Article - State Personnel and Pensions

§1–101.

(a) In this Division I of this article the following words have the meanings indicated.

(b) "Appointing authority" means an individual or a unit of government that has the power to make appointments and terminate employment.

(c) "Class" means a category of one or more similar positions, as established by the Secretary in accordance with this article.

(d) "Contractual employee" means an individual described in § 13-101 of this article.

(e) "County" means a county of this State and, unless expressly provided otherwise, Baltimore City.

(f) Unless expressly provided otherwise, "Department" means the Department of Budget and Management.

(g) "Executive service" means the employment category in the State Personnel Management System that is described in § 6-404 of this article.

(h) "Management service" means the employment category in the State Personnel Management System that is described in § 6-403 of this article.

(i) (1) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other entity.

(2) Unless expressly provided otherwise, "person" does not include a governmental entity or a unit or instrumentality of a governmental entity.

(j) "Position" means an employment assignment of duties and responsibilities that requires the full-time employment of one individual or less than full-time employment of one or more individuals.

(k) "Principal unit" means:

(1) a principal department or other principal independent unit of State government; or

(2) for an employee of a county board of elections whose employees are covered by this article, the county board of elections.

(l) "Professional service" means the employment category in the State Personnel Management System that is described in § 6-402 of this article.

(m) "Secretary" means the Secretary of Budget and Management.

(n) "Skilled service" means the employment category in the State Personnel Management System that is described in § 6-401 of this article.

(o) "State" means:

(1) a state, possession, territory, or commonwealth of the United States; or

(2) the District of Columbia.

(p) "State Personnel Management System" means the personnel system established under § 6-101 of this article.

(q) "Temporary employee" includes:

(1) a contractual employee; and

(2) an emergency employee.

§1–201.

Unless specifically provided otherwise, in this Division I of this article a reference to a "day" or "days" means a calendar day or calendar days.

§1–202.

The State may not print or have printed a State employee's Social Security number on any type of identification card.

§2–101.

Except as expressly provided by law, this title does not limit any express or implied management prerogative or other authority belonging to an appointing authority and management.

§2–201.

Except as otherwise provided by law, an employee in the Judicial, Legislative, or Executive Branch of State government is governed by the laws and personnel policies and procedures applicable in that branch.

§2–202.

(a) The principal personnel system in the Executive Branch of State government is the State Personnel Management System.

(b) As expressly authorized by law, a unit in the Executive Branch of State

government may establish a personnel system that operates independent of the State Personnel Management System.

§2–203. IN EFFECT

(a) Notwithstanding any other provision of law, and except as provided in subsection (c) of this section, this section applies to all employees in the Judicial, Legislative, and Executive branches of State government.

(b) This section does not apply to:

(1) a position in the Department of Public Safety and Correctional Services;

(2) a position for which an appointing authority has a statutory duty to conduct a criminal history records check; or

(3) a position in the office of the sheriff for any county.

(c) Except for a position in the State Personnel Management System for which the Secretary determines that the specific duties and responsibilities of the position would require the appointing authority to know an applicant's criminal history, an appointing authority may not inquire into the criminal record or criminal history of an applicant for employment until the applicant has been provided an opportunity for an interview.

(d) This section does not prohibit an appointing authority from notifying an applicant for employment that certain prior criminal convictions may prohibit employment in some positions.

(e) The Department shall report to the General Assembly, in accordance with § 2–1246 of the State Government Article, by October 1 of each year for the previous fiscal year on:

(1) the total number of positions that have been filled in the State Personnel Management System; and

(2) the number of positions that have been designated as exceptions by the Secretary under subsection (c) of this section, by agency and position classification.

2–203. // EFFECTIVE JUNE 30, 2018 PER CHAPTER 160 OF 2013 //

(a) Notwithstanding any other provision of law, and except as provided in subsection (c) of this section, this section applies to all employees in the Judicial, Legislative, and Executive branches of State government.

(b) This section does not apply to:

(1) a position in the Department of Public Safety and Correctional Services;

(2) a position for which an appointing authority has a statutory duty to conduct a criminal history records check; or

(3) a position in the office of the sheriff for any county.

(c) Except for a position in the State Personnel Management System for which the Secretary determines that the specific duties and responsibilities of the position would require the appointing authority to know an applicant's criminal history, an appointing authority may not inquire into the criminal record or criminal history of an applicant for employment until the applicant has been provided an opportunity for an interview.

(d) This section does not prohibit an appointing authority from notifying an applicant for employment that certain prior criminal convictions may prohibit employment in some positions.

§2–301.

(a) In keeping with State efforts to reinvent government, restructuring of the State's personnel system should enhance the delivery of services to citizens in an effective and timely manner.

(b) To maintain efficient and effective operations of State government, each State employee:

(1) shall be treated with fairness in State employment;

(2) may participate in the State Health and Welfare Benefits Program in accordance with Subtitle 5 of this title;

(3) may participate in the State Retirement and Pensions Systems in accordance with Division II of this article;

(4) subject to Title 9, Subtitle 6 of this article, may participate in the State Employees' Leave Bank and the Employee-to-Employee Leave Donation Program;

(5) who transfers to a position in any unit of State government, regardless of the personnel system governing the position, shall do so without loss of leave earned or credit for State employment in other units of State government; and

(6) is entitled to the rights and protections in this title.

§2–302.

(a) The State recognizes and honors the value and dignity of every person and

understands the importance of providing employees and applicants for employment with a fair opportunity to pursue their careers in an environment free of discrimination or harassment prohibited by law.

(b) (1) Except as provided in paragraph (2) of this subsection or by other law, all personnel actions concerning a State employee or applicant for employment in State government shall be made without regard to:

(i) age;

(ii) ancestry;

(iii) color;

(iv) creed;

(v) gender identity;

(vi) marital status;

(vii) mental or physical disability;

(viii) national origin;

(ix) race;

(x) religious affiliation, belief, or opinion;

(xi) sex; or

(xii) sexual orientation.

(2) A personnel action may be taken with regard to age, sex, or disability to the extent that age, sex, or physical or mental qualification is required by law or is a bona fide occupational qualification.

(c) (1) Each State employee is expected to assume personal responsibility and leadership in ensuring fair employment practices and equal employment opportunity in Maryland State government.

(2) Employment discrimination and harassment by State managers, supervisors, or other employees is prohibited.

(3) A State employee who violates this subtitle is subject to disciplinary action by the employee's appointing authority, including the termination of State employment.

(d) The Equal Employment Opportunity Program in Title 5, Subtitle 2 of this article governs all employees of any unit in the Executive Branch of State government,

including a unit with an independent personnel system.

(e) (1) At least annually, the Secretary shall report on the Equal Employment Opportunity Program established in § 5–202 of this article to the Joint Committee on Fair Practices and State Personnel Oversight.

(2) The head of a personnel system in the Legislative and Judicial branches may report periodically on equal employment opportunity programs and policies in effect in that personnel system to the Joint Committee on Fair Practices and State Personnel Oversight.

§2–303.

(a) The State recognizes the rights and protections afforded to its employees under federal law.

(b) (1) This subsection does not affect an age requirement established by State law or a grant of authority under State law to establish reasonable minimum or maximum age requirements.

(2) A denial of employment for medical reasons shall comply with applicable federal and State laws and regulations.

(3) Before an applicant may be denied employment or an employee terminated for medical reasons, the appointing authority or a designee of the appointing authority shall document in writing:

(i) that, under relevant provisions of federal and State law and regulations, reasonable accommodations were considered;

(ii) the specific accommodations that were considered; and

(iii) the reasons for rejecting those accommodations.

(c) (1) This subsection does not apply to temporary employees.

(2) A State employee may not be denied the opportunity to seek, qualify for, or receive any promotion solely because the employee is on leave for maternity reasons or on sick leave, if the employee is expected to return to work within 120 days after receiving notice of an interview for the position.

§2–304.

(a) (1) Employment by the State does not affect any right or obligation of a citizen under the Constitution and laws of the United States or under the Constitution and laws of the State.

(2) Except as otherwise provided in this section or by federal law, a State

employee:

(i) may freely participate in any political activity and express any political opinion; and

(ii) may not be required to provide any political service.

(b) Notwithstanding any other law of the State effective on or before June 30, 1973, the restrictions imposed by subsection (c) of this section are the only restrictions on the political activities of an employee, except for:

(1) the restrictions imposed on employees of a local board of elections by § 2-301 of the Election Law Article; and

(2) the restrictions imposed on employees of the Department of Legislative Services by guidelines adopted under § 2-1205 of the State Government Article.

(c) An employee may not:

(1) engage in political activity while on the job during working hours; or

(2) advocate the overthrow of the government by unconstitutional or violent means.

(d) (1) In this subsection, "political contribution" means a contribution as defined in § 1-101 of the Election Law Article.

(2) A public official or an employee of the State may not require any State employee to make a political contribution.

§2–305.

(a) This section applies to all employees of all units in the Executive, Judicial, and Legislative branches of State government, including all units with independent personnel systems except for the Department of Transportation and the University System of Maryland.

(b) During any stage of a State employee's complaint, grievance, or other administrative or legal action that concerns State employment, the employee may not be subjected to coercion, discrimination, interference, reprisal, or restraint by or initiated on behalf of the employer solely as a result of that employee's pursuit of the grievance, complaint, or action.

(c) A State employee may not intentionally take or assist in taking an act of coercion, discrimination, interference, reprisal, or restraint against another employee solely as a result of that employee's pursuit of a grievance, complaint, or other administrative or legal action that concerns State employment.

(d) An employee who violates subsection (c) of this section is subject to disciplinary action, including the termination of State employment.

§2–306.

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

(2) "Probation before judgment" means an entry of probation by a court in accordance with § 6-220 of the Criminal Procedure Article.

(3) "State Substance Abuse Policy" means the policy against substance abuse in State government, as set out in Executive Order Number 01.01.1991.16 and any subsequent Executive Order.

(4) "Alcohol concentration" has the meaning stated in § 11-103.2 of the Transportation Article.

(5) "Workplace" means any place where an employee is performing work for the State of Maryland.

(b) This section may not be construed to eliminate or alter in any way any requirement of an employee to report to an appointing authority an offense, conviction, or probation before judgment under the State Substance Abuse Policy.

(c) Except as provided in subsection (d) of this section, an appointing authority may not consider probation before judgment for a substance abuse offense to be a conviction for purposes of the State Substance Abuse Policy.

(d) An appointing authority may impose appropriate disciplinary action, including termination, against an employee under the State Substance Abuse Policy, if:

(1) the employee receives probation before judgment in a substance abuse offense; and

(2) the appointing authority can demonstrate a relationship between that substance abuse offense and the employee's job responsibilities.

(e) An employee who consumes an alcoholic beverage in the workplace:

(1) shall be in violation of the State Substance Abuse Policy and subject to disciplinary action; and

(2) may not drive a State vehicle or operate State construction equipment during the employee's normal workday.

(f) (1) Employees who are called in to work outside of their regularly scheduled hours shall be provided the opportunity to acknowledge they have consumed

alcohol within the previous four hours.

(2) The employees who make an acknowledgment under paragraph (1) of this subsection may not be subject to disciplinary action and may not be assigned to perform a safety-sensitive function.

§2–307.

(a) A State employee may not directly supervise the employee's parent, spouse, sibling, or child.

(b) A State employee may not use, threaten to use, or attempt to use political influence or the influence of any State employee or officer in gaining an unfair advantage in any personnel decision affecting the employee, including a decision about promotion, transfer, leave of absence, or increased pay, or in disciplinary actions.

(c) A State employee may not use, threaten to use, or attempt to use personal influence in providing an unfair advantage to another individual in any personnel decision, including a decision about hiring, promotion, transfer, leave of absence, or increased pay, or in disciplinary actions.

(d) An employee who violates this section is subject to disciplinary action, including the termination of State employment.

§2–308.

(a) In this section, "telework" means to work at a location other than a traditional office setting or an employee's usual and customary worksite, including:

(1) the employee's home;

(2) a satellite office; and

(3) a telework center.

(b) This section applies to:

(1) all employees in the Executive Branch of State government; and

(2) all units in the Executive Branch of State government, including units with independent personnel systems.

(c) The Secretary shall:

(1) establish a statewide telework program; and

(2) adopt a statewide telework policy and telework guidelines.

(d) (1) The head of a unit in the Executive Branch of State government may

designate the positions for which an employee would be eligible to telework.

(2) A unit in the Executive Branch of State government shall have a goal of at least 15% of eligible employees participating in the statewide telework program established under subsection (c) of this section.

§2–401.

(a) Except as otherwise provided by law, compensation for State employees is determined under a pay plan.

(b) The pay plans for the State Personnel Management System are described in Title 8 of this article.

§2–402.

(a) Except as provided in subsection (b) of this section and notwithstanding any other law, the Central Payroll Bureau of the Office of the State Comptroller shall provide for the payment of all wages to:

(1) each officer and employee of the State who is paid from funds appropriated by the General Assembly; and

(2) whether or not paid from funds appropriated by the General Assembly, each officer and employee of:

(i) the University System of Maryland;

(ii) Morgan State University;

(iii) St. Mary's College of Maryland; and

(iv) Baltimore City Community College.

(b) The Central Payroll Bureau shall maintain all supporting payroll records for the payment of wages under this section.

§2–403.

(a) (1) Subject to subsection (b) of this section, on the written request of an employee to pay dues to an organization by payroll deduction, the Central Payroll Bureau shall:

(i) deduct the dues from the employee's wages; and

(ii) timely pay over the amount deducted to the organization.

(2) An employee may cancel a payroll deduction of organization dues by written notification to the Central Payroll Bureau.

(b) The Central Payroll Bureau may deduct dues under this section only for:

(1) an organization that has a membership of 1,000 or more State employees;

(2) an organization for which the potential field of membership is limited to fewer than 1,000 State employees, if the Governor has approved the deduction for that organization; or

(3) an organization for which payment of dues by payroll deduction was authorized on or before June 29, 1983.

(c) The State Comptroller shall adopt regulations to carry out this section.

§2–404.

(a) (1) This section applies to income tax that is imposed by a state other than this State.

(2) This section does not apply to any income tax that is imposed by a political subdivision of another state.

(b) Subject to subsection (c) of this section, the Central Payroll Bureau shall:

(1) withhold income tax imposed by another state from the wages of a State officer or employee who is a resident of that state; and

(2) pay over the amount withheld to the appropriate tax collecting agency of that state.

(c) This section applies only if:

(1) Maryland State income tax is not required to be withheld from the wages of the officer or employee under Title 10, Subtitle 9, Part II of the Tax - General Article; and

(2) the state where the officer or employee resides:

(i) withholds Maryland State income tax from the wages of Maryland residents who are employed by that state; and

(ii) pays over the amount withheld to the Maryland State Comptroller.

§2–405.

(a) In addition to the payment of wages by cash or check, the State Treasurer, on warrant of the State Comptroller, may pay a wage by direct deposit.

(b) Except as provided in subsection (c) of this section, the payment of wages by direct deposit shall be made in accordance with regulations adopted by the State Treasurer, with the concurrence of the State Comptroller.

(c) The regulations adopted by the State Treasurer under subsection (b) of this section:

(1) may not require the payment of wages by direct deposit for any employee who:

(i) is hired prior to the effective date of the regulations; or

(ii) requests an exemption to the payment of wages by direct deposit; and

(2) shall require that, when an employee is hired, the employee be notified of the right to request an exemption.

§2–501.

(a) In this subtitle the following terms have the meanings indicated.

(b) "Program" means the State Employee and Retiree Health and Welfare Benefits Program.

(c) "Satellite organization" means any organization or entity whose employees are eligible to participate in the State Employee and Retiree Health and Welfare Benefits Program as a separate account.

(d) "Wellness program" means a program that is designed to:

(1) promote health or prevent or detect disease or illness;

(2) improve clinical outcomes;

(3) prevent or reduce acute admissions and readmissions to health care facilities;

(4) improve treatment compliance for chronic conditions;

(5) promote healthy behaviors; or

(6) prevent or control injury.

§2–502.

(a) There is a State Employee and Retiree Health and Welfare Benefits Program, to be developed and administered by the Secretary.

(b) (1) The Program:

(i) subject to the regulations adopted under § 2–503 of this subtitle, shall encompass all units in the Executive, Judicial, and Legislative branches of State government, including any unit with an independent personnel system;

(ii) shall include the health insurance benefit options established by the Secretary; and

(iii) except as provided in paragraph (2) of this subsection, may include any other benefit option that the Secretary considers appropriate.

(2) The Program may not contain any of the benefits provided under Division II or Title 35 or Title 37 of this article.

§2–502.1.

(a) In this section, "Maryland Rx Program" means a purchasing pool for pharmacy benefits that meets the requirements of this section.

(b) The Department shall establish a Maryland Rx Program to achieve savings on the cost of prescription drugs for:

(1) the State Employee and Retiree Health and Welfare Benefits Program; and

(2) any local government or other entity identified under this subtitle that satisfies the conditions for participation established by the Department.

(c) The Maryland Rx Program shall seek savings through:

(1) a preferred list of covered prescription drugs;

(2) rebates from drug manufacturers;

(3) negotiated discounts; and

(4) other cost-saving measures.

(d) (1) Each entity that participates in the Maryland Rx Program shall be responsible for the cost of drugs purchased by or on behalf of the entity.

(2) The cost of drugs purchased by or on behalf of the State Employee and Retiree Health and Welfare Benefits Program shall be paid in accordance with the State budget and the provisions of this subtitle.

(e) The State may:

(1) provide start-up funds for the Maryland Rx Program; and

(2) recoup any start-up funds from savings achieved for participating entities through the Maryland Rx Program.

(f) The Department may:

(1) charge an administrative fee to an entity sufficient to offset the administrative costs resulting from the entity's participation in the Maryland Rx Program; and

(2) contract with a pharmacy benefit manager or other entity to administer the Maryland Rx Program.

(g) If the Department contracts with a pharmacy benefit manager or other entity to administer the Maryland Rx Program, the Department shall consider contracting with a nonprofit entity.

(h) The Department shall adopt regulations to implement this section.

§2–503.

(a) The Secretary shall:

(1) adopt regulations for the administration of the Program;

(2) ensure that the Program complies with all federal and State laws governing employee benefit plans; and

(3) each year, recommend to the Governor the State share of the costs of the Program.

(b) (1) The Secretary may arrange as the Secretary considers appropriate any benefit option for inclusion in the Program.

(2) The Secretary shall include in the Program an option to purchase up to $200,000 of additional life insurance coverage for employees who:

(i) fly in a helicopter in the course of their employment with the State;

(ii) scuba dive in the course of their employment with the State; or

(iii) as a result of their employment with the State, face a significant likelihood of receiving a less favorable life insurance rating than an individual employed in a nonhazardous position.

(3) (i) The Secretary shall include a wellness program in the Program.

(ii) The wellness program shall:

1. be developed in consultation with the Secretary of Health and Mental Hygiene;

2. promote the goals of the Department of Health and Mental Hygiene State Health Improvement Process; and

3. aim to achieve savings in the Program over time that exceed the costs of the wellness program.

(c) The Secretary shall specify by regulation the types or categories of State employees who:

(1) are eligible to enroll and participate in the Program with State subsidies;

(2) are eligible to enroll and participate in the Program without State subsidies; and

(3) are not eligible to enroll or participate in the Program.

(d) (1) The regulations adopted by the Secretary shall include provisions for the enrollment and participation of employees of all:

(i) organizations and entities that were participating in the Program as satellite organizations on January 1, 1993; and

(ii) employee organizations that qualify for payroll deductions under the provisions of § 2–403 of this title.

(2) Employees of organizations and entities covered by this section may participate:

(i) without State subsidies; and

(ii) with payment by the organization or entity of administrative costs resulting from the participation of its employees in the Program.

(3) The regulations adopted by the Secretary under this subsection shall provide that an employee organization specified in paragraph (1)(ii) of this subsection:

(i) may not enroll or participate in the Program unless the organization has notified the Secretary, in writing, on or before July 1, 1994 of the organization's intent to enroll and participate in the Program during calendar year 1994; and

(ii) may not enroll or participate in the Program on or after January 1, 1995 unless the organization has participated in the Program during calendar year 1994.

§2–504.

Each year the Governor shall include money in the State budget to pay the State share of the costs of the Program.

§2–507.

(a) Subject to the regulations adopted under § 2–503 of this subtitle, a State employee may enroll and participate in any of the health insurance or other benefit options established under the Program.

(b) The surviving spouse of a State employee who died while employed by the State may enroll and participate in the health insurance benefit options established under the Program as long as the surviving spouse:

(1) is receiving an allowance under Title 29, Subtitle 2 of this article; or

(2) is the sole primary designated beneficiary and receiving a periodic distribution of benefits under an optional retirement program under Title 30 of this article.

(c) The surviving minor child or dependent parent of a State Police officer who died while employed by the State may enroll and participate in the health insurance benefit options established under the Program as long as the child or parent is receiving an allowance under Title 29, Subtitle 2 of this article.

(d) The surviving minor child of a correctional officer who at the time of death was a member of the Correctional Officers' Retirement System and who died while employed by the State may enroll and participate in the health insurance benefit options established under the Program as long as the child is receiving an allowance under Title 29, Subtitle 2 of this article.

(e) The surviving minor child or dependent parent of a State employee who at the time of death was a member of the Employees' Retirement System, Employees' Pension System, Teachers' Retirement System, or Teachers' Pension System and who was killed while employed by the State may enroll and participate in the health insurance benefit options established under the Program as long as the child or parent is receiving an allowance under Title 29, Subtitle 2 of this article.

§2–508.

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

(2) "Creditable service" means:

(i) service credited toward a retirement allowance under Division II of this article;

(ii) service while a member of the Judges' Retirement System under Title 27 of this article;

(iii) service while an employee was employed by the Domestic Relations Division of the Anne Arundel County Circuit Court, prior to transfer on or before July 1, 2002 into the State Personnel Management System, in accordance with § 2–510 of the Courts Article; or

(iv) service while a member of the Maryland Transit Administration Retirement Plan under § 7–206 of the Transportation Article.

(3) (i) "Retiree" means:

1. a former State employee who receives a retirement allowance under Division II of this article;

2. a former employee of the Medical System Corporation, as defined in § 13–301 or § 13–401 of the Education Article, who receives a retirement allowance from the Employees' Retirement System of the State of Maryland or the Employees' Pension System of the State of Maryland under Title 22 or Title 23 of this article; or

3. a former employee of the Maryland Transit Administration who receives a Maryland Transit Administration retirement allowance under § 7–206 of the Transportation Article.

(ii) "Retiree" does not include:

1. a member of the faculty or staff of a community college;

2. a teacher or a staff member employed by a county board of education; or

3. an individual who retired under an optional program under Title 30 of this article.

(4) "State service" means service with the State by:

(i) an employee while a member of the Employees' Retirement System or the Employees' Pension System under Title 22 or Title 23 of this article;

(ii) a member of the Judges' Retirement System under Title 27 of this article;

(iii) a teacher while a member of the Teachers' Retirement System or Teachers' Pension System under Title 22 or Title 23 of this article;

(iv) a correctional officer, while a member of the Correctional Officers'

Retirement System under Title 25 of this article;

(v) an employee of the Medical System Corporation, as defined in § 13–301 or § 13–401 of the Education Article, while a member of the Employees' Retirement System of the State of Maryland or the Employees' Pension System of the State of Maryland under Title 22 or Title 23 of this article;

(vi) a State Police officer while a member of the State Police Retirement System under Title 24 of this article;

(vii) a law enforcement officer while a member of the Law Enforcement Officers' Pension System under Title 26 of this article; or

(viii) an employee while a member of the Maryland Transit Administration Plan under § 7–206 of the Transportation Article.

(b) (1) This subsection applies to a retiree who:

(i) began State service on or before June 30, 2011; or

(ii) 1. began State service on or after July 1, 2011; and

2. is a retiree of the Judges' Retirement System.

(2) A retiree may enroll and participate in the health insurance benefit options established under the Program if the retiree:

(i) ended State service with at least 10 years of creditable service and within 5 years before the age at which a vested retirement allowance normally would begin;

(ii) ended State service with at least 16 years of creditable service;

(iii) ended State service on or before June 30, 1984;

(iv) retired directly from State service with a State retirement allowance on or after July 1, 1984, and had at least 5 years of creditable service; or

(v) retired directly from State service with a State disability retirement allowance on or after July 1, 1984.

(3) (i) The surviving spouse or dependent child of a deceased retiree who was eligible to enroll may enroll and participate in the health insurance benefit options established under the Program as long as the spouse or child is receiving a periodic allowance under Division II of this article or the Maryland Transit Administration Retirement Plan under § 7–206 of the Transportation Article.

(ii) Subparagraph (i) of this paragraph does not apply to a deceased retiree's spouse or dependent child who receives an Option 1, Option 4, or Option

7 benefit under Division II of this article or a lump–sum payment of benefits under the Maryland Transit Administration Retirement Plan under § 7–206 of the Transportation Article.

(4) (i) If a retiree receives a State disability retirement allowance or has 16 or more years of creditable service, the retiree or the retiree's surviving spouse or dependent child is entitled to the same State subsidy allowed a State employee.

(ii) In all other cases, if a retiree has at least 5 years of creditable service, the retiree or the retiree's surviving spouse or dependent child is entitled to 1/16 of the State subsidy allowed a State employee for each year of the retiree's creditable service up to 16 years.

(iii) Notwithstanding subparagraph (ii) of this paragraph and subsection (a)(4)(i) of this section, if a retiree is an additional employee or agent of the State Racing Commission, for the purposes of determining a retiree's State subsidy, creditable service shall be determined with respect to service as an additional employee or agent beginning from the initial date of employment or January 1, 1986, whichever is later.

(c) (1) (i) Except as provided in subparagraph (ii) of this paragraph, this subsection applies to a retiree who begins State service on or after July 1, 2011.

(ii) This subsection does not apply to:

1. a retiree of the Judges' Retirement System; or

2. a former Governor of Maryland who began serving as Governor on or after January 21, 2015.

(2) A retiree may enroll and participate in the health insurance benefit options established under the Program if the retiree:

(i) ends State service with at least 25 years of creditable service;

(ii) ends State service with at least 10 years of creditable service within 5 years before the age at which a vested retirement allowance normally would begin;

(iii) retires directly from State service with a State retirement allowance and has 10 years of creditable service; or

(iv) retires directly from State service with a State disability retirement allowance.

(3) (i) The surviving spouse or dependent child of a deceased retiree who was eligible to enroll may enroll and participate in the health insurance benefit options established under the Program as long as the spouse or child is receiving a periodic

allowance under Division II of this article or the Maryland Transit Administration Retirement Plan under § 7–206 of the Transportation Article.

(ii) Subparagraph (i) of this paragraph does not apply to a deceased retiree's spouse or dependent child who receives an Option 1, Option 4, or Option 7 benefit under Division II of this article or a lump–sum payment of benefits under the Maryland Transit Administration Retirement Plan under § 7–206 of the Transportation Article.

(4) (i) If a retiree receives a State disability retirement allowance or has 25 or more years of creditable service, the retiree or the retiree's surviving spouse or dependent child is entitled to the same State subsidy allowed a State employee.

(ii) In all other cases, if a retiree has at least 10 years of creditable service, the retiree or the retiree's surviving spouse or dependent child is entitled to 1/25 of the State subsidy allowed a State employee for each year of the retiree's creditable service up to 25 years.

(iii) Notwithstanding subparagraph (ii) of this paragraph and subsection (a)(4)(i) of this section, if a retiree is an additional employee or agent of the State Racing Commission, for the purposes of determining a retiree's State subsidy, creditable service shall be determined with respect to service as an additional employee or agent beginning from the initial date of employment.

(d) (1) Notwithstanding subsections (b) and (c) of this section and §§ 2–509 and 2–509.1 of this subtitle, the State may establish separate health insurance benefit options for retirees that differ from those for active State employees.

(2) Subject to § 2–509.1 of this subtitle, on or after July 1, 2011, the health insurance benefit option for retirees shall include a prescription drug benefit that:

(i) has the same co–payments, coinsurance, and deductible that apply to the prescription drug benefit for active State employees;

(ii) requires:

1. retirees who qualify for the maximum State subsidy to pay 25% of the premium for the prescription drug benefit; and

2. retirees who qualify for a partial State subsidy to pay 25% of the premium for the prescription drug benefit plus the proportional additional amount required under subsections (b)(4)(ii) and (c)(4)(ii) of this section; and

(iii) requires retirees to pay out–of–pocket limits equal to:

1. $1,500 for the retiree only; and

2. $2,000 for the retiree and the retiree's family.

§2–508.1.

(a) A former Governor of Maryland who began serving as Governor on or after January 21, 2015, may enroll and participate in the health insurance benefit options established under the Program if the former Governor:

(1) is at least 62 years old;

(2) is receiving a normal service retirement allowance under Division II of this article; or

(3) is receiving a disability retirement allowance under Division II of this article.

(b) The surviving spouse of a deceased Governor or former Governor may enroll and participate in the health insurance benefit options established under the Program as long as the spouse is receiving a periodic allowance under Division II of this article.

(c) A former Governor described in subsection (a)(1) or (2) of this section or the surviving spouse of a deceased Governor or former Governor is entitled to 1/16 of the State subsidy allowed a State employee for each year served as Governor.

(d) A former Governor described in subsection (a)(3) of this section or the surviving spouse of a deceased former Governor is entitled to the same State subsidy allowed a State employee.

§2–509.

(a) (1) This subsection applies to a retiree of an optional retirement program under Title 30 of this article who began service as an employee of the State in the Executive, Legislative, or Judicial Branch of government on or before June 30, 2011.

(2) (i) Subject to subparagraph (ii) of this paragraph, an individual may enroll and participate in the health insurance benefit options established under the Program if the individual retired under an optional program under Title 30 of this article and:

1. ended service with a State institution of higher education with at least 10 years of service and was at least age 57;

2. ended service with a State institution of higher education with at least 16 years of service; or

3. retired directly from and had at least 5 years of service with a State institution of higher education with a periodic distribution of benefits on or after July 1, 1984.

(ii) 1. For purposes of this subsection only, years of service shall

be calculated as follows:

A. except as provided in subsubparagraph 2 of this subparagraph, a year of service means a period of 12 months during which an employee was a participant in an optional retirement program under Title 30 of this article and the participant's employer made contributions to the participant's account in the Program; or

B. if an employee's work year is an academic year of at least 9 but less than 12 months, a year of service means a period equal to the academic year during which an employee was a participant in an optional retirement program under Title 30 of this article and the participant's employer made contributions to the participant's account in the Program.

2. To determine eligibility for health insurance benefits under this section, each year of service shall be multiplied by the participant's percentage of full–time employment for that year of service.

(iii) The surviving spouse or dependent child of a deceased individual who was eligible to enroll may enroll and participate in the health insurance benefit options established under the Program as long as the spouse or child is receiving a periodic distribution of benefits under an optional retirement program under Title 30 of this article.

(3) (i) An enrollee under this section who was in service with a State institution of higher education at the time of the retirement is entitled to the same State subsidy allowed a retiree under § 2–508(b)(4) of this subtitle. However, except as provided in subparagraph (ii) of this paragraph, the subsidy shall apply only to the costs of coverage for the enrollee and may not apply to any additional costs of coverage for the enrollee's spouse or children.

(ii) If the enrollee has 25 or more years of service as an employee of the State in the Executive, Legislative, or Judicial Branch of government, the enrollee or the enrollee's surviving spouse or dependent child is entitled to the same State subsidy allowed a retiree with 16 or more years of creditable service under § 2–508(b)(4)(i) of this subtitle.

(b) (1) This subsection applies to a retiree of an optional retirement program under Title 30 of this article who begins service as an employee of the State in the Executive, Legislative, or Judicial Branch of government on or after July 1, 2011.

(2) (i) Subject to subparagraph (ii) of this paragraph, an individual may enroll and participate in the health insurance benefit options established under the Program if the individual retired under an optional program under Title 30 of this article and:

1. ended service with a State institution of higher education with at least 10 years of service and was at least age 57;

2. ended service with a State institution of higher education with at least 25 years of service; or

3. retired directly from and had at least 10 years of service with a State institution of higher education with a periodic distribution of benefits on or after July 1, 2011.

(ii) 1. For purposes of this paragraph only, years of service shall be calculated as follows:

A. except as provided in subsubparagraph 2 of this subparagraph, a year of service means a period of 12 months during which an employee was a participant in an optional retirement program under Title 30 of this article and the participant's employer made contributions to the participant's account in the Program; or

B. if an employee's work year is an academic year of at least 9 but less than 12 months, a year of service means a period equal to the academic year during which an employee was a participant in an optional retirement program under Title 30 of this article and the participant's employer made contributions to the participant's account in the Program.

2. To determine eligibility for health insurance benefits under this section, each year of service shall be multiplied by the participant's percentage of full–time employment for that year of service.

(iii) The surviving spouse or dependent child of a deceased individual who was eligible to enroll may enroll and participate in the health insurance benefit options established under the Program as long as the spouse or child is receiving a periodic distribution of benefits under an optional retirement program under Title 30 of this article.

(3) (i) An enrollee under this subsection who was in service with a State institution of higher education at the time of the retirement is entitled to the same State subsidy allowed a retiree under § 2–508(c)(4) of this subtitle. However, except as provided in subparagraph (ii) of this paragraph, the subsidy shall apply only to the costs of coverage for the enrollee and may not apply to any additional costs of coverage for the enrollee's spouse or children.

(ii) If the enrollee has 25 or more years of service as an employee of the State in the Executive, Legislative, or Judicial Branch of government, the enrollee or the enrollee's surviving spouse or dependent child is entitled to the same State subsidy allowed a retiree with 25 or more years of creditable service under § 2–508(c)(4)(i) of this subtitle.

§2–509.1.

(a) Except as provided in subsection (b) of this section, the State shall continue

to include a prescription drug benefit plan in the health insurance benefit options established under the Program and available to retirees under §§ 2–508 and 2–509 of this subtitle notwithstanding the enactment of the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003 or any other federal law permitting states to discontinue prescription drug benefit plans to retirees of a state.

(b) The State shall discontinue prescription drug benefits for Medicare–eligible retirees in fiscal year 2020.

§2–510.

(a) This section applies only to former Baltimore City Jail employees, as described in § 23–201(a)(9) of this article.

(b) On retirement, a former Baltimore City Jail employee who elected to become a member of the State Retirement and Pension System may elect to enroll and participate in one of the following:

(1) the health insurance benefit options established under the Program, subject to the same terms and conditions as those provided for retirees under § 2–508 of this subtitle; or

(2) the Baltimore City Health Insurance Program for retirees, subject to the same terms and conditions as those provided for members of the Employees' Retirement System of the City of Baltimore.

(c) On retirement, a former Baltimore City Jail employee who elected to remain a member of the Employees' Retirement System of the City of Baltimore:

(1) shall receive from the City of Baltimore the same health insurance benefits granted to other members of the City's retirement system; and

(2) may not receive any health insurance benefits allowed a State retiree under the Program.

§2–511.

(a) This section applies to employees of:

(1) the Maryland Environmental Service;

(2) the Northeast Maryland Waste Disposal Authority;

(3) the Baltimore Metropolitan Council;

(4) the Maryland Automobile Insurance Fund; and

(5) the City of Hyattsville.

