be less than the allowance paid for the preceding fiscal year.

(3) (i) [This] **SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, THIS** paragraph applies only to a fiscal year that is not a zero-adjustment fiscal year.

(ii) Subject to subparagraph (iii) of this paragraph:

1. for a fiscal year that follows immediately after a zero-adjustment fiscal year, the [allowance payable] **RATE OF THE COST-OF-LIVING ADJUSTMENT** as provided in [subsection (a) of this section] **§ 29-406(A) OF THIS SUBTITLE** shall be [reduced by the difference between the allowance paid in the preceding fiscal year and the allowance that would have been payable] **ADJUSTED TO INCLUDE THE RATE FOR THE COST-OF-LIVING ADJUSTMENT** for the preceding fiscal year if the [allowance] **RATE** for that fiscal year had been calculated without regard to paragraph (2) of this subsection; and

2. for a fiscal year that follows immediately after 2 or more consecutive zero-adjustment fiscal years, the [allowance payable] **RATE OF THE COST-OF-LIVING ADJUSTMENT** as provided in [subsection (a) of this section] **§ 29-406(A) OF THIS SUBTITLE** shall be [reduced by the difference between the total of the allowances paid in each consecutive zero-adjustment fiscal year preceding the fiscal year and the total allowances that would have been payable] **ADJUSTED TO INCLUDE THE RATES OF THE COST-OF-LIVING ADJUSTMENTS** for each of those fiscal years if the [allowance] **RATE** for each of those fiscal years had been calculated without regard to paragraph (2) of this subsection.

(iii) If the [amount of the reduction] **ADJUSTMENT** required for any fiscal year under subparagraph (ii) of this paragraph exceeds the difference between the [allowance] **RATE** as provided in [subsection (a) of this section] **§ 29-406(A) OF THIS SUBTITLE** for the fiscal year and the [allowance paid] **RATE OF**

1 **THE COST-OF-LIVING ADJUSTMENT** in the preceding fiscal year, the excess shall be
2 deducted in future years, subject to paragraph (2) of this subsection, until the
3 difference is fully recovered.

4 **(4) THIS SUBSECTION DOES NOT APPLY TO A COST-OF-LIVING**
5 **ADJUSTMENT FOR THE FISCAL YEAR BEGINNING THE SECOND JULY 1 AFTER**
6 **THE DAY PRECEDING THE RETIREE'S DATE OF RETIREMENT OR THE FORMER**
7 **MEMBER'S EFFECTIVE DATE FOR RECEIPT OF A VESTED ALLOWANCE THAT**
8 **IMMEDIATELY FOLLOWS A ZERO-ADJUSTMENT FISCAL YEAR.**

9 29-410.

10 (a) [(1)] Except as provided in [paragraph (2) of this subsection]
11 **SUBSECTION (B) OF THIS SECTION**, this Part III applies only to an allowance
12 received by:

13 [(i)] (1) a former member, retiree, or surviving spouse of a
14 member:

15 [1.] (I) of the Correctional Officers' Retirement
16 System;

17 [2.] (II) of the Employees' Retirement System or the
18 Teachers' Retirement System who elected Selection A (Additional member
19 contributions);

20 [3.] (III) of the State Police Retirement System;

21 [4.] (IV) who transferred to the Local Fire and Police
22 System from the Employees' Retirement System; or

23 [5.] (V) who transferred to the Law Enforcement
24 Officers' Pension System from the Employees' Retirement System and had elected
25 Selection A (Additional member contributions); or

26 [(ii)] (2) a surviving beneficiary of a deceased former member
27 or retiree described in [item (i) of this paragraph] **PARAGRAPH (1) OF THIS**
28 **SUBSECTION.**

29 [(2)] (B) This Part III applies only to an allowance based on
30 creditable service earned before July 1, 2011, for a former member, retiree, surviving
31 spouse of a member, or a surviving beneficiary of a deceased former member or retiree:

32 [(i)] (1) of the Correctional Officers' Retirement System; or

1 [(ii)] (2) of the State Police Retirement System.

2 [(b) This Part III does not apply to:

- 3 (1) benefits paid in a single payment;
- 4 (2) the return of accumulated contributions; or
- 5 (3) benefits attributable to additional contributions.]

6 29–411.

7 Each fiscal year, the Board of Trustees shall adjust each allowance as provided
8 in this Part III.

9 29–412.

