

HOUSE BILL 808

K4

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CF SB 879

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

Introduced and read first time: February 9, 2012

Assigned to: Appropriations

Committee Report: Favorable

House action: Adopted

Read second time: March 6, 2012

CHAPTER _____

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 29–402
2 Annotated Code of Maryland
3 (2009 Replacement Volume and 2011 Supplement)

4 BY repealing and reenacting, without amendments,
5 Article – State Personnel and Pensions
6 Section 29–405, 29–411, 29–417, 29–422, 29–425, 29–426, 29–430, and 29–431
7 Annotated Code of Maryland
8 (2009 Replacement Volume and 2011 Supplement)

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

11 **Article – State Personnel and Pensions**

12 29–401.

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

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

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

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

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

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

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

34 **29–402.**

1 **THIS SUBTITLE DOES NOT APPLY TO:**

2 **(1) ANY BENEFITS PAID IN A SINGLE PAYMENT;**

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

4 **(3) ANY BENEFITS ATTRIBUTABLE TO ADDITIONAL**
5 **CONTRIBUTIONS.**

6 **[29-402.] 29-403.**

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

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

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

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

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

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

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

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

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

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

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

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

19 29-404.

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

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

27 (2) the Local Fire and Police System.

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

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

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

33 29-405.

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

1 29–406.

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

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

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

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

14 (1) the Consumer Price Index for the calendar year ending December
15 31 of the fiscal year that preceded the last adjustment; or

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

19 (ii) for a former member who **BECAME A MEMBER OF THE**
20 **NONCONTRIBUTORY EMPLOYEES' PENSION SYSTEM ON OR BEFORE JUNE 30,**
21 **2011, AND** elected a vested allowance in accordance with § 29–303 of this title, the
22 Consumer Price Index for the calendar year ending December 31 of the fiscal year in
23 which the former member became 62 years old; **OR**

24 **(III) FOR A FORMER MEMBER WHO BECAME A MEMBER OF**
25 **THE NONCONTRIBUTORY EMPLOYEES' PENSION SYSTEM ON OR AFTER JULY 1,**
26 **2011, AND ELECTED A VESTED ALLOWANCE IN ACCORDANCE WITH § 29–303 OF**
27 **THIS TITLE, THE CONSUMER PRICE INDEX FOR THE CALENDAR YEAR ENDING**
28 **DECEMBER 31 OF THE FISCAL YEAR IN WHICH THE FORMER MEMBER BECAME**
29 **65 YEARS OLD.**

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

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

1 29-407.

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

4 (1) the initial allowance;

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

6 (3) **THE AMOUNT OF** the cost-of-living adjustment provided for under
7 § 29-406 of this subtitle; and

8 (4) any additional annuity.

9 (b) (1) In this subsection, “zero-adjustment fiscal year” means any fiscal
10 year when the **RATE FOR THE** cost-of-living adjustment provided in [§ 29-406] §
11 **29-406(A)** of this subtitle is less than [0.00%] **0%**.

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

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

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

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

26 2. for a fiscal year that follows immediately after 2 or
27 more consecutive zero-adjustment fiscal years, the [allowance payable] **RATE OF THE**
28 **COST-OF-LIVING ADJUSTMENT** as provided in [subsection (a) of this section] **§**
29 **29-406(A) OF THIS SUBTITLE** shall be [reduced by the difference between the total
30 of the allowances paid in each consecutive zero-adjustment fiscal year preceding the
31 fiscal year and the total allowances that would have been payable] **ADJUSTED TO**
32 **INCLUDE THE RATES OF THE COST-OF-LIVING ADJUSTMENTS** for each of those

1 fiscal years if the [allowance] RATE for each of those fiscal years had been calculated
2 without regard to paragraph (2) of this subsection.

3 (iii) If the [amount of the reduction] ADJUSTMENT required for
4 any fiscal year under subparagraph (ii) of this paragraph exceeds the difference
5 between the [allowance] RATE as provided in [subsection (a) of this section] §
6 **29-406(A) OF THIS SUBTITLE** for the fiscal year and the [allowance paid] RATE OF
7 **THE COST-OF-LIVING ADJUSTMENT** in the preceding fiscal year, the excess shall be
8 deducted in future years, subject to paragraph (2) of this subsection, until the
9 difference is fully recovered.

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

15 29-410.

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

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

21 [1.] (I) of the Correctional Officers' Retirement
22 System;

23 [2.] (II) of the Employees' Retirement System or the
24 Teachers' Retirement System who elected Selection A (Additional member
25 contributions);

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

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

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

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

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

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

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

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

7 (1) benefits paid in a single payment;

8 (2) the return of accumulated contributions; or

9 (3) benefits attributable to additional contributions.]

10 29-411.

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

13 29-412.