(b) Subject to the regulations adopted under § 2–503 of this subtitle, an employee or, while receiving an allowance under the Employees' Retirement System of the State of Maryland or the Employees' Pension System of the State of Maryland, an employee's surviving spouse:

(1) may enroll and participate in the health insurance or other benefit options established under the Program; and

(2) except as provided in subsection (d) of this section, is subject to the same terms and conditions as those provided under § 2–507 of this subtitle.

(c) While receiving an allowance under the Employees' Retirement System of the State of Maryland or the Employees' Pension System of the State of Maryland, a former employee or a former employee's surviving spouse or dependent child:

(1) may enroll and participate in the health insurance benefit options established under the Program; and

(2) except as provided in subsection (d) of this section, is subject to the same terms and conditions as those provided under § 2–508 of this subtitle, with the employee's service with the Maryland Environmental Service, Northeast Maryland Waste Disposal Authority, the Baltimore Metropolitan Council, the Maryland Automobile Insurance Fund, and the City of Hyattsville being included as part of the employee's State service.

(d) (1) (i) The State may charge the Maryland Environmental Service, the Northeast Maryland Waste Disposal Authority, the Baltimore Metropolitan Council, and the Maryland Automobile Insurance Fund, or any successor agency, the respective participant's total cost resulting from participation in the Program under this section.

(ii) The respective employer share of the cost of the Program under this paragraph shall be based on the State subsidy allowed under this subtitle.

(2) (i) The State may charge the City of Hyattsville the participant's total cost resulting from participation in the Program under this section.

(ii) The City of Hyattsville shall determine the extent to which the City will subsidize participation in the Program.

§2–512.

(a) In this section, "qualifying not-for-profit organization" means an organization that:

(1) (i) receives State funds from the Department of Health and Mental Hygiene that cover more than one-third of the organization's operating expenses; and

(ii) is:

1. described in § 501(c)(3) of the Internal Revenue Code; and

2. exempt from income tax under § 501(a) of the Internal Revenue Code;

(2) is the Legal Aid Bureau, Inc.; or

(3) is the Maryland Crime Victims' Resource Center.

(b) The Secretary shall adopt regulations for the enrollment and participation of employees of a qualifying not-for-profit organization to participate in the Program as a satellite organization.

(c) A qualifying not-for-profit organization that participates in the Program as a satellite organization shall:

(1) pay to the State:

(i) a premium in the amount determined by the Secretary; and

(ii) any costs, as determined by the Secretary, for the administration of this Program; and

(2) determine the extent to which the organization will subsidize participation by its employees in the Program.

§2–513.

(a) An employee of a county or municipal corporation may enroll and participate in the health insurance benefit options established under the Program with the approval of the governing body of the county or municipal corporation.

(b) The governing body of the county or municipal corporation shall:

(1) pay to the State the total costs resulting from the participation of its employees in the Program; and

(2) determine the extent to which the county or municipal corporation will subsidize participation by its employees in the Program.

§2–514.

(a) In addition to regular open enrollment periods, the Program shall provide special open enrollment for health insurance benefit options established under the Program for a nonparticipating State employee after the death of a spouse who was not a State employee.

(b) Evidence of insurability may not be required under this section if the State employee was covered under a group health insurance policy at the time of the death

of the employee's spouse.

§2–515.

(a) This section applies to the Tri-County Council for Southern Maryland, the Tri-County Council for Western Maryland, the Tri-County Council for the Lower Eastern Shore of Maryland, and the Mid-Shore Regional Council.

(b) An employee of a council subject to this section may enroll and participate in the health insurance benefit options established under the Program with the approval of the council.

(c) A council subject to this section shall:

(1) pay to the State the total costs resulting from the participation of its employees in the Program; and

(2) determine the extent to which the council will subsidize participation of its employees in the Program.

§2–515.1.

(a) This section applies to the Southern Maryland Regional Library, the Eastern Shore Regional Library, and the Western Maryland Regional Library.

(b) An employee of a regional library subject to this section may enroll and participate in the health insurance benefit options established under the Program with the approval of the library.

(c) A regional library subject to this section shall:

(1) pay to the State the total costs resulting from the participation of its employees in the Program; and

(2) determine the extent to which the regional library will subsidize participation of its employees in the Program.

§2–516.

(a) In this section, "Fund" means the State Employees and Retirees Health and Welfare Benefits Fund established under this section.

(b) (1) A special reserve fund is established to retain certain State revenues and State general and special funds for the purpose of funding the State Employee and Retiree Health and Welfare Benefits Program established under this subtitle.

(2) The Fund is a continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(3) The Treasurer shall separately hold and the Comptroller shall account for the Fund.

(4) (i) The Fund shall be invested and reinvested in the same manner as other State funds.

(ii) Any investment earnings shall be credited to the Fund.

(c) The Fund consists of moneys appropriated for State Employee and Retiree Health Insurance or authorized to be transferred to that purpose in the State budget.

(d) (1) Except as otherwise provided in this section, the Fund shall be retained in reserve and may not be spent for any purpose.

(2) Subject to the budget amendment procedure provided for in § 7–209 of the State Finance and Procurement Article, moneys credited to the Fund may be used only for the purpose of funding the State costs of the State Employee and Retiree Health and Welfare Benefits Program.

§2–517.

(a) In this section, "carrier" means:

(1) a health insurer;

(2) a nonprofit health service plan;

(3) a health maintenance organization; and

(4) a dental plan organization.

(b) This section does not apply to a fixed indemnity health insurance policy or contract if the premiums are paid solely by an individual.

(c) (1) A carrier shall provide, at the request of the Department, information about individuals who are eligible for benefits under the Program or are Program recipients so that the Department may determine whether the individual is receiving health care coverage from the carrier and the nature of that coverage.

(2) A carrier shall provide the information required under this subsection in a manner prescribed by the Department, in accordance with the standard data elements for standard transactions required under 42 U.S.C. § 1320d–4 as adopted by the Secretary of Health and Human Services.

(d) A carrier shall accept the Program's right of recovery and the assignment to the Program of any right of an individual or other entity to payment from the carrier for an item or service for which payment has been made under the Program if the carrier has a legal obligation to make payment for the item or service.

(e) A carrier may not reject, deny, limit, cancel, refuse to renew, increase the rates of, affect the terms or conditions of, or otherwise affect a health insurance policy or contract for a reason based wholly or partly on:

(1) the eligibility of an individual to receive benefits under the Program; or

(2) the receipt by an individual of benefits under the Program.

§2–601.

(a) Except as provided for in subsection (c)(2) of this section, a former nontemporary State employee who returns to State employment in a position in the State Personnel Management System within 3 years from separation is reinstated.

(b) A reinstated State employee shall have unused accumulated sick leave restored.

(c) (1) A former nontemporary employee who is reinstated in a position in the State Personnel Management System shall receive credit for time employed before separation for the purpose of determining the employee's:

(i) step in the pay grade applicable to the employee's class;

(ii) rate of annual leave accrual; and

(iii) seniority rights.

(2) A former nontemporary State employee who returns to a position in an independent personnel system in accordance with the reinstatement provisions of that system shall receive benefits allowed by that personnel system.

§2–701.

In this subtitle, "returning veteran":

(1) means an individual who left State employment to perform military service in the armed forces of the United States and who seeks reinstatement to State employment; and

(2) does not include an individual who left State employment while serving as a temporary employee.

§2–702.

This subtitle applies to all units in the Executive, Judicial, and Legislative branches of State government, including any unit with an independent personnel system.

§2–703.

(a) A returning veteran who was inducted into the armed forces is eligible for reinstatement under this subtitle if the veteran:

(1) performed military service of a nature and length that meet the requirements of the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. § 4301 et seq., and any subsequent federal law governing reemployment of a returning veteran;

(2) received a certificate of satisfactory completion of military service; and

(3) except as otherwise provided in § 2-704 of this subtitle, submits an application for reinstatement within 90 days after the veteran is discharged from that military service.

(b) A returning veteran who enlisted in the armed forces is eligible for reinstatement under this subtitle if the veteran:

(1) performed military service of a nature and length that meet the requirements of the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. § 4301 et seq., and any subsequent federal law governing reemployment of a returning veteran;

(2) was released from service under honorable conditions; and

(3) except as otherwise provided in § 2-704 of this subtitle, submits an application for reinstatement within 90 days after the end of the enlistment period.

(c) A returning veteran who was called to active military duty in the armed forces is eligible for reinstatement under this subtitle if the veteran:

(1) performed military service of a nature and length that meet the requirements of the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. § 4301 et seq., and any subsequent federal law governing reemployment of a returning veteran;

(2) was relieved from active duty under honorable conditions; and

(3) except as otherwise provided in § 2-704 of this subtitle, submits an application for reinstatement within 90 days after the veteran is relieved from that duty.

§2–704.

An otherwise eligible returning veteran who was hospitalized at the time of discharge, end of enlistment, or relief from active duty may apply for reinstatement if:

(1) the application is submitted within 90 days after the returning veteran is discharged from the hospital; and

(2) the hospitalization does not last more than 1 year from the date of discharge, end of enlistment, or relief from active duty.

§2–705.

(a) A returning veteran who meets the requirements of this subtitle shall be reinstated:

(1) to the class previously held by the returning veteran within the principal department or other independent unit in which the returning veteran had been employed; or

(2) to a position of equal responsibilities, qualifications, and rate of pay.

(b) If, because of a disability sustained during military service, a returning veteran is not qualified to perform the duties of the position that the veteran previously held, the returning veteran shall be reinstated to a position that:

(1) has duties that the veteran is qualified to perform; and

(2) provides the rate of pay, seniority, and status that are the same as or as similar as the circumstances of the case allow to those of the position previously held by the veteran.

(c) Subsections (a) and (b) of this section need not be implemented if the circumstances in State government have changed to the extent that implementation is impossible or unreasonable.

§2–706.

(a) A returning veteran who is reinstated under this subtitle is entitled to start at the salary and rate of leave accrual that the veteran would have attained if employment with this State had been continuous.

(b) In calculating seniority, status, and length of State employment of a returning veteran who is reinstated under this subtitle, the period from the day the veteran entered military service to the day that the veteran is reinstated shall be added to the period of the veteran's State employment.

(c) A returning veteran who is reinstated under this subtitle is entitled to:

(1) all benefits and privileges, including rate of pay, that result from the additional seniority and status credited under subsection (b) of this section;

(2) pension and retirement rights as determined under Title 38, Subtitle

1 of this article; and

(3) any service status that the veteran had when the veteran entered military service, with adjustments to reflect the additional seniority credited under subsection (b) of this section.

(d) A returning veteran who is reinstated to a position under this subtitle may not be discharged from that position within 1 year after reinstatement without substantial cause and, if the position is a skilled service or professional service position, with the exception of special appointments, only for the reasons and in the manner provided for skilled service or professional service employees.

§2–707.

(a) A member of a reserve component of the armed forces of the United States is eligible for the reinstatement rights and benefits specified in §§ 2–705 and 2–706(a), (b), and (c) of this subtitle if the reservist:

(1) performed active duty for training of a nature and length that meet the requirements for eligibility under Title 38 U.S.C. § 4301 et seq.;

(2) was released from that duty after satisfactory service; and

(3) except as provided in subsection (b) of this section, submits an application for reinstatement within 31 days after the reservist was released from that duty.

(b) An otherwise eligible member of a reserve component who was hospitalized at the time the reservist was scheduled to be released from active duty for training may apply for reinstatement if:

(1) the application is submitted within 31 days after the reservist is discharged from the hospital; and

(2) the hospitalization:

(i) is connected to the reservist's active duty for training; and

(ii) does not last more than 1 year from the date on which the reservist was scheduled to be released from that duty.

(c) A member of a reserve component who is reinstated to a position under this section may not be discharged from that position within 6 months after reinstatement without substantial cause and, if the position is a skilled service or professional service position, with the exception of special appointments, only for the reasons and in the manner provided for skilled service or professional service employees.

§2–801.

(a) This section applies to all units in the Executive, Judicial, and Legislative branches of State government, including any unit with an independent personnel system.

(b) An appointing authority may not hire an individual who has been terminated with prejudice from State service.

§3–101.

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

(b) "Board" means:

(1) with regard to any matter relating to employees of any of the units of State government described in § 3–102(a)(1)(i) through (iv) and (vi) through (ix) of this subtitle and employees described in § 3–102(a)(2) of this subtitle, the State Labor Relations Board; and

(2) with regard to any matter relating to employees of any State institution of higher education described in § 3–102(a)(1)(v) of this subtitle, the State Higher Education Labor Relations Board.

(c) "Collective bargaining" means:

(1) good faith negotiations by authorized representatives of employees and their employer with the intention of:

(i) 1. reaching an agreement about wages, hours, and other terms and conditions of employment; and

2. incorporating the terms of the agreement in a written memorandum of understanding or other written understanding; or

(ii) clarifying terms and conditions of employment;

(2) administration of terms and conditions of employment; or

(3) the voluntary adjustment of a dispute or disagreement between authorized representatives of employees and their employer that arises under a memorandum of understanding or other written understanding.

(d) "Employee organization" means a labor or other organization in which State employees participate and that has as one of its primary purposes representing employees.

(e) "Exclusive representative" means an employee organization that has been certified by the Board as an exclusive representative under Subtitle 4 of this title.

(f) "President" means:

(1) with regard to a constituent institution, as defined in § 12-101 of the Education Article, the president of the constituent institution;

(2) with regard to a center or institute, as those terms are defined in § 12-101 of the Education Article, the president of the center or institute;

(3) with regard to the University System of Maryland Office, the Chancellor of the University System of Maryland; and

(4) with regard to Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College, the president of the institution.

(g) "System institution" means:

(1) a constituent institution, as defined in § 12-101 of the Education Article;

(2) a center or institute, as those terms are defined in § 12-101 of the Education Article; and

(3) the University System of Maryland Office.

§3–102.

(a) Except as provided in this title or as otherwise provided by law, this title applies to:

(1) all employees of:

(i) the principal departments within the Executive Branch of State government;

(ii) the Maryland Insurance Administration;

(iii) the State Department of Assessments and Taxation;

(iv) the State Lottery and Gaming Control Agency;

(v) the University System of Maryland, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College;

(vi) the Comptroller;

(vii) the Maryland Transportation Authority who are not police officers;

(viii) the State Retirement Agency; and

(ix) the State Department of Education; and

(2) all full–time Maryland Transportation Authority police officers at the rank of first sergeant and below.

(b) This title does not apply to:

(1) employees of the Maryland Transit Administration, as that term is defined in § 7–601(a)(2) of the Transportation Article;

(2) an employee who is elected to the position by popular vote;

(3) an employee in a position by election or appointment that is provided for by the Maryland Constitution;

(4) an employee who is:

(i) a special appointment in the State Personnel Management System; or

(ii) 1. directly appointed by the Governor by an appointment that is not provided for by the Maryland Constitution;

2. appointed by or on the staff of the Governor or Lieutenant Governor; or

3. assigned to the Government House or the Governor's Office;

(5) an employee assigned to the Board or with access to records of the Board;

(6) an employee in:

(i) the executive service of the State Personnel Management System; or

(ii) a unit of the Executive Branch with an independent personnel system who is:

1. the chief administrator of the unit or a comparable position that is not excluded under item (3) of this subsection as a constitutional or elected office; or

2. a deputy or assistant administrator of the unit or a comparable position;

(7) (i) a temporary or contractual employee in the State Personnel Management System; or

(ii) a contractual, temporary, or emergency employee in a unit of the Executive Branch with an independent personnel system;

(8) an employee who is entitled to participate in collective bargaining under another law;

(9) an employee of the University System of Maryland, Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College who is:

(i) a chief administrator or in a comparable position;

(ii) a deputy, associate, or assistant administrator or in a comparable position;

(iii) a member of the faculty, including a faculty librarian;

(iv) a student employee, including a teaching assistant or a comparable position, fellow, or post doctoral intern;

(v) a contingent, contractual, temporary, or emergency employee;

(vi) a contingent, contractual, or temporary employee whose position is funded through a research or service grant or contract, or through clinical revenues; or

(vii) an employee whose regular place of employment is outside the State of Maryland;

(10) an employee whose participation in a labor organization would be contrary to the State's ethics laws;

(11) any supervisory, managerial, or confidential employee of a unit of State government listed in subsection (a)(1)(i) through (iv) and (vi) through (ix) of this section, as defined in regulations adopted by the Secretary;

(12) any supervisory, managerial, or confidential employee of a State institution of higher education listed in subsection (a)(1)(v) of this section, as defined in regulations adopted by the governing board of the institution; or

(13) any employee described in subsection (a)(2) of this section who is a supervisory, managerial, or confidential employee, as defined in regulations adopted by the Secretary.

§3–103.

This title and any agreement under this title do not limit or otherwise interfere with the powers of the Governor or the Maryland General Assembly under Article III,

§ 52 of the Maryland Constitution.

§3–201.

There is a State Labor Relations Board established as an independent unit of State government.

§3–202.

(a) The Board consists of the following five members:

(1) one member appointed by the Governor with the advice and consent of the Senate representing the public, who:

(i) is not an officer or employee of the State or a State employee organization; and

(ii) is not an elected official of the State or a State employee organization;

(2) two members with knowledge of labor issues chosen from a list of candidates submitted by each exclusive representative, appointed by the Governor with the advice and consent of the Senate, who:

(i) are not officers or employees of the State or a State employee organization; and

(ii) are known for objective and independent judgment; and

(3) two members of the business community, appointed by the Governor with the advice and consent of the Senate, who:

(i) are not officers or employees of the State or a State employee organization; and

(ii) are known for objective and independent judgment.

(b) Before taking office, each member shall take the oath required by Article I, § 9 of the Maryland Constitution.

(c) From among its members, the Board shall elect a chairman.

(d) (1) The term of a member is 6 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on July 1, 2006.

(3) A vacancy shall be filled for an unexpired term in the same manner as an original appointment.

(4) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(5) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(e) The Governor may remove a member only for incompetence or misconduct.

(f) In making appointments to the Board, the Governor shall ensure, to the extent practicable, that:

(1) the ratio of male to female members and the racial makeup of the Board is reflective of the general population of the State; and

(2) each major geographic area of the State is represented on the Board.

§3–203.

(a) (1) A majority of the voting members shall constitute a quorum for:

(i) the transaction of any business; or

(ii) the exercise of any power or the performance of any duty authorized or imposed by law.

(2) No formal action may be taken by the Board without the approval of a majority of the voting members of the Board.

(b) The Board shall set the times and places of its meetings.

(c) An appointed member of the Board is entitled to:

(1) the compensation provided in the State budget; and

(2) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§3–204.

(a) (1) The State Labor Relations Board, the Public School Labor Relations Board, and the State Higher Education Labor Relations Board jointly shall appoint an Executive Director of the boards.

(2) The Executive Director:

(i) is responsible to and serves at the pleasure of the boards; and

(ii) is entitled to the salary provided in the State budget.

(b) The Executive Director shall perform the duties that the boards assign, including:

(1) operating the office of the boards; and

(2) keeping the official records of the boards.

(c) The Executive Director may hire any staff necessary to carry out the provisions of this subtitle.

(d) (1) With approval of the boards, the Executive Director may employ professional consultants.

(2) Each professional consultant serves at the pleasure of the Executive Director.

§3–205.

(a) The Board is responsible for administering and enforcing provisions of this title relating to employees described in § 3–102(a)(1)(i) through (iv) and (vi) through (ix) and (2) of this title.

(b) In addition to any other powers or duties provided for elsewhere in this title, the Board may:

(1) (i) establish guidelines for creating new bargaining units that include a consideration of:

1. the effect of overfragmentation on the employer;

2. the administrative structures of the State employer;

3. the recommendations of the parties;

4. the recommendations of the Executive Director;

5. the desires of the employees involved;

6. the communities of interest of the employees involved; and

7. the wages, hours, and other working conditions of the employees;

(ii) establish standards for determining an appropriate bargaining unit; and

(iii) investigate and resolve disputes about appropriate bargaining units;

(2) establish procedures for, supervise the conduct of, and resolve disputes about elections for exclusive representatives; and

(3) investigate and take appropriate action in response to complaints of unfair labor practices and lockouts.

(c) (1) The Board may not designate a unique bargaining unit for each of the units of government identified in § 3–102(a)(1)(vi) through (ix) of this title.

(2) At the request of the exclusive representative, the Board shall:

(i) determine the appropriate existing bargaining unit into which to assign each employee in the units of government identified in § 3–102(a)(1)(vi) through (ix) of this title; and

(ii) accrete all positions to appropriate existing bargaining units.

(3) (i) Notwithstanding Subtitle 4 of this title, at the request of the exclusive representative, the Board shall conduct a self–determination election for each bargaining unit representative for the accreted employees in units of government identified in § 3–102(a)(1)(vi) through (ix) of this title.

(ii) All elections shall be conducted by secret ballot.

(iii) For each election, the Board shall place the following choices on the ballot:

1. the name of the incumbent exclusive representative; and

2. a provision for "no exclusive representative".

§3–206.

The Board shall adopt and enforce regulations, guidelines, and policies to carry out this title, including establishing permissible labor-related activities on the work site.

§3–207.

(a) The Board shall investigate:

(1) a possible violation of this title or any regulation adopted under it; and

(2) any other relevant matter.

(b) The Board may hold a hearing in accordance with Title 10, Subtitle 2 of the State Government Article whenever necessary for a fair determination of any issue or complaint arising under this title or a regulation adopted under it.

§3–208.

(a) On written request of an exclusive representative, for each employee in the bargaining unit represented by the exclusive representative, the Department shall provide the exclusive representative with the employee's:

(1) name;

(2) position classification;

(3) unit;

(4) home and work site addresses where the employee receives interoffice or United States mail; and

(5) home and work site telephone numbers.

(b) An exclusive representative may present a request for employee information, as provided under subsection (a) of this section, twice every calendar year.

(c) Names or lists of employees provided to the Board in connection with an election under this title are not subject to disclosure in accordance with Title 4 of the General Provisions Article.

(d) (1) Thirty days before providing an employee's name, addresses, telephone numbers, and work information to an exclusive representative, the employer shall notify the employee of the provisions of this section.

(2) The employee may, within 15 days of the employer's notice under paragraph (1) of this subsection, notify the employer that the employee does not want the employee's name, addresses, telephone numbers, or work information to be provided to an exclusive representative.

(3) If an employee provides timely notification to the employer under paragraph (2) of this subsection, the employer may not provide the employee's name, addresses, telephone numbers, or work information.

(4) The notification of an employee to the employer under paragraph (2) of this subsection shall remain in effect until the employee otherwise notifies the employer.

(e) An incumbent exclusive representative for a bargaining unit that is the subject of an election under § 3-405 of this title may not request or receive any employee information as provided under subsections (a) and (b) of this section.

(f) An employer may charge an exclusive representative a fee not to exceed the actual cost of providing a list of employees' names, addresses, telephone numbers, and work information to the exclusive representative.

(g) (1) Except as provided in paragraph (2) of this subsection, an exclusive representative shall consider the information that it receives under this section as confidential and may not release the information to any person.

(2) An exclusive representative may authorize third party contractors to use the information that it receives under this section, as directed by the exclusive representative, to carry out the exclusive representative's statutory duties under this title.

(h) (1) An exclusive representative may not use the information that it receives under this section for the purpose of increasing employee membership in an employee organization.

(2) An exclusive representative may use the information that it receives under this section only to carry out its statutory duties under this title.

§3–209.

(a) If a person fails to comply with an order issued by the Board, a member of the Board may petition the circuit court to order the person to comply with the Board's order.

(b) The Board shall not be required to post bond in an action under subsection (a) of this section.

§3–2A–01.

There is a State Higher Education Labor Relations Board established as an independent unit of State government.

§3–2A–02.

(a) The Board consists of the following five members:

(1) four members with expertise in higher education, appointed by the Governor with the advice and consent of the Senate from a list provided by the Maryland Higher Education Commission:

(i) who are not officers or employees of a State institution of higher education or an employee organization;

(ii) who are known for objective and independent judgment; and

(iii) two of whom have knowledge of labor issues; and

(2) one member of the general public, appointed by the Governor with the advice and consent of the Senate from a list provided by the Maryland Higher Education Commission, who is known for objective and independent judgment.

(b) Before taking office, each member shall take the oath required by Article I, § 9 of the Maryland Constitution.

(c) With the advice of the governing boards of State institutions of higher education, the Governor shall designate a chairman from among the members of the Board.

(d) (1) The term of a member is 6 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on July 1, 2001.

(3) A vacancy shall be filled for an unexpired term in the same manner as an original appointment.

(4) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(5) A member who is appointed after a term has begun serves only for the remainder of the term and until a successor is appointed and qualifies.

(e) The Governor may remove a member for incompetence or misconduct.

(f) In making appointments to the Board, the Governor shall ensure, to the extent practicable, that:

(1) the ratio of male to female members and the racial makeup of the Board is reflective of the general population of the State; and

(2) each major geographic area of the State is represented on the Board.

§3–2A–03.

(a) (1) A majority of the voting members shall constitute a quorum for:

(i) the transaction of any business; or

(ii) the exercise of any power or the performance of any duty authorized or imposed by law.

(2) No formal action may be taken by the Board without the approval of a majority of the voting members of the Board.

(b) The Board shall set the times and places of its meetings.

(c) A member of the Board is entitled to:

(1) the compensation provided in the State budget; and

(2) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§3–2A–04.

(a) (1) The State Higher Education Labor Relations Board and the State Labor Relations Board jointly shall appoint an Executive Director of the boards.

(2) The Executive Director:

(i) is responsible to and serves at the pleasure of the boards; and

(ii) is entitled to the salary provided in the State budget.

(b) The Executive Director shall perform the duties that the boards assign, including:

(1) operating the office of the boards; and

(2) keeping the official records of the boards.

(c) The Executive Director may hire any staff necessary to carry out the provisions of this subtitle.

(d) (1) With approval of the boards, the Executive Director may employ professional consultants.

(2) Each professional consultant serves at the pleasure of the Executive Director.

§3–2A–05.

(a) The Board is responsible for administering and enforcing provisions of this title relating to employees described in § 3–102(a)(1)(v) of this title.

(b) In addition to any other powers or duties provided for elsewhere in this title, the Board may:

(1) establish procedures for, supervise the conduct of, and resolve disputes about elections for exclusive representatives; and

(2) investigate and take appropriate action in response to complaints of unfair labor practices and lockouts.

§3–2A–06.

The Board shall adopt and enforce regulations, guidelines, and policies to carry out this title, including establishing permissible labor-related activities on the work site.

§3–2A–07.

(a) The Board may investigate:

(1) a possible violation of this title or any regulation adopted under it; and

(2) any other relevant matter.

(b) The Board may hold a hearing in accordance with Title 10, Subtitle 2 of the State Government Article whenever necessary for a fair determination of any issue or complaint arising under this title or a regulation adopted under it.

§3–2A–08.

(a) On written request of an exclusive representative, for each employee in the bargaining unit represented by the exclusive representative, the University System of Maryland system institutions, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College shall provide the exclusive representative with the employee's:

(1) name;

(2) position classification;

(3) unit;

(4) home and work site addresses where the employee receives interoffice or United States mail; and

(5) home and work site telephone numbers.

(b) An exclusive representative may present a request for employee information, as provided under subsection (a) of this section, twice every calendar year.

(c) Names or lists of employees provided to the Board in connection with an election under this title are not subject to disclosure in accordance with Title 4 of the General Provisions Article.

(d) (1) Thirty days before providing an employee's name, addresses, telephone numbers, and work information to an exclusive representative, the employer shall notify the employee of the provisions of this section.

(2) The employee may, within 15 days of the employer's notice under paragraph (1) of this subsection, notify the employer that the employee does not want the employee's name, addresses, telephone numbers, or work information to be provided to an exclusive representative.

(3) If an employee provides timely notification to the employer under paragraph (2) of this subsection, the employer may not provide the employee's name,

addresses, telephone numbers, or work information.

(4) The notification of an employee to the employer under paragraph (2) of this subsection shall remain in effect until the employee otherwise notifies the employer.

(e) An incumbent exclusive representative for a bargaining unit that is the subject of an election under § 3–405 of this title may not request or receive any employee information as provided under subsections (a) and (b) of this section.

(f) An employer may charge an exclusive representative a fee not to exceed the actual cost of providing a list of employees' names, addresses, telephone numbers, and work information to the exclusive representative.

(g) (1) Except as provided in paragraph (2) of this subsection, an exclusive representative shall consider the information that it receives under this section as confidential and may not release the information to any person.

(2) An exclusive representative may authorize third party contractors to use the information that it receives under this section, as directed by the exclusive representative, to carry out the exclusive representative's statutory duties under this title.

(h) (1) An exclusive representative may not use the information that it receives under this section for the purpose of increasing employee membership in an employee organization.

(2) An exclusive representative may use the information that it receives under this section only to carry out its statutory duties under this title.

§3–2A–09.

(a) If a person fails to comply with an order issued by the Board, a member of the Board may petition the circuit court to order the person to comply with the Board's order.

(b) The Board shall not be required to post bond in an action under subsection (a) of this section.

§3–301.

(a) Employees subject to this title have the right to:

(1) take part or refrain from taking part in forming, joining, supporting, or participating in any employee organization or its lawful activities;

(2) be fairly represented by their exclusive representative, if any, in collective bargaining; and

(3) except as provided in §§ 3-303 and 3-305 of this subtitle, engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) An employee who is a member of a bargaining unit with an exclusive representative may, without the intervention of an employee organization, discuss any matter with the employer.

§3–302.

The State, through its appropriate officers and employees, has the right to:

(1) (i) determine the mission, budget, organization, numbers, types and grades of employees assigned, the work projects, tours of duty, methods, means, and personnel by which its operations are to be conducted, technology needed, internal security practices, and relocation of its facilities; and

(ii) maintain and improve the efficiency and effectiveness of governmental operations;

(2) determine the:

(i) services to be rendered, operations to be performed, and technology to be utilized; and

(ii) overall methods, processes, means, and classes of work or personnel by which governmental operations are to be conducted;

(3) hire, direct, supervise, and assign employees;

(4) (i) promote, demote, discipline, discharge, retain, and lay off employees; and

(ii) terminate employment because of lack of funds, lack of work, under conditions where the employer determines continued work would be inefficient or nonproductive, or for other legitimate reasons;

(5) set the qualifications of employees for appointment and promotion, and set standards of conduct;

(6) promulgate State or Department rules, regulations, or procedures;

(7) provide a system of merit employment according to the standard of business efficiency; and

(8) take actions, not otherwise specified in this section to carry out the mission of the employer.

§3–303.

(a) (1) In this section, "strike" means any concerted action to impede the full and proper performance of employment duties in order to induce, influence, coerce, or enforce demands for a change in wages, hours, terms, or other conditions of employment.

(2) "Strike" includes a total or partial:

(i) refusal or failure to report to work;

(ii) refusal or failure to perform employment duties;

(iii) withdrawal from work;

(iv) work stoppage; or

(v) work slowdown.

(b) State employees are prohibited from engaging in any strike.

(c) An appointing authority may take disciplinary action, including termination of employment, against an employee who participates in a strike.

(d) The Board shall revoke the certification of an exclusive representative who engages in any strike activity in violation of this section.

§3–304.

(a) In this section, "lockout" means action taken by an employer to:

(1) interrupt or prevent the continuity of the employees' usual work for the purpose and with the intent of coercing the employees into relinquishing rights guaranteed by this title; or

(2) bring economic pressure on employees for the purpose of securing the agreement of their exclusive representative to certain collective bargaining agreement terms.

(b) The State is prohibited from engaging in any lockout.

§3–305.

(a) In the event a strike occurs or appears imminent, the State may petition the circuit court for appropriate relief, including injunction.

(b) In the event a lockout occurs or appears imminent, the employee organization involved may petition the circuit court for appropriate relief, including injunction.

§3–306.

(a) The State and its officers, employees, agents, or representatives are prohibited from engaging in any unfair labor practice, including:

(1) interfering with, restraining, or coercing employees in the exercise of their rights under this title;

(2) dominating, interfering with, contributing financial or other support to, or assisting in the formation, existence, or administration of any labor organization;

(3) granting administrative leave to employees to attend employer sponsored or supported meetings or events relating to an election under § 3-405 of this title, unless the employer grants employees at least the same amount of administrative leave to attend labor organization sponsored or supported meetings or employee meetings;

(4) discriminating in hiring, tenure, or any term or condition of employment to encourage or discourage membership in an employee organization;

(5) discharging or discriminating against an employee because of the signing or filing of an affidavit, petition, or complaint, or giving information or testimony in connection with matters under this subtitle;

(6) failing to provide all employee organizations involved in an election the same rights of access as prescribed by the Board through regulation;

(7) engaging in surveillance of union activities;

(8) refusing to bargain in good faith; or

(9) engaging in a lockout.

(b) Employee organizations and their agents or representatives are prohibited from engaging in any unfair labor practice, including:

(1) interfering with, restraining, or coercing employees in the exercise of their rights under this title;

(2) causing or attempting to cause an employer to discriminate in hiring, tenure, or any term or condition of employment to encourage or discourage membership in an employee organization;

(3) engaging in, inducing, or encouraging any person to engage in a strike, as defined in § 3-303(a) of this subtitle;

(4) interfering with the statutory duties of the State or an employer;

(5) refusing to bargain in good faith; or

(6) not fairly representing employees in collective bargaining or in any other matter in which the employee organization has the duty of fair representation.

§3–401.

(a) Except as otherwise provided in this subtitle, the Board shall conduct an election for an exclusive representative of a bargaining unit if:

(1) a valid petition is filed in accordance with § 3-402 of this subtitle; and

(2) the bargaining unit involved in the petition is determined to be an appropriate bargaining unit under § 3-403 of this subtitle.

(b) The Board may not conduct an election for an exclusive representative of a bargaining unit if the Board has conducted an election or certified an exclusive representative for that bargaining unit within the preceding 2 years.

§3–402.

(a) A petition for the election of an exclusive representative of a bargaining unit may be filed with the Board by:

(1) an employee organization seeking certification as an exclusive representative; or

(2) an employee, a group of employees, or an employee organization seeking a new election to determine an exclusive representative.

(b) A petition shall:

(1) contain the information the Board requires; and

(2) be accompanied by a showing of interest supported by 30% of the employees in the appropriate unit indicating their desire to be exclusively represented by the petitioner for the purpose of collective bargaining.

§3–403.

(a) (1) Except as otherwise provided in this title, the Board shall determine the appropriateness of each bargaining unit.

(2) If there is no dispute about the appropriateness of the establishment of the bargaining unit, the Board shall issue an order defining an appropriate bargaining unit.

(3) If there is a dispute about the appropriateness of the establishment of the bargaining unit, the Board shall:

(i) conduct a hearing; and

(ii) issue an order defining an appropriate bargaining unit.

(b) If the appropriate bargaining unit as determined by the Board differs from the bargaining unit described in the petition, the Board may:

(1) dismiss the petition; or

(2) direct an election in the appropriate bargaining unit if the signatures included in the petition include those of at least 30% of the employees in the appropriate bargaining unit.

(c) A bargaining unit shall consist only of employees defined in regulations adopted by the Secretary and not specifically excluded by § 3-102(b) of this title.