10 (a) Except as provided in subsection (b) of this section and subject to §
11 29–413 of this subtitle, each fiscal year, the Board of Trustees shall adjust an [initial]
12 allowance by multiplying the [initial] allowance **FOR THE PREVIOUS FISCAL YEAR**
13 by [the fraction that has:

14 (1) as its numerator, the Consumer Price Index for the calendar year
15 ending December 31 of the preceding fiscal year; and

16 (2) as its denominator:

17 (i) for a retiree, the beneficiary of a retiree, or the surviving
18 spouse of a member, the Consumer Price Index for the calendar year ending December
19 31 of the fiscal year in which the retiree or member was last employed; or

20 (ii) for a former member or the beneficiary of a former member,
21 the Consumer Price Index for the calendar year ending December 31 of the fiscal year
22 in which the former member reaches normal retirement age] **A RATE THAT IS**
23 **OBTAINED BY DIVIDING THE CONSUMER PRICE INDEX FOR THE CALENDAR**
24 **YEAR ENDING DECEMBER 31 IN THE PRECEDING FISCAL YEAR BY THE**
25 **CONSUMER PRICE INDEX FOR THE CALENDAR YEAR ENDING DECEMBER 31 IN**
26 **THE SECOND PRECEDING FISCAL YEAR.**

27 **(B) THE ADJUSTMENT UNDER SUBSECTION (A) OF THIS SECTION SHALL**
28 **BEGIN THE SECOND JULY 1 AFTER THE DAY PRECEDING THE RETIREE’S DATE**
29 **OF RETIREMENT OR THE FORMER MEMBER’S EFFECTIVE DATE FOR A RECEIPT**
30 **OF A VESTED ALLOWANCE.**

31 **(C) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE**
32 **TOTAL ALLOWANCE PAYABLE IN EACH FISCAL YEAR SHALL BE THE SUM OF:**

1 (1) THE AMOUNT EQUAL TO THE ANNUAL ALLOWANCE PAID
2 DURING THE PRECEDING FISCAL YEAR;

3 (2) THE AMOUNT EQUAL TO THE ADJUSTMENT IN ALLOWANCE
4 PROVIDED FOR UNDER THIS SECTION; AND

5 (3) ANY ADDITIONAL ANNUITY.

6 [(b)] (D) (1) In this subsection, “zero–adjustment fiscal year” means any
7 fiscal year when the [allowance adjusted] **RATE USED TO ADJUST THE ALLOWANCE**
8 as provided in subsection (a) of this section results in [an allowance] **A RATE** that is
9 less than [the allowance payable for the preceding fiscal year] **0%**.

10 (2) For any fiscal year, the allowance payable may not be less than the
11 allowance paid for the preceding fiscal year.

12 (3) (i) [This] **SUBJECT TO PARAGRAPH (4) OF THIS**
13 **SUBSECTION, THIS** paragraph applies only to a fiscal year that is not a
14 zero–adjustment fiscal year.

15 (ii) Subject to subparagraph (iii) of this paragraph:

16 1. for a fiscal year that follows immediately after a
17 zero–adjustment fiscal year, the [allowance payable] **RATE OF THE COST–OF–LIVING**
18 **ADJUSTMENT** as provided in subsection (a) of this section shall be [reduced by the
19 difference between the allowance paid in the preceding fiscal year and the allowance
20 that would have been payable] **ADJUSTED TO INCLUDE THE RATE FOR THE**
21 **COST–OF–LIVING ADJUSTMENT** for the preceding fiscal year if the [allowance] **RATE**
22 for that fiscal year had been calculated without regard to paragraph (2) of this
23 subsection; and

24 2. for a fiscal year that follows immediately after 2 or
25 more consecutive zero–adjustment fiscal years, the [allowance payable] **RATE OF THE**
26 **COST–OF–LIVING ADJUSTMENT** as provided in subsection (a) of this section shall be
27 [reduced by the difference between the total of the allowances paid in each consecutive
28 zero–adjustment fiscal year preceding the fiscal year and the total allowances that
29 would have been payable] **ADJUSTED TO INCLUDE THE RATES OF THE**
30 **COST–OF–LIVING ADJUSTMENTS** for each of those fiscal years if the [allowance]
31 **RATE** for each of those fiscal years had been calculated without regard to paragraph
32 (2) of this subsection.