14 (a) Except as provided in subsection (b) of this section and subject to §
 15 29-413 of this subtitle, each fiscal year, the Board of Trustees shall adjust an [initial]
 16 allowance by multiplying the [initial] allowance **FOR THE PREVIOUS FISCAL YEAR**
 17 by [the fraction that has:

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

20 (2) as its denominator:

21 (i) for a retiree, the beneficiary of a retiree, or the surviving
 22 spouse of a member, the Consumer Price Index for the calendar year ending December
 23 31 of the fiscal year in which the retiree or member was last employed; or

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

1 **(B) THE ADJUSTMENT UNDER SUBSECTION (A) OF THIS SECTION SHALL**
2 **BEGIN THE SECOND JULY 1 AFTER THE DAY PRECEDING THE RETIREE'S DATE**
3 **OF RETIREMENT OR THE FORMER MEMBER'S EFFECTIVE DATE FOR A RECEIPT**
4 **OF A VESTED ALLOWANCE.**

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

7 **(1) THE AMOUNT EQUAL TO THE ANNUAL ALLOWANCE PAID**
8 **DURING THE PRECEDING FISCAL YEAR;**

9 **(2) THE AMOUNT EQUAL TO THE ADJUSTMENT IN ALLOWANCE**
10 **PROVIDED FOR UNDER THIS SECTION; AND**

11 **(3) ANY ADDITIONAL ANNUITY.**

12 **[(b)] (D) (1)** In this subsection, "zero-adjustment fiscal year" means any
13 fiscal year when the **[allowance adjusted] RATE USED TO ADJUST THE ALLOWANCE**
14 as provided in subsection (a) of this section results in **[an allowance] A RATE** that is
15 less than **[the allowance payable for the preceding fiscal year] 0%**.

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

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

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

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

30 2. for a fiscal year that follows immediately after 2 or
31 more consecutive zero-adjustment fiscal years, the **[allowance payable] RATE OF THE**
32 **COST-OF-LIVING ADJUSTMENT** as provided in subsection (a) of this section shall be
33 **[reduced by the difference between the total of the allowances paid in each consecutive**
34 **zero-adjustment fiscal year preceding the fiscal year and the total allowances that**
35 **would have been payable] ADJUSTED TO INCLUDE THE RATES OF THE**

1 **COST-OF-LIVING ADJUSTMENTS** for each of those fiscal years if the [allowance]
2 **RATE** for each of those fiscal years had been calculated without regard to paragraph
3 (2) of this subsection.

4 (iii) If the [amount of the reduction] **ADJUSTMENT** required for
5 any fiscal year under subparagraph (ii) of this paragraph exceeds the difference
6 between the [allowance] **RATE** as provided in subsection (a) of this section for the
7 fiscal year and the [allowance paid] **RATE OF THE COST-OF-LIVING ADJUSTMENT**
8 in the preceding fiscal year, the excess shall be deducted in future years, subject to
9 paragraph (2) of this subsection, until the difference is fully recovered.

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

15 29-413.

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

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

20 (i) the Employees' Retirement System;

21 (ii) the State Police Retirement System; or

22 (iii) the Teachers' Retirement System.

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

25 29-416.

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

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

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

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

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

3 [(b) This section does not apply to:

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

5 (2) the return of accumulated contributions.]

6 29–417.

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

9 29–418.

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

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

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

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

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

25 (iii) any additional annuity.

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

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

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

4 2. Subject to subsubparagraph 3 of this subparagraph:

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

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

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

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

34 29-421.

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

1 (1) a retiree, former member, or surviving spouse of a member of the
2 Employees' Retirement System or the Teachers' Retirement System who is subject to
3 Selection C (Combination formula); or

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

6 [(b) This section does not apply to:

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

8 (2) the return of accumulated contributions.]

9 29-422.

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

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

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

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

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

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

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

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

1 29–425.

2 (a) This Part VI of this subtitle applies:

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

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

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

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

13 (i) a participating governmental unit that has not elected the
14 contributory pension benefit or the Alternate Contributory Pension Selection of its
15 employees under § 31–116 of this article; or

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

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

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

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

24 29–426.

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

27 29–427.

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

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

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

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

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

10 (iii) any additional annuity.

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

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

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

20 2. Subject to subparagraph 3 of this subparagraph:

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

29 B. for a fiscal year that follows immediately after 2 or
30 more consecutive zero-adjustment fiscal years, the [allowance payable] **RATE OF THE**
31 **COST-OF-LIVING ADJUSTMENT** as provided in paragraph (1) of this subsection shall
32 be [reduced by the difference between the total of the allowances paid in each
33 consecutive zero-adjustment fiscal year preceding the fiscal year and the total
34 allowances that would have been payable] for each of those fiscal years if the

1 [allowance] RATE for each of those fiscal years had been calculated without regard to
2 subparagraph (ii) of this paragraph.

3 3. If the [amount of the reduction] ADJUSTMENT
4 required for any fiscal year under subparagraph 2 of this subparagraph exceeds
5 the difference between the [allowance] RATE as provided in paragraph (1) of this
6 subsection for the fiscal year and the [allowance paid] RATE OF THE
7 COST-OF-LIVING ADJUSTMENT in the preceding fiscal year, the excess shall be
8 deducted in future years, subject to subparagraph (ii) of this paragraph, until the
9 difference is fully recovered.

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

15 29-430.

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

- 19 (1) a former member, retiree, or surviving spouse of a member of:
- 20 (i) the Correctional Officers' Retirement System;
- 21 (ii) the Employees' Pension System;
- 22 (iii) the Law Enforcement Officers' Pension System;
- 23 (iv) the State Police Retirement System; or
- 24 (v) the Teachers' Pension System; or
- 25 (2) a beneficiary of the retiree or former member described in item (1)
26 of this section.

27 29-431.

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

30 29-432.

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

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

7 (2) does not exceed:

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

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

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

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

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

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

25 (iii) any additional annuity.

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

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

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