(d) (1) Each system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College shall have separate bargaining units.

(2) The presidents of the system institutions may agree to cooperate for the purpose of collective bargaining:

(i) before the election of exclusive representatives; or

(ii) after the certification of exclusive representatives under § 3-406(a) of this subtitle.

(3) Appropriate bargaining units shall consist of:

(i) all eligible nonexempt employees, as described in the federal Fair Labor Standards Act, except eligible sworn police officers;

(ii) all eligible exempt employees, as described in the federal Fair Labor Standards Act; and

(iii) all eligible sworn police officers.

(e) (1) Except as provided in paragraph (2) of this subsection, the Secretary or the Secretary's designee shall have the authority to assign classification titles and positions to bargaining units as appropriate.

(2) The following individuals and entities shall assign classification titles and positions to bargaining units at the following institutions:

(i) at a system institution, the President of the system institution; and

(ii) at Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College, the governing board of the institution.

(f) Notwithstanding any other provision of law, Maryland Transportation Authority police officers at the rank of first sergeant and below shall have a separate bargaining unit.

§3–404.

Each employee organization that seeks certification as an exclusive representative shall file with the Board:

(1) a copy of the employee organization's governing documents, which:

(i) give individual members the right to participate in activities of the organization;

(ii) require periodic elections by secret ballot that are conducted with recognized safeguards to ensure the equal rights of all members to nominate, seek office, and vote in the elections;

(iii) direct full and accurate accounting of all income and expenses using standard accounting methods; and

(iv) require an annual report that is made available to all members of the appropriate bargaining unit; and

(2) a certification that the organization:

(i) accepts members without regard to any factor in § 2-302(b) of this article; and

(ii) will deny membership only to an employee for a reason that is acceptable to the Board.

§3–405.

(a) (1) Within 5 days of determination that a valid petition has been submitted, the Board shall notify interested employee organizations of the pending election petition.

(2) Within 10 days of determination that a valid petition has been submitted under § 3-402 of this subtitle or subsection (c)(2)(iii) of this section, the Department shall make available to all interested employee organizations reasonable and equivalent means to communicate by mail and in person with each employee in the appropriate bargaining unit for the purpose of soliciting the employee's vote in an election held under this section.

(b) An election shall be held in any unit within 90 days after the filing of a valid petition for election in such unit in accordance with guidelines established by the Board.

(c) (1) All elections shall be conducted by secret ballot.

(2) The Board shall place the following choices on the ballot:

(i) the name of the exclusive representative, if any;

(ii) the name of the employee organization designated in the petition filed under § 3-402 of this subtitle with respect to an appropriate bargaining unit;

(iii) the name of each employee organization designated in a petition filed with the Board, within 15 days of notice of the pending election petition, that includes the signatures of at least 10% of the employees in the appropriate bargaining unit; and

(iv) a provision for "no exclusive representative".

(d) If none of the choices on a ballot receives a majority of the votes cast in an election, the Board shall conduct a runoff election between the choices that received the two highest number of votes in the election.

§3–406.

(a) The Board shall certify as exclusive representative the employee organization receiving the votes in an election from a majority of the employees voting in the election.

(b) After notice and an opportunity for a hearing, the Board may deny or revoke certification as exclusive representative of an employee organization for willful failure to comply with:

(1) this title; or

(2) the governing documents of the organization.

§3–407.

An employee organization certified as the exclusive representative shall:

(1) serve as the sole and exclusive bargaining agent for all employees in the bargaining unit;

(2) represent fairly and without discrimination all employees in the bargaining unit, whether or not the employees are members of the employee organization or are paying dues or other contributions to it or participating in its affairs; and

(3) promptly file with the Board all changes and amendments to the organization's governing documents.

§3–501.

(a) (1) The following individuals or entities shall designate one or more representatives to participate as a party in collective bargaining on behalf of the State or the following institutions:

(i) on behalf of the State, the Governor;

(ii) on behalf of a system institution, the president of the system institution; and

(iii) on behalf of Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College, the governing board of the institution.

(2) The exclusive representative shall designate one or more representatives to participate as a party in collective bargaining on behalf of the exclusive representative.

(b) The parties shall meet at reasonable times and engage in collective bargaining in good faith to conclude a written memorandum of understanding or other written understanding as defined under § 3-101(c)(1)(ii) of this title.

(c) (1) The parties shall make every reasonable effort to conclude negotiations in a timely manner for inclusion by the principal unit in its budget request to the Governor.

(2) (i) The parties shall conclude negotiations before January 1 for any item requiring an appropriation of funds for the fiscal year that begins on the following July 1.

(ii) In the budget bill submitted to the General Assembly, the Governor shall include any amounts in the budgets of the principal units required to accommodate any additional cost resulting from the negotiations, including the actuarial impact of any legislative changes to any of the State pension or retirement systems that are required, as a result of the negotiations, for the fiscal year beginning the following July 1 if the legislative changes have been negotiated to become effective in that fiscal year.

(3) (i) If the parties do not conclude negotiations for the next fiscal year before October 25, either party may request that a fact finder be employed to resolve the issues.

(ii) The fact finder shall be employed no later than November 1.

(iii) A fact finder shall be a neutral party appointed by alternate striking from a list by the parties provided:

1. by the Federal Mediation and Conciliation Service; or

2. under the Labor Arbitration Rules of the American Arbitration Association.

(iv) The fact finder:

1. may give notice and hold hearings in accordance with the Administrative Procedure Act;

2. may administer oaths and take testimony and other evidence;

3. may issue subpoenas; and

4. before November 20, shall make written recommendations regarding wages, hours, and working conditions, and any other terms or conditions of employment that may be in dispute.

(v) The written recommendations of the fact finder shall be delivered to the Governor, the exclusive representative, the President of the Senate, and the Speaker of the House of Delegates by the Secretary on or before December 1.

(d) (1) A memorandum of understanding that incorporates all matters of agreement reached by the parties shall be executed by the exclusive representative and:

(i) for a memorandum of understanding relating to the State, the Governor or the Governor's designee;

(ii) for a memorandum of understanding relating to a system institution, the president of the system institution or the president's designee; and

(iii) for a memorandum of understanding relating to Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College, the governing board of the institution or the governing board's designee.

(2) To the extent these matters require legislative approval or the appropriation of funds, the matters shall be recommended to the General Assembly for approval or for the appropriation of funds.

(3) To the extent matters involving a State institution of higher education require legislative approval, the legislation shall be recommended to the Governor for submission to the General Assembly.

(e) Negotiations for a memorandum of understanding shall be considered closed sessions under § 3–305 of the General Provisions Article.

(f) (1) The terms of a memorandum of understanding executed by the Governor or the Governor's designee and an exclusive representative of a bargaining unit for skilled service or professional service employees in the State Personnel Management System are not applicable to employees of a State institution of higher education.

(2) The terms of a memorandum of understanding executed by a president of a system institution or the governing board of Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College, or their respective designees, and the exclusive representative of a bargaining unit for employees of a State institution of higher education are not applicable to skilled service or professional service employees in the State Personnel Management System.

§3–502.

(a) Collective bargaining shall include all matters relating to wages, hours, and other terms and conditions of employment.

(b) (1) Collective bargaining may include negotiations relating to the right of an employee organization to receive service fees from nonmembers.

(2) An employee whose religious beliefs are opposed to joining or financially supporting any collective bargaining organization is:

(i) not required to pay a service fee; and

(ii) required to pay an amount of money as determined in collective bargaining negotiations, not to exceed any service fee negotiated under paragraph (1) of this subsection, to any charitable organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code and to furnish written proof of the payment to:

1. A. the Department; or

B. in the case of an employee of an institution of higher education specified in § 3–102(a)(1)(v) of this title, the President of the institution or the President's designee; and

2. the exclusive representative.

(c) Notwithstanding subsection (a) of this section, the representatives of the State, a system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College:

(1) shall not be required to negotiate over any matter that is inconsistent with applicable law; and

(2) may negotiate and reach agreement with regard to any such matter only if it is understood that the agreement with respect to such matter cannot become

effective unless the applicable law is amended by the General Assembly.

§3–601.

(a) (1) A memorandum of understanding shall contain all matters of agreement reached in the collective bargaining process.

(2) The memorandum shall be in writing and signed by the exclusive representative involved in the collective bargaining negotiations and:

(i) for a memorandum of understanding relating to the State, the Governor or the Governor's designee;

(ii) for a memorandum of understanding relating to a system institution, the president of the system institution or the president's designee; and

(iii) for a memorandum of understanding relating to Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College, the governing board of the institution or the governing board's designee.

(b) No memorandum of understanding is valid if it extends for less than 1 year or for more than 3 years.

(c) (1) Except as provided in paragraph (2) of this subsection, a memorandum of understanding is not effective until it is ratified by the Governor and a majority of the votes cast by the employees in the bargaining unit.

(2) In the case of a State institution of higher education, a memorandum of understanding is not effective until it is ratified by the institution's governing board and a majority of the votes cast by the employees in the bargaining unit.

§3–602.

The president of a system institution may elect to terminate a cooperation agreement with another system institution, entered into for the purpose of collective bargaining with exclusive representatives, effective on the termination date of the memorandum of understanding between the exclusive representatives and the system institutions that are parties to the cooperation agreement.

§4–103.

(a) The Secretary shall carry out those provisions of this Division I that are subject to the authority of the Secretary.

(b) The Secretary is responsible for the operation of the Department and shall establish guidelines and procedures to promote the orderly and efficient administration of the Department. The Secretary may establish, reorganize, or abolish areas of responsibility in the Department as necessary to fulfill effectively the duties

assigned to the Secretary.

(c) The Secretary is responsible for establishing policy to be followed by the units in the Department.

§4–106.

(a) To carry out those provisions of this Division I that are subject to the authority of the Secretary, the Secretary may adopt regulations, guidelines, or policies.

(b) After consultation with the Office of Administrative Hearings, the Secretary shall adopt regulations governing peer review panels, that include procedures for a principal unit to establish peer review panels as an alternative mechanism for dispute resolution under Titles 11 and 12 of this article.

§4–107.

For efficiency and economy in State government, the Secretary shall:

(1) conduct reviews of positions in the State Personnel Management System; and

(2) recommend to the appointing authority a plan of reorganization, reassignment, or elimination of the positions reviewed.

§4–108.

(a) As to matters subject to the authority of the Secretary, the Secretary periodically shall conduct investigations and, as necessary, visits to various units to determine:

(1) the enforcement and effect of this Division I and the regulations adopted under it;

(2) the conduct of employees in the State Personnel Management System;

(3) the nature, tenure, and compensation of all positions in the State Personnel Management System;

(4) the appropriateness of position classifications by appointing authorities;

(5) whether the duties performed by an employee conform to the duties listed for that employee's class;

(6) the methods of administration of the State Personnel Management System; and

(7) any other information that might help the Secretary to administer this

Division I.

(b) In conducting an investigation under this section, the Secretary may require any employee in the State Personnel Management System to appear before the Secretary or the Secretary's designee and give evidence.

§4–109.

(a) As part of any investigation or hearing under this Division I, the Secretary or the person that the Secretary designates to conduct the investigation or hearing may administer oaths, take testimony and other evidence, and subpoena any person or any relevant document.

(b) If a person fails to comply with a subpoena or refuses to be sworn or to testify, then, on complaint of the Secretary, a circuit court may order the person to comply with the subpoena, to be sworn, or to testify.

§4–201.

(a) This section does not apply to those units of State government with an independent personnel system.

(b) In the State Personnel Management System the Secretary shall:

(1) establish classes;

(2) assign a rate of pay to each class;

(3) ensure that each class comprises one or more positions:

(i) that are similar in their duties and responsibilities;

(ii) that are similar in the general qualifications required to perform those duties and responsibilities;

(iii) to which the same standards and, if required, tests of fitness can be applied; and

(iv) to which the same rates of pay can be applied;

(4) give each class a descriptive classification title;

(5) prepare a description of each class; and

(6) (i) create additional classes; and

(ii) abolish, combine, or modify existing classes.

(c) The Secretary shall:

(1) assign a class to the skilled service, professional service, management service, or executive service, as appropriate; and

(2) designate special appointment positions in the State Personnel Management System that:

(i) must be filled without regard to political affiliation, belief, or opinion; or

(ii) in accordance with § 6–405(b) of this article, may be filled with regard to political affiliation, belief, or opinion.

§4–202.

The Secretary shall:

(1) classify skilled service positions, professional service positions, management service positions, and executive service positions;

(2) establish standards and general procedures to be used to classify positions in the skilled service, professional service, management service, and executive service; and

(3) provide advice and guidance on the use of those standards and procedures.

§4–203.

(a) (1) The Secretary may delegate authority to the head of a principal unit to classify positions for the principal unit in accordance with standards and procedures established by the Secretary in accordance with § 4–202(2) of this subtitle.

(2) If the Secretary delegates classification authority to the head of a principal unit under paragraph (1) of this subsection, the head of the principal unit shall:

(i) submit for the Secretary's approval a position classification plan for classifying positions in the principal unit that are in the skilled service, professional service, and management service; and

(ii) classify skilled service positions, professional service positions, and management service positions in the principal unit in accordance with the approved classification plan.

(b) (1) Each employee in a position shall assume the classification title given the class to which that position belongs.

(2) The Secretary, the Comptroller, and the Treasurer shall use these

classification titles in all relevant records and communications.

(c) To ensure that positions in the State Personnel Management System are classified properly, the Secretary:

(1) shall conduct position classification audits at least once every 3 years for any classification activity performed in accordance with subsection (a)(2) of this section; and

(2) may conduct operational audits of classification practices and records in principal units at least once every 3 years.

§4–204.

(a) The Secretary may:

(1) classify positions in a unit when, in the Secretary's judgment, it is necessary to preserve the integrity of the classification system; and

(2) order the head of a principal unit to:

(i) take appropriate action to properly classify a position or take other appropriate action to comply with a position classification audit; or

(ii) modify the unit's classification practices to comply with the findings of an operational audit.

(b) (1) The Secretary shall determine the effective dates for newly created or modified classes, position classification plans, and classification standards and procedures.

(2) The Secretary shall adopt regulations to provide for effective dates of position reclassifications.

§4–205.

If there is a material change in the duties of a position, the Secretary shall abolish the position and create a new position in its place.

§4–301.

On or before October 15 of each year, each unit of the Executive Branch of State government shall submit to the Secretary the information that the Secretary requires on the processing and disposition during the preceding fiscal year of each:

(1) denial of a pay increase;

(2) disciplinary suspension;

(3) grievance;

(4) involuntary demotion;

(5) rejection on probation; and

(6) attendance incentive award and conversion made pursuant to Title 9, Subtitle 12 of this article.

§4–302.

(a) This section does not apply to the University System of Maryland.

(b) The Secretary shall submit to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly an annual report covering all units of the Executive Branch of State government, including a unit with an independent personnel system, for each fiscal year that:

(1) provides information about:

(i) employee performance and efficiency;

(ii) use of leave by State employees;

(iii) incentive awards;

(iv) whistleblower proceedings;

(v) each denial of a pay increase, each disciplinary suspension, each grievance, each involuntary demotion, and each rejection on probation; and

(vi) a summary of the equal employment opportunity report required under § 5–204 of this article, including hiring, firing, promotions, terminations, and rejections on probation, by race, sex, and age;

(2) provides statistics and rankings that compare minority group State employees to all State employees in all job categories;

(3) provides information about part–time work and, in the Secretary's discretion, alternate work schedules, work days, and work locations;

(4) provides information on the total number of positions designated as special appointments, including special appointments designated with regard to political affiliation, belief, or opinion; and

(5) makes any recommendations about conditions in State employment that the Secretary considers advisable.

(c) The report required by this section shall be submitted on or before January

1 following the fiscal year to which it applies.

§4–303.

(a) On the request of a unit of State government, the Secretary, consistent with available resources, shall offer assistance to the unit in personnel and employee relations matters.

(b) (1) On request to the Secretary, the Department, consistent with available resources, shall assist any county or municipal corporation of the State that adopts a merit system for its employees, so that merit systems may be administered throughout the State without unnecessary expense.

(2) The Department shall assist the county or municipal corporation making the request by:

(i) helping to test candidates for positions;

(ii) helping to prepare regulations; and

(iii) making available the full use of the facilities of the Department.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, the Department shall provide the assistance required by this subsection without charge.

(ii) A county or municipal corporation shall reimburse the Department for travel and other expenses that the Department incurs because of the use of departmental facilities by that county or municipal corporation.

§4–304.

(a) On request of the Secretary, all employees and officers of the State shall assist the Department in all proper ways in carrying out this Division I and the regulations, guidelines, and policies adopted under it. This assistance shall be provided as a public duty and without extra compensation.

(b) On request of the Secretary, all employees and officers of the State or of a county or municipal corporation of the State shall:

(1) allow the Department reasonable use of public buildings for tests or investigations under this Division I;

(2) provide heat and light for the public buildings used by the Department under this subsection; and

(3) in all other proper ways, facilitate the work of the Department.

§4–401.

The Office of Administrative Hearings shall dispose of a case or conduct a hearing and issue a final decision in:

(1) a Whistleblower Law hearing under § 5–310 of this article;

(2) an appeal under Title 11 of this article of a disciplinary action;

(3) a grievance under § 12–205 of this article; and

(4) an appeal under § 18–123 of the Public Utilities Article for the removal of an employee of the Washington Suburban Sanitary Commission.

§5–101.

The head of each principal unit shall notify the employees in the unit of the location, at the work site, of a copy of:

(1) this Division I of this article; and

(2) all applicable personnel policies, guidelines, and regulations.

§5–201.

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

(b) "Coordinator" means the Equal Employment Opportunity Coordinator.

(c) "Program" means the Equal Employment Opportunity Program established under this subtitle.

(d) "Unit" means a unit of the Executive Branch of State government.

§5–202.

(a) There is an Equal Employment Opportunity Program, which is under the authority of the Secretary.

(b) The purpose of the Program is to ensure a system based on merit that provides equal opportunity in employment on the basis of merit and fitness.

(c) The following employees and applicants for employment are included in the Program:

(1) an employee in any unit of the Executive Branch of State government, including a unit with an independent personnel system; and

(2) an applicant for a position in the skilled service, professional service,

or management service, of the State Personnel Management System or a comparable position in an independent personnel system in the Executive Branch of State government.

§5–203.

Except as provided in § 5–209 of this subtitle, in addition to any right to file an employment discrimination complaint with the Commission on Civil Rights, with the Equal Employment Opportunity Commission, or in court, an employee may elect to pursue an allegation of employment discrimination under the complaint resolution procedures of this subtitle.

§5–204.

The Secretary shall:

(1) administer the Program in compliance with all applicable State and federal laws governing equal employment opportunity;

(2) adopt regulations, policies, and directives to implement the Program;

(3) evaluate the equal employment efforts in each unit in the Program;

(4) take any action necessary and permitted by law to enforce this subtitle; and

(5) at least annually report on the Program to the Governor.

§5–205.

(a) In accordance with the provisions and intent of the Maryland Constitution and other laws of the State, each unit shall:

(1) comply with all applicable regulations, policies, guidelines, and directives of the Secretary to carry out this section;

(2) cooperate fully with the Coordinator in the investigation of complaints of discrimination in violation of § 5–208 of this subtitle;

(3) (i) in accordance with the regulations, policies, guidelines, and directives of the Secretary, annually prepare a plan that includes the development and implementation of policies and programs to ensure that protected group members are appropriately represented and that the personnel practices in the unit are not discriminatory; and

(ii) submit to the Secretary the progress reports about the plan that the Secretary requires;

(4) for each fiscal year, submit to the Coordinator by the following October

15 an annual report about the activities that the unit undertook in that fiscal year to implement the Program, including:

(i) information about personnel practices within the unit;

(ii) a summary of complaints filed, investigated, resolved, and pending; and

(iii) information about relations with other units of State government; and

(5) provide a copy of the annual report to the Maryland Civil Rights Commission.

(b) Notwithstanding any other provision of this subtitle, the University System of Maryland may satisfy any reporting requirement required by this subtitle or by regulations adopted under this subtitle by submitting to the Secretary an annual report on the System's equal employment opportunity policies and programs in such format as is determined by the System's Board of Regents.

(c) An appointing authority shall provide each employee subject to this subtitle with a notice of:

(1) the protections and remedies against employment discrimination available to the employee under:

(i) this subtitle;

(ii) the laws governing the Commission on Civil Rights; and

(iii) the laws governing the Equal Employment Opportunity Commission; and

(2) the applicable time limitations for filing complaints under those laws.

§5–206.

(a) The Governor, with the advice of the Joint Committee on Fair Practices and State Personnel Oversight, shall appoint an Equal Employment Opportunity Coordinator.

(b) The Coordinator shall:

(1) administer and enforce the Program; and

(2) investigate and, as appropriate, resolve complaints that involve allegations of violations of this subtitle.

§5–207.

(a) (1) The head of each principal unit shall appoint:

(i) a fair practices officer who:

1. except as provided in paragraph (3) of this subsection, reports directly to the head of the unit; and

2. is an assistant secretary or an employee of the unit with stature similar to that of an assistant secretary; and

(ii) an appropriate number of equal employment opportunity officers for the unit.

(2) If necessary, the fair practices officer of a unit may also be the unit's equal employment opportunity officer.

(3) The fair practices officer of the Department of State Police:

(i) shall be an expert in diversity issues and equal employment law, procedures, and practices;

(ii) shall report directly to the Secretary of State Police; and

(iii) may not be a sworn law enforcement officer.

(4) All appointments under this subsection shall be made in accordance with position descriptions approved by the Secretary.

(b) The Department shall provide training, assistance, and advice for equal employment opportunity officers and fair practices officers.

(c) Each fair practices officer shall:

(1) implement the Program within the unit;

(2) investigate and, as appropriate, resolve complaints filed under § 5–211 of this subtitle; and

(3) coordinate activities of equal employment opportunity officers in the unit.

(d) An equal employment opportunity officer shall:

(1) monitor all personnel actions adopted by the unit;

(2) attest that procedures consistent with this article, the Governor's Code on Fair Practices, and other State and federal equal employment opportunity laws were

followed by the unit in taking a personnel action; and

(3) perform the duties assigned by the fair practices officer and any other duty required by this article.

(e) An appointing authority shall delay the effective date of any adverse personnel action that directly affects an equal employment opportunity officer for up to 45 days, pending review and resolution by the Coordinator.

§5–208.

(a) All personnel actions concerning an employee in the Executive Branch of State government shall be made in accordance with § 2–302 of this article.

(b) Personnel actions concerning an employee or applicant for employment in the skilled service or professional service of the State Personnel Management System or comparable position in an independent personnel system in the Executive Branch of State government shall also be made without regard to:

(1) political affiliation, belief, or opinion; or

(2) any other nonmerit factor.

(c) All personnel actions concerning an employee or applicant in the management service shall also be made without regard to the employee's political affiliation, belief, or opinion.

(d) (1) Except as provided in paragraph (2) of this subsection, personnel actions concerning special appointments or applicants for special appointment in the State Personnel Management System or comparable positions in an independent personnel system in the Executive Branch of State government shall be made without regard to political affiliation, belief, or opinion.

(2) For the positions that are designated by the Secretary under § 4–201(c)(2)(ii) of this article or by the Secretary of Transportation under § 2–103.4(b)(2) of the Transportation Article, personnel actions concerning special appointments or applicants for special appointment in the State Personnel Management System or comparable positions in an independent personnel system in the Executive Branch of State government may be made with regard to political affiliation, belief, or opinion.

(e) The protections of this section are in addition to whatever legal or constitutional protections an employee or applicant has.

§5–209.

(a) An employee in the skilled service, professional service, or management service of the State Personnel Management System may elect to pursue an allegation of employment discrimination under:

(1) the complaint procedures in this subtitle; or

(2) the grievance procedures in Title 12 of this article.

(b) An employee of the University System of Maryland who is eligible to file a grievance under Title 13 of the Education Article may elect to pursue an allegation of employment discrimination under:

(1) the complaint procedures in this subtitle; or

(2) a grievance under Title 13 of the Education Article.

(c) An employee of Morgan State University who is eligible to file a grievance under Title 14 of the Education Article may elect to pursue an allegation of employment discrimination under:

(1) the complaint procedures in this subtitle; or

(2) a grievance under Title 14 of the Education Article.

§5–210.

(a) A complainant may be represented during the complaint process by any person the complainant chooses.

(b) (1) If a complainant fails to appeal a decision in accordance with this subtitle, the complainant is considered to have accepted the decision.

(2) A failure to decide a complaint in accordance with this subtitle is considered a denial from which an appeal may be made.

(c) Each party shall make every effort to resolve a complaint at the lowest level possible.

§5–211.

(a) An applicant or employee subject to this subtitle may file with the head of the principal unit a written complaint that alleges a violation of § 5-208 of this subtitle.

(b) A complaint under this subtitle must be filed within 30 days after the complainant first knew of or reasonably should have known of the alleged violation that is the basis for the complaint.

§5–212.

Within 30 days after a complaint under § 5-211 of this subtitle is received:

(1) an equal employment officer, under the direction of the fair practices officer, shall investigate the complaint and recommend a proposed decision to the head

of the principal unit; and

(2) the head of the principal unit shall issue a written decision to the complainant and may grant any appropriate relief.

§5–213.

(a) Within 10 days after receiving a decision under § 5-212 of this subtitle, a complainant may appeal the decision in writing to the Secretary.

(b) Within 30 days after an appeal is received:

(1) the Coordinator:

(i) shall review the complaint and the decision being appealed;

(ii) may conduct any necessary investigation; and

(iii) shall recommend to the Secretary or designee a finding of whether a violation of this subtitle has occurred; and

(2) the Secretary or designee shall:

(i) take the action described in subsection (c)(1) or (c)(2) of this section; and

(ii) issue to the parties a written decision that includes notice of any remedial action taken.

(c) (1) If the Secretary or designee determines that a violation has not occurred, the Secretary or designee shall dismiss the complaint.

(2) If the Secretary or designee determines that a violation has occurred, the Secretary or designee shall take appropriate remedial action.

(d) As remedial action for a violation of § 5-208 of this subtitle, the Secretary or designee may:

(1) order the removal of detrimental information from the complainant's State personnel records;

(2) require the head of the principal unit to:

(i) hire, promote, or reinstate the complainant or end the complainant's suspension from employment;

(ii) award the complainant back pay up to the day of the violation;

(iii) grant the complainant leave or seniority;

(iv) take appropriate disciplinary action against any individual who caused the violation; or

(v) take any other remedial action that the Secretary or designee considers appropriate.

(e) The decision of the Secretary or designee is final.

§5–214.

Information obtained as part of an investigation conducted under this subtitle is confidential within the meaning of Title 4 of the General Provisions Article.

§5–215.

An employee who violates or fails to comply with this subtitle is subject to disciplinary action, including termination of employment.

§5–301.

This subtitle applies to all employees and State employees who are applicants for positions in the Executive Branch of State government, including a unit with an independent personnel system.

§5–302.

(a) This subtitle does not preclude action for defamation or invasion of privacy.

(b) This subtitle does not prohibit a personnel action that would have been taken regardless of a disclosure of information.

§5–303.

The Secretary shall adopt regulations for processing and resolving complaints brought under this subtitle.

§5–304.

The head of each principal unit shall provide the employees of the unit with written notice of the protections and remedies provided by this subtitle.

§5–305.

Subject to the limitations of § 5-306 of this subtitle, a supervisor, appointing authority, or the head of a principal unit may not take or refuse to take any personnel action as a reprisal against an employee who:

(1) discloses information that the employee reasonably believes evidences:

(i) an abuse of authority, gross mismanagement, or gross waste of money;

(ii) a substantial and specific danger to public health or safety; or

(iii) a violation of law; or

(2) following a disclosure under item (1) of this section seeks a remedy provided under this subtitle or any other law or policy governing the employee's unit.

§5–306.

Section 5-305 of this subtitle applies to a disclosure that is specifically prohibited by law only if that disclosure is made exclusively to the Attorney General in the manner allowed in § 5-313 of this subtitle.

§5–307.

(a) An employee in the State Personnel Management System who seeks relief for a violation of § 5-305 of this subtitle may elect to file:

(1) a complaint under § 5-309 of this subtitle; or

(2) a grievance under Title 12 of this article.

(b) An employee of the University System of Maryland who is eligible to file a grievance under Title 13 of the Education Article and seeks relief for a violation of § 5-305 of this subtitle may elect to file:

(1) a complaint under § 5-309 of this subtitle; or

(2) a grievance under Title 13 of the Education Article.

(c) An employee of Morgan State University who is eligible to file a grievance under Title 14 of the Education Article and seeks relief for a violation of § 5-305 of this subtitle may elect to file:

(1) a complaint under § 5-309 of this subtitle; or

(2) a grievance under Title 14 of the Education Article.

§5–308.

(a) (1) A complainant may be represented during the complaint process by any person the complainant chooses.

(2) Either party may be represented at a hearing by counsel.

(b) (1) If a complainant fails to appeal a decision in accordance with this

subtitle, the complainant is considered to have accepted the decision.

(2) A failure to decide a complaint in accordance with this subtitle is considered a denial from which an appeal may be made.

(c) Each party shall make every effort to resolve a complaint at the lowest level possible.

§5–309.

(a) (1) An employee subject to this subtitle may file with the Secretary a complaint that alleges a violation of § 5-305 of this subtitle.

(2) A complaint under this subtitle must be filed within 6 months after the complainant first knew of or reasonably should have known of the violation.

(b) When a complaint is received, the Secretary or designee promptly shall:

(1) send a copy of the complaint to the head of the principal unit named in the complaint; and

(2) advise the head of the principal unit to respond in writing to the complaint within 20 days after receiving the copy.

(c) Within 60 days after a complaint is received:

(1) the complaint shall be investigated to determine whether a violation of § 5-305 of this subtitle has occurred:

(i) by the Secretary or designee of the Secretary; or

(ii) if the Department is charged in the complaint, by a designee of the Governor; and

(2) the Secretary or designee or the Governor's designee shall:

(i) take the action described in subsection (d)(1) or (2) of this section; and

(ii) issue to the complainant and head of the principal unit a written decision that includes any remedial action taken.

(d) (1) If the Secretary or designee or the Governor's designee determines that a violation has not occurred, the Secretary or Governor's designee shall dismiss the complaint.

(2) If the Secretary or designee or the Governor's designee determines that a violation has occurred, the Secretary or designee shall take appropriate remedial action.

(e) As a remedial action for a violation of § 5-305 of this subtitle, the Secretary or designee may:

(1) order the removal of any related detrimental information from the complainant's State personnel records;

(2) require the head of the principal unit to:

(i) hire, promote, or reinstate the complainant or end the complainant's suspension from employment;

(ii) award the complainant back pay to the day of the violation;

(iii) grant the complainant leave or seniority;

(iv) take appropriate disciplinary action against any individual who caused the violation; and

(v) take any other remedial action consistent with the purposes of this subtitle.

§5–310.

(a) A complainant may appeal to the Office of Administrative Hearings:

(1) within 10 days after receiving a decision under § 5-309 of this subtitle; or

(2) when a decision is not issued within 60 days after the complaint is filed and the complainant requests a hearing.

(b) (1) The Office of Administrative Hearings shall conduct a hearing on each appeal in accordance with Title 10, Subtitle 2 of the State Government Article. The Office is bound by any regulation, declaratory ruling, prior adjudication, or other settled, preexisting policy, to the same extent as the Department is or would have been bound if it were hearing the case.

(2) A record that is protected from disclosure under Title 4 of the General Provisions Article may be used as evidence in a hearing only if:

(i) the material is essential to the conduct of the hearing; and

(ii) names and other identifying information are deleted to the extent necessary to maintain confidentiality.

(3) The confidentiality of records and information protected from disclosure under Title 4 of the General Provisions Article shall be maintained in each hearing.

(c) (1) Within 45 days after the close of the hearing record, the Office of Administrative Hearings shall issue to the parties a written decision and may grant any appropriate relief under subsection (d) of this section.

(2) The decision of the Office of Administrative Hearings is final.

(d) A complainant who prevails at a hearing may be awarded any appropriate relief, including:

(1) any remedial action allowed under § 5-309(e) of this subtitle; and

(2) costs of litigation and reasonable attorney's fees.

(e) A complainant or appointing authority may appeal the decision issued under subsection (c) of this section in accordance with § 10-222 of the State Government Article.

§5–311.

After reviewing a final decision under this subtitle, the court may award costs of litigation and reasonable attorney's fees to a prevailing complainant and any other appropriate relief.

§5–312.

If, during an investigation under § 5-309(c) of this subtitle, the Secretary or Governor's designee finds that reasonable grounds exist to believe that a crime has been committed, the Secretary or Governor's designee shall:

(1) promptly refer the matter to an appropriate prosecutor;

(2) make all pertinent evidence available to the prosecutor; and

(3) send to the individual believed to have committed the crime a notice that:

(i) contains a statement of the allegation;

(ii) notifies the individual that the matter has been referred to a prosecutor;

(iii) advises the individual of the individual's right to obtain counsel; and

(iv) advises the individual of the individual's right to refuse to respond to the allegation if a response might be incriminating.

§5–313.

For purposes of this subtitle, the Attorney General shall:

(1) designate an assistant Attorney General to receive from applicants and employees any information the disclosure of which is otherwise protected by law;

(2) investigate each allegation of illegality or impropriety;

(3) take appropriate legal action; and

(4) if the investigation concerns an allegation of illegality or impropriety in the Executive Branch, submit a confidential report to the Governor that describes the content of the disclosure.

§5–314.

Information obtained as part of an investigation conducted under this subtitle is confidential within the meaning of Title 4 of the General Provisions Article.

§5–401.

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

(2) "State facility" has the meaning stated in § 8–306(a) of the State Government Article.

(3) "Unit" means a unit of the Executive Branch of State government.

(b) If a traumatic event occurs in a State facility of a unit and results in the death of an individual, the unit shall obtain mental health support services for any employee of the unit affected by the traumatic event.

(c) The services required under this section shall be provided within 48 hours after the traumatic event occurs.

§6–101.

There is a State Personnel Management System, which is under the authority of the Secretary of Budget and Management.

§6–102.

The basic purpose of the State Personnel Management System is to provide a system of employment for employees under the authority of the Secretary. The State Personnel Management System:

(1) (i) establishes categories of service for employees based on the general nature of the employee's duties or method of appointment; and

(ii) provides procedures for the appointment, discipline, and termination of employees in each service;

(2) (i) groups employees into classes based on specific duties that employees perform; and

(ii) provides a system of pay for employees;

(3) provides for a system of merit employment in the skilled service and professional service, regardless of an applicant's political or religious opinions or affiliations or of any standard other than business efficiency;

(4) provides a process for the:

(i) promotion and training of employees; and

(ii) prompt removal of employees; and

(5) provides for other aspects of human resources management.

§6–201.

This subtitle only applies to the appointing authorities of units whose employees are governed by the State Personnel Management System laws.

§6–202.

(a) An appointing authority shall take any personnel action governed by Division I of this article consistent with the provisions of Division I and the regulations, guidelines, policies, and procedures adopted under it.

(b) An appointing authority shall cooperate with the Secretary to ensure that Division I of this article is properly enforced.

§6–203.