33 (iii) If the [amount of the reduction] **ADJUSTMENT** required for
34 any fiscal year under subparagraph (ii) of this paragraph exceeds the difference
35 between the [allowance] **RATE** as provided in subsection (a) of this section for the

1 fiscal year and the [allowance paid] **RATE OF THE COST-OF-LIVING ADJUSTMENT**
2 in the preceding fiscal year, the excess shall be deducted in future years, subject to
3 paragraph (2) of this subsection, until the difference is fully recovered.

4 **(4) THIS SUBSECTION DOES NOT APPLY TO A COST-OF-LIVING**
5 **ADJUSTMENT FOR THE FISCAL YEAR BEGINNING THE SECOND JULY 1 AFTER**
6 **THE DAY PRECEDING THE RETIREE'S DATE OF RETIREMENT OR THE FORMER**
7 **MEMBER'S EFFECTIVE DATE FOR RECEIPT OF A VESTED ALLOWANCE THAT**
8 **IMMEDIATELY FOLLOWS A ZERO-ADJUSTMENT FISCAL YEAR.**

9 29-413.

10 (a) A retiree may not receive less than the [benefits to which the retiree
11 otherwise would be entitled under this Division II] **THE RETIREE'S INITIAL**
12 **ALLOWANCE.**

13 (b) (1) This subsection applies to retirees of:

14 (i) the Employees' Retirement System;

15 (ii) the State Police Retirement System; or

16 (iii) the Teachers' Retirement System.

17 (2) A retiree who retired on or before June 30, 1973, may not receive
18 less than the benefits the retiree had received before that date.

19 29-416.

20 **[(a)]** This Part IV applies only to an allowance received by:

21 (1) a former member, retiree, or surviving spouse of a member:

22 (i) of the Employees' Retirement System or the Teachers'
23 Retirement System who elected Selection B (Limited cost-of-living adjustment); or

24 (ii) a former member or retiree who transferred to the Law
25 Enforcement Officers' Pension System from the Employees' Retirement System after
26 having elected Selection B (Limited cost-of-living adjustment); or

27 (2) a surviving beneficiary of a deceased former member or retiree
28 described in item (1) of this subsection.

29 **[(b)]** This section does not apply to:

30 (1) benefits paid in a single payment; or

(2) the return of accumulated contributions.]

29-417.

Each fiscal year, the Board of Trustees shall adjust each allowance as provided in this Part IV.

29-418.

(a) Each fiscal year, the Board of Trustees shall adjust an allowance by multiplying the allowance for the preceding fiscal year, exclusive of any additional voluntary annuity, by a rate not exceeding 5%, that is obtained by dividing the Consumer Price Index for the calendar year ending December 31, in the preceding fiscal year by the Consumer Price Index for the calendar year ending December 31 in the second preceding fiscal year.

(b) The adjustment under subsection (a) of this section shall begin the second July 1 after the day preceding the retiree's date of retirement or the former member's effective date for receipt of a vested allowance.

(c) (1) Except as provided in paragraph (2) of this subsection, the total allowance payable in each fiscal year shall be the sum of:

(i) **THE AMOUNT EQUAL TO** the annual [rate of] allowance paid during the preceding fiscal year;

(ii) **THE AMOUNT EQUAL TO** the adjustment in allowance provided for under this section; and

(iii) any additional annuity.

(2) (i) In this paragraph, "zero-adjustment fiscal year" means any fiscal year when the [allowance adjusted] **RATE USED TO ADJUST THE ALLOWANCE** as provided in subsection (a) of this section results in [an allowance] **A RATE** that is less than [the allowance payable for the preceding fiscal year] **0%**.

(ii) For any fiscal year, the allowance payable may not be less than the allowance paid for the preceding fiscal year.

(iii) 1. **[This] SUBJECT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH, THIS** subparagraph applies only to a fiscal year that is not a zero-adjustment fiscal year.

2. Subject to subsubparagraph 3 of this subparagraph:

1 A. for a fiscal year that follows immediately after a zero–
2 adjustment fiscal year, the [allowance payable] **RATE OF THE COST-OF-LIVING**
3 **ADJUSTMENT** as provided in paragraph (1) of this subsection shall be [reduced by the
4 difference between the allowance paid in the preceding fiscal year and the allowance
5 that would have been payable] **ADJUSTED TO INCLUDE THE RATE FOR THE**
6 **COST-OF-LIVING ADJUSTMENT** for the preceding fiscal year if the [allowance] **RATE**
7 for that fiscal year had been calculated without regard to subparagraph (ii) of this
8 paragraph; and