An appointing authority may appoint an employee to a position in the skilled service, professional service, management service, or executive service only if the position has been assigned to a class in accordance with Title 4, Subtitle 2 of this article.

§6–301.

Except to the extent otherwise provided by law, the following positions in State government are excluded from the State Personnel Management System:

(1) a position to which an individual is elected by popular vote; and

(2) a position to which an individual's election or appointment is provided

for by the Maryland Constitution.

§6–302.

(a) Except as provided in this subsection or otherwise by law, all positions in the Executive Branch of State government are in the State Personnel Management System.

(b) Except to the extent otherwise provided by law, all positions in a unit in the Executive Branch of State government with an independent personnel system are excluded from the State Personnel Management System.

§6–303.

All positions in the Judicial Branch of State government are excluded from the State Personnel Management System except as otherwise provided by law.

§6–304.

All positions in the Legislative Branch of State government are excluded from the State Personnel Management System.

§6–305.

The State Personnel Management System includes any other position that is specified by law to be in the skilled service, professional service, management service, executive service, or otherwise in the State Personnel Management System.

§6–306.

Any individual 70 years old or older is eligible for appointment to any nontemporary position in the State Personnel Management System for which the individual qualifies, and the appointment is subject to the provisions of this article.

§6–401.

(a) Except as provided in this title or otherwise by law, all positions in the Executive Branch of State government that are included in the State Personnel Management System are in the skilled service.

(b) The skilled service includes any other position that is specified by law to be in the skilled service.

§6–402.

(a) Except as otherwise provided by law, a position in the Executive Branch of State government is in the professional service if the position:

(1) requires knowledge of an advanced type in a field of science or learning

customarily acquired by a course of specialized intellectual instruction and study; and

(2) normally requires a professional license, advanced degree, or both.

(b) The professional service includes any other position that is determined by the Secretary to be in the professional service.

§6–403.

(a) Except as otherwise provided by law, a position in the Executive Branch of State government is in the management service if the position:

(1) primarily involves direct responsibility for the oversight and management of personnel and financial resources;

(2) requires the exercise of discretion and independent judgment; and

(3) is not in the executive service.

(b) The management service includes any other position that is determined by the Secretary to be in the management service.

§6–404.

(a) Except as otherwise provided by law, the following positions in the Executive Branch of State government are in the executive service:

(1) the chief administrator of a principal unit or a comparable position that is not excluded from the State Personnel Management System under § 6-301 of this title as a constitutional or elected office; and

(2) a deputy secretary or assistant secretary of a principal unit or a position that the Secretary determines has similar stature.

(b) The executive service includes any other position that is determined by the Secretary to be in the executive service.

§6–405.

(a) Except as otherwise provided by law, individuals in the following positions in the skilled service and professional service are considered special appointments:

(1) a position to which an individual is directly appointed by the Governor by an appointment that is not provided for by the Maryland Constitution;

(2) a position to which an individual is directly appointed by the Board of Public Works;

(3) as determined by the Secretary, a position which performs a significant

policy role or provides direct support to a member of the executive service;

(4) a position that is assigned to the Government House;

(5) a position that is assigned to the Governor's Office; and

(6) any other position that is specified by law to be a special appointment.

(b) Except as provided under § 6–105(a) of the State Government Article, a position that is a special appointment may be filled with regard to political affiliation, belief, or opinion if the Secretary determines that the position:

(1) relates to political interests or concerns so as to warrant that political affiliation be a requirement for the position; and

(2) (i) requires the provision of meaningful direct or indirect input into the policy–making process; or

(ii) provides access to confidential information and:

1. requires substantial intervention or collaboration in the formulation of public policy; or

2. requires the provision of direct advice or the rendering of direct services to an appointing authority.

§6–406.

(a) (1) A contractual employee is a temporary employee whose employment is governed by Title 13 of this article.

(2) An emergency employee is a temporary employee who is appointed under § 7-301 of this article.

(b) A temporary employee:

(1) is not included in the skilled service, professional service, management service, or executive service; and

(2) is not a special appointment described in § 6-405 of this subtitle.

§7–101.

(a) Except as provided in subsection (b) of this section, this title applies to all employees in the State Personnel Management System.

(b) This subtitle does not apply to a temporary employee.

§7–102.

(a) (1) Each employee in the skilled service, professional service, and management service, including special appointments in each classification of each of those services, shall be provided with a written position description which describes the essential duties and responsibilities the employee is expected to perform and the standards for satisfactory performance on a form approved by the Secretary.

(2) A successful applicant for a position in the skilled service, professional service, or management service shall be provided with a position description for review before accepting appointment to the position.

(b) The appointing authority or designee shall approve position descriptions and revised position descriptions for the positions in the unit.

(c) (1) A supervisor shall:

(i) ensure the preparation of a position description for each position over which the supervisor has primary direct responsibility;

(ii) maintain position descriptions for the positions under the supervisor's jurisdiction; and

(iii) give each supervised employee a copy of the position description for the employee's position.

(2) The supervisor and employee shall review the position description for the employee's position and make any necessary revision:

(i) whenever there is a change in the essential functions of the position; and

(ii) as part of the employee's performance appraisal.

(3) When there is no position description for a new or vacant position, the primary direct supervisor of the position shall:

(i) prepare a position description for the position; and

(ii) submit it as part of the selection plan to fill the position.

(d) A position description shall contain information required by the Secretary, including a description of the essential functions of the position.

(e) (1) The duties and responsibilities assigned to a position shall be consistent with the duties and responsibilities for the position's assigned class.

(2) An employee may grieve the assignment of duties and responsibilities only if those assigned duties and responsibilities clearly are applicable to a different

class.

§7–103.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) (1) An appointing authority may request a State and national criminal history records check from the Central Repository for:

(i) a person who is selected for a position in the State Personnel Management System; or

(ii) a current employee who is eligible and is being recommended for transfer, promotion, or reassignment to a position in the State Personnel Management System.

(2) The appointing authority shall apply to the Central Repository for a State and national criminal history records check for each prospective or current employee for whom a records check is sought under paragraph (1) of this subsection.

(3) As part of the application for a criminal history records check, the appointing authority shall submit to the Central Repository:

(i) two complete sets of the prospective or current employee's legible fingerprints taken in a format approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(ii) the fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to criminal history record information; and

(iii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(4) In accordance with Title 10, Subtitle 2 of the Criminal Procedure Article, the Central Repository shall forward to the prospective or current employee and the appointing authority the prospective or current employee's criminal history record information.

(5) Information obtained from the Central Repository under this subsection:

(i) is confidential and may not be redisseminated; and

(ii) may be used only for employment purposes authorized under Division I of this article.

(c) A person who is the subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of the Criminal Procedure Article.

(d) The Secretary may adopt regulations, guidelines, and policies to carry out this section.

§7–201.

(a) (1) This subtitle does not apply to a special appointment position in the skilled service or professional service.

(2) (i) This subtitle does not apply to the recruitment for or the appointment to a position in the skilled service or professional service if the appointing authority:

1. decides to recruit for the position under § 7–203(2) of this subtitle;

2. demonstrates that the position, based on the position description, is difficult to fill;

3. demonstrates that the recruitment must occur in a timely manner; and

4. notifies the Department of the recruitment.

(ii) A recruitment and appointment under this paragraph shall occur in accordance with regulations adopted by the Department.

(iii) 1. The Department shall adopt regulations to implement this paragraph.

2. The regulations adopted under this subparagraph shall provide, at a minimum, that for positions designated as special appointments on January 1, 2009, an appointing authority shall retain the same recruitment authority that the appointing authority possessed on January 1, 2009.

(b) Each unit shall fill vacant skilled service and professional service positions in accordance with a position selection plan.

(c) To ensure compliance with State and federal employment laws and to ensure consistency in recruitment and hiring practices in the State Personnel Management System, the Department shall:

(1) assist units in developing application forms, position selection plans, selection tests, and announcement forms; and

(2) review and audit recruitment and hiring practices of all appointing authorities at least once every 3 years.

(d) On request of a unit that is not able to conduct all or part of its own recruitment or selection testing for a position because it lacks the appropriate resources, the Department, consistent with its resources, shall assist the unit in conducting the requested recruitment and selection testing.

§7–202.

(a) When a skilled service or professional service position is to be filled, the unit shall complete a position selection plan for the position.

(b) A position selection plan shall contain the information about the position that the Secretary requires, including:

(1) a position description described in § 7–102 of this title;

(2) the minimum qualifications for the class of the position and any selective qualifications required for appointment to the position;

(3) any limitations on selection for the position, including those that limit consideration to:

(i) current State or unit employees;

(ii) current contractual employees;

(iii) promotional candidates; or

(iv) candidates indicating a willingness to work in a location; and

(4) if applicants for the position are to be recruited, the:

(i) location for submitting applications;

(ii) manner for posting the position announcement in the unit;

(iii) method and length of time for advertising the position;

(iv) closing date to receive applications for the position;

(v) plan of development of any selection test to be administered to qualified applicants; and

(vi) duration of the list of eligibles that results from the recruitment.

(c) The appointing authority shall:

(1) approve or disapprove each position selection plan;

(2) authorize funding for approved plans; and

(3) send a copy of an approved selection plan to the equal employment opportunity officer of the unit.

§7–203.

An appointing authority may select candidates for a position:

(1) from an existing list of eligible candidates;

(2) if the appointing authority decides to recruit for the position, by recruitment;

(3) from a special list of eligible candidates whom the Division of Rehabilitation Services of the Department of Education certifies as being physically capable and adequately trained to qualify for the position; or

(4) from a list of contractual employees performing the same or similar duties of the position.

§7–204.

(a) To recruit candidates for a position, an appointing authority shall prepare a job announcement for the position and conduct recruitment in accordance with the position selection plan.

(b) A job announcement shall contain:

(1) a summary of the position description;

(2) the minimum qualifications for the class and any selective qualifications necessary for consideration;

(3) the type of selection test that will be administered to those meeting the position's minimum qualifications;

(4) the location and deadline for submitting applications; and

(5) the duration of the list of eligibles derived from the announcement.

(c) For a vacant position under this subtitle, the appointing authority shall:

(1) send a copy of the selection plan and job announcement to the Secretary at least 1 week before posting the job announcement to assure public access;

(2) if current employees or contractual employees in the unit may be

eligible for the position:

(i) post the job announcement for at least 2 weeks before the deadline for submitting applications, in at least one centralized location in that unit that is accessible to all employees; and

(ii) use any other method reasonably calculated to give eligible employees notice of the vacancy; and

(3) advertise the position vacancy at least 2 weeks before the deadline for submitting applications by:

(i) making available a job announcement to all appropriate State agencies, based on selection limitations; and

(ii) using any other method that is reasonably calculated to ensure a sufficient pool of applicants, including printed advertisements in newspapers and journals, paper and electronic bulletin board postings, and special notices.

§7–205.

(a) After the close of a position announcement, the appointing authority shall:

(1) review the applications received to determine the applicants who meet the minimum qualifications for the position;

(2) prepare a register of qualified applicants in random order;

(3) send to unqualified applicants a notice that they have failed to meet the minimum qualifications for the position; and

(4) except as provided in subsection (b) of this section, if a competitive examination that requires attendance at a test site is required for the position, send a notice of the examination to qualified applicants on the register at least 10 days before the test administration date.

(b) If less than ten but more than two applicants meet the minimum requirements for a position, the appointing authority may:

(1) make a selection from the register without the need for further selection testing; or

(2) readvertise the position vacancy.

§7–206.

(a) (1) An appointing authority may use any appropriate selection process to rate qualified applicants.

(2) A unit must be able to establish the job relatedness, reliability, and validity of the selection tests that it uses.

(b) (1) A selection test must be:

(i) free of charge; and

(ii) except as provided in paragraph (2) of this subsection, open to all qualified applicants.

(2) An appointing authority:

(i) may disqualify and refuse to examine an otherwise qualified applicant who intentionally falsifies information in the application; and

(ii) shall give the applicant a written notice of the reason for the proposed disqualification.

(3) An applicant who is disqualified under this subsection may submit a written response to the notice.

§7–207.

(a) A credit under this section shall be applied to an applicant's score on any selection test administered to establish placement on a list of eligible candidates for which the applicant otherwise is qualified and has at least the minimum passing score on a selection test.

(b) For a current State employee, an appointing authority shall apply a credit on a selection test, of one-quarter point for each year of service in State government, up to a maximum of five points for 20 years of State service.

(c) (1) In this subsection, "eligible veteran" means a veteran of any branch of the armed forces of the United States who has received an honorable discharge or a certificate of satisfactory completion of military service, including the National Guard and the military reserves.

(2) (i) An appointing authority shall apply a credit of ten points on any selection test for:

1. an eligible veteran;

2. the spouse of an eligible veteran who has a service connected disability; or

3. the surviving spouse of a deceased eligible veteran.

(ii) An appointing authority shall apply a credit of two additional points on any selection test for:

1. an eligible veteran who has a service connected disability; or

2. a former prisoner of war.

(3) The following applicants are ineligible for a credit under this subsection:

(i) a current State employee; and

(ii) an eligible veteran who is convicted of a crime after being discharged from or completing military service.

(d) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Host county" means any county in which a qualified prison facility is located.

(iii) "Adjacent county" means any county adjacent to a host county.

(iv) "Qualified prison facility" means any new State correctional institution of 750 beds or more constructed for the Division of Correction of the Department of Public Safety and Correctional Services on or after January 1, 1985.

(2) In the selection process for an initial appointment to any position in a qualified prison facility, an appointing authority shall allow five points to each resident of the host county or an adjacent county if, in the most recent 12-month period for which data is available as reported by the Maryland Department of Labor, Licensing, and Regulation, that county had an average unemployment rate that is more than 1.5 times the State unemployment rate as a whole.

(e) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Adjacent district" means a legislative district within Baltimore City adjacent to the host district or, if the adjacent district extends beyond Baltimore City, that part of the district within Baltimore City.

(iii) "Host district" means the legislative district in which the Baltimore City Juvenile Justice Center is located.

(2) In the selection process for an initial appointment to any position at the Baltimore Juvenile Justice Center, an appointing authority shall allow five points to each resident of the host district or an adjacent district if, in the most recent 12-month period for which data is available as reported by the Maryland Department of Labor, Licensing, and Regulation, Baltimore City had an average unemployment rate that is more than 1.5 times the State unemployment rate as a whole.

(f) In the selection process for an appointment to a position within the State Personnel Management System, an appointing authority shall allow five points to each resident of the State of Maryland.

§7–208.

(a) The appointing authority shall:

(1) based on appropriate standards, place the candidates within the following categories:

(i) best qualified;

(ii) better qualified;

(iii) qualified;

(iv) unsatisfactory;

(v) certified by the Division of Rehabilitation Services;

(vi) eligible for reinstatement after layoff or after a separation under § 11-302 of this article;

(vii) eligible for reinstatement; or

(viii) eligible for transfer; and

(2) place the candidates on a list of eligible candidates by category in random order within the category except for candidates eligible for reinstatement after layoff or separation under § 11-302 of this article who shall be placed in that category in seniority point order.

(b) On request, an appointing authority shall notify eligible candidates of their relative standing on the list of eligible candidates.

(c) (1) The appointing authority shall file the list of eligible candidates with the Department for use by other agencies requesting it; or

(2) if the Department develops a list of eligible candidates, the Department shall send the list to the appropriate appointing authorities, on request, in accordance with regulations adopted by the Secretary.

§7–209.

(a) Except as otherwise provided by law, an appointing authority shall make an appointment from among the candidates in a rating category on a list of eligible candidates as follows:

(1) if there are at least five candidates rated best qualified, from that rating category;

(2) if there are fewer than five candidates rated best qualified, from the candidates in the best qualified and better qualified categories; and

(3) if there are fewer than five candidates rated best qualified and better qualified, from candidates in best qualified, better qualified, and qualified categories.

(b) A candidate who is an eligible veteran under § 7-207(c) of this subtitle shall be identified as an eligible veteran on the list of eligible candidates.

(c) (1) In making a selection, the appointing authority may interview any of the candidates in the rating category from which the selection will be made.

(2) When interviews are conducted under this section, the appointing authority must interview at least three candidates.

(d) The appointing authority must certify to the Secretary that the hiring process was conducted in accordance with the selection plan and this subtitle.

§7–210.

(a) Any applicant under this title who is not selected for a position may appeal the decision.

(b) An appeal:

(1) may be made only on the grounds that the decision was unconstitutional or illegal; and

(2) may only be made to the appointing authority.

(c) The decision of the appointing authority is final.

§7–301.

(a) In accordance with guidelines issued by the Secretary, an appointing authority shall appoint individuals to the executive service, the management service, as special appointments, or as emergency appointments.

(b) These guidelines shall require that the individual appointed shall be qualified to perform the work described in the position description required by § 7-102 of this title.

(c) An emergency appointment under this section may not exceed 6 months and may not be renewed.

§7–401.

(a) Except as provided in this section, this subtitle applies to all employees in the:

(1) skilled service; and

(2) professional service.

(b) This subtitle does not apply to an employee in:

(1) the management service; and

(2) a special appointment position in any service.

§7–402.

(a) Each employee subject to this subtitle is required to complete a 6-month probationary period as the final step in:

(1) the employee's initial appointment to a position in the State Personnel Management System;

(2) the employee's appointment to a position in the skilled or professional service following a competitive promotion; and

(3) except as provided in subsection (b) of this section, the employee's appointment to a position in the skilled or professional service following a reinstatement.

(b) An employee is not required to serve a probationary period if the employee is reinstated within 1 year after the employee's separation from State service to a classification in which the employee had previously completed a probationary period.

(c) To successfully complete a probationary period, an employee is required to demonstrate proficiency in the assigned duties and responsibilities of the position to which the employee is appointed.

§7–403.

(a) Subject to subsection (b) of this section and at the sole discretion of the employee's appointing authority, an employee's probationary period may be extended if:

(1) the appointing authority decides that additional time is necessary to allow the employee to demonstrate proficiency in the performance of the employee's assigned duties and responsibilities;

(2) in the appointing authority's judgment, the period of the employee's

absence on approved leave is sufficient to prevent the appointing authority from making a reasonable decision regarding the proficiency of the employee's performance; or

(3) the employee requests to extend the probationary period.

(b) (1) Except as provided in paragraph (2) of this subsection, an employee's probationary period may be extended under subsection (a) of this section up to one additional 6-month period.

(2) For an employee appointed to a skilled service position below grade 7, an employee's probationary period may be extended under subsection (a) of this section up to one additional 3-month period.

§7–404.

(a) Each appointing authority and, where applicable, supervisor has the responsibility of properly explaining the duties and responsibilities of an employee's position to the employee, providing the employee with a written position description and otherwise orienting the employee to the operations of the employee's unit.

(b) Periodically during the probationary period, an appointing authority or an employee's supervisor, as appropriate, shall confer with the employee about the employee's performance and improvements in that performance that are necessary to satisfactorily complete probation.

(c) (1) An appointing authority shall ensure that at the end of an employee's first 90 days of probation the employee receives a written evaluation of the employee's performance and any recommendations for improvement.

(2) If the appointing authority extends an employee's probationary period, the appointing authority shall ensure that the employee receives additional written evaluations:

(i) at the end of the employee's initial probationary period; and

(ii) at the mid-point of the extension period.

§7–405.

An appointing authority may take disciplinary action against or terminate the employment of a probationary employee in accordance with Title 11 of this article.

§7–501.

(a) The performance of each employee in the skilled service, professional service, and management service, including special appointments in each classification of each of those services, shall be evaluated in accordance with this subtitle.

(b) The appointing authority shall ensure that each of the unit's employees who is subject to this subtitle has performance evaluations in accordance with this subtitle and procedures established by the Secretary.

(c) Each supervisor of an employee subject to this subtitle shall attend mandatory training by the Department on the methods and procedures required in the performance appraisal process.

(d) Factors in evaluating a manager's or supervisor's performance shall include:

(1) attendance at any required performance appraisal training;

(2) adherence to established methods and procedures in conducting performance appraisals;

(3) the timely completion of performance appraisals for employees assigned to the manager or supervisor; and

(4) subject to subsection (e) of this section, if required by the manager's or supervisor's supervisor, the results of an anonymous survey of employees assigned to the manager or supervisor in accordance with procedures established by the Secretary.

(e) An anonymous survey of the employees of a manager or supervisor may be performed only if more than five employees are assigned to the manager or supervisor.

§7–502.

(a) An employee subject to this subtitle shall receive the following written performance appraisals at 6–month intervals based on the employee's entry–on–duty date:

(1) an informal mid–year performance appraisal; and

(2) an end–of–year performance appraisal with an overall performance rating in accordance with § 7–503 of this subtitle.

(b) An employee's performance may be rated on a performance appraisal as follows:

(1) outstanding;

(2) satisfactory; or

(3) unsatisfactory.

§7–503.

(a) (1) A supervisor shall prepare a preliminary performance appraisal for each employee for which the supervisor has primary direct responsibility.

(2) An appointing authority may review a preliminary appraisal before the supervisor presents it to the employee.

(b) (1) An employee and the employee's supervisor shall review and discuss the supervisor's preliminary performance appraisal.

(2) The employee shall be notified, as provided in regulations adopted by the Secretary, prior to the date of the review and the discussion.

(3) The purpose of the review and discussion is to:

(i) promote agreement and understanding about the supervisor's preliminary performance appraisal and to aid the supervisor in determining the final ratings for the performance appraisal; and

(ii) 1. develop appropriate modifications to the employee's position description, if needed;

2. establish specific written tasks and indicators, based on measurable and objective standards that can be evaluated on outcome, that the employee needs to accomplish during the next rating period in order to meet the overall objectives of the position; and

3. identify any area in which training is needed for the next rating period, based on the employee's strengths and weaknesses.

(c) (1) An appointing authority shall approve a performance appraisal before it is final.

(2) The final performance appraisal shall include:

(i) the employee's final performance ratings;

(ii) the specific tasks the employee is to achieve during the next rating period;

(iii) a list of modifications to the employee's position description, if any; and

(iv) any recommendations for training to enhance the employee's skills.

(3) The supervisor shall:

(i) give the employee a copy of the final performance appraisal;

(ii) retain a copy; and

(iii) place a copy in the employee's personnel records.

§7–504.

An appointing authority may provide for interim conferences between an employee and the employee's supervisor to evaluate the employee's progress in meeting objectives established during the previous mandatory performance appraisal.

§7–601.

(a) If this State acquires a public or private entity to operate it for a public purpose, this State may retain, as a State employee, any individual who is an officer or employee of that entity at the time of the acquisition.

(b) (1) An employee who is retained under this section:

(i) shall be employed in a position that corresponds or is similar to the position held at the time of the acquisition; and

(ii) keeps seniority.

(2) Beginning as of the date of the acquisition, each retained employee shall be on probation for the period required by Subtitle 4 of this title.

(c) Within 1 year after an acquisition, the Department shall classify each position in the acquired entity.

(d) After positions in the acquired entity are classified, each retained employee:

(1) may continue without an examination to hold the position in which the employee is then employed; and

(2) has all the rights of the class to which that position is allocated.

(e) If a new position is created in an acquired entity or an established position in an acquired entity becomes vacant, the position shall be filled in accordance with this title.

§7–602.

(a) (1) An appointing authority may reassign any employee within the appointing authority's jurisdiction to another position of equal grade and service for which the employee meets the minimum qualifications within the appointing authority's jurisdiction.

(2) Except as otherwise required by law, no employee may be reassigned from one principal unit to another without the employee's consent, unless the Secretary certifies that the reassignment is in the best interests of the State.

(b) (1) (i) An employee may apply for a transfer to any vacant position of the same grade in any unit of the Executive Branch for which the employee meets the

minimum qualifications.

(ii) An employee who applies for a transfer to a position will be considered for the position along with other eligible applicants.

(2) (i) Unless exigent circumstances exist, the appointing authority shall give an employee notice of a proposed reassignment at least 2 weeks before the effective date of the reassignment.

(ii) An employee may agree to waive the required notice period.

(c) (1) An employee may apply for a voluntary demotion to any vacant position of a lower grade in any unit in the Executive Branch for which the employee meets the minimum qualifications.

(2) An employee who applies for a voluntary demotion to a position will be considered for the position along with other eligible applicants.

§7–701.

(a) In this title, "part-time employee" means an employee who works an average of 50% or more but less than 100% of the regular workweek.

(b) An individual who is a full-time employee who is qualified for or desires to be a full-time employee may not be required to accept part-time employment as a condition of continued or new State employment.

(c) An individual who is a part-time employee who is qualified for or desires to be a part-time employee may not be required to accept full-time employment as a condition of continued or new State employment.

(d) (1) In accordance with regulations adopted by the Secretary, a part-time employee is entitled to receive all employment rights, privileges, and benefits that are normally available to a full-time employee in a similar position with a similar grade and length of service.

(2) Benefits shall be prorated in proportion to the number of hours employed.

§8–101.

(a) There is a Standard Pay Plan and an Executive Pay Plan for this State, as established by the Secretary with the approval of the Governor and as amended or adjusted in accordance with this subtitle.

(b) The purpose of the pay plans is to provide employees in positions that involve comparable effort, knowledge, responsibilities, skills, and working conditions with comparable pay according to the relative value of services to be performed.

(c) A pay plan is effective for a fiscal year only to the extent that sufficient money is available in the State budget for that purpose.

§8–102.

(a) (1) Except as provided in paragraph (2) of this subsection, the pay plans established under this subtitle shall include:

(i) all positions in the State Personnel Management System; and

(ii) all other positions for which the Secretary has authority to administer pay.

(2) The pay plans established under this subtitle do not apply to:

(i) any position for which the pay is provided for by the Maryland Constitution;

(ii) any position for which the pay is based, by law, on judicial pay; and

(iii) except as provided in subsection (b) of this section, a position for which the pay is set by a unit with independent pay-setting authority.

(b) (1) The Executive Pay Plan shall include each permanent position in the Executive Branch of State government, including each permanent position in the Governor's office, that is not included in the Standard Pay Plan and has a pay rate equal to or exceeding the lowest pay rate in the Executive Pay Plan.

(2) In addition, and notwithstanding any other law, the Governor may include in the Executive Pay Plan any executive management position in a unit in the Executive Branch with independent pay-setting authority, except a position in the University System of Maryland, Morgan State University, or St. Mary's College.

§8–103.

(a) Subject to the approval of the Governor, the Secretary shall adopt regulations to carry out this subtitle.

(b) (1) Subject to § 2–1246 of the State Government Article, the Secretary shall submit to the Department of Legislative Services, on or before July 15, October 15, January 15, and April 15 of each fiscal year:

(i) a list of the position, pay grade and step, title, name, and pay rate of each employee who was included in the Executive Pay Plan as of the last day of the preceding fiscal quarter; and

(ii) the details of any lump–sum increases given to employees in the

Executive Pay Plan during the preceding fiscal quarter.

(2) (i) The quarterly reports required under paragraph (1) of this subsection shall include each flat–rate employee position in the Executive Pay Plan.

(ii) Each flat–rate employee position included in the quarterly reports under subparagraph (i) of this paragraph shall be assigned a unique identifier that:

1. describes the program to which the position is assigned for budgetary purposes; and

2. corresponds to the position identification number used in the budget data provided annually by the Secretary to the Department of Legislative Services.

§8–104.

(a) (1) Pay rates in the Standard Pay Plan may be set by:

(i) a series of pay grades and steps within each grade;

(ii) fixed rates; or

(iii) minimum and maximum amounts.

(2) Pay rates in the Executive Pay Plan may be set by:

(i) a series of executive pay grades and steps within each grade;

(ii) fixed rates; or

(iii) minimum and maximum amounts.

(b) In setting or amending a pay rate, the Secretary shall consider:

(1) the prevailing pay rates for comparable services in private and public employment;

(2) experience;

(3) living costs;

(4) benefits; and

(5) the financial condition and policies of this State.

(c) A pay rate in either pay plan is subject to any limitations included in the State budget.

§8–105.

(a) This section applies only to the Standard Pay Plan.

(b) With the approval of the Governor, the Secretary may amend the Standard Pay Plan to increase pay rates for specific classes to:

(1) recruit or retain competent personnel; or

(2) ensure that pay rates adequately compensate for the effort, knowledge, responsibility, skills, and working conditions of employees in the class.

(c) If an amendment affects a position in the Executive Branch that is listed in the budget bill in accordance with § 7-109 of the State Finance and Procurement Article, the amendment is contingent on the approval of the Board of Public Works.

(d) An amendment to the Standard Pay Plan may not take effect unless sufficient money is available in the budget to cover the resulting pay rates.

(e) (1) Subject to § 2-1246 of the State Government Article, the Secretary shall report all amendments to the Standard Pay Plan to the General Assembly on or before the 15th day of the next regular legislative session.

(2) If the General Assembly rejects an amendment, the appropriate reduction in pay rates takes effect as of the next fiscal year.

§8–106.

(a) This section applies only to the Standard Pay Plan.

(b) The regulations adopted under this subtitle shall provide for increases, from minimum to maximum, of the pay rates set by the Standard Pay Plan.

§8–107.

(a) This section applies only to employees whose positions are in the Standard Pay Plan.

(b) An employee in the Standard Pay Plan shall be denied a pay increase in any year if:

(1) an appointing authority has imposed the denial as a disciplinary action under Title 11, Subtitle 1 of this article; or

(2) the appointing authority denies the increase because of:

(i) an extension of an employee's period of probation under § 7-403 of this article;

(ii) lack of productivity; or

(iii) excessive, unexcused absenteeism.

(c) An employee may not be denied a pay increase for reasons of performance that adversely affects the value of the employee to this State unless substantial reasons of performance were cited on the employee's midyear or final performance appraisal forms.

(d) An employee who is denied a pay increase under this section may appeal the denial under the appeal procedures for disciplinary actions in Title 11 of this article.

§8–108.

(a) This section applies only to the Executive Pay Plan.

(b) (1) An increase in a pay rate under this subsection shall be based on the employee's performance.

(2) For or during a fiscal year, the head of a unit may recommend an increase in an employee's pay rate above the rate for the previous fiscal year in the same grade in accordance with guidelines promulgated by the Secretary, provided that funds are available.

(c) (1) A pay increase under this subsection may be made to recruit or retain competent employees or to recognize increased duties and responsibilities.

(2) Subject to the approval of the Governor, the Secretary may approve:

(i) a change in pay grade;

(ii) a change from one class in a series to a different class in the same series;

(iii) a new class or position; or

(iv) another form of pay increase.

§8–109.

(a) Subject to the approval of the Governor, the Secretary at any time may decrease the pay rate for any class included in:

(1) the Standard Pay Plan; or

(2) except for a position for which pay is set by a unit with independent pay-setting authority, the Executive Pay Plan.

(b) A decrease of a pay rate under this section applies to all employees in the

affected class.

§8–201.

(a) This section applies to all employees in the State Personnel Management System.

(b) (1) An employee subject to this section is entitled to extra pay, known as shift differential pay, if the employee:

(i) is employed in a position designated for this purpose; and

(ii) works on a shift that starts on or after 2:00 p.m. and on or before 1:00 a.m.

(2) A State-employed fire fighter is entitled to shift differential pay for qualifying hours if the fire fighter works on a shift of at least 8 hours, regardless of the time that the shift starts.

(c) (1) The Secretary shall adopt regulations for the payment of shift differential pay.

(2) The regulations adopted under this section shall provide for fairness and equity among all employees in consideration of:

(i) the hours worked;

(ii) conditions and places of employment;

(iii) prevailing practices in the locality; and

(iv) other factors that the Secretary considers relevant under the circumstances.

§8–202.

(a) An employee of the State Fire Marshal's Office is entitled to extra pay, known as hazardous duty pay, if the employee works as a member of a bomb squad or as an explosives technician.

(b) Hazardous duty pay under this section shall be set by the Secretary in an amount not to exceed $150 a month.

§8–301.

(a) Except as provided in subsection (b) of this section, in § 8-309 of this subtitle, or otherwise by law, this subtitle applies to all employees over whom the Secretary has authority to administer pay.

(b) This subtitle does not apply to a law enforcement employee of the Field Enforcement Bureau of the State Comptroller's Office.

§8–302.

(a) This subtitle shall be interpreted and applied, to the extent applicable, in accordance with the federal Fair Labor Standards Act.

(b) All employees subject to this subtitle are entitled to the greater of:

(1) the benefits that are provided in this subtitle; or

(2) to the extent applicable, the benefits required by the federal Fair Labor Standards Act.

§8–303.

(a) Except as otherwise provided in this subtitle, an employee who works more than the normal workweek for that employee's unit is entitled to compensation for that overtime work in the form of:

(1) payment as provided in § 8-305 of this subtitle; or

(2) compensatory time as provided in § 8-307 of this subtitle.

(b) The Secretary shall adopt regulations to prevent:

(1) the granting of unnecessary overtime; and

(2) the failure to grant overtime compensation to an eligible employee.

§8–304.

(a) Except as provided in subsection (b) of this section, an employee's regular hourly rate of pay is computed for purposes of this subtitle by dividing the employee's total regular weekly pay by the total number of hours in the employee's normal workweek.

(b) The regular hourly rate of pay for an employee of a hospital or domiciliary care facility for the ill, aged, or disabled may be computed for purposes of this subtitle by dividing the employee's total regular 2-week pay by the total number of hours in the employee's normal 2-week work period.

§8–305.

(a) Except as otherwise provided in this section:

(1) payment for time worked in excess of an employee's normal workweek but not in excess of 40 hours in that workweek shall be made at the employee's regular

hourly rate of pay; and

(2) payment for time worked in excess of 40 hours in a workweek shall be made at one and one-half times the employee's regular hourly rate of pay.

(b) (1) This subsection applies to those employees of a hospital or domiciliary care facility for the ill, aged, or disabled whose overtime compensation is computed on the basis of a 2-week work period under § 8-304(b) of this subtitle.

(2) For an employee subject to this subsection, payment for overtime work shall be made at the greater of:

(i) one and one-half times the employee's regular hourly rate of pay for time worked in excess of 80 hours in the 2-week work period; or

(ii) one and one-half times the employee's regular hourly rate of pay for time worked during that 2-week work period that is in excess of 8 hours in any workday.

(c) (1) This subsection applies to law enforcement and civilian employees of the Department of State Police who participate in the modified workday program established in accordance with § 2-411 of the Public Safety Article.

(2) For an employee subject to this subsection, payment for overtime work shall be made at the greater of:

(i) one and one-half times the employee's regular hourly rate of pay for time worked in excess of 40 hours in the established work period; or

(ii) one and one-half times the employee's regular hourly rate of pay for time worked during that work period that is in excess of the established workday.

(d) A unit may adopt alternate work periods as allowed by the federal Fair Labor Standards Act for the purpose of determining payment for overtime work for its law enforcement employees or fire fighters.

§8–306.

Payment for overtime work shall be made on or before the day the employee is paid for the second pay period following the pay period in which the payment for overtime work is earned.

§8–307.

(a) By regulations consistent with the federal Fair Labor Standards Act, the Secretary may provide for employees who otherwise would be entitled to payment for overtime work to elect to receive compensatory time instead.

(b) These regulations shall provide that an employee who elects to receive compensatory time must notify the employee's supervisor of that election before the overtime work is performed.

(c) Compensatory time under this section shall equal:

(1) 1 hour for each hour of overtime work for which the employee otherwise would receive the employee's regular hourly rate of pay; and

(2) 1.5 hours for each hour of overtime work for which the employee otherwise would receive one and one-half times the employee's regular hourly rate of pay.

§8–308.

(a) Except as provided in § 8–305(c) of this subtitle, a law enforcement employee of any unit of State government or a State Police cadet who works more than 8 hours in a normal 8–hour workday is entitled to be paid at the rate of one and one–half times the employee's or cadet's regular hourly rate of pay for time worked in excess of 8 hours.

(b) (1) In this subsection, "off–duty hours" means any hours:

(i) during a law enforcement employee's scheduled off–duty day; or

(ii) during a law enforcement employee's on–duty day after the employee has gone off duty.

(2) Except as otherwise provided in this subsection, a law enforcement employee of any unit of State government who is called to duty on the employee's scheduled off–duty day is entitled to be paid at the rate of one and one–half times the employee's regular hourly rate of pay for each hour worked on the off–duty day.

(3) Except as provided in paragraph (4) of this subsection, a law enforcement employee of the Department of State Police holding a noncommissioned rank or a law enforcement employee of the Department of Natural Resources holding a rank of sergeant or below, park ranger supervisor or below, or park services supervisor or below who is called to duty during the employee's off–duty hours is entitled to be paid at the rate of one and one–half times the employee's regular hourly rate of pay for the greater of:

(i) the hours worked during the off–duty hours; or

(ii) 4 hours.

(4) A law enforcement employee of the Department of State Police holding a noncommissioned rank or a law enforcement employee of the Department of Natural Resources holding a rank of sergeant or below who makes an appearance in court on official duty during the employee's off–duty hours is entitled to be paid at the rate of

one and one–half times the employee's regular hourly rate of pay for the greater of:

(i) the hours worked during the off–duty hours; or

(ii) 2 hours.

(c) A law enforcement employee of any unit of State government, or a police communications operator of the Department of State Police or Natural Resources Police who is required to work 4 or more hours on New Year's Day, Thanksgiving Day, or Christmas Day, or who is scheduled to be off duty on New Year's Day, Thanksgiving Day, or Christmas Day and is called to duty on any part of that day is entitled to:

(1) compensatory time of 1 day; and

(2) payment at the rate of one and one–half times the employee's regular hourly rate of pay for each hour worked on that day.

§8–309.

(a) The Secretary may designate, subject to the Secretary's salary-setting authority, those bona fide administrative, executive, and professional employees who may not receive payment for overtime work, but who may be granted compensatory time for overtime work.

(b) On or after July 1, 1989, an employee who is included in the Executive Pay Plan at a pay grade of (ES) 6 or above is not entitled to accrue any compensatory time other than as provided in § 9-205(a)(3) of this article for holiday work.

(c) A law enforcement employee of the Department of State Police holding a commissioned rank or a law enforcement employee of the Natural Resources Police holding a rank above sergeant may not receive payment for any overtime work, but may be granted compensatory time for overtime work.

§8–401.

Subject to the approval of the Governor, the Secretary may adopt regulations that prohibit a State officer from paying an employee in the State Personnel Management System any wages unless:

(1) the officer has a payroll authorization from the Secretary that lists:

(i) the name of that employee;

(ii) the amount to be paid to that employee; and

(iii) the services for which payment is to be paid; and

(2) the head of a principal unit certifies in each payroll for that unit that the employees named in the payroll have been lawfully employed during the pay period

and are entitled to the compensation authorized by the Secretary.

§8–402.

Money paid in violation of this section or in violation of any regulation adopted under § 8-401 of this subtitle may be recovered from the officer who pays or authorizes payment of the money or from the sureties of that officer's official bond.

§9–101.

(a) This section applies to all employees in the State Personnel Management System.

(b) Subject to the requirements of this title, the Secretary shall adopt regulations, policies, and guidelines that:

(1) govern all aspects of leave and the keeping of time records for all employees subject to this section;

(2) require each unit subject to the regulations to submit to the Secretary an annual report that includes:

(i) the total number of employees in the unit; and

(ii) the aggregate amounts of annual, personal, and sick leave taken by the employees in the unit;

(3) provide for computations in a pay period of:

(i) accruals of annual and sick leave; and

(ii) deductions for unpaid leave used; and

(4) provide for conversions of leave time and holiday time for employees who do not have an 8-hour daily work schedule.

§9–102.

The Secretary shall compile all leave reports received under § 9-101 of this subtitle and maintain a central database on those reports.

§9–103.

While using leave with pay under this title, an employee:

(1) does not lose any health insurance benefits with the subsidy allowed in Title 2, Subtitle 5 of this article solely because of use of the paid leave;

(2) continues seniority and leave accruals based on the employee's regular

hours; and

(3) except as provided in § 9-704 of this title, is entitled to pay for the leave at the employee's regular hourly rate for the hours of leave.

§9–201.

In this title, "employee holiday" includes:

(1) January 1, for New Year's Day;

(2) January 15, for Dr. Martin Luther King, Jr.'s birthday, unless the United States Congress designates another day for observance of that legal holiday, in which case, the day designated by the United States Congress;

(3) the third Monday in February, for Presidents' Day;

(4) May 30, for Memorial Day, unless the United States Congress designates another day for observance of that legal holiday, in which case, the day designated by the United States Congress;

(5) July 4, for Independence Day;

(6) the first Monday in September, for Labor Day;

(7) October 12, for Columbus Day, unless the United States Congress designates another day for observance of that legal holiday, in which case, the day designated by the United States Congress;

(8) November 11, for Veterans' Day;

(9) the fourth Thursday in November, for Thanksgiving Day;

(10) the Friday after Thanksgiving Day, for American Indian Heritage Day;

(11) December 25, for Christmas Day;

(12) each statewide general election day in this State; and

(13) each other day that the President of the United States or the Governor designates for general cessation of business.

§9–202.

(a) Except as provided in subsection (b) of this section, this subtitle applies to all employees of all units in the Executive Branch of State government, including any unit with an independent personnel system.

(b) This subtitle does not apply to:

(1) temporary employees;

(2) employees of any unit that is authorized or required by law to establish holiday schedules different from those provided in this subtitle; or

(3) employees of the State Department of Transportation.

§9–203.

Each employee subject to this subtitle is entitled to holiday leave with pay for each employee holiday specified in § 9-201 of this subtitle.

§9–204.

(a) Except as otherwise provided in this subtitle, an employee shall use holiday leave on the day the employee holiday occurs.

(b) Except as otherwise provided in this subtitle:

(1) if the employee holiday occurs on a Saturday, an employee shall use holiday leave on the Friday immediately before the employee holiday; and

(2) if the employee holiday occurs on a Sunday, an employee shall use holiday leave on the Monday immediately following the employee holiday.

§9–205.

(a) (1) Except as otherwise provided in paragraphs (2) and (3) of this subsection or in any other law, an employee, who because of the nature of the employee's duties, is required to work on any part of an employee holiday shall receive compensatory time for that work.

(2) An employee, including an employee in a 24-hour facility, shall receive payment for the number of holiday hours scheduled, at the employee's regular hourly rate of pay, and time and one-half payment for the number of hours actually worked, if the employee:

(i) is eligible to receive cash overtime;

(ii) has holidays prescheduled by the employer; and

(iii) is required by the employer to work a holiday that was designated as a prescheduled holiday for the employee.

(3) An employee who is included in the Executive Pay Plan at a pay grade of (ES) 6 or above may receive compensatory time for work on an employee holiday only if the employee works 5 or more hours on the holiday. The employee shall receive 1 day of compensatory time for each employee holiday on which the employee works 5 hours or more.

(b) An employee must use any compensatory time accrued under this section within 1 year after having accrued that time.

§9–301.

(a) Each employee in the State Personnel Management System, except a temporary employee, is entitled to annual leave with pay as provided in this subtitle.

(b) Annual leave may be used for any purpose.

§9–302.

(a) In this section, "total State service" includes any previous State service.

(b) Annual leave accrues as follows, on a pro rata basis:

(1) for an employee whose total State service is less than 5 years, at the rate of 10 workdays not to exceed 80 hours, a year;

(2) for an employee whose total State service is at least 5 years but less than 10 years, at the rate of 15 workdays not to exceed 120 hours, a year;

(3) for an employee whose total State service is at least 10 years but less than 20 years, at the rate of 20 workdays not to exceed 160 hours, a year; and

(4) for an employee whose total State service is 20 years or more, at the rate of 25 workdays not to exceed 200 hours, a year.

§9–303.

(a) Except as provided in subsection (b) of this section, an employee may use annual leave at any time after obtaining approval from the employee's supervisor.

(b) An employee may not use annual leave until the employee has completed 6 months of State service.

§9–304.

(a) (1) An employee may accumulate unused annual leave and may carry over from 1 year to the next year up to 75 days or 600 hours of that unused annual leave.

(2) Any accumulated and unused annual leave in excess of 75 days or 600 hours shall be forfeited at the beginning of the first full pay period of the next calendar year.

(b) (1) If an employee is denied the opportunity in 1 calendar year to use annual leave days in excess of the 75 days or 600 hours allowed to be carried over to the next year, the head of the employee's principal unit may allow the employee compensation, at the employee's regular rate of pay, for those excess leave days.

(2) The head of a principal unit may approve a request for compensation under this subsection only if:

(i) the appointing authority documents the unusual administrative reasons for having denied the employee the use of annual leave; and

(ii) funds are available for that purpose.

§9–305.

(a) Except for employees covered by a collective bargaining agreement and except as provided in § 9–306 of this subtitle, an employee is entitled, on termination of State employment, to compensation for unused annual leave.

(b) The amount of compensation to be paid under this section shall equal one–tenth of the employee's established biweekly compensation at the time of termination of State employment, multiplied by:

(1) the number of days of annual leave, not exceeding 50 days or 400 hours of the total that were accrued at the end of the previous calendar year and that remain unused; and

(2) the number of days of annual leave that accrued during the calendar year in which the employee's State employment terminates and that remain unused.

§9–306.

(a) An employee whose State employment is terminated for a cause involving moral turpitude forfeits all unused annual leave and all compensation for unused annual leave.

(b) An employee whose State employment terminates within 6 months after the employee's original appointment is not eligible for annual leave or compensation for annual leave.

§9–307.

Annual leave that is forfeited under §§ 9-304 and 9-306 of this subtitle is placed, unless the employee objects, in the State Employees' Leave Bank established by § 9-602(a)(1) of this title.

§9–308.

An employee may voluntarily donate any amount of the employee's annual leave to the State Employees' Leave Bank or to another State employee under the Employee-to-Employee Leave Donation Program under Subtitle 6 of this title.

§9–401.

(a) (1) Except as provided in paragraph (2) of this subsection, or otherwise provided by law, each employee in the State Personnel Management System, except a temporary employee, is entitled to 6 days, not to exceed 48 hours, of personal leave with pay at the beginning of the first full pay period of the calendar year.

(2) For the calendar year in which an employee begins employment, the employee is entitled only to the following personal leave with pay:

(i) 6 days, not to exceed 48 hours, if employment begins on or after January 1 and on or before the last day in February;

(ii) 5 days, not to exceed 40 hours, if employment begins on or after March 1 and on or before April 30;

(iii) 4 days, not to exceed 32 hours, if employment begins on or after May 1 and on or before June 30; or

(iv) 3 days, not to exceed 24 hours, if employment begins on or after July 1.

(b) Personal leave may be used for any purpose.

§9–402.

(a) Except as provided in subsection (b) of this section, an employee may use personal leave after notice to the employee's immediate supervisor.

(b) (1) If an employee is scheduled to work on a holiday or is employed in a unit that provides a service continuously on a 7-day-a-week basis, the employee may use personal leave only after obtaining approval from the employee's appointing authority.

(2) If the request is made to observe a religious holiday, the appointing authority may deny the request only if:

(i) the employee's unit provides a service continuously on a 7-day-a-week basis;

(ii) the denial is necessary because of a critical shortage of staff in the unit; and

(iii) no reasonable accommodation to the employee's request can be made.

(3) If the request is made for any other reason, the appointing authority may deny the request only if the denial is necessary because of a critical shortage of staff in the employee's unit.

§9–403.

(a) (1) An employee may not accumulate unused personal leave.

(2) Any unused personal leave shall be forfeited at the beginning of the first full pay period of the next calendar year.

(b) Personal leave that is forfeited is placed, unless the employee objects, in the State Employees' Leave Bank established by § 9-602(a)(1) of this title.

§9–404.

An employee may voluntarily donate any amount of the employee's personal leave to the State Employees' Leave Bank or to another State employee under the Employee-to-Employee Leave Donation Program under Subtitle 6 of this title.

§9–501.

(a) Each employee in the State Personnel Management System, except a temporary employee, is entitled to sick leave with pay as provided in this subtitle.

(b) Sick leave may be used:

(1) for illness or disability of the employee;

(2) for death, illness, or disability of a member of the employee's immediate family;

(3) following the birth of the employee's child;

(4) when a child is placed with the employee for adoption; or

(5) for a medical appointment of the employee or a member of the employee's immediate family.

§9–502.

Fifteen days, not to exceed 120 hours, of sick leave accrue to an employee each year, on a pro rata basis, from the beginning of the employee's State service.

§9–503.

(a) Payment for sick leave taken under this subtitle for personal illness or disability constitutes a separate benefit on account of sickness and is not a continuation of salary.

(b) Payment for sick leave taken under this subtitle for any reason not specified in subsection (a) of this section is a continuation of salary.

§9–504.

(a) An employee who uses sick leave for 5 or more consecutive workdays for personal illness or disability or the illness or disability of a member of the employee's immediate family may not receive payment under this subtitle unless the employee gives the employee's immediate supervisor an original certificate of illness or disability.

(b) The certificate required under subsection (a) of this section shall be signed by one of the following:

(1) a medical doctor who is authorized to practice medicine or surgery by the state in which the doctor practices;

(2) if authorized to practice in a state and performing within the scope of that authority:

(i) a chiropractor;

(ii) a clinical psychologist;

(iii) a dentist;

(iv) a licensed certified social worker - clinical;

(v) a nurse midwife;

(vi) a nurse practitioner;

(vii) an oral surgeon;

(viii) an optometrist;

(ix) a physical therapist; or

(x) a podiatrist;

(3) an accredited Christian Science practitioner; or

(4) a health care provider as defined by the federal Family Medical Leave Act.

(c) The certificate required under subsection (a) of this section due to an employee's illness or disability shall include a prognosis about the employee's ability to return to work.

§9–505.

(a) An employee who is responsible for the care and nurturing of a child may use, without certification of illness or disability, up to 30 days of accrued sick leave to

care for the child during the period immediately following:

(1) the birth of the employee's child; or

(2) the placement of the child with the employee for adoption.

(b) If two employees are responsible for the care and nurturing of a child, both employees in aggregate may use, without certification of illness or disability, up to 40 days, not to exceed 30 days for one employee, of accrued sick leave to care for the child during the period immediately following:

(1) the birth of the employees' child; or

(2) the placement of the child with the employees for adoption.

(c) (1) An employee who uses accrued sick leave following the birth of the employee's child may not receive payment under this subtitle unless the employee gives the employee's immediate supervisor information required by guidelines issued by the Secretary about the Family Medical Leave Act of 1993, 29 U.S.C. § 2601 et seq.

(2) An employee who uses accrued sick leave for adoption purposes may not receive payment under this subtitle unless the employee gives the employee's immediate supervisor the certificate required by guidelines issued by the Secretary about the Family and Medical Leave Act of 1993, 29 U.S.C. § 2601 et seq.

§9–506.

(a) An employee may accumulate unused sick leave and use as permitted by § 9-501(b) of this subtitle.

(b) Except as otherwise provided by law, an employee whose State employment terminates for any reason forfeits all unused sick leave.

§9–507.

Sick leave that is forfeited is placed, unless the employee objects, in the State Employees' Leave Bank established by § 9-602(a)(1) of this title.

§9–508.

(a) Subject to subsection (b) of this section, an employee may voluntarily donate the employee's unused sick leave to the State Employees' Leave Bank or to another State employee under the Employee-to-Employee Leave Donation Program under Subtitle 6 of this title.

(b) An employee may donate sick leave under this section only to the extent that the employee has a sick leave balance of at least 240 hours after the donation.

§9–601.

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

(b) "Catastrophic illness or injury" means a condition that is incapacitating or life threatening as certified by a health care provider, as defined in the federal Family Medical Leave Act.

(c) "Immediate family" means:

(1) the spouse of the employee;

(2) children, including foster and stepchildren of the employee;

(3) parents, stepparents, or foster parents of the employee;

(4) brothers and sisters of the employee; and

(5) grandparents and grandchildren of the employee.

(d) "Leave Bank" means the State Employees' Leave Bank.

(e) "Leave Donation Program" means the Employee-to-Employee Leave Donation Program.

§9–602.

(a) (1) There is a State Employees' Leave Bank.

(2) There is an Employee-to-Employee Leave Donation Program.

(b) The Secretary shall administer the State Employees' Leave Bank and the Employee-to-Employee Leave Donation Program.

(c) The Secretary shall adopt regulations that:

(1) govern donations to and grants of leave from the Leave Bank;

(2) govern donations and receipts of leave under the Leave Donation Program; and

(3) provide for participation in the Leave Bank and the Leave Donation Program by employees in units of State government with independent personnel systems that elect to participate in the State Employees' Leave Bank in accordance with subsection (e) of this section.

(d) Each employee, except a temporary employee, in the State Personnel Management System may voluntarily participate in the Leave Bank and the Leave Donation Program in accordance with this subtitle.

(e) (1) A principal unit in the Executive, Judicial, or Legislative branches of State government with an independent personnel system may allow its employees to voluntarily participate in the Leave Bank and the Leave Donation Program in accordance with this subtitle.

(2) A unit that elects to participate under this subsection shall:

(i) keep a record of the employee leave donated; and

(ii) at the end of each fiscal year, submit to the Secretary a report containing the following information:

1. the number of employees who donated leave;

2. the kind of leave and number of hours donated by each employee;

3. the number of employees who received donated leave; and

4. the number of hours of donated leave used by each employee to whom leave was donated.

§9–603.

(a) The Leave Bank consists of donated leave and forfeited annual, personal, and sick leave.

(b) An employee is a member of the Leave Bank for 2 years from the date on which the employee:

(1) voluntarily donates at least 8 hours of annual, personal, or sick leave to the Leave Bank in accordance with this title; or

(2) has at least 8 hours of annual or personal leave placed in the Leave Bank as a result of a forfeiture under § 9-307, § 9-403, or § 9-507 of this title.

(c) The Secretary may grant leave from the State Employees' Leave Bank to an employee who:

(1) has exhausted all forms of annual, personal, sick, and compensatory leave because of a serious and prolonged medical condition;

(2) provides a certificate of illness or disability; and

(3) (i) is a member of the State Employees' Leave Bank; or

(ii) is granted an exemption by the Secretary from the membership requirement for good cause.

§9–604.

(a) (1) Subject to the limitations in this title or in any other law, an employee may voluntarily donate unused annual, sick, or personal leave to another employee who has exhausted all available annual, personal, sick, and compensatory leave because of a serious and prolonged medical condition of the employee or a catastrophic illness or injury of a member of the employee's immediate family.

(2) The employee who donates leave shall designate the recipient of the leave.

(b) An employee who receives leave through the Leave Donation Program may only use the leave for:

(1) an illness or disability of the employee due to the medical condition that existed at the time of the donation; or

(2) a catastrophic illness or injury of a member of the employee's immediate family for whom the employee is needed to provide direct care.

(c) (1) An employee may use leave received through the Leave Donation Program for a catastrophic illness or injury of a member of the employee's immediate family only after obtaining approval from the employee's appointing authority.

(2) Approval by the employee's appointing authority is discretionary, and denial may be based on any reason which is consistently applied and that is not illegal or unconstitutional.

§9–605.

An employee may not:

(1) receive more than a total of 2,080 hours of leave from the Leave Bank and the Leave Donation Program; or

(2) use leave from the Leave Bank, the Leave Donation Program, or both for any continuous period that, when combined with all other forms of paid leave, exceeds 16 months.

§9–606.

An employee who is denied use of leave from the Leave Bank or Leave Donation Program may appeal the denial in accordance with regulations adopted by the Secretary.

§9–607.

(a) An employee may not, through intimidation, threat, or coercion, interfere

with any right that another employee may have with respect to contributing, receiving, or using leave under this subtitle, including any promise to confer or conferring any appointment, promotion, compensation, or other benefit, or effecting or threatening to effect any reprisal, including the deprivation of appointment, promotion, compensation, or other benefit.

(b) An employee who violates subsection (a) of this section is subject to disciplinary action, including the termination of State employment.

§9–701.

(a) Each employee in the State Personnel Management System, except a temporary employee, is entitled to work-related accident leave with sick pay if:

(1) the employee sustains a disabling personal injury that would be compensable under the Maryland Workers' Compensation Act; and

(2) a physician examines the employee and certifies that the employee is disabled because of the injury.

(b) The appointing authority of an employee entitled to work-related accident leave shall notify the employee of the employee's right to file a claim with the Workers' Compensation Commission.

§9–702.

(a) An employee may use work-related accident leave:

(1) beginning on the first day of disability; and

(2) continuing until the earlier of:

(i) the day that the employee is able to return to work, as certified by a physician; or

(ii) 6 months from the day of disability.

(b) After an employee returns to work, work-related accident leave may be granted for continuing treatment as certified by a physician selected by the appointing authority up to 6 months from the day of the original disability.

(c) Work-related accident leave may be granted for up to an additional 6 months if:

(1) the employee is certified by a physician selected or accepted by the appointing authority; and

(2) no decision has been reached by the Workers' Compensation Commission on the employee's claim.

§9–703.

The appointing authority may require an employee on work-related accident leave to be examined periodically by a physician selected or accepted by the appointing authority to determine the employee's progress and the length of time necessary for the employee's recovery.

§9–704.

(a) Payment to an employee for work-related accident leave taken under this subtitle shall be based on two-thirds of the employee's regular pay.

(b) Payment for work-related accident leave taken under this subtitle constitutes a separate benefit on account of accidental disability and is not a continuation of salary.

(c) Notwithstanding the reduced rate that an employee is paid while using work-related accident leave, the employee:

(1) continues seniority and leave accruals based on the employee's regular pay; and

(2) does not lose health care benefits with the subsidy allowed in Title 2, Subtitle 6 of this article solely because of use of the work-related accident leave.

(d) An employee may not receive temporary total disability benefits under the Maryland Workers' Compensation Act while the employee is receiving payment under this subtitle.

§9–705.

(a) If someone other than the employee or the State causes an injury for which work-related accident leave is taken under this subtitle, the State, as employer, after giving written notice to the employee, is subrogated to the rights of the employee to the extent of any compensation paid or owed under this subtitle.

(b) The State, in its own name and for its own benefit, may bring an action or join in an action if:

(1) within 90 days after the employee receives notice from the State under subsection (a) of this section, the employee fails to:

(i) enforce the claim against the person causing the injury; or

(ii) give written notice to the State of an intent to do so; or

(2) within a reasonable time after giving the State notice of an intent to enforce the claim against the person causing the injury, the employee fails to take action

to enforce the claim.

(c) An action brought by the State under this section is not a bar to any other claim related to the injury.

§9–801.

(a) Except as provided in subsection (b) of this section, this subtitle applies to all employees, including temporary employees, of all units in the Executive Branch of State government, including any unit with an independent personnel system.

(b) This subtitle does not apply to employees of a unit that must provide a service continuously on a 7-day-a-week basis.

§9–802.

The Secretary shall adopt regulations that provide for work schedules to allow an employee whose religious beliefs require absence from work to perform optional, compensatory work outside of the employee's regular work hours to offset the absence.

§9–803.

(a) If an employee who is entitled to overtime pay elects to perform compensatory work under this section:

(1) for any workweek in which the employee works 40 hours or less, each hour of compensatory work offsets 1 hour of absence for religious observance; and

(2) for any workweek in which the employee works more than 40 hours, each hour of compensatory work over 40 hours offsets 1.5 hours of absence for religious observance.

(b) If an employee who is exempt from overtime pay elects to perform compensatory work under this section, each hour of compensatory work offsets 1 hour of absence for religious observance.

§9–804.

A unit may adopt written policies that provide exceptions to this subtitle for the efficient operation of the unit.

§9–901.

(a) Except as provided in § 8-307 of this article, each employee in the State Personnel Management System, except a temporary employee, is entitled, on termination of State employment, to compensation for no more than 2 days of unused compensatory leave earned during the calendar year in which the employee's State employment terminates.

(b) Subsection (a) of this section does not apply to employees covered by a collective bargaining agreement or as otherwise required by federal law.

§9–1001.

(a) The Secretary shall adopt regulations, guidelines, or policies implementing the federal Family and Medical Leave Act of 1993.

(b) The regulations adopted by the Secretary may require an eligible employee to use other available accrued leave concurrently with family and medical leave.

§9–1101.

Except as otherwise provided in this subtitle, this subtitle applies to all employees in the State Personnel Management System, except temporary employees.

§9–1102.

(a) This section applies to all employees, including temporary employees, of all units in the Executive, Judicial, and Legislative branches of State government, including any unit with an independent personnel system.

(b) On request, an employee subject to this section may be entitled to disaster service leave with pay if:

(1) the employee is certified by the American Red Cross as a disaster service volunteer; and

(2) the American Red Cross requests the services of the employee during a disaster that is designated at Level II or above in the regulations and procedures of the National Office of the American Red Cross.

(c) An employee may use up to 15 days of disaster service leave in any 12-month period only after obtaining approval from the employee's appointing authority.

(d) For purposes of workers' compensation and the Maryland Tort Claims Act, while an employee is using disaster service leave, the employee is deemed not to be a State employee.

§9–1103.

(a) An employee is entitled to receive appropriate health care to be provided by the appointing authority and leave with pay in accordance with subsection (b) of this section, if:

(1) the employee has a positive tuberculin skin test result on a test taken by the employee at the direction of the employee's appointing authority; and

(2) the Secretary of Health and Mental Hygiene determines that, for

public health reasons, the employee should not work for a given period of time.

(b) Leave granted to an employee under this subsection for public health reasons may not exceed 90 days. If it is determined that a longer absence is medically required, the employee may use other forms of leave to the extent authorized under this title.

§9–1104.

The Secretary may provide by regulation for leave with pay:

(1) for jury service;

(2) to attend employee organization events approved for this purpose by the Secretary;

(3) up to 15 days for military training or active military duty in a reserve unit of the armed forces or in the organized militia;

(4) unless the employee is a party to the action or a paid witness, to appear in compliance with a subpoena:

(i) in court;

(ii) before a grand jury;

(iii) before an administrative unit; or

(iv) for a deposition;

(5) for administrative leave for the purpose of immediately removing an employee from the work site, if the employee:

(i) poses a threat to self, another individual, or State property; or

(ii) is incapable of properly performing the employee's duties because of extraordinary circumstances; and

(6) any other paid leave the Secretary deems necessary.

§9–1105.

The Secretary may provide by regulation for leaves of absence without pay for up to 2 years.

§9–1106.

(a) This section applies to all employees, including temporary employees, of all units in the Executive, Judicial, and Legislative branches of State government,

including any unit with an independent personnel system.

(b) On request, an employee subject to this section may be entitled to organ donation leave with pay.

(c) (1) An employee may use:

(i) up to 7 days of organ donation leave in any 12–month period to serve as a bone marrow donor; and

(ii) up to 30 days of organ donation leave in any 12–month period to serve as an organ donor.

(2) An employee may use organ donation leave only after obtaining approval from the employee's appointing authority.

(d) The Secretary shall adopt regulations governing organ donation leave, including regulations that establish conditions and procedures for requesting and approving leave and that require medical documentation of the proposed organ or bone marrow donation before leave is approved.

§9–1107.

(a) This section applies to all employees, except temporary employees, of all units in the Executive, Judicial, and Legislative branches of State government, including any unit with an independent personnel system.

(b) Military administrative leave may be provided to an employee subject to this section who:

(1) is on active military duty on July 1, 2003; or

(2) is activated for military duty on or after July 1, 2003.

(c) (1) An employee who is eligible to receive military administrative leave under this section is entitled to leave in an amount sufficient to compensate the employee, during each pay period for which the employee is eligible to receive military administrative leave under this section, for the difference between the employee's active duty base salary paid by the federal government and the employee's State base salary or direct wages.

(2) Compensation provided under this subsection may not exceed an employee's State base salary or direct wages.

(d) An employee eligible to receive military administrative leave under this section who is activated for military duty on or after July 1, 2003, shall elect to use either military administrative leave or paid leave as provided in § 9-1104(3) of this subtitle.

(e) The Department shall keep a record of the use of military administrative leave under this section.

§9–1201.

Except as otherwise provided, this subtitle applies to employees in the State Personnel Management System and employees in the Transportation Service Human Resources Management System.

§9–1202.

(a) There is a Sick Leave Incentive Program for State employees that allows for the payment for unused sick leave.

(b) The Secretary shall adopt regulations to administer the Program.

(c) A unit that participates in this Program shall submit to the Secretary at the end of each calendar year a report that includes:

(1) the number of employees receiving payment for unused sick leave;

(2) the total payment received by employees;

(3) the number of unused sick leave hours exchanged for payment;

(4) the total sick leave hours used during the calendar year; and

(5) any estimated overtime savings as a result of this Program.

§9–1203.

(a) The Sick Leave Incentive Program consists of the following two incentives:

(1) payment for up to 40 hours of unused sick leave per calendar year if an employee has used no more than 40 hours of sick leave during the calendar year and has a sick leave balance of at least 240 hours on December 31 of that calendar year; and

(2) payment for up to 56 hours of unused sick leave per calendar year if an employee has used no more than 24 hours of sick leave during the calendar year and has a sick leave balance of at least 240 hours on December 31 of that calendar year.

(b) To be eligible for the Program, an employee shall maintain a sick leave balance of at least 240 hours after payment is received for leave.

(c) (1) For the purpose of determining eligibility for the Program, the following use of leave does not qualify as sick leave usage:

(i) sick leave that is used for a death in the immediate family;

(ii) sick leave that is donated to another employee in accordance with the provisions of the Employee-to-Employee Leave Donation Program;

(iii) sick leave that is donated to the State Employees' Leave Bank; and

(iv) sick leave that is taken in accordance with the Family and Medical Leave Act.

(2) Leave used for the purpose stated in paragraph (1)(iv) of this subsection shall not be used to determine an employee's leave balance under subsection (b) of this section.

§9–1204.

The payment, sick leave usage rate, and sick leave balance for a part-time employee will be prorated based on the employee's percentage of employment.

§10–101.

Except as otherwise provided, this title applies to all employees in the State Personnel Management System.

§10–102.

There is an employee training program administered by the Department.

§10–103.

The purposes of the training program are to:

(1) develop the capabilities of employees;

(2) train employees to perform their duties with maximum efficiency;

(3) attract individuals to State employment; and

(4) train managers and supervisors to be knowledgeable and skilled in the fair application of laws, rules, and guidelines.

§10–104.

Except as otherwise provided by law, staff supervision of all development and training is the responsibility of the Secretary, to be carried out in accordance with the policies and regulations adopted by the Secretary.

§10–105.

Public funds may be used to supplement and subsidize training and development

only when the Secretary certifies that the expenditures are in accordance with State training policies and regulations.

§10–201.

In this subtitle, "principal unit" means a principal unit in the Executive Branch of State government, including any unit with independent pay-setting authority.

§10–202.

(a) Except as provided in subsection (b) of this section, this subtitle applies to all employees of all units in the Executive Branch of State government, including a unit with independent pay-setting authority.

(b) This subtitle does not apply to any employee who holds a position that is included in the Executive Pay Plan.

§10–203.

(a) In this section, "innovative idea" means an invention, innovative suggestion, or any other innovative idea.

(b) There is an Innovative Idea Awards Program for employees.

(c) (1) An innovative idea award may be awarded for an innovative idea that, if implemented, would:

(i) increase revenue to the State;

(ii) save money for the State;

(iii) improve the quality of services delivered to the public; or

(iv) otherwise significantly benefit the State.

(2) Except under exceptional circumstances, an award may not be made for an innovative idea that is under active study or continual review by a unit of State government.

(d) (1) The head of each principal unit shall establish a labor–management review committee, with half of the members being selected from the exclusive representatives, if any, to evaluate and recommend awards for innovative ideas by employees of that unit.

(2) (i) To the extent possible, within 60 days after an innovative idea is submitted to the labor–management review committee, the head of the unit shall decide whether to give an innovative idea award.

(ii) The innovative idea may be received directly from an employee

through an application, or forwarded by the employee's supervisor.

(e) For an innovative idea, the head of a principal unit may give an employee of that unit a cash award of not more than:

(1) $1,000 for an innovative idea with a reasonably ascertainable monetary savings or gain to the State; or

(2) $300 for any other innovative idea.

(f) (1) There is a Governor's Award Panel.

(2) The Governor's Award Panel consists of five members appointed by the Governor, at least three of whom shall be public members who serve without compensation.

(g) (1) The head of a principal unit, in consultation with the labor–management review committee, shall submit to the Governor's Award Panel each innovative idea for which an award is made under subsection (e) of this section, with a recommendation for any additional award by the Governor.

(2) The Governor's Award Panel shall:

(i) review each innovative idea submitted to it;

(ii) at least once a year, make a recommendation to the Governor about additional awards for the innovative ideas; and

(iii) recommend to the Governor either monetary or nonmonetary awards for the employees' innovative ideas.

(h) (1) The Governor may make an additional cash award for an innovative idea.

(2) The cash award may not exceed $20,000.

(3) The Governor may grant paid administrative leave, not exceeding 20 workdays.

(i) The State's use of an innovative idea:

(1) does not entitle the employee submitting the innovative idea to an award under this section; and

(2) does not give rise to any claim by the employee or the heirs or assigns of the employee.

§10–204.

(a) There is an Incentive Performance Awards Program for employees.

(b) (1) An incentive performance award for extraordinary service may be awarded for extraordinary performance in the public interest in connection with an employee's State employment.

(2) For extraordinary service, the head of a principal unit may make the following awards to an employee or members of a group of employees in that unit:

(i) cash of not more than $300;

(ii) a gift of not more than $300 in value;

(iii) paid administrative leave of not more than 3 days; or

(iv) any combination of cash, gift, and leave of not more than $300 in value.

(3) An employee may only receive one incentive performance award under this subsection in any 12-month period.

(c) (1) An incentive performance award for outstanding service in connection with State employment over a sustained period or a special State project may be awarded for:

(i) exceptional performance that exceeds the knowledge, skill, or ability required by the employee's position; or

(ii) exceptionally meritorious acts or services in the public interest.

(2) For outstanding service, the head of a principal unit may make a cash award of not more than $3,000 to an employee of that unit.

(3) An employee may only receive one incentive performance award under this subsection in any 24-month period.

(d) (1) Before making an award, the head of a principal unit shall:

(i) establish criteria for administering the Incentive Performance Awards Program, including standards of eligibility; and

(ii) ensure that the employees in the unit have copies of the criteria.

(2) The head of the unit may amend the criteria at any time, but an amendment is not effective until the employees in the unit have been sent a copy of the amendment.