9 B. for a fiscal year that follows immediately after 2 or
10 more consecutive zero–adjustment fiscal years, the [allowance payable] **RATE OF THE**
11 **COST-OF-LIVING ADJUSTMENT** as provided in paragraph (1) of this subsection shall
12 be [reduced by the difference between the total of the allowances paid in each
13 consecutive zero–adjustment fiscal year preceding the fiscal year and the total
14 allowances that would have been payable] **ADJUSTED TO INCLUDE THE RATES OF**
15 **THE COST-OF-LIVING ADJUSTMENTS** for each of those fiscal years if the
16 [allowance] **RATE** for each of those fiscal years had been calculated without regard to
17 subparagraph (ii) of this paragraph.

18 3. If the [amount of the reduction] **ADJUSTMENT**
19 required for any fiscal year under subparagraph 2 of this subparagraph exceeds
20 the difference between the [allowance] **RATE** as provided in paragraph (1) of this
21 subsection for the fiscal year and the [allowance paid] **RATE OF THE**
22 **COST-OF-LIVING ADJUSTMENT** in the preceding fiscal year, the excess shall be
23 deducted in future years, subject to subparagraph (ii) of this paragraph, until the
24 difference is fully recovered.

25 **(IV) THIS PARAGRAPH DOES NOT APPLY TO A**
26 **COST-OF-LIVING ADJUSTMENT FOR THE FISCAL YEAR BEGINNING THE SECOND**
27 **JULY 1 AFTER THE DAY PRECEDING THE RETIREE’S DATE OF RETIREMENT OR**
28 **THE FORMER MEMBER’S EFFECTIVE DATE FOR RECEIPT OF A VESTED**
29 **ALLOWANCE THAT IMMEDIATELY FOLLOWS A ZERO-ADJUSTMENT FISCAL YEAR.**

30 29–421.

31 **[(a)]** This [section] **PART V** applies to an allowance of:

32 (1) a retiree, former member, or surviving spouse of a member of the
33 Employees’ Retirement System or the Teachers’ Retirement System who is subject to
34 Selection C (Combination formula); or

35 (2) a beneficiary of the retiree or former member described in item (1)
36 of this subsection.

37 **[(b)]** This section does not apply to:

(1) benefits paid in a single payment; or

(2) the return of accumulated contributions.]

29–422.

(a) In this section, “effective date of selection” means the date that the member, former member, or retiree first became subject to Selection C (Combination formula) as provided in § 22–221 of this article.

(b) Except as provided in subsections (c) and (d) of this section, the Board of Trustees shall adjust an allowance described in § 29–421 of this subtitle:

(1) for creditable service before the effective date of selection, as provided by Part III of this subtitle; and

(2) for creditable service on or after the effective date of selection, as provided by Part VI of this subtitle.

(c) Subject to subsection (d) of this section, for a member, former member, or retiree who was subject to Selection B (Limited cost-of-living adjustment) before electing Selection C (Combination formula), the Board of Trustees shall adjust an allowance described in § 29–421 of this subtitle:

(1) for creditable service before the effective date of selection, as provided by Part IV of this subtitle; and

(2) for creditable service on or after the effective date of selection, as provided by Part VI of this subtitle.

(d) If an allowance is received by a former member, retiree, or surviving beneficiary of a deceased member, former member, or retiree who, while a member, was an employee of a participating governmental unit that has not elected the contributory pension benefit of its employees under § 31–116 of this article or a former participating governmental unit, other than Frederick County, that has withdrawn, the Board of Trustees shall adjust the allowance for creditable service on or after the effective date of selection as provided in Part II of this subtitle.

29–425.

(a) This Part VI of this subtitle applies:

(1) on or after July 1, 1998 only to an allowance based on creditable service earned before July 1, 2011, and received by a former member, retiree, or surviving beneficiary of a deceased member, former member, or retiree of the Employees’ Pension System or the Teachers’ Pension System; and

(2) on or after December 31, 2000, to an allowance based on creditable service earned before July 1, 2011, and received by a former member, retiree, or surviving beneficiary of a deceased member, former member, or retiree of the Law Enforcement Officers' Pension System.

(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.

29–426.

Each fiscal year, the Board of Trustees shall adjust each allowance as provided in this Part VI of this subtitle.

29–427.

(a) Each fiscal year, the Board of Trustees shall adjust an allowance by multiplying the allowance for the preceding fiscal year, exclusive of any additional voluntary annuity, by a rate not exceeding 3%, that is obtained by dividing the Consumer Price Index for the calendar year ending December 31 in the preceding fiscal year by the Consumer Price Index for the calendar year ending December 31 in the second preceding fiscal year.

(b) The adjustment under subsection (a) of this section shall begin the second July 1 after the day preceding the retiree's date of retirement or the former member's effective date for receipt of a vested allowance.

(c) (1) Except as provided in paragraph (2) of this subsection, the total allowance payable in each fiscal year shall be the sum of:

1 (i) **THE AMOUNT EQUAL TO** the annual [rate of] allowance
2 paid during the preceding fiscal year;

3 (ii) **THE AMOUNT OF** the adjustment in allowance provided for
4 under this section; and

5 (iii) any additional annuity.

6 (2) (i) In this paragraph, “zero–adjustment fiscal year” means any
7 fiscal year when the [allowance adjusted] **RATE USED TO ADJUST THE ALLOWANCE**
8 as provided in subsection (a) of this section **RESULTS IN A RATE THAT** is less than
9 [the allowance paid for the preceding fiscal year] **0%**.

10 (ii) For any fiscal year, the allowance payable may not be less
11 than the allowance paid for the preceding fiscal year.

12 (iii) 1. [This] **SUBJECT TO SUBPARAGRAPH (IV) OF THIS**
13 **PARAGRAPH, THIS** subparagraph applies only to a fiscal year that is not a
14 zero–adjustment fiscal year.

15 2. Subject to subsubparagraph 3 of this subparagraph:

16 A. for a fiscal year that follows immediately after a
17 zero–adjustment fiscal year, the [allowance payable] **RATE OF THE COST–OF–LIVING**
18 **ADJUSTMENT** as provided in paragraph (1) of this subsection shall be [reduced by the
19 difference between the allowance paid in the preceding fiscal year and the allowance
20 that would have been payable] **ADJUSTED TO INCLUDE THE RATE FOR THE**
21 **COST–OF–LIVING ADJUSTMENT** for the preceding fiscal year if the [allowance] **RATE**
22 for that fiscal year had been calculated without regard to subparagraph (ii) of this
23 paragraph; and

24 B. for a fiscal year that follows immediately after 2 or
25 more consecutive zero–adjustment fiscal years, the [allowance payable] **RATE OF THE**
26 **COST–OF–LIVING ADJUSTMENT** as provided in paragraph (1) of this subsection shall
27 be [reduced by the difference between the total of the allowances paid in each
28 consecutive zero–adjustment fiscal year preceding the fiscal year and the total
29 allowances that would have been payable] for each of those fiscal years if the
30 [allowance] **RATE** for each of those fiscal years had been calculated without regard to
31 subparagraph (ii) of this paragraph.

32 3. If the [amount of the reduction] **ADJUSTMENT**
33 required for any fiscal year under subsubparagraph 2 of this subparagraph exceeds
34 the difference between the [allowance] **RATE** as provided in paragraph (1) of this
35 subsection for the fiscal year and the [allowance paid] **RATE OF THE**
36 **COST–OF–LIVING ADJUSTMENT** in the preceding fiscal year, the excess shall be

deducted in future years, subject to subparagraph (ii) of this paragraph, until the difference is fully recovered.

(IV) THIS PARAGRAPH DOES NOT APPLY TO A COST-OF-LIVING ADJUSTMENT FOR THE FISCAL YEAR BEGINNING THE SECOND JULY 1 AFTER THE DAY PRECEDING THE RETIREE'S DATE OF RETIREMENT OR THE FORMER MEMBER'S EFFECTIVE DATE FOR RECEIPT OF A VESTED ALLOWANCE THAT IMMEDIATELY FOLLOWS A ZERO-ADJUSTMENT FISCAL YEAR.

29-430.

This Part VII of this subtitle (Two and One-Half/One Percent Compound Adjustment) applies to an allowance based on creditable service earned on or after July 1, 2011, for:

(1) a former member, retiree, or surviving spouse of a member of:

(i) the Correctional Officers' Retirement System;

(ii) the Employees' Pension System;

(iii) the Law Enforcement Officers' Pension System;

(iv) the State Police Retirement System; or

(v) the Teachers' Pension System; or

(2) a beneficiary of the retiree or former member described in item (1) of this section.

29-431.

Each fiscal year, the Board of Trustees shall adjust each allowance as provided in this Part VII of this subtitle.

29-432.