(e) The head of a principal unit may delegate to any subordinate supervising unit head the authority to make awards under this section.

§10–205.

An award made under this subtitle is in addition to the regular pay of the recipient.

§10–206.

A determination under this subtitle about any award or proposed award is not subject to employee grievance procedures.

§10–207.

A cash award and expenses related to other awards under this subtitle shall be paid:

(1) from increased revenue or monetary savings attributable to the innovative idea or service;

(2) from the funds of any principal unit that employs the employee or that benefits from the innovative idea or service; or

(3) as provided in the State budget.

§10–208.

(a) (1) The Secretary shall adopt regulations to carry out this subtitle.

(2) Regulations to implement the Innovative Idea Awards Program shall be made with the concurrence of the Governor's Award Panel.

(b) (1) Within 90 days after the end of each fiscal year, the head of each principal unit shall submit to the Secretary a report on all awards made under this subtitle.

(2) The report shall be made on the form and in the manner that the Secretary requires.

§10–301.

This subtitle applies to nontemporary employees in the State Personnel Management System.

§10–302.

To recognize length of State service, the Secretary shall give to each employee subject to this subtitle an appropriate emblem and certificate for:

(1) the first 10 years of service; and

(2) each additional 5 years of service.

§10–401.

(a) Except as provided in subsection (b) of this section and § 10-404 of this subtitle, this subtitle applies to all employees of all units in the Executive Branch of State government.

(b) Except as provided in § 10-404 of this subtitle, this subtitle does not apply to a unit with an independent personnel system.

§10–402.

(a) This section does not apply to a temporary employee.

(b) (1) When a principal unit plans the closure of a facility where 50 or more employees regularly work, that unit shall give the employees of that facility notice of the planned closure of the facility.

(2) Except as otherwise provided in this subsection, the notice shall be given at least 6 months before closing a facility.

(3) In any year in which the Governor fails to include sufficient funds in the annual budget to operate a facility, thereby precipitating the closure of the facility, the notice shall be given no later than 30 days following the submission of the annual budget bill to the General Assembly.

(4) Whenever the General Assembly in any year fails to appropriate sufficient funds in the annual budget to operate a facility, thereby precipitating the closure of the facility, the notice shall be given no later than 30 days following the close of that session of the General Assembly.

(c) If requested by an employee who is to be laid off, immediately following the notice, the department or other independent unit that plans the closure shall:

(1) begin to provide intensive job counseling and training referral for the affected employees;

(2) make efforts to relocate or transfer the affected employees to other departmental positions in the State; and

(3) notify the Department of Budget and Management and the Department of Labor, Licensing, and Regulation of any employees who are adversely affected.

(d) The Department of Budget and Management shall:

(1) develop a list of State classifications with their comparable classifications, if any; and

(2) with the assistance of the Department of Labor, Licensing, and Regulation, make efforts to relocate the affected State employees to vacant State positions.

(e) The Department of Labor, Licensing, and Regulation shall develop a program to assist adversely affected State employees by providing retraining and other appropriate employment and training services.

(f) The Secretary shall adopt rules and regulations to implement this section.

§10–403.

(a) (1) Subject to paragraph (2) of this subsection, an employee subject to this subtitle is entitled to reimbursement for the loss of any wearing apparel, jewelry, eyeglasses, or prosthetic device damaged or destroyed as a result of an intentional act by a client, patient, prisoner, or other individual who is in the care or custody of the State.

(2) Reimbursement is allowed under this section only if:

(i) the loss occurs while the employee is engaged in the performance of job duties;

(ii) the item is on the person of the employee when it is damaged or destroyed; and

(iii) the employee gives a written report of the estimated loss to the employee's immediate supervisor before the close of business on the employee's next workday.

(b) To the extent that the employee is not reimbursed under any other State law, the employee's unit shall reimburse the employee under this section for the amount of the loss, but not more than $100 for each item.

(c) Each reimbursement under this section is subject to reasonable verification of the value of the item when the damage or destruction occurs.

§10–404.

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

(2) "Child" means any natural, adopted, or posthumous child, or stepchild, or the decedent who is:

(i) 18 years of age or under; or

(ii) over 18 years of age and incapable of self-support because of a physical or mental disability.

(3) "Stepchild" means any child of the surviving spouse who was living with or dependent for support on the decedent at the time of death.

(b) This section applies to all:

(1) employees in the State Personnel Management System;

(2) employees in any other authorized personnel system established for a unit of State government; and

(3) members of the Maryland National Guard serving on orders issued in accordance with Title 13 of the Public Safety Article or Title 32 of the United States Code.

(c) (1) (i) Except as provided in paragraph (2) of this subsection, a death benefit in the amount of $100,000 shall be paid to the surviving spouse, children, or dependent parents of any employee subject to this section who is killed in the performance of duties on or after July 1, 2000.

(ii) A death benefit may not be paid under this paragraph if an employee is killed as a result of the employee's negligence.

(iii) A death benefit may not be paid under this paragraph if a member of the Maryland National Guard who is killed in the performance of duties is eligible to receive dependency and indemnity compensation under rules prescribed by the United States Department of Veterans Affairs.

(2) (i) A death benefit in the amount of $50,000 shall be paid to the surviving spouse, children, or dependent parents of any State employee covered by the provisions of § 1-202 of the Public Safety Article who is killed in the performance of duties on or after July 1, 2000.

(ii) A death benefit may not be paid under this paragraph if an employee is killed as a result of the employee's negligence.

(iii) An individual who receives a death benefit under this paragraph may not also receive a death benefit under paragraph (1) of this subsection.

(3) A death benefit under this section shall be in addition to any:

(i) workers' compensation benefits;

(ii) proceeds of any form of life insurance, regardless of who paid the premiums on the insurance;

(iii) benefit provided to a State employee covered by the provisions of § 1-202 of the Public Safety Article; and

(iv) except as provided in paragraph (1)(iii) of this subsection, benefits paid to a member of the Maryland National Guard, the member's estate, or the member's beneficiaries or survivors by the United States.

(d) (1) On notification by the head of the unit that employed the decedent, the Secretary shall determine whether a death benefit will be paid under this section.

(2) If the Secretary determines that a death benefit is payable, payment shall be made:

(i) to the surviving spouse;

(ii) if there is no surviving spouse, to the surviving children, in equal shares; or

(iii) if there is no surviving spouse or children, to the surviving parent or parents, if the parent was a dependent as defined in § 152 of the Internal Revenue Code.

(e) A death benefit under this section shall be paid out of funds which the Governor may appropriate for that purpose in the State budget.

(f) A decision of the Secretary under this section:

(1) is the final administrative decision; and

(2) is not subject to appeal under Title 10, Subtitle 2 of the State Government Article.

§11–101.

In this title, "employee" includes a former State employee.

§11–102.

This subtitle applies to all employees in the State Personnel Management System within the Executive Branch except temporary employees.

§11–103.

(a) Except as otherwise provided, the appointing authority has the burden of proof by a preponderance of the evidence in any proceeding under this subtitle. The head of a principal unit, the Secretary, and the Office of Administrative Hearings shall apply that standard of proof in appeals under this subtitle.

(b) After taking a disciplinary action against an employee, an appointing

authority may not impose an additional disciplinary action against that employee for the same conduct unless additional information is made known to the appointing authority after the disciplinary action was taken.

(c) The suspension of an employee who is exempt from the overtime pay requirements of the Fair Labor Standards Act, and under any changes to the Fair Labor Standards Act, shall be done so that the employee's overtime exemption will not be lost.

(d) An employee may choose any person to assist or represent the employee during an appeal under this subtitle and shall notify the employer of that choice.

(e) All written appeal documents and all decisions rendered under this subtitle may be transmitted electronically to the appropriate parties.

§11–104.

An appointing authority may take the following disciplinary actions against any employee:

(1) give the employee a written reprimand;

(2) direct the forfeiture of up to 15 work days of the employee's accrued annual leave;

(3) suspend the employee without pay;

(4) deny the employee an annual pay increase;

(5) demote the employee to a lower pay grade; or

(6) with prior approval of the head of the principal unit:

(i) terminate the employee's employment, without prejudice; or

(ii) if the appointing authority finds that the employee's actions are egregious to the extent that the employee does not merit employment in any capacity with the State, terminate the employee's employment, with prejudice.

§11–105.

The following actions are causes for automatic termination of employment:

(1) intentional conduct, without justification, that:

(i) seriously injures another person;

(ii) causes substantial damage to property; or

(iii) seriously threatens the safety of the workplace;

(2) theft of State property of a value greater than $300;

(3) illegal sale, use, or possession of drugs on the job;

(4) conviction of a controlled dangerous substance offense by an employee in a designated sensitive classification;

(5) conviction of a felony;

(6) accepting for personal use any fee, gift, or other valuable thing in connection with or during the course of State employment if given to the employee by any person with the hope or expectation of receiving a favor or better treatment than that accorded to other persons;

(7) (i) violation of the Fair Election Practices Act; or

(ii) using, threatening, or attempting to use political influence or the influence of any State employee or officer in securing promotion, transfer, leave of absence, or increased pay;

(8) wantonly careless conduct or unwarrantable excessive force in the treatment or care of an individual who is a client, patient, prisoner, or any other individual who is in the care or custody of this State; and

(9) violation of § 3–314 of the Criminal Law Article.

§11–106.

(a) Before taking any disciplinary action related to employee misconduct, an appointing authority shall:

(1) investigate the alleged misconduct;

(2) meet with the employee;

(3) consider any mitigating circumstances;

(4) determine the appropriate disciplinary action, if any, to be imposed; and

(5) give the employee a written notice of the disciplinary action to be taken and the employee's appeal rights.

(b) Except as provided in subsection (c) of this section, an appointing authority may impose any disciplinary action no later than 30 days after the appointing authority acquires knowledge of the misconduct for which the disciplinary action is imposed.

(c) (1) An appointing authority may suspend an employee without pay no later than 5 workdays following the close of the employee's next shift after the appointing authority acquires knowledge of the misconduct for which the suspension is imposed.

(2) Saturdays, Sundays, legal holidays, and employee leave days are excluded in calculating the 5-workday period under this subsection.

§11–107.

(a) (1) Issuing a counseling memorandum is an instructional communication and is not a disciplinary action within the meaning of this subtitle.

(2) Within 5 days after receiving a counseling memorandum, an employee may submit to the employee's appointing authority a written response to the memorandum. The response shall be placed in the employee's file and attached to any record of the memorandum.

(3) An employee may not take any other action in response to a counseling memorandum.

(b) (1) Placing an employee on leave without pay when the employee is absent without approval is not a disciplinary action within the meaning of this subtitle.

(2) An employee who is placed on leave without pay for an unapproved absence also may be subject to disciplinary action for the unapproved absence.

(c) (1) Requiring an employee to make restitution to the State for loss or damage to State property due to the employee's negligence is not a disciplinary action within the meaning of this subtitle.

(2) An appointing authority may not require an employee to pay restitution exceeding 3% of the employee's annual base pay.

(3) An employee who is ordered to make restitution under this subsection also may be subject to civil prosecution or criminal prosecution for wanton destruction of property under the State law.

§11–108.

(a) This subtitle does not preclude an appointing authority and an employee from agreeing to the:

(1) holding in abeyance of a disciplinary action for a period not to exceed 18 months in order to permit an employee to improve conduct or performance; or

(2) imposition of a lesser disciplinary action as a final and binding action, not subject to any further review.

(b) (1) If an employee fails to appeal a decision in accordance with this subtitle, the employee is considered to have accepted the decision.

(2) A failure to decide an appeal in accordance with this subtitle is considered a denial from which an appeal may be made.

(c) The parties may agree to waive or extend any time stated in this subtitle.

(d) Each party shall make every effort to resolve an appeal at the lowest level possible.

§11–109.

(a) (1) Except as provided in paragraph (2) of this subsection, this section applies only to employees in the skilled service or the professional service.

(2) This section does not apply to an employee under a special appointment described in § 6-405 of this article.

(b) (1) Except as provided in paragraph (3) of this subsection, an employee in the skilled service or the professional service may appeal a disciplinary action taken while the employee is on probation only on the basis that the action was illegal or unconstitutional.

(2) The employee has the burden of proof in an appeal under this subsection.

(3) The limitations in paragraphs (1) and (2) of this subsection do not apply to an employee in the skilled service or the professional service who is on probation following a promotion or reinstatement.

(c) (1) An employee or an employee's representative may file with the head of the principal unit a written appeal of a disciplinary action that states, to the extent possible, the issues of fact and law that the employee believes would warrant rescinding the disciplinary action.

(2) An appeal under this subtitle must be filed within 15 days after the employee receives notice of the appointing authority's action.

(d) The head of the principal unit may confer with the employee before making a decision.

(e) (1) The head of the principal unit may:

(i) uphold the disciplinary action; or

(ii) rescind or modify the disciplinary action taken and restore to the employee any lost time, compensation, status, or benefits.

(2) Within 15 days after receiving an appeal, the head of the principal unit shall issue to the employee a written decision that addresses each point raised in the appeal.

(f) Within 15 days after issuance of a decision to rescind a disciplinary action, the disciplinary action shall be expunged from the employee's personnel records.

§11–110.

(a) (1) Within 10 days after receiving a decision under § 11–109 of this subtitle, an employee or an employee's representative may appeal the decision in writing to the Secretary.

(2) An appeal shall state, to the extent possible, the issues of fact and law that are the basis for the appeal.

(b) Within 30 days after receiving an appeal, the Secretary or designee shall:

(1) (i) mediate a settlement between the employee and the unit; or

(ii) refer the appeal to the Office of Administrative Hearings; and

(2) advise the employee in writing of the Secretary's action.

(c) (1) Within 30 days after receiving the appeal, the Office of Administrative Hearings shall schedule a hearing and notify the parties of the hearing date.

(2) The Office of Administrative Hearings shall dispose of the appeal or conduct a hearing on each appeal in accordance with Title 10, Subtitle 2 of the State Government Article. The Office is bound by any regulation, declaratory ruling, prior adjudication, or other settled, preexisting policy, to the same extent as the Department is or would have been bound if it were hearing the case.

(d) (1) Except as otherwise provided by this subtitle, the Office of Administrative Hearings may:

(i) uphold the disciplinary action;

(ii) rescind or modify the disciplinary action taken and restore to the employee any lost time, compensation, status, or benefits; or

(iii) order:

1. reinstatement to the position that the employee held at dismissal;

2. full back pay and benefits; or

3. both 1 and 2.

(2) Within 45 days after the close of the hearing record, the Office of Administrative Hearings shall issue to the parties a written decision.

(3) The decision of the Office of Administrative Hearings is the final administrative decision.

(4) The principal unit that employs the employee shall pay all costs related to the appeal that are incurred by the Office of Administrative Hearings.

(e) (1) If a written decision issued under subsection (d) of this section is not appealed in accordance with § 10–222 of the State Government Article, within 45 days after issuance of a decision to rescind a disciplinary action, the disciplinary action shall be expunged from the employee's personnel records.

(2) If a written decision issued under subsection (d) of this section is appealed in accordance with § 10–222 of the State Government Article, within 45 days after the issuance of a final decision on appeal to rescind a disciplinary action, the disciplinary action shall be expunged from the employee's personnel records.

§11–111.

The Secretary, by regulation, shall establish policies and procedures for disciplinary actions related to employee performance, that include procedures for:

(1) providing counseling to an employee with deficiencies in performance;

(2) allowing an employee the opportunity to improve deficiencies in performance;

(3) imposing disciplinary actions, if warranted; and

(4) providing notice to an employee of any disciplinary action and the employee's appeal rights.

§11–112.

(a) If the principal unit has established a peer review panel for disciplinary actions in accordance with regulations adopted by the Secretary, the employee and the principal unit may agree in writing to submit the appeal to the peer review panel, instead of using the appeal procedures in §§ 11-109 and 11-110 of this subtitle.

(b) The peer review panel may take action as set forth in § 11-110(d)(1).

(c) (1) Within the time required by regulation, the peer review panel shall issue to the parties a written decision.

(2) The decision of the peer review panel is the final administrative decision.

(d) (1) If a written decision issued under subsection (c) of this section is not appealed in accordance with § 10-222 of the State Government Article, within 45 days after issuance of a decision to rescind a disciplinary action, the disciplinary action shall be expunged from the employee's personnel records.

(2) If a written decision issued under subsection (c) of this section is appealed in accordance with § 10-222 of the State Government Article, within 45 days after the issuance of a final decision on appeal to rescind a disciplinary action, the disciplinary action shall be expunged from the employee's personnel records.

§11–113.

(a) This section only applies to an employee:

(1) in the management service;

(2) in executive service; or

(3) under a special appointment described in § 6-405 of this article.

(b) (1) An employee or an employee's representative may file a written appeal of a disciplinary action with the head of the principal unit.

(2) An appeal:

(i) must be filed within 15 days after the employee receives notice of the disciplinary action; and

(ii) may only be based on the grounds that the disciplinary action is illegal or unconstitutional.

(3) The employee has the burden of proof in an appeal under this section.

(c) The head of the principal unit may confer with the employee before making a decision.

(d) (1) The head of the principal unit may:

(i) uphold the disciplinary action; or

(ii) rescind or modify the disciplinary action and restore to the employee any lost time, compensation, status, or benefits.

(2) Within 15 days after receiving an appeal, the head of the principal unit shall issue the employee a written decision.

(3) The decision of the head of the principal unit is the final administrative decision.

(e) Within 15 days after issuance of a decision to rescind a disciplinary action, the disciplinary action shall be expunged from the employee's personnel records.

§11–201.

(a) (1) Except as otherwise provided by law, this subtitle only applies to skilled service and professional service employees in the State Personnel Management System.

(2) The procedures in this subtitle do not apply to:

(i) a disciplinary action under Subtitle 1 of this title;

(ii) a termination or separation from employment under Subtitle 3 of this title; or

(iii) special appointees.

(b) This subtitle does not prevent the layoff of an employee who submits to the head of the employee's principal unit a written request to be laid off.

§11–202.

The Secretary shall adopt regulations to provide procedures that are uniform among the principal units for:

(1) the layoff of employees in the skilled service or the professional service; and

(2) the reinstatement of laid-off and separated skilled service or professional service employees to comparable positions in State employment.

§11–203.

An employee shall be laid off if the employee is in a position that will be abolished, discontinued, or vacated because of a change in organization or because of a stoppage or lack of work.

§11–204.

At least 60 days before a layoff is effective, an appointing authority shall give a notice of a layoff to each employee to be affected by the layoff.

§11–205.

(a) For purposes of a layoff, an appointing authority shall compute the total number of seniority points for each employee subject to the layoff as follows:

(1) one point for each month of State employment;

(2) one point for each month of employment in the principal unit in which the layoff will occur;

(3) one point for each month of employment in the job series in which the layoff will occur;

(4) ten points for an eligible veteran; and

(5) two points for an eligible veteran who has a service–connected disability or is a former prisoner of war.

(b) An employee's seniority points are the total of the points determined under subsection (a) of this section.

(c) In this section, "eligible veteran" has the meaning stated in § 7–207(c) of this article.

(d) An eligible veteran who is convicted of a crime after being discharged from or completing military service is ineligible for a credit under this section.

§11–206.

(a) Except as provided in subsections (b) and (c) of this section:

(1) employees in a class are to be laid off based on seniority points; and

(2) the employee in the class with less seniority points shall be laid off before others in the class with higher seniority points.

(b) If two or more employees in the same class have an equal number of seniority points, the employee with less points for total State employment shall be laid off first.

(c) If two or more employees in the same class have an equal number of seniority points and the same number of points for total State employment, the appointing authority shall:

(1) determine which employee to retain by making a written evaluation of the skills, knowledge, or abilities of each employee; and

(2) submit the evaluation to the Secretary.

§11–207.

(a) An employee being laid off may displace another employee who has the least seniority points:

(1) in the same class or job series as the employee being laid off; or

(2) in any other class in which the laid-off employee previously held

satisfactory nonprobationary status within the 36 months immediately prior to the effective date of the layoff.

(b) Subsection (a) of this section shall apply:

(1) first to the employee's current appointing authority regardless of geographical area;

(2) if the provisions in paragraph (1) of this subsection are not available, to the employee's current principal unit; or

(3) a secretary or head of a State principal unit may limit the displacement within the principal unit to one or more of the established geographical areas as prescribed by the Secretary.

§11–208.

(a) The employee with the most seniority points shall be the first employee to be reinstated in the class from which the employee was laid off or from which the employee was separated under § 11-302 of this title or to any lower class in the same job series within the principal department or other independent unit in which the layoff or separation under § 11-302 of this title occurred.

(b) Reinstatement to a comparable class to which the Secretary has certified employees who were laid-off or who were separated under § 11-302 of this title shall be made from among the five laid-off or separated employees with the most seniority points who are certified to the class.

§11–301.

This subtitle applies to all nontemporary employees in the State Personnel Management System.

§11–302.

(a) An employee is separated from State service when the appropriation in the State budget for the position is:

(1) omitted by the Governor, as evidenced in the supporting documentation submitted with the budget;

(2) struck by the General Assembly, as evidenced in the budget bill or in the report of the budget committees; or

(3) reduced by the Governor in accordance with § 7-213 of the State Finance and Procurement Article, as evidenced in the supporting documentation submitted to the Board of Public Works.

(b) An employee may not appeal a separation from employment under this section.

(c) An employee who is separated under this section is not subject to the layoff provisions of Subtitle 2 of this title with the exception that an employee who is separated shall have the same reinstatement rights as a laid-off employee.

§11–303.

(a) An appointing authority may terminate the employment of a probationary employee.

(b) Before terminating an employee who is on probation, the appointing authority shall give the employee a notice of termination at least 10 days before the effective date of the termination.

(c) An appointing authority may suspend a probationary employee with pay between the date of the notice and the effective date of the termination.

(d) A probationary employee may appeal a termination under this section only on the grounds that the termination is illegal or unconstitutional.

§11–304.

(a) (1) This section applies to employees on probation following a promotion or reinstatement to a position in the skilled service or professional service.

(2) This section does not apply to probationary employees in the management service.

(b) If, in the appointing authority's judgment, a probationary employee subject to this section is unable or unwilling to satisfactorily perform the duties or responsibilities of the position, the appointing authority shall:

(1) return the employee to the employee's former position if it is vacant; or

(2) demote the employee to a position comparable to the employee's position within the appointing authority's jurisdiction.

(c) A probationary employee may appeal a demotion under this section as a disciplinary action.

§11–305.

(a) This section only applies to an employee who is in a position:

(1) under a special appointment;

(2) in the management service; or

(3) in the executive service.

(b) Each employee subject to this section:

(1) serves at the pleasure of the employee's appointing authority; and

(2) may be terminated from employment for any reason that is not illegal or unconstitutional, solely in the discretion of the appointing authority.

(c) A management service employee or a special appointment employee designated by the Secretary under § 4–201(c)(2)(i) of this article may not be terminated for the purpose of creating a new position for another individual's appointment because of that individual's political affiliation, belief, or opinion.

(d) An employee or an employee's representative may file a written appeal of an employment termination under this section as described under § 11–113 of this title.

§11–306.

As of the effective date of an employment termination, the individual whose employment is terminated:

(1) is a former employee; and

(2) shall have the appeal rights provided by this title.

§11–401.

Any employee may terminate employment by resigning from the employee's position.

§11–402.

Any resignation from a position in the skilled service or professional service is void if the resignation, whether dated or undated, is signed before the day of appointment to that position.

§12–101.

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

(b) "Employer" means one or more of the following:

(1) an employee's appointing authority;

(2) an employee's principal unit; or

(3) the Department of Budget and Management.

(c) (1) "Grievance" means a dispute between an employee and the employee's employer about the interpretation of and application to the employee of:

(i) a personnel policy or regulation adopted by the Secretary; or

(ii) any other policy or regulation over which management has control.

(2) "Grievance" does not include a dispute about:

(i) a pay grade or range for a class;

(ii) the amount or the effective date of a statewide pay increase;

(iii) the establishment of a class;

(iv) the assignment of a class to a service category;

(v) the establishment of classification standards;

(vi) a mid–year performance appraisal; or

(vii) an oral reprimand or counseling.

§12–102.

(a) Except as otherwise provided by law, this title applies to all employees in the State Personnel Management System within the Executive Branch.

(b) This title does not apply to:

(1) an employee who is appointed by the Governor whose appointment requires the Governor's approval;

(2) an employee in the executive service of the State Personnel Management System;

(3) a temporary employee;

(4) an attorney in the Office of the Attorney General or the Office of the Public Defender;

(5) a State Police officer;

(6) an employee who is subject to a collective bargaining agreement that contains another grievance procedure;

(7) an employee, including a member of a faculty, who is subject to a contract or regulation governing teacher tenure;

(8) a member of the faculty, an officer, or an administrative employee of Baltimore City Community College;

(9) a student employee;

(10) an individual who, as an inmate or patient in an institution, is employed by the State; or

(11) an administrative law judge in the Office of Administrative Hearings.

§12–103.

(a) An employee with a grievance or the grievant's representative may present the grievance free from coercion, discrimination, interference, reprisal, or restraint.

(b) Unless another procedure is provided for by this article, the grievance procedure is the exclusive remedy through which a nontemporary employee in the State Personnel Management System may seek an administrative remedy for violations of the provisions of this article.

§12–104.

For employees of the Department, the Secretary shall provide separate grievance procedures that are similar to the grievance procedures specified in this title.

§12–105.

(a) A grievant may choose any person to assist or represent the grievant at any time during the grievance process and shall notify the employer of that choice.

(b) The appointing authority, the head of the principal unit, or the Secretary may designate an individual to assist or represent them at any step of the grievance process and shall notify the grievant of that designation.

§12–106.

(a) Except as otherwise provided in this title, if a grievant fails to appeal a decision in accordance with this title to the next step in the grievance procedure, the grievant is considered to have accepted the decision.

(b) Except as otherwise provided in this title, a failure to decide a grievance at any step in the grievance procedure in accordance with this title is considered a denial from which an appeal may be made.

§12–107.

(a) The parties may agree to waive any time limitations specified in this title.

(b) If the individual responsible to prepare a decision to a grievance at Step One

or Step Two of the grievance procedure cannot respond within the time specified in this title because the individual is on approved leave for 3 or more days:

(1) the period for the decision shall be extended by the number of days of the approved leave, up to a maximum of 14 days; and

(2) the grievant shall be notified of the extension of time.

§12–108.

The Secretary shall:

(1) provide for forms for initiating and processing grievances; and

(2) make the forms available on the Department's Web site.

§12–109.

Each party to a grievance shall make every effort to resolve the grievance at the lowest level possible.

§12–201.

(a) (1) Except as provided in paragraph (2) of this subsection, the three steps available to a grievant in the grievance procedure are:

(i) Step One: the initiation of a grievance procedure;

(ii) Step Two: an appeal to the head of the principal unit; and

(iii) Step Three: an appeal to the Secretary.

(2) If a grievance is based on a performance rating of satisfactory or better:

(i) the grievant only may appeal the grievance at Steps One and Two of the grievance procedure; and

(ii) a decision at Step Two of the grievance procedure is final.

(b) (1) When a grievant's appointing authority is also the head of the principal unit, the grievant shall appeal the Step One decision directly to Step Three of the grievance procedure.

(2) If the basis of a grievance is an action taken by the principal unit or by the Department, the parties may agree to proceed to Step Two or Step Three of the grievance procedure as appropriate.

§12–202.

Before initiating a grievance procedure, an employee shall present the matter orally to the employee's supervisor for informal discussion.

§12–203.

(a) A grievant may initiate a grievance proceeding by filing a written grievance with the grievant's appointing authority. The grievant shall provide a copy of the grievance to the grievant's supervisor when the grievance is filed.

(b) A grievance procedure must be initiated by an employee within 20 days after:

(1) the occurrence of the alleged act that is the basis of the grievance; or

(2) the employee first knew of or reasonably should have known of the alleged act that is the basis of the grievance.

(c) Within 10 days after receiving a grievance, the appointing authority shall hold a conference with the grievant and they shall attempt to resolve the grievance.

(d) Within 10 days after the conference, the appointing authority shall issue a written decision to the grievant and may grant any appropriate remedy under § 12-402(a) of this title.

§12–204.

(a) (1) Within 10 days after receiving a decision under § 12-203 of this subtitle, a grievant or a grievant's representative may appeal the decision in writing to the head of the grievant's principal unit or designee.

(2) An appeal shall include a copy of the decision being appealed.

(b) Within 10 days after receiving an appeal, the head of the principal unit or designee shall:

(1) review the grievance record; and

(2) confer with the grievant and they shall attempt to resolve the grievance.

(c) Within 10 days after the conference, the head of the principal unit or designee shall issue a written decision to the grievant and may grant any appropriate remedy under § 12-402(a) of this title.

§12–205.

(a) (1) Within 10 days after receiving a decision under § 12-204 of this subtitle, a grievant or a grievant's representative may appeal the decision in writing to the

Secretary.

(2) An appeal shall include a copy of the decision being appealed and any prior decisions.

(b) (1) Within 30 days after an appeal is received, the Secretary or designee shall:

(i) review the grievance record;

(ii) if the grievance is based on a position reclassification, order an audit of the position if it has not been audited within the last year; and

(iii) take the action described in paragraph (2) of this subsection and give the parties written notice of that action.

(2) (i) If the Secretary or designee does not concur with the decision of the unit, the Secretary or designee shall attempt to resolve the grievance with a settlement that is binding on all parties.

(ii) The Secretary or designee shall determine whether the principal unit that employs the grievant will accept a settlement.

(iii) If the grievance is not settled, the Secretary or designee shall refer the grievance to the Office of Administrative Hearings.

(c) (1) (i) The Office of Administrative Hearings shall dispose of the grievance or conduct a hearing on each grievance received from the Secretary in accordance with Title 10, Subtitle 2 of the State Government Article.

(ii) The Office is bound by any regulation, declaratory ruling, prior adjudication, or other settled, preexisting policy, to the same extent as the Department is or would have been bound if it were hearing the case.

(iii) The employee has the burden of proof by a preponderance of the evidence.

(2) (i) Within 45 days after the close of the hearing record, the Office of Administrative Hearings shall issue a written decision to the parties and may grant any appropriate remedy under § 12-402 of this title.

(ii) The decision of the Office of Administrative Hearings is the final administrative decision.

(3) Any costs the Office of Administrative Hearings incurs for the appeal of a grievance to the Office of Administrative Hearings shall be paid by the principal unit that employs the grievant.

§12–301.

If a grievant's principal unit has established a peer review panel for grievances in accordance with regulations adopted by the Secretary, the grievant may elect to:

(1) waive Step Two and Step Three of the grievance procedure; and

(2) submit the grievance to the peer review panel after Step One of the grievance procedure.

§12–302.

The peer review panel shall review each grievance submitted to it in accordance with established procedures.

§12–303.

(a) After a review, the panel shall issue a written decision to the parties and may grant any appropriate remedy under § 12-402(a) of this title.

(b) The decision of the peer review panel is the final administrative decision.

§12–401.

A decision maker at any step in the grievance procedure shall determine the:

(1) proper interpretation or application of the policy, procedure, or regulation involved in the grievance; and

(2) appropriate remedy.

§12–402.

(a) Except as provided in subsection (b) of this section, the remedies available to a grievant under this title are limited to the restoration of the rights, pay, status, or benefits that the grievant otherwise would have had if the contested policy, procedure, or regulation had been applied appropriately as determined by the final decision maker.

(b) (1) A decision maker at Step Two or Step Three of the grievance procedure may order an appointing authority to grant back pay.

(2) (i) In a reclassification grievance back pay may be awarded for a period not exceeding 1 year before the grievance procedure was initiated.

(ii) A back pay order under this paragraph is in the discretion of the Secretary and the Office of Administrative Hearings.

(3) Subject to the limitations in Title 14, Subtitle 2 of this article, an appointing authority shall carry out a back pay order issued under this subsection.

§12–403.

(a) On conclusion of each step of a grievance proceeding, a copy of the grievance and its disposition shall be given to the grievant and the grievant's representative.

(b) A copy of the grievance and disposition required to be provided under subsection (a) of this section may be transmitted electronically.

§12–404.

(a) An appointing authority, the head of a principal unit, or the Secretary may consolidate multiple grievances filed by one employee and process the grievances in a single proceeding.

(b) If the grievants agree, an appointing authority, the head of a principal unit, or the Secretary may consolidate similar grievances and process the grievances together in a single proceeding.

(c) The Office of Administrative Hearings may consolidate and process in a single proceeding multiple grievances filed by one employee or similar grievances filed by more than one grievant.

§12–405.

(a) A grievant and the grievant's representative shall be given reasonable time during work to investigate and process the grievance and to participate at any conference or hearing relating to the grievance.

(b) An employee shall be granted release time from the employee's normal work schedule to attend a grievance conference or hearing as a witness.

(c) Expenses incurred in connection with attendance by an employee at grievance conferences or hearings, whether as a grievant, as a grievant's representative, or as a witness, shall be borne by that employee's unit.

§13–101.

(a) In this title, "contractual employee" means an individual:

(1) who, under a written agreement, provides temporary personal services to the State for pay;

(2) who is not employed in a budgeted position; and

(3) who has an employer-employee relationship with the State in which the State:

(i) furnishes necessary tools and a place to work;

(ii) has the right to control and direct the details, means, and results of the performance of the services; and

(iii) has the right to discharge the individual from employment.

(b) "Contractual employee" does not include an individual who is employed as:

(1) an employee in the:

(i) skilled service;

(ii) professional service;

(iii) management service; or

(iv) executive service; or

(2) an emergency employee.

§13–201.

(a) This subtitle applies to all units in the Executive Branch of State government, except a unit with an independent personnel system.

(b) The Secretary may exempt specific types of contractual employees from the certification and other requirements of this subtitle.

§13–202.

(a) Except as otherwise authorized under § 13-201(b) of this subtitle, a unit may not execute or renew a contract for the employment of a contractual employee unless the Secretary issues to the unit a certification that:

(1) the employment of the contractual employee is for services that cannot be performed by assignment or hiring of any nontemporary employee;

(2) the rate of pay for the contractual employee is comparable to the rate paid to employees in positions that involve comparable duties, responsibilities, experience, and authority; and

(3) the services to be performed under the contract encompass functions that:

(i) are infrequent;

(ii) are needed for a limited time;

(iii) are unusual; or

(iv) need to be implemented quickly and for which there is no reasonable alternative.

(b) The Secretary may issue a certification for any effective period that does not exceed the period of the contract between the unit and the contractual employee.

§13–203.

(a) The Secretary shall adopt guidelines for the recruitment and selection of contractual employees.

(b) These guidelines shall require a contracting unit:

(1) to make a reasonable effort to publicly solicit applicants for contractual employment;

(2) to make a reasonable effort to screen and select contractual employees by using methods and criteria that are uniformly applied to all applicants for a particular instance of contractual employment; and

(3) to use criteria to select contractual employees that:

(i) are based on the qualifications of the applicant; and

(ii) conform to subsection (c) of this section.

(c) (1) All personnel actions concerning a contractual employee shall be made in accordance with § 2-302 of this article.

(2) An action may be taken with regard to age, sex, or disability to the extent that age, sex, or disability involves a bona fide occupational qualification.

(d) To the extent feasible, a unit shall conduct the recruitment and selection of contractual employees according to the guidelines adopted under this section.

§13–204.

Except as authorized under § 13-303 of this title, the Secretary may not continue certification for any contractual employee if the Secretary determines that the services performed under the contract:

(1) encompass permanent functions;

(2) have no specific expiration date; and

(3) regularly are performed on a basis that is at least equal to 50% of the work responsibility of a full-time permanent employee.

§13–205.

(a) The Secretary periodically shall audit a sample of instances of contractual employment in the various units to determine whether:

(1) justification exists in each instance to continue certification for the contractual employee; and

(2) the guidelines adopted under § 13-203 of this subtitle have been followed.

(b) (1) If, as a result of an audit, the Secretary determines that services performed by a contractual employee should be performed by a permanent employee, the Secretary shall:

(i) refuse to renew the certification for the contractual employee; and

(ii) recommend that a position for a permanent employee be established.

(2) If, as a result of an audit, the Secretary determines that a unit has not complied with the guidelines adopted under § 13-203 of this subtitle, the Secretary shall:

(i) advise the unit of the nature of the noncompliance; and

(ii) suggest alternate criteria or methods that would have complied with the guidelines.

§13–301.

This subtitle applies to all units in the Executive Branch of State government, except a unit with an independent personnel system.

§13–302.

If a contractual position is replaced by a budgeted position, a contractual employee in the contractual position may transfer to the budgeted position, if:

(1) the employee meets the minimum qualifications for the budgeted position and has at least 6 continuous months of satisfactory service as of the date on which the replacement occurs;

(2) there is a continuing need for the function to be performed;

(3) the agency can document a competitive hiring process; and

(4) the budgeted position replacing the contractual position was not available at the time the contractual employee was hired.

§13–303.

To enable a contractual employee to participate in any required examination for a budgeted position under this subtitle, the Secretary may certify the continuation of the employee's contract for a maximum period of 1 year after the date on which the budgeted position is created.

§13–304.

(a) A contractual employee who transfers to a budgeted position under this subtitle or who is selected to fill a budgeted position in the State Personnel Management System, without a break in service, in the same principal unit that employs the contractual employee, shall be given credit for service in the contractual position for the purpose of establishing:

(1) steps in the pay grade applicable to the budgeted position;

(2) annual leave; and

(3) seniority rights.

(b) A contractual employee who transfers to a budgeted position under this subtitle or who is selected to fill a budgeted position shall become a member of the Employees' Pension System of the State of Maryland.

§13–305.

This subtitle does not preclude the General Assembly from prohibiting the creation of a budgeted position or the replacement of a contractual position with a budgeted position in the State budget.

§13–401.

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

(b) "Service contract" means a procurement contract for services that:

(1) will be provided to a unit in the Executive Branch of State government;

(2) will be performed within a State-operated facility; and

(3) in the estimation of the procurement officer, will exceed an annual cost of $100,000.

(c) "Services" has the meaning stated in § 11-101 of the State Finance and Procurement Article.

(d) "Unit" has the meaning stated in § 11-101 of the State Finance and Procurement Article.

§13–402.

The policy of this State is to use State employees to perform all State functions in State-operated facilities in preference to contracting with the private sector to perform those functions.

§13–403.

(a) A service contract may be entered into only as approved by the Board of Public Works in accordance with this subtitle.

(b) Except as provided in subsection (c) of this section, the Board of Public Works may approve a service contract for a unit only if the Board receives a certification from the Department that:

(1) the service contract is exempt under § 13-404(b) of this subtitle; or

(2) the unit has complied with the requirements of § 13-404(c) of this subtitle.

(c) If the General Assembly authorizes or requires that certain services be performed by an independent contractor, the Board of Public Works may approve a service contract for those services without the certification required by subsection (b) of this section.

§13–404.

(a) The Department may certify a service contract to the Board of Public Works as provided in this section.

(b) The Department may certify a service contract as being exempt from the preference stated in § 13-402 of this subtitle if:

(1) State employees are not available to perform the services;

(2) a conflict of interest would result if a State employee were to perform the services;

(3) the nature of the services meets the standards set by the Department for emergency appointments;

(4) the services are incidental to the purchase or lease of personal property or real property, such as a service agreement that is part of the purchase or rental of computers or office equipment; or

(5) a clear need exists to obtain an unbiased finding or opinion, such as an expert witness in litigation.

(c) The Department may certify a service contract that is not exempt under

subsection (b) of this section only if:

(1) the unit that seeks to enter into the service contract has complied with § 13-405 of this subtitle; and

(2) the Department finds that:

(i) the potential economic advantage of entering into the service contract is not outweighed by the preference stated in § 13-402 of this subtitle;

(ii) the service contract does not adversely affect the affirmative action efforts of this State;

(iii) the service contract includes adequate control mechanisms to ensure that the services will be performed in accordance with the service contract; and

(iv) the service contract complies with all of the requirements of Division II of the State Finance and Procurement Article.

§13–405.

(a) A unit that seeks to enter into a service contract that is not exempt under § 13–403(c) or § 13–404(b) of this subtitle shall submit to the Department the information required by this section.

(b) The unit shall submit a demonstration that the unit has taken formal and positive steps to consider alternatives to the service contract, including reorganization, reevaluation of service, and reevaluation of performance.

(c) (1) The unit shall submit calculations that:

(i) compare the cost of the service contract with the cost of using State employees; and

(ii) show savings to this State, over the duration of the service contract, of 20% of the contract or $200,000, whichever is less.

(2) In calculating the cost comparison required by this subsection, a unit shall include:

(i) direct costs, including fringe benefits;

(ii) indirect overhead costs, including the proportional share of existing administrative salaries and benefits, rent, equipment costs, utilities, and materials, but only to the extent that those costs are attributed solely to the service in question and would not exist if the service were not performed by State employees;

(iii) any continuing or transitional costs that would be directly associated with contracting for the services, including unemployment compensation

and the cost of transitional services; and

(iv) additional costs of performance of the services by State employees, including salaries and benefits of additional staff and the cost of additional space, equipment, and materials needed to perform the services.

(d) (1) The unit shall submit a formal plan of assistance for all State employees who will be adversely affected by the service contract.

(2) The plan of assistance shall include:

(i) efforts to place affected employees in vacant positions in the unit or in another unit;

(ii) provisions in the service contract, if feasible, for the hiring by the contractor of displaced employees; and

(iii) prior notification to affected employees in accordance with § 13–218.1 of the State Finance and Procurement Article.

§14–101.

The Secretary shall:

(1) bring any civil action necessary to enforce those provisions of this Division I that are subject to the authority of the Secretary or any regulation adopted under them; and

(2) defend any civil action brought against the Secretary or the Department.

§14–102.

(a) A resident of this State may bring an action in a court of competent jurisdiction:

(1) to recover, for the use of this State, a payment made in violation of this Division I or of a regulation adopted under it from the person who authorized or made the payment;

(2) to enjoin a person, this State, or a unit of this State from authorizing a payment in violation of this Division I or of a regulation adopted under it; or

(3) if a payroll authorization is provided for by law or regulation, to enjoin the Secretary from issuing a payroll authorization in violation of this Division I or of a regulation adopted under it.

(b) In an action brought under this section, a judgment or other order may not be recorded as "released" or "satisfied" unless the Attorney General files with the court

a notice of release or satisfaction.

§14–103.

Except as otherwise specifically provided by State law, this State, its officers, and its units may not raise the defense of sovereign immunity in any administrative, arbitration, or judicial proceeding involving an employee grievance or hearing that is held under:

(1) this Division I or a regulation adopted under it; or

(2) a personnel policy or regulation that governs classified employees of the University System of Maryland or Morgan State University.

§14–201.

In this subtitle, "award" means a final monetary or benefit award or judgment in an administrative, arbitration, or judicial proceeding involving an employee grievance or hearing that is held under:

(1) this Division I or a regulation adopted under it; or

(2) a personnel policy or regulation that governs classified employees of the University System of Maryland or Morgan State University.

§14–202.

If this State has sufficient money available at the time, an award made against this State or an officer or unit of this State shall be paid as soon as practicable within 20 days after the award is final.

§14–203.

(a) If sufficient money is not available at the time to satisfy an award made against this State or an officer or unit of this State, the affected unit or officer shall report the outstanding award to the State Comptroller.

(b) The Comptroller shall:

(1) keep an accounting of all outstanding awards; and

(2) report that accounting annually to the Governor.

§14–204.

(a) The Governor shall include in the State budget sufficient money to pay all awards made against this State or an officer or unit of this State.

(b) On appropriation of money by the General Assembly, the Comptroller shall

authorize payment of all outstanding awards in the order of the date on which each award was made.

§15–101.

A person may not impersonate another in an examination held under this Division I.

§15–102.

A person may not:

(1) willfully deceive another about the right to take an examination under this Division I; or

(2) willfully interfere with the right of an individual to take an examination under this Division I.

§15–103.

A person may not willfully falsify:

(1) an answer on an examination held under this Division I;

(2) a grade or mark on an examination held under this Division I;

(3) a report on the results of an examination held under this Division I; or

(4) a report on the standing of an individual examined under this Division I.

§15–104.

An applicant for employment may not act deceptively in order to improve the applicant's chances for appointment.

§15–105.

A person may not willfully give to an individual any information about a competitive examination under this article that is not generally available to all competitors for the examination in order to improve or to harm the individual's rating for appointment.

§15–106.

A person may not use or promise to use the person's influence or official authority to secure an appointment or an opportunity for an appointment to a position in the skilled service or professional service in exchange or as a reward for personal service or political service.

§15–107.

An employee or public official of this State may not use a threat or coercion to induce or attempt to induce an employee in the skilled service or professional service:

(1) to resign;

(2) to take a leave of absence; or

(3) to waive a right granted by this Division I.

§15–108.

A person may not willfully assist another to commit an act prohibited by this subtitle.

§15–201.

Any person who violates Subtitle 1 of this title or any regulation adopted under it is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $3,000 or imprisonment not exceeding 6 months or both.

§20–101.

(a) In this Division II the following words have the meanings indicated.

(b) (1) "Accumulated contributions" means the amounts credited to a member's individual account in the annuity savings fund of the appropriate State system.

(2) "Accumulated contributions" includes:

(i) member contributions;

(ii) additional contributions; and

(iii) regular interest.

(c) "Additional contribution" means a contribution that is made voluntarily by a member.

(d) "Allowance" means a benefit that is payable in equal monthly installments for the life of the recipient, except as otherwise provided for an optional form of an allowance under § 21–403 of this article.

(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.

(e) "Annuity" means the part of an allowance that is derived from the accumulated contributions of a member.

(f) "Annuity reserve" means the present value of an annuity computed on the basis of actuarial assumptions adopted by the Board of Trustees.

(g) "Average final compensation" means the average annual earnable compensation that is computed as provided in § 20–204, § 20–205, or § 20–205.1 of this title.

(h) "Basic allowance" means an allowance computed without modification under § 21–403 of this article.

(i) "Beneficiary" means a person, other than a retiree, in receipt of a benefit under this Division II.

(j) "Board of Trustees" means the Board of Trustees for the State Retirement and Pension System.

(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.

(k) "Correctional Officers' Retirement System" means the Correctional Officers' Retirement System of the State of Maryland.

(l) "County" means a county of the State and, unless expressly provided otherwise, Baltimore City.

(m) "Creditable service" means the service credit of a member that is recognized for computing a benefit under this Division II.

(n) "Designated beneficiary" means a person named as beneficiary in an acknowledged written designation filed with the Board of Trustees by a member, former member, or a retiree.

(o) "Earnable compensation" means one–twelfth of the member's annual salary rate payable for working the normal time in the member's position, including:

(1) the employer pickup contribution provided for in § 21–312 of this article; or

(2) a contribution made under a salary reduction or supplemental retirement plan in accordance with Title 35 of this article.

(p) "Eligibility service" means the service credit of a member that is recognized for determining eligibility for a benefit under this Division II.

(q) "Employees' Pension System" means the Employees' Pension System of the State of Maryland.

(r) "Employees' Retirement System" means the Employees' Retirement System of the State of Maryland.

(s) "Employer pickup contribution" means a contribution made through a reduction in a member's compensation under § 21–313 of this article.

(t) "Former member" means an individual who:

(1) has been a member;

(2) has separated from employment with a participating employer; and

(3) is not currently a member or retiree.

(u) "Judges' Retirement System" means the Judges' Retirement System of the State of Maryland.

(v) "Law Enforcement Officers' Pension System" means the Law Enforcement Officers' Pension System of the State of Maryland.

(w) "Legislative Pension Plan" means the Legislative Pension Plan of the State of Maryland as provided by the joint resolution submitted to the General Assembly by the General Assembly Compensation Commission under Article III, § 15 of the Maryland Constitution.

(x) "Local Fire and Police System" means the Local Fire and Police Pension System of the State of Maryland.

(y) "Medical board" means a board of physicians provided for in § 21–126 of this article.

(z) "Member" means, unless a different meaning is plainly required by the context, an individual:

(1) for whom membership in a State system is a condition of employment; or

(2) (i) for whom membership in a State system is optional; and

(ii) who has elected to become a member of that State system.

(aa) (1) "Member contribution" means:

(i) a contribution that is deducted from a member's compensation as required by this Division II;

(ii) a contribution that is designated as a member contribution under § 22–212 or § 22–213 of this article;

(iii) a contribution that is redeposited as a member contribution;

(iv) the part attributable to a member contribution of any payment for the purchase of service credit under this Division II; and

(v) an employer pickup contribution.

(2) "Member contribution" does not include any additional contribution.

(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.

(bb) "Normal retirement age" means:

(1) 50 years old, for a member of:

(i) the State Police Retirement System; or

(ii) the Law Enforcement Officers' Pension System;

(2) 60 years old, for a member of:

(i) the Correctional Officers' Retirement System, for the purpose of disability retirement only;

(ii) the Employees' Retirement System;

(iii) the Judges' Retirement System;

(iv) the Local Fire and Police System, who transferred from the Employees' Retirement System; or

(v) the Teachers' Retirement System;

(3) 62 years old, for a member of:

(i) the Employees' Pension System who is a member on or before June 30, 2011;

(ii) the Local Fire and Police System, who has not transferred from the Employees' Retirement System; or

(iii) the Teachers' Pension System who is a member on or before June

30, 2011; or

(4) 65 years old, for a member of the Employees' Pension System or Teachers' Pension System who begins membership on or after July 1, 2011.

(cc) "Participant" means a beneficiary, designated beneficiary, former member, member, or retiree who is or may become eligible to receive a benefit of any type from the several systems.

(dd) "Participating employer" means the employer of an individual who, because of the employment relationship, is eligible for membership in a State system.

(ee) "Participating governmental unit" means a governmental unit that participates in a State system under Title 31 of this article.

(ff) "Pension" means the part of an allowance that is derived from employer contributions.

(gg) "Pension reserve" means the present value of a pension, computed on the basis of actuarial assumptions adopted by the Board of Trustees.

(hh) (1) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other entity.

(2) Unless expressly provided otherwise, "person" does not include a governmental entity or a unit or instrumentality of a governmental entity.

(hh–1) "Reformed contributory pension benefit" means the part of the Employees' Pension System and the Teachers' Pension System that provides the reformed contributory pension benefit under Title 23, Subtitle 2, Part IV of this article.

(ii) "Regular interest" means interest at the rate payable on accumulated contributions as provided under this Division II for each State system.

(jj) "Retiree" means an individual who:

(1) has separated from employment with a participating employer; and

(2) receives a retirement allowance under this Division II.

(kk) "Retirement" means the grant of a retirement allowance under this Division II after separation from employment with a participating employer.

(ll) (1) "Retirement allowance" means an allowance that is payable at the time of separation from employment with a participating employer.

(2) "Retirement allowance" includes:

(i) a service retirement allowance; and

(ii) a disability retirement allowance.

(3) "Retirement allowance" does not include a vested allowance.

(mm) "Several systems" means the State systems specified in § 21–102 of this article.

(nn) "Social Security integration level" means, with respect to the calendar year in which a member retires or otherwise separates from employment, the average yearly amount of earnings for which old age and survivors benefits would be provided under Title II of the federal Social Security Act for an employee who is eligible to receive full old age and survivors benefits provided under Title II of the federal Social Security Act in that calendar year that is:

(1) computed as though for each previous year yearly earnings are at least equal to the maximum amount of yearly earnings subject to tax under the Federal Insurance Contributions Act; and

(2) rounded to the next lower multiple of $100.

(oo) "State Police Retirement System" means the State Police Retirement System of the State of Maryland.

(pp) "State system" means a retirement or pension system that is included in the State Retirement and Pension System under § 21–102 of this article.

(qq) "Taxable wage base" means, with respect to each calendar year, the maximum amount of annual earnings for employees subject to tax under the federal Old Age, Survivors, and Disability Insurance Act.

(rr) "Teachers' Pension System" means the Teachers' Pension System of the State of Maryland.

(ss) "Teachers' Retirement System" means the Teachers' Retirement System of the State of Maryland.

(tt) "Vested allowance" means an allowance that is not payable at the time of separation from employment with a participating employer, but is deferred until the former member becomes eligible for immediate payment.

§20–201.

(a) Except as provided in subsection (b) of this section, and except as otherwise expressly provided, Titles 20, 21, and 29 of this article apply to each State system.

(b) Title 21, Subtitle 4 and Titles 22 through 31 of this article do not apply to

the Legislative Pension Plan.

§20–202.

An actuarial equivalent shall be an equivalent amount based on actuarial assumptions adopted by the Board of Trustees.

§20–203.

On retirement, an Executive Branch official, judge, legislator, or other State employee may not receive benefits as a member of more than one State system for the same period of employment as a member.

§20–204.

(a) (1) This subsection applies only to an individual who is a member of:

(i) the Employees' Retirement System; or

(ii) the Teachers' Retirement System.

(2) Except as provided in paragraph (3) of this subsection, the average final compensation of a member equals the average annual earnable compensation of the member for:

(i) the 3 years of employment as a member during which the member's earnable compensation was highest, if the member was employed at least 3 years as a member; or

(ii) the member's total period of employment, if the member was employed less than 3 years as a member.

(3) Except for a salary increase because of a member's promotion, the member's average final compensation does not include a salary increase in the last 3 years of employment if it is an extraordinary salary increase according to regulations that the Board of Trustees adopts.

(b) (1) This subsection applies only to an individual who on or before June 30, 2011, is a member of:

(i) the Correctional Officers' Retirement System; or

(ii) the State Police Retirement System.

(2) Except as provided in paragraph (3) of this subsection, the average final compensation of a member equals the average annual earnable compensation of the member for:

(i) the 3 years of employment as a member during which the

member's earnable compensation was highest, if the member was employed at least 3 years as a member; or

(ii) the member's total period of employment, if the member was employed less than 3 years as a member.

(3) (i) Except for a salary increase because of a member's promotion, the member's average final compensation does not include a salary increase in the last 3 years of employment if it is an extraordinary salary increase according to regulations that the Board of Trustees adopts.

(ii) 1. This subparagraph applies only to a member of the State Police Retirement System.

2. If a member of the State Police Retirement System who transferred from another actuarial retirement system in the State retires after less than 3 years of employment as a member of the State Police Retirement System, the earnable compensation as a member in the other system shall be used in the determination of average final compensation.

(c) (1) This subsection applies only to an individual who on or after July 1, 2011, becomes a member of:

(i) the Correctional Officers' Retirement System; or

(ii) the State Police Retirement System.

(2) Except as provided in paragraph (3) of this subsection, the average final compensation of a member equals the average annual earnable compensation of the member for:

(i) the 5 years of employment as a member during which the member's earnable compensation was highest, if the member was employed at least 5 years as a member; or

(ii) the member's total period of employment, if the member was employed less than 5 years as a member.

(3) (i) Except for a salary increase because of a member's promotion, the member's average final compensation does not include a salary increase in the last 5 years of employment if it is an extraordinary salary increase according to regulations that the Board of Trustees adopts.

(ii) 1. This subparagraph applies only to a member of the State Police Retirement System.

2. If a member of the State Police Retirement System who transferred from another actuarial retirement system in the State retires after less

than 5 years of employment as a member of the State Police Retirement System, the earnable compensation as a member in the other system shall be used in the determination of average final compensation.

§20–205.

(a) This section applies only to an individual who on or before June 30, 2011, is a member of:

(1) the Employees' Pension System;

(2) the Local Fire and Police System;

(3) the Law Enforcement Officers' Pension System; or

(4) the Teachers' Pension System.

(b) (1) In this subsection, "break in service" means a period of employment in which the member's employer did not:

(i) deduct the member contributions from the compensation of the member; or

(ii) report the hours worked by the member.

(2) (i) For the purpose of computing benefits under this Division II, the average final compensation of a member equals the average annual earnable compensation of the member, adjusted as provided in this section, during the 3 consecutive years that provide the highest average earnable compensation.

(ii) If the member experienced any break in service during the 3 consecutive years that provide the member's highest average earnable compensation, the Board of Trustees:

1. may not include in the computation of average final compensation the period of months of the breaks in service, that otherwise would be included in the computation; and

2. in order to generate the highest average earnable compensation for the member, shall extend the 3-year period by an equal number of months immediately preceding or following that period.

(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.

(d) (1) This subsection applies to a member whose eligibility service has been adjusted under this Division II to compute creditable service, on the basis of the member having completed less than the normal hours of service for the member's position.

(2) A member's earnable compensation shall be adjusted to a full-time basis for any period included in the computation of average final compensation.

(e) Except for a salary increase because of a member's promotion, the member's average final compensation does not include a salary increase in the last 3 years of employment if it is an extraordinary salary increase according to regulations that the Board of Trustees adopts.

§20–205.1.

(a) This section applies only to an individual who on or after July 1, 2011, becomes a member of:

(1) the Employees' Pension System;

(2) the Law Enforcement Officers' Pension System; or

(3) the Teachers' Pension System.

(b) (1) In this subsection, "break in service" means a period of employment in which the member's employer did not:

(i) deduct the member contributions from the compensation of the member; or

(ii) report the hours worked by the member.

(2) (i) For the purpose of computing benefits under this Division II, the average final compensation of a member equals the average annual earnable compensation of the member, adjusted as provided in this section, during the 5 consecutive years that provide the highest average earnable compensation.

(ii) If the member experienced any break in service during the 5 consecutive years that provide the member's highest average earnable compensation,

the Board of Trustees:

1. may not include in the computation of average final compensation the period of months of the breaks in service that otherwise would be included in the computation; and

2. in order to generate the highest average earnable compensation for the member, shall extend the 5–year period by an equal number of months immediately preceding or following that period.

(c) (1) This subsection applies to a member whose eligibility service has been adjusted under this Division II to compute creditable service, on the basis of the member having completed less than the normal hours of service for the member's position.

(2) A member's earnable compensation shall be adjusted to a full–time basis for any period included in the computation of average final compensation.

(d) Except for a salary increase because of a member's promotion, the member's average final compensation does not include a salary increase in the last 5 years of employment if it is an extraordinary salary increase according to regulations that the Board of Trustees adopts.

§20–206.

(a) In this section, "unused sick leave" means sick leave credit that has not been used before retirement.

(b) This section does not apply to:

(1) the Judges' Retirement System; or

(2) the Legislative Pension Plan.

(c) Except as provided in subsection (f) of this section, a member is entitled to receive creditable service for unused sick leave if the member retires on or before 30 days after the member is separated from employment with a participating employer or a participating governmental unit that has withdrawn from one of the several systems under Title 31 of this article.

(d) (1) At retirement, a member is entitled to receive creditable service for unused sick leave, on verification of the unused sick leave to the Board of Trustees.

(2) (i) This subsection does not apply to the Local Fire and Police System or the Law Enforcement Officers' Pension System.

(ii) A member who separates from employment for reasons other than retirement on or before June 30, 1990, is entitled to receive creditable service for unused sick leave that is reported by the member's employer at the member's

separation from employment if the member was entitled to a vested allowance at the time of separation.

(e) (1) Subject to paragraphs (2) and (3) of this subsection, for 22 days of unused sick leave a member is entitled to receive 1 month of creditable service.

(2) (i) If a member has at least 11 days but less than 22 days of unused sick leave, the member is entitled to receive 1 month of creditable service.

(ii) If a member has at least 22 days of unused sick leave, and if fractional days totaling 11 or more result from the application of the formula described in paragraph (1) of this subsection, a member is entitled to receive 1 additional month of creditable service.

(3) For the purposes of this section:

(i) a member may not accumulate more than 15 days of sick leave per year;

(ii) unless sick leave credit is accepted and credited by the current participating employer, a member may not receive credit for unused sick leave granted by a former employer; and

(iii) in determining the amount of unused sick leave a member is eligible to use as creditable service at retirement, the Board of Trustees shall use the lesser of:

1. the member's number of years of creditable service, not including credit for unused sick leave, multiplied by 15; or

2. the member's cumulative number of sick leave days reported by the participating employer.

(f) (1) This subsection applies to a member of the Employees' Pension System who:

(i) was a member of the Correctional Officers' Retirement System and was transferred from the Correctional Officers' Retirement System to the Employees' Pension System as a result of a change in position with the same employer that rendered the individual ineligible for membership in the Correctional Officers' Retirement System; and

(ii) did not transfer service credit from the Correctional Officers' Retirement System to the Employees' Pension System.

(2) Subject to paragraph (3) of this subsection, a member is entitled to receive creditable service for the total amount of unused sick leave accrued by the member at the time of retirement.

(3) The creditable service for unused sick leave shall be calculated for each of the two State systems by multiplying the total amount of unused sick leave, calculated in accordance with subsection (e) of this section, by a fraction:

(i) the numerator of which is the creditable service earned in the State system, not including the creditable service for unused sick leave; and

(ii) the denominator of which is the total creditable service earned in both State systems, not including the creditable service for unused sick leave.

(g) Credit for unused sick leave may not be used under this section:

(1) to determine years of eligibility service required for a benefit under this Division II; or

(2) to compute average final compensation.

(h) A State employee who came into the State system while retaining sick leave and annual leave benefits under a county system and who came under the provisions of Chapter 423 of the Acts of 1971 shall be entitled to the same full credit toward retirement as provided by this section.

§20–207.

(a) This section does not apply to an individual who is a member of a State system on or before June 30, 1996.

(b) Notwithstanding any other provision of law, for plan years beginning on or after July 1, 1996, the annual compensation that may be taken into account when determining the retirement allowance payable to a member of a State system, may not exceed the compensation limit under § 401(a)(17)(B) of the Internal Revenue Code and regulations adopted thereunder.

§20–208.

(a) Notwithstanding any other provision of law, the Board of Trustees may not pay an allowance that exceeds the limit on benefit accruals established from time to time under § 415 of the Internal Revenue Code.

(b) Subject to subsections (c) and (d) of this section, the Agency shall reduce:

(1) an allowance to the extent that it exceeds the dollar limit on an annual benefit established from time to time under § 415(b) of the Internal Revenue Code and the regulations adopted thereunder; and

(2) the contributions and other additions to any defined contribution plan maintained by the Board of Trustees to the extent that they exceed the limit on annual additions established from time to time under § 415(c) of the Internal Revenue Code

and the regulations adopted thereunder.

(c) (1) The dollar limit on an annual benefit is the amount set forth in § 415(b) of the Internal Revenue Code, as adjusted by the Commissioner of Internal Revenue under § 415(d) of the Internal Revenue Code as of January 1 of each calendar year.

(2) The dollar limit for a calendar year applies to a State system's fiscal year ending within that calendar year.

(d) (1) Except as provided in paragraph (2) of this subsection, the Agency shall pay a participant whose allowance was reduced under subsection (b) of this section any postretirement adjustment if payment of the postretirement adjustment does not exceed the dollar limit on benefits.

(2) The postretirement adjustment may not exceed a participant's basic allowance as increased by any postretirement adjustments allowable under the applicable State system.

(e) If an individual participates in any other retirement or pension system that must be aggregated with the State system administered by the Board of Trustees, the individual's annual benefit accrual or annual addition shall first be reduced by the other retirement or pension system to the extent necessary to comply with the requirements of § 415 of the Internal Revenue Code and the regulations adopted thereunder before any reduction is made by the Board of Trustees.

(f) (1) This subsection does not apply to an individual who is a member of a State system on or before June 30, 1999.

(2) Notwithstanding any other provision of law, the Agency may not allow a member to purchase prior service credit other than in accordance with the limitations and conditions set forth in § 415(n) of the Internal Revenue Code.

(g) A member may purchase prior service credit using funds from any fund source that is not specifically prohibited by the Internal Revenue Code.

§20–209.

(a) In conformity with § 401(a)(8) of the Internal Revenue Code, any forfeiture of benefits by a member or former member of the several systems may not be used by the Board of Trustees to pay benefit increases.

(b) Any forfeiture of benefits by a member shall be used to reduce employer contributions.

§21–101.

(a) There is a State Retirement and Pension System.

(b) The State Retirement and Pension System shall provide benefits under this Division II for participants in the several systems.

(c) The State Retirement and Pension System has the powers and privileges of a corporation.

§21–102.

The State Retirement and Pension System consists of:

(1) the Correctional Officers' Retirement System, established on July 1, 1974;

(2) the Employees' Pension System, established on January 1, 1980;

(3) the Employees' Retirement System, established on October 1, 1941;

(4) the Judges' Retirement System, which consists of:

(i) the contributory plan, established on July 1, 1969; and

(ii) the noncontributory plan, established on April 7, 1904;

(5) the Legislative Pension Plan;

(6) the Local Fire and Police System, established on July 1, 1989;

(7) the Law Enforcement Officers' Pension System, established on July 2, 1990;

(8) the State Police Retirement System, established on July 1, 1949;

(9) the Teachers' Pension System, established on January 1, 1980;

(10) the Teachers' Retirement System, established on August 1, 1927; and

(11) any other system or subsystem that the Board of Trustees administers.

§21–103.

There is a Board of Trustees for the State Retirement and Pension System.

§21–104.

(a) The Board of Trustees consists of the following 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) 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;

(vii) one trustee who represents the interests of county governments who has at least 10 years of experience in financial management and oversight of county government budgets; and

(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.

(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 county governments shall be appointed by the Governor and may be from a list submitted to the Governor by the Maryland Association of Counties.

(c) (1) Within 10 days after the appointment or election of an individual as a trustee, the individual shall take and subscribe to an oath of office that, so far as it devolves on the individual, as trustee the individual:

(i) will diligently and honestly administer the affairs of the Board of Trustees; and

(ii) will not knowingly violate or willingly allow a violation of the law applicable to the several systems.

(2) The officer before whom the individual takes the oath shall:

(i) certify the oath; and

(ii) submit the oath immediately to the office of the Secretary of State for filing in that office.

(d) (1) (i) The term of an appointed or elected trustee is 4 years.

(ii) Trustees who represent the public serve staggered 4–year terms.

(2) A trustee who is a member but not 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, the Law Enforcement Officers' Pension Plan, the Teachers' Pension System, or the Teachers' Retirement System at the time of election of the trustee may complete the term of office even if, during the term, the trustee:

(i) becomes a retiree of the State system of which the trustee was a member at the time of election; and

(ii) has completed more than 3 years of the trustee's term of office.

(3) A vacancy in the office of a trustee shall be filled for the unexpired term in the same manner as the office was previously filled.

(4) At the end of a term, a trustee continues to serve until a successor is appointed or elected.

(5) A trustee who is appointed after a term has begun serves only for the rest of the term and until a successor is selected and qualifies.

(e) (1) Except as provided in paragraph (2) of this subsection, each trustee shall attend at least 80% of the monthly Board of Trustees meetings held during a 1–year period beginning January 1.

(2) (i) A trustee may be granted an excused absence by the chairman of the Board or another officer of the Board due to:

1. illness;

2. family emergencies;

3. jury duty; or

4. attendance at investment or fiduciary training.

(ii) An excused absence under this paragraph may not be considered an absence for the purposes of paragraph (1) of this subsection.

(3) (i) Any elected or Governor–appointed trustee that fails to attend at least 80% of the meetings, not including excused absences under paragraph (2) of this subsection, shall be removed from the Board of Trustees by the Governor.

(ii) The Governor shall fill the vacancy for the office of the trustee for the unexpired term in the same manner as the office was previously filled.

(iii) The State Retirement Agency shall submit a trustee attendance report to the Department of Legislative Services by June 30 and December 31 of each year.

(4) An elected trustee representing employees of any of the several systems shall be given reasonable time during work to attend monthly meetings of the Board of Trustees or committee meetings of the Board of Trustees.

(f) Notwithstanding subsection (d) of this section, the Governor may remove a Governor–appointed trustee for incompetence or misconduct.

§21–105.

The Board of Trustees shall:

(1) elect a chairman annually from its membership; and

(2) by a majority vote of all of the trustees, elect a secretary who may be one of its members.

§21–106.

(a) Each trustee is entitled to one vote on the Board of Trustees.

(b) A majority of the trustees then serving on the Board of Trustees is a quorum for:

(1) the transaction of any business;

(2) the exercise of any power; or

(3) the performance of any duty authorized or imposed by law.

(c) The Board of Trustees shall set the times and places of its meetings.

(d) A trustee:

(1) may not receive compensation from the several systems for service as a trustee; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§21–107.

The Attorney General is the legal adviser of the Board of Trustees.

§21–108.

(a) (1) The responsibility for the management, general administration, and proper operation of the several systems is vested in the Board of Trustees.

(2) The Board of Trustees is not responsible for:

(i) reviewing the benefit structures for any of the several systems, except for the purpose of making technical corrections; or

(ii) considering benefit enhancements for any of the several systems.

(3) (i) Each trustee on the Board of Trustees is required to complete at least 8 hours of investment and fiduciary training, including training on fiduciary conduct and board governance, during a 1–year period beginning January 1.

(ii) The training shall be approved by the Chairman of the Board of Trustees to satisfy the 8–hour requirement under subparagraph (i) of this paragraph.

(4) (i) On or before June 30 and December 31 of each year, the State Retirement Agency shall submit a report to the Department of Legislative Services that provides a summary of the training required by paragraph (3) of this subsection that was completed by each trustee during that 6–month period.

(ii) On or before September 1 of each year, the Board of Trustees shall submit a report in accordance with § 2–1246 of the State Government Article to the Joint Committee on Pensions that provides:

1. a total of all travel expenses for the fiscal year ending immediately prior to September 1 for:

A. members of the Board of Trustees; and

B. staff of the State Retirement Agency;

2. the destination, duration, and justification for the travel;

3. for members of the Board of Trustees, a statement whether the travel was made for purposes of fiduciary educational training; and

4. for staff of the Investment Division, a statement whether the travel was made for purposes of meeting with existing or prospective investment

managers.

(b) In addition to the Investment Committee established under § 21-114 of this subtitle, the Board of Trustees may establish other committees.

(c) Subject to §§ 21–122 and 21–123 of this subtitle, the Board of Trustees shall have full power to invest the assets of the several systems.

§21–109.

The Board of Trustees shall submit the budget for the several systems annually to the Governor for inclusion in the State budget.

§21–110.

(a) The Board of Trustees shall adopt regulations providing for:

(1) the administration of the several systems;

(2) the management of the assets of the several systems;

(3) the transaction of its business;

(4) the imposition of an administrative fee on any participating employer that fails to provide the information required by the State Retirement Agency to properly enroll eligible employees in the several systems; and

(5) notwithstanding the provisions of § 9–602 of the Criminal Law Article, the management of monitoring and recording incoming telephone conversations to employees of the Member Services division of the State Retirement Agency, to telephones within the offices of the State Retirement Agency, for training and quality control purposes.

(b) (1) Subject to the approval of the Board of Public Works, the Board of Trustees may adopt regulations for the administration of funds of a pension or retirement system established under §§ 7-206 and 7-603 of the Transportation Article.

(2) The Maryland Transit Administration shall pay all financing costs of a pension or retirement system established under §§ 7-206 and 7-603 of the Transportation Article, including the pro rata share of the administrative costs that the Board of Trustees incurs.

§21–111.

(a) (1) As the Board of Trustees considers necessary to properly administer and enforce this Division II or regulations adopted under this Division II, the Board of Trustees may:

(i) require any officer or unit of the State or of a political subdivision

of the State to furnish the Board of Trustees without charge with a certified copy of any record or paper in the official custody of the officer or unit; and

(ii) issue a summons, subpoena, or other process, for the attendance of witnesses and the production of documents before the Board of Trustees.

(2) The Board of Trustees, or any trustee on the Board of Trustees, may administer an oath to a witness who appears before the Board of Trustees.

(b) (1) In addition to any hearing that Title 10 of the State Government Article requires, the Board of Trustees may hold hearings as necessary to perform its duties.

(2) The hearings are governed by regulations of the Board of Trustees.

(3) The Board of Trustees is not bound by technical rules of evidence.

(4) If the Board of Trustees approves an application for disability retirement on behalf of a State police officer under § 2-415(b) of the Public Safety Article, the Board of Trustees shall hold a hearing unless the officer waives the hearing in writing.

§21–112.

Each year the Board of Trustees shall:

(1) publish a consolidated report that includes:

(i) the fiscal transactions of the several systems for the preceding fiscal year;

(ii) the amount of the accumulated cash, securities, and other assets of each State system; and

(iii) the last balance sheet that shows the financial condition of each State system by means of an actuarial valuation of the assets and liabilities of the State system; and

(2) provide each member and retiree with a statement that:

(i) summarizes the information in the report under item (1) of this section;

(ii) shows:

1. the member's vested benefits or the benefits the member will be entitled to on vesting;

2. the date when the member was or will be vested; and

3. the present value of any annuity; and

(iii) explains any material modifications to the applicable State system during the period covered by the annual report.

§21–113.

(a) Except as provided in § 29–409 of this article, if, because of an error, a retiree or beneficiary receives a benefit that differs from the benefit the retiree or beneficiary is entitled to receive, the Board of Trustees shall:

(1) correct the error; and

(2) to the extent practicable, adjust the payment to the retiree or beneficiary to provide the actuarial equivalent to which the retiree or beneficiary is correctly entitled.

(b) (1) Notwithstanding § 21-502 of this title, the Board of Trustees may recover the amount of any improper payment.

(2) After due notice, if a person who receives an improper payment fails to repay the money owed, the Board of Trustees may:

(i) begin an action to recover the amount of the improper payment and the costs of bringing the action; or

(ii) adjust any future monthly payments of that person's allowance to recover the amount owed.

(3) Subject to the approval of the Board of Trustees, the Executive Director of the State Retirement Agency shall:

(i) determine any monthly adjustment under paragraph (2)(ii) of this subsection; and

(ii) notify the person of the total amount to be recovered, the monthly adjustment, and the period of recovery.

§21–114.

There is an Investment Committee of the Board of Trustees.

§21–115.

(a) The Board of Trustees shall:

(1) specify by resolution the number of members of the Investment Committee; and

(2) except as provided in subsection (b)(2) of this section, appoint annually the members of the Investment Committee from the members of the Board of Trustees.

(b) The Board of Trustees shall ensure that the membership of the Investment Committee includes:

(1) a representative of each of:

(i) the Employees' Pension System or the Employees' Retirement System;

(ii) the Teachers' Pension System or the Teachers' Retirement System; and

(iii) the State Police Retirement System; and

(2) three representatives from the public appointed by the Board of Trustees with the approval of the Board of Public Works for staggered 3-year terms who:

(i) are not members, retirees, or beneficiaries under any of the several systems;

(ii) have had experience in the management and control of large investments; and

(iii) have at least 10 years of substantial experience as any one or a combination of the following:

1. a portfolio manager acting in a fiduciary capacity;

2. an employee or principal of a trust institution, investment organization, or endowment fund acting either in a management-related capacity or an investment-related capacity;

3. a chartered financial analyst in good standing; or

4. a professional engaged in a public or private financial or investment field that is comparable to the fields listed in this item.

(c) The Board of Trustees may:

(1) set additional qualifications for public members; and

(2) adopt regulations on ethical standards and conflicts of interest for public members.

(d) By resolution, the Board of Trustees shall designate the chairman of the Investment Committee.

§21–116.

(a) By resolution, the Board of Trustees shall specify the powers of the Investment Committee.

(b) The Investment Committee shall advise the Board of Trustees and make recommendations on:

(1) the investment programs;

(2) compliance of the investment programs with the policies of the Board of Trustees; and

(3) bonding for employees of the State Retirement Agency in the form and amount required by law.

(c) (1) Subject to subsection (d) of this section, the Board of Trustees shall adopt an investment policy manual that details:

(i) the functions of the Investment Division of the State Retirement Agency;

(ii) the goals and objectives of the several investment programs; and

(iii) the policies that govern the selection and retention of investments.

(2) The Investment Committee shall:

(i) prepare and maintain the investment policy manual; and

(ii) submit the investment policy manual, and any subsequent amendments to the manual, to the Board of Trustees for approval.

(d) (1) (i) Consistent with minority business purchasing standards applicable to units of State government under the State Finance and Procurement Article and consistent with the fiduciary duties of the Board of Trustees, the Board of Trustees shall direct the Investment Committee to attempt to use to the greatest extent feasible minority business enterprises to provide brokerage and investment management services to the Board.

(ii) For purposes of this subsection, brokerage and investment management services shall include services relating to all allocated asset classes.

(2) (i) To assist it in achieving the goal described under paragraph (1) of this subsection, the Investment Committee shall undertake measures to remove any barriers that limit full participation by minority business enterprises in brokerage and investment management services opportunities afforded under this title.

(ii) The measures undertaken by the Investment Committee shall include the use of a wide variety of media, including the State Retirement Agency's website, to provide notice to a broad and varied range of potential providers about the brokerage and investment management services opportunities afforded by the State Retirement Agency.

(3) In consultation with the Governor's Office of Minority Affairs and the Investment Committee, the Board of Trustees shall develop guidelines to assist the Investment Committee in identifying and evaluating qualified minority business enterprises in order to help the State Retirement Agency achieve the objective for greater use of minority business enterprises for brokerage and investment management services.

(4) On or before September 1 each year, the Investment Committee shall submit a report to the Board of Trustees, the Governor's Office of Minority Affairs and, subject to § 2–1246 of the State Government Article, the General Assembly on:

(i) the identity of the minority business enterprise brokerage and investment management services firms used by the Investment Committee in the immediately preceding fiscal year;

(ii) the percentage and dollar value of the assets that are under the control of the Investment Committee that are under the investment control of minority business enterprise brokerage and investment management services firms for each allocated asset class; and

(iii) the measures the Investment Committee undertook in the immediately preceding fiscal year in accordance with paragraph (2)(ii) of this subsection.

§21–117.

(a) There is a State Retirement Agency.

(b) The State Retirement Agency is an agency of the Board of Trustees.

§21–118.

(a) (1) The Board of Trustees shall appoint the Executive Director of the State Retirement Agency.

(2) The Executive Director serves at the pleasure of the Board of Trustees.

(b) The Executive Director shall:

(1) be in charge of the State Retirement Agency;

(2) compile annually a comprehensive budget for submission to the Board

of Trustees; and

(3) have the duties and functions that the Board of Trustees may delegate.

(c) (1) The Executive Director shall employ a staff in accordance with the State budget.

(2) Except for employees described in paragraph (3) of this subsection, the employees are skilled service or professional service employees subject to the provisions of this article that govern skilled service or professional service employees.

(3) An employee is in the executive service, management service, or is a special appointment in the State Personnel Management System if:

(i) the employee holds a position that the Executive Director, with the approval of the Board of Trustees, designates as a professional or technical position that involves specialized skill, education, and knowledge; and

(ii) the employee's labor is predominantly intellectual rather than manual or physical.

(d) The Executive Director and the Chief Investment Officer and staff of the Investment Division of the State Retirement Agency shall comply with the policies that the Board of Trustees prescribes about conflicts of interest and personal investments.

(e) (1) A document that must be executed by or for the Board of Trustees shall be signed:

(i) by the Executive Director of the State Retirement Agency; or

(ii) in the absence or disability of the Executive Director, by another employee whom the Executive Director, with the approval of the Chairman of the Board of Trustees, designates in writing.

(2) If a countersignature is required, with the approval of the Chairman of the Board of Trustees, the Executive Director shall designate those employees of the State Retirement Agency who may sign.

§21–118.1.

(a) Notwithstanding any other provision of law, on the recommendation of the Executive Director and the Investment Committee, the Board of Trustees shall determine the qualifications and appointment, as well as compensation and leave, for the Chief Investment Officer who shall be the head of the Investment Division.

(b) In making determinations and appointments under this section, the Executive Director and the Investment Committee shall consider the comparative qualifications, compensation, and leave of employees serving in similar positions and

discharging similar duties at comparable public pension funds.

(c) In addition to the Board of Trustees setting the salary of the Chief Investment Officer under subsection (a) of this section in accordance with the State budget, the Board of Trustees may also award financial incentives to the Chief Investment Officer in accordance with subsection (d) of this section.

(d) (1) On the recommendation of the Investment Committee, the Board of Trustees shall establish criteria for awarding financial incentives to the Chief Investment Officer.

(2) The criteria under paragraph (1) of this subsection shall be based on:

(i) objective benchmarks of investment performance for the assets of the several systems; and

(ii) criteria used by comparable public pension funds awarding financial incentives to chief investment officers.

(3) The Chief Investment Officer may not participate in any deliberations regarding the establishment of criteria under this subsection.

(4) The criteria established under this subsection shall be included in the investment policy manual.

(5) On or before September 1 of each year, the Board of Trustees shall submit to the Joint Committee on Pensions, in accordance with § 2–1246 of the State Government Article, a copy of the most recent criteria established under this section and any financial incentives that were awarded for the previous fiscal year to the Chief Investment Officer.

(e) The compensation and any financial incentives awarded to the Chief Investment Officer shall be in accordance with the limitations on administrative and operational expenses under § 21–315(c) of this title.

(f) The Chief Investment Officer appointed under this section is a State employee and shall be entitled to participate in the Employees' Pension System under Title 23 of this article.

(g) On the recommendation of either the Investment Committee or the Executive Director and on receiving an affirmative vote from a majority of the Board of Trustees, the Executive Director shall terminate the appointment of the Chief Investment Officer.

§21–119.

The State Retirement Agency shall carry out the administrative duties of the several systems.

§21–120.

(a) On or before December 15 of each year, the Executive Director shall submit a report to the Board of Trustees about the operation and performance of the State Retirement Agency during the fiscal year that ended on the preceding June 30.

(b) The report shall include data on all commissions the State Retirement Agency paid on investments during that fiscal year.

(c) The Board of Trustees may:

(1) prescribe the format of the report; and

(2) require any information it considers appropriate.

§21–121.

(a) The State Retirement Agency may at any time examine the records of a participating employer to determine whether the payment of benefits to a participant and the payment of contributions by a participating employer or participant are and will be in accordance with the provisions of Division II of this article.

(b) Whenever an audit reveals that the payment of benefits to a participant or the payment of contributions by a participating employer or participant is not in accordance with the provisions of Division II of this article:

(1) the State Retirement Agency and participating employer shall correct their records; and

(2) (i) the participating employer shall pay any amounts owed to the accumulation fund of the appropriate State system; and

(ii) the member contributions owed by the participant shall be made by the participant in accordance with § 21–312(e) of this title.

§21–122.

(a) (1) There is an Investment Division in the State Retirement Agency.

(2) Subject to paragraph (3) of this subsection, the Board of Trustees shall determine the qualifications and compensation for the following positions within the Investment Division:

(i) deputy chief investment officer; and

(ii) managing director.

(3) The Board of Trustees may not:

(i) set or increase the salary for the deputy chief investment officer at an amount greater than the maximum salary under the ES11 scale of the Maryland Executive Pay Plan;

(ii) set or increase the salary for a managing director at an amount greater than the maximum salary under the ES9 scale of the Maryland Executive Pay Plan;

(iii) provide bonuses for an employee; or

(iv) subject to the limitations under items (i) and (ii) of this paragraph, set or increase the salary for a position that provides more than a 10% increase over the lowest salary for the position in the prior fiscal year.

(4) On or before October 1, 2012, and each October 1 thereafter, the Board of Trustees shall report to the Senate Budget and Taxation Committee, the House Appropriations Committee, and the Joint Committee on Pensions, in accordance with § 2–1246 of the State Government Article on:

(i) the current salaries of the deputy chief investment officer and the managing directors of the Investment Division;

(ii) any salary increases the deputy chief investment officer or managing directors of the Investment Division have received in the fiscal year immediately preceding that October 1; and

(iii) 1. the number of individuals in the Investment Division of the State Retirement Agency who were employed as professional investment staff and terminated employment with the State Retirement Agency in the fiscal year immediately preceding that October 1;

2. the number of years of employment an individual described in item 1 of this item had accrued with the State Retirement Agency at the time the individual terminated employment with the State Retirement Agency; and

3. to the extent possible, the new employer, position, and salary the individual described in item 1 of this item accepted upon terminating employment with the State Retirement Agency.

(b) As the Board of Trustees specifies, the Investment Division shall invest the assets of the several systems.

(c) (1) Quarterly, the Investment Division shall submit to the Board of Trustees a report about the commissions that the State Retirement Agency pays on investments.

(2) The report shall detail:

(i) the identity of each recipient of a commission that the State Retirement Agency paid during the previous quarter;

(ii) the dollar amount of commission business that each recipient performs;

(iii) the average price–per–share each recipient charged or, if the commission was paid on a net basis, the markup or markdown that the recipient uses; and

(iv) a reasonable history of the allocation of commissions.

(d) On behalf of the several systems, the Chief Investment Officer:

(1) may hire external investment managers to invest the assets of the several systems;

(2) may select and invest in specific investment vehicles, including limited partnerships, private equity fund investments, and private real estate fund investments; and

(3) may terminate the appointment of an external investment manager.

(e) Prior to terminating the appointment of an external investment manager under subsection (d)(2) of this section, the Chief Investment Officer shall provide written documentation to the Board of Trustees and the Investment Committee explaining the basis for the termination.

§21–123. IN EFFECT

(a) Except for those assets that the law requires another entity or person to control, the State Retirement Agency, under the supervision of the Board of Trustees, shall manage all assets of the several systems.

(b) The Board of Trustees:

(1) is deemed the owner of all the assets of the several systems; but

(2) may delegate some or all incidents of ownership to the State Retirement Agency to administer the investment portfolios of the several systems.

(c) (1) In this subsection, "qualified information technology, green technology, medical device technology, or bioscience business" means a business that:

(i) is primarily engaged in:

1. manufacturing, processing, or assembling information technology, green technology, medical device technology, or bioscience products;

2. conducting information technological, green technological, medical device technological, or bioscience research and development; or

3. providing information technology, green technology, medical device technology, or bioscience–related services; and

(ii) is not primarily engaged in:

1. retail sales;

2. real estate development;

3. the business of insurance, banking, or lending; or

4. the provision of professional services provided by accountants, attorneys, or physicians.

(2) On or before October 1 of each year, the Board of Trustees shall submit a report, in accordance with § 2–1246 of the State Government Article, to the Senate Budget and Taxation Committee, the House Appropriations Committee, and the Joint Committee on Pensions that provides:

(i) a list of venture capital funds focusing on qualified information technology, green technology, medical device technology, or bioscience businesses in which the several systems have invested and the amount invested in each venture capital fund;

(ii) a statement of the aggregate amount of assets of the several systems invested in companies headquartered in the State by all venture capital funds in which the several systems have made an investment; and

(iii) a statement of the aggregate amount of assets of the several systems invested in each of the qualified information technology, green technology, medical device technology, or bioscience businesses by all venture capital funds in which the several systems have made an investment.

(d) (1) The Board of Trustees may invest assets of the several systems subject to the conditions that it imposes.

(2) The Board of Trustees shall include the conditions that it adopts under paragraph (1) of this subsection in the investment policy manual required by § 21–116(c) of this subtitle.

(e) (1) This subsection applies only to the execution of:

(i) ground rent redemption deeds;

(ii) releases or reassignments of mortgages; and

(iii) satisfactions or reassignments of notes conveying, releasing, or reassigning any interest owned by the State for the use of a fund of the several systems.

(2) An instrument must be executed by any two of:

(i) the State Treasurer;

(ii) the Executive Director of the State Retirement Agency;

(iii) the Chief Investment Officer of the State Retirement Agency; or

(iv) another employee of the State Retirement Agency as the Executive Director designates with the approval of the Board of Trustees.

(f) (1) The Board of Trustees may commingle assets of the several systems, including the Postretirement Health Benefits Trust Fund, if the Board of Trustees keeps seven sets of records that show:

(i) the percentage of participation of each State system or group of State systems, including the Postretirement Health Benefits Trust Fund;

(ii) the percentage of income, gains, and losses applicable to each State system or group of State systems, including the Postretirement Health Benefits Trust Fund; and

(iii) the total contributions and disbursements applicable to each State system or group of State systems, including the Postretirement Health Benefits Trust Fund.

(2) The Board of Trustees shall keep records required by paragraph (1) of this subsection for each of the following:

(i) the group that consists of the Correctional Officers' Retirement System, the Employees' Pension System, the Employees' Retirement System, and the Legislative Pension Plan;

(ii) the Judges' Retirement System;

(iii) the Local Fire and Police System;

(iv) the Law Enforcement Officers' Pension System;

(v) the State Police Retirement System;

(vi) the group that consists of the Teachers' Pension System and the Teachers' Retirement System; and

(vii) the Postretirement Health Benefits Trust Fund.

(g) (1) Notwithstanding any other law in force on or after July 1, 1988, unless the law makes specific reference to this subsection, and subject to paragraph (2) of this subsection, the Board of Trustees may keep all analyses, forecasts, negotiations, papers, records, recommendations, and reports closed to public inspection until:

(i) the release of the information would not adversely affect the negotiation for or market price of a security; and

(ii) completion of:

1. a proposed purchase or program of purchases leading to a cumulative position in a security;

2. the making, sale, or prepayment of a loan;

3. any proposed sale or program of sales leading to the elimination of a position in a security; or

4. the sale or purchase of real estate.

(2) (i) The sale or purchase of real estate shall be subject to the approval of a majority of the Comptroller, Treasurer, and Secretary of Budget and Management, in their capacity as members of the Board of Trustees.

(ii) On or before October 1 of each year, the Board of Trustees shall submit a report in accordance with § 2–1246 of the State Government Article to the Board of Public Works, the Senate Budget and Taxation Committee, the House Appropriations Committee, and the Joint Committee on Pensions that provides a list of all sales or purchases of directly held real estate approved by the Board of Trustees for the immediately preceding fiscal year.

(h) Any direct owned real estate purchased as an investment by the State Retirement and Pension System shall be managed by an external investment manager selected by the Chief Investment Officer.

(i) Title 4, Subtitle 3, Part III and § 10–305 of the State Finance and Procurement Article do not apply to the sale, acquisition, lease, transfer, exchange, or other disposition of any real or personal property acquired by the Board of Trustees in any transaction authorized under this title.

21–123. // EFFECTIVE JUNE 30, 2015 PER CHAPTER 614 OF 2010 //

(a) Except for those assets that the law requires another entity or person to control, the State Retirement Agency, under the supervision of the Board of Trustees, shall manage all assets of the several systems.

(b) The Board of Trustees:

(1) is deemed the owner of all the assets of the several systems; but

(2) may delegate some or all incidents of ownership to the State Retirement Agency to administer the investment portfolios of the several systems.

(c) (1) The Board of Trustees may invest assets of the several systems subject to the conditions that it imposes.

(2) The Board of Trustees shall include the conditions that it adopts under paragraph (1) of this subsection in the investment policy manual required by § 21–116(c) of this subtitle.

(d) (1) This subsection applies only to the execution of:

(i) ground rent redemption deeds;

(ii) releases or reassignments of mortgages; and

(iii) satisfactions or reassignments of notes conveying, releasing, or reassigning any interest owned by the State for the use of a fund of the several systems.

(2) An instrument must be executed by any two of:

(i) the State Treasurer;

(ii) the Executive Director of the State Retirement Agency;

(iii) the Chief Investment Officer of the State Retirement Agency; or

(iv) another employee of the State Retirement Agency as the Executive Director designates with the approval of the Board of Trustees.

(e) (1) The Board of Trustees may commingle assets of the several systems, including the Postretirement Health Benefits Trust Fund, if the Board of Trustees keeps seven sets of records that show:

(i) the percentage of participation of each State system or group of State systems, including the Postretirement Health Benefits Trust Fund;

(ii) the percentage of income, gains, and losses applicable to each State system or group of State systems, including the Postretirement Health Benefits Trust Fund; and

(iii) the total contributions and disbursements applicable to each State system or group of State systems, including the Postretirement Health Benefits Trust Fund.

(2) The Board of Trustees shall keep records required by paragraph (1) of this subsection for each of the following:

(i) the group that consists of the Correctional Officers' Retirement System, the Employees' Pension System, the Employees' Retirement System, and the Legislative Pension Plan;

(ii) the Judges' Retirement System;

(iii) the Local Fire and Police System;

(iv) the Law Enforcement Officers' Pension System;

(v) the State Police Retirement System;

(vi) the group that consists of the Teachers' Pension System and the Teachers' Retirement System; and

(vii) the Postretirement Health Benefits Trust Fund.

(f) (1) Notwithstanding any other law in force on or after July 1, 1988, unless the law makes specific reference to this subsection, and subject to paragraph (2) of this subsection, the Board of Trustees may keep all analyses, forecasts, negotiations, papers, records, recommendations, and reports closed to public inspection until:

(i) the release of the information would not adversely affect the negotiation for or market price of a security; and

(ii) completion of:

1. a proposed purchase or program of purchases leading to a cumulative position in a security;

2. the making, sale, or prepayment of a loan;

3. any proposed sale or program of sales leading to the elimination of a position in a security; or

4. the sale or purchase of real estate.

(2) (i) The sale or purchase of real estate shall be subject to the approval of a majority of the Comptroller, Treasurer, and Secretary of Budget and Management, in their capacity as members of the Board of Trustees.

(ii) On or before October 1 of each year, the Board of Trustees shall submit a report in accordance with § 2–1246 of the State Government Article to the Board of Public Works, the Senate Budget and Taxation Committee, the House Appropriations Committee, and the Joint Committee on Pensions that provides a list of all sales or purchases of directly held real estate approved by the Board of Trustees for the immediately preceding fiscal year.

(g) Any direct owned real estate purchased as an investment by the State

Retirement and Pension System shall be managed by an external investment manager selected by the Chief Investment Officer.

(h) Title 4, Subtitle 3, Part III and § 10–305 of the State Finance and Procurement Article do not apply to the sale, acquisition, lease, transfer, exchange, or other disposition of any real or personal property acquired by the Board of Trustees in any transaction authorized under this title.

§21–123.1.

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

(2) (i) "Actively managed separate accounts" means the accounts of the several systems that are actively managed at the direction of the Board of Trustees and held in separate accounts.

(ii) "Actively managed separate accounts" does not mean indexed funds, private equity funds, real estate funds, or other commingled or passively managed funds.

(3) "Company" means any corporation, utility, partnership, joint venture, franchisor, franchisee, trust, entity investment vehicle, financial institution, or a wholly owned subsidiary of any of these entities.

(4) "Divestment action" means selling, redeeming, transferring, exchanging, otherwise disposing of, and refraining from further investment in certain investments.

(5) "Doing business in Iran" means the company has, with actual knowledge, on or after August 5, 1996, made an investment of $20,000,000 or more, or any combination of investments of at least $10,000,000 each, which in the aggregate equals or exceeds $20,000,000 in any 12–month period, and which directly or significantly contributes to the enhancement of Iran's ability to develop the petroleum or natural gas resources of Iran.

(6) "Doing business in Sudan" means engaging in commerce in Sudan by maintaining or leasing equipment, facilities, personnel, or other apparatus of business or commerce in oil–related activities, mineral extraction activities, power production activities, or production of military equipment of Sudan.

(7) "Eligible accounts" means actively managed separate accounts containing funds of the several systems.

(8) "Government of Iran" means the government of Iran, its instrumentalities, and companies owned or controlled by the government of Iran.

(9) "Investment" means the commitment of funds or other assets to a company, including:

(i) the ownership or control of a share or interest in the company; or

(ii) the ownership or control of a bond or other debt instrument of a company.

(10) "Iran" means the Islamic Republic of Iran.

(11) (i) "Sudan" means the government in Khartoum, Sudan, that is led by the National Congress Party (formerly known as the National Islamic Front) or any successor government formed on or after October 13, 2006, including the Coalition National Unity Government agreed on in the Comprehensive Peace Agreement for Sudan.

(ii) "Sudan" does not mean the regional government of southern Sudan.

(b) The Board of Trustees shall review the investment holdings in eligible accounts for the purpose of determining the extent to which funds in eligible accounts are invested in companies doing business in Iran or Sudan.

(c) (1) Except as otherwise provided in this section, and consistent with the fiduciary duties of the Board of Trustees under Subtitle 2 of this title and all other applicable law, the Board of Trustees shall, within 30 days of its review under subsection (b) of this section, provide written notice and opportunity to comment to a company in which eligible accounts are invested and that has been identified as doing business in Iran or Sudan.

(2) Any notice provided by the Board of Trustees under paragraph (1) of this subsection shall state that the company shall be subject to divestment action by the Board of Trustees unless the company provides written comments within 90 days to the Board of Trustees:

(i) demonstrating that the company is not doing business in Iran or Sudan; or

(ii) stating that, within 60 days of providing written comments to the Board of Trustees under this paragraph, the company will produce a plan to end doing business in Iran or Sudan within 1 year.

(3) If the company demonstrates to the satisfaction of the Board of Trustees that it is not doing business in Iran or Sudan, the Board of Trustees may not take any divestment action against the company.

(4) (i) If within 60 days of providing written comments to the Board of Trustees under paragraph (2) of this subsection, the company produces a plan to cease doing business in Iran or Sudan within 1 year, the Board of Trustees may not take any divestment action against the company.

(ii) If the Board of Trustees does not take any divestment action under subparagraph (i) of this paragraph, the Board of Trustees shall monitor the progress of the company's plan to cease doing business in Iran or Sudan over the 12 months immediately following receipt of the plan.

(iii) If the company ceases doing business in Iran or Sudan within 1 year, the Board of Trustees may not take any divestment action against the company.

(iv) If the company does not cease doing business in Iran or Sudan within 1 year, the Board of Trustees shall take divestment action against the company as provided in subsection (d) of this section.

(d) Except as provided in subsections (c) and (e) of this section, the Board of Trustees:

(1) shall take divestment action in eligible accounts with regard to current investments:

(i) in any company doing business in Iran or Sudan; or

(ii) in any security or instrument issued by Iran or Sudan; and

(2) may not make any new investments from net new funds in an eligible account in any company that is doing business in Iran or Sudan as determined in accordance with the procedures set forth in subsection (c) of this section.

(e) Notwithstanding the provisions of this section, the Board of Trustees may exclude from the provisions of subsections (c) and (d) of this section, a company:

(1) that the United States government affirmatively declares to be excluded from its federal sanctions regime relating to Iran or Sudan; and

(2) whose divestment cannot be executed for fair market value or greater.

(f) If the Board of Trustees takes divestment action under subsection (d) of this section, with respect to investments in a company, the Board of Trustees shall provide the company with written notice of its decision and reasons for the decision.

(g) On or before October 1 of each year, and every 6 months thereafter, the Board of Trustees shall submit a report in accordance with § 2–1246 of the State Government Article to the Senate Budget and Taxation Committee, the House Appropriations Committee, and the Joint Committee on Pensions that provides:

(1) a summary of correspondence with companies engaged by the Board of Trustees under this section;

(2) all divestment actions taken by the Board of Trustees in accordance with this section;

(3) a list of companies doing business in Iran or Sudan which the Board of Trustees has determined to be ineligible for investments of net new funds under subsection (d)(2) of this section; and

(4) other developments relevant to investment in companies doing business in Iran or Sudan.

(h) The Board of Trustees, or any other fiduciary of the several systems, may not be held liable for any actions taken or decisions made in good faith for the purpose of complying with or executing the requirements of any divestment provisions under this subtitle.

(i) The Board of Trustees shall act in good faith to carry out divestment action as required by this section in compliance with all applicable State and federal law, including relevant judicial decisions and the federal Sudan Accountability and Divestment Act of 2007.

(j) Nothing in this section shall require the Board of Trustees to take action as described in this section unless the Board of Trustees determines, in good faith, that the action is consistent with the fiduciary responsibilities of the Board of Trustees as described in Subtitle 2 of this title.

§21–124.

(a) (1) The State Treasurer is the custodian of:

(i) the accumulation, annuity savings, and expense funds of the several systems; and

(ii) the assets of the Board of Trustees.

(2) The State Retirement Agency shall make all payments from the accumulation, annuity savings, and expense funds of the several systems in accordance with regulations that the Board of Trustees adopts with the approval of the State Treasurer.

(b) (1) The State Treasurer may make arrangements with one or more duly qualified banks or trust companies in this State, organized under the laws of this State or of the United States, for:

(i) safe custody of investments;

(ii) banking services; and

(iii) any other function that the State Treasurer considers necessary to safeguard physically the assets that the Board of Trustees manages.

(2) The State Treasurer:

(i) may deposit any of the securities that the Board of Trustees purchases in vaults or in other safe depositories outside the office of the State Treasurer, whether or not in this State; and

(ii) shall deliver to the Board of Trustees a safekeeping receipt that:

1. describes the securities that the State Treasurer deposits; and

2. is payable on demand and without conditions to the Board of Trustees, to any designated fund of the several systems that the Board of Trustees controls, or to the State Treasurer.

(3) The Board of Trustees shall keep on file any safekeeping receipt that the State Treasurer delivers.

(c) (1) Subject to paragraph (2) of this subsection, to make disbursements, the State Treasurer may keep cash on deposit in one or more duly qualified banks or trust companies in this State that are organized under the laws of this State or of the United States.

(2) The State Treasurer may not:

(i) keep more than 10% of the total amount in the funds of the several systems on deposit as cash; or

(ii) keep cash that exceeds 25% of the paid-up capital and surplus of the bank or trust company in that bank or trust company.

§21–125.

(a) The Board of Trustees shall designate an actuary who shall:

(1) give technical advice to the Board of Trustees on the operation of the funds of the several systems; and

(2) perform other related duties that the Board of Trustees requires.

(b) (1) On the basis of actuarial assumptions that the Board of Trustees adopts, each year the actuary shall make a valuation of the assets and liabilities of the funds of the several systems.

(2) Each year the Board of Trustees shall certify to the Secretary of Budget and Management and to the Governor the rates of employer contributions.

(3) For purposes of actuarial valuation, the Board of Trustees may adopt a generally accepted method for determining the value of the assets held by the several systems.

(4) For general ledger accounting and financial reporting, the Board of Trustees shall use generally accepted accounting principles.

(c) (1) At least once in each 5-year period, the actuary shall make:

(i) actuarial investigations into the compensation, mortality, and service experience of the participants of each of the several systems; and

(ii) a valuation of the assets and liabilities of the funds of each of the several systems.

(2) The Board of Trustees shall:

(i) review the results of the investigations and valuations of the actuary; and

(ii) adopt the actuarial assumptions for each of the several systems as the Board of Trustees considers necessary.

§21–125.1.

(a) Beginning on or before September 1, 2008, and every 5 years thereafter, the Joint Committee on Pensions shall commission an actuarial consulting firm to conduct a study of the several systems in addition to the actuarial investigation and valuation performed by the actuary under § 21–125 of this subtitle and a comparison of the several systems with other similarly situated public pension plans.

(b) The actuarial consulting firm shall consider the following issues with regard to the several systems and other similarly situated public pension plans:

(1) the funding status of the State Retirement and Pension System, including its current unfunded accrued liability;

(2) the composition of the several systems, including:

(i) the number of active members, retirees, disability retirees, and beneficiaries of all retirees;

(ii) the average annual salaries of the active members in the various plans in the State Retirement and Pension System;

(iii) the average annual benefits of the retirees and beneficiaries of the State Retirement and Pension System; and

(iv) the average age, life expectancy, and years of service of active members retiring from the various plans in the State Retirement and Pension System; and

(3) the benefit levels provided by the various State systems, including a

comparison of member contribution rates and the accrual rates.

(c) The findings of the actuarial consulting firm shall be submitted to the Joint Committee on Pensions on or before December 31, of the year of study, in accordance with § 2–1246 of the State Government Article.

§21–126.

(a) The Board of Trustees shall establish one or more medical boards.

(b) (1) Each medical board consists of three members and not more than three alternates.

(2) Each medical board member and alternate shall be a physician who is not eligible to be a member of a State system.

(3) (i) The Board of Trustees shall appoint the medical board members and any alternates.

(ii) Notwithstanding paragraph (2) of this subsection, the Board of Trustees may appoint a physician who is a participating employee in the Optional Retirement Program under Title 30 of this article to a medical board if the physician is not eligible to receive a disability benefit under Title 29, Subtitle 1 of this article.

(4) In the absence of a medical board member, an alternate may serve on a medical board.

(c) Two members of a medical board are a quorum for the conduct of business.

(d) A medical board shall:

(1) arrange for and approve all medical examinations required under this Division II;

(2) investigate all essential certificates and statements by or on behalf of a member concerning the application of the member for disability retirement; and

(3) submit written reports to the Board of Trustees, with conclusions and recommendations, on all matters that the Board of Trustees refers to the medical board.

(e) The Board of Trustees may employ other physicians to report on special cases.

(f) A member of a medical board appointed under subsection (b)(3)(ii) of this section may not participate in a case concerning the application of a member for disability retirement if the applicant is an employee of the same institution that is the employing institution, as defined in § 30–101 of this article, of the member of the medical board.

§21–127.

The Legislative Auditor:

(1) may conduct an annual or biennial fiscal and compliance audit of the accounts and transactions of the several systems; and

(2) shall advise officials of the several systems whether the audit will be annual or biennial.

§21–128.

(a) In this section, "retiree organization" means an organization in which State retirees participate and that has as one of its primary purposes, representing or providing services to State retirees.

(b) This section applies to any retiree organization that has the legal authority to provide services to retirees of the several systems.

(c) (1) A retiree organization may submit only one request in both April and October of each year to the Board of Trustees to assist the retiree organization in performing direct mailings to retirees of the several systems who are members of the retiree organization or eligible to become members of the retiree organization.

(2) The