(a) Each fiscal year, the Board of Trustees shall adjust an allowance by multiplying the allowance for the preceding fiscal year, exclusive of any additional voluntary annuity, by a rate that:

(1) is obtained by dividing the consumer price index for the calendar year ending December 31 in the preceding fiscal year by the consumer price index for the calendar year ending December 31 in the second preceding fiscal year; and

(2) does not exceed:

(i) 2.5%, if for the calendar year ending December 31 in the preceding fiscal year, the total investment performance of the several systems equals or exceeds the assumed rate of investment return established by the Board of Trustees in accordance with § 21–125(c) of this article; or

(ii) 1%, if for the calendar year ending December 31 in the preceding fiscal year, the total investment performance of the several systems does not equal or exceed the assumed rate of investment return established by the Board of Trustees in accordance with § 21–125(c) of this article.

(b) The adjustment under subsection (a) of this section shall begin the second July 1 after the day preceding the retiree's date of retirement or the former member's effective date for receipt of a vested allowance.

(c) (1) Except as provided in paragraph (2) of this subsection, the total allowance payable in each fiscal year shall be the sum of:

(i) **THE AMOUNT EQUAL TO** the annual [rate of] allowance paid during the preceding fiscal year;

(ii) **THE AMOUNT OF** the adjustment in allowance provided for under this section; and

(iii) any additional annuity.

(2) (i) In this paragraph, “zero–adjustment fiscal year” means any fiscal year when the [allowance adjusted] **RATE USED TO ADJUST THE ALLOWANCE** as provided in subsection (a) of this section **RESULTS IN A RATE THAT** is less than [the allowance paid for the preceding fiscal year] **0%**.

(ii) For any fiscal year, the allowance payable may not be less than the allowance paid for the preceding fiscal year.

(iii) 1. **[This] SUBJECT TO SUBPARAGRAPH (IV) OF THIS PARAGRAPH, THIS** subparagraph applies only to a fiscal year that is not a zero–adjustment fiscal year.

2. Subject to subsubparagraph 3 of this subparagraph:

A. for a fiscal year that follows immediately after a zero–adjustment fiscal year, the [allowance payable] **RATE OF THE COST–OF–LIVING ADJUSTMENT** as provided in paragraph (1) of this subsection shall be [reduced by the difference between the allowance paid in the preceding fiscal year and the allowance that would have been payable] **ADJUSTED TO INCLUDE THE RATE FOR THE COST–OF–LIVING ADJUSTMENT** for the preceding fiscal year if the [allowance] **RATE**

1 for that fiscal year had been calculated without regard to subparagraph (ii) of this
2 paragraph; and

3 B. for a fiscal year that follows immediately after 2 or
4 more consecutive zero-adjustment fiscal years, the [allowance payable] **RATE OF THE**
5 **COST-OF-LIVING ADJUSTMENT** as provided in paragraph (1) of this subsection shall
6 be [reduced by the difference between the total of the allowances paid in each
7 consecutive zero-adjustment fiscal year preceding the fiscal year and the total
8 allowances that would have been payable] **ADJUSTED TO INCLUDE THE RATES OF**
9 **THE COST-OF-LIVING ADJUSTMENTS** for each of those fiscal years if the allowance
10 for each of those fiscal years had been calculated without regard to subparagraph (ii)
11 of this paragraph.

12 3. If the [amount of the reduction] **ADJUSTMENT**
13 required for any fiscal year under subparagraph 2 of this subparagraph exceeds
14 the difference between the [allowance] **RATE** as provided in paragraph (1) of this
15 subsection for the fiscal year and the [allowance paid] **RATE OF THE**
16 **COST-OF-LIVING ADJUSTMENT** in the preceding fiscal year, the excess shall be
17 deducted in future years, subject to subparagraph (ii) of this paragraph, until the
18 difference is fully recovered.

19 **(IV) THIS PARAGRAPH DOES NOT APPLY TO A**
20 **COST-OF-LIVING ADJUSTMENT FOR THE FISCAL YEAR BEGINNING THE SECOND**
21 **JULY 1 AFTER THE DAY PRECEDING THE RETIREE'S DATE OF RETIREMENT OR**
22 **THE FORMER MEMBER'S EFFECTIVE DATE FOR RECEIPT OF A VESTED**
23 **ALLOWANCE THAT IMMEDIATELY FOLLOWS A ZERO-ADJUSTMENT FISCAL YEAR.**

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 July 1, 2012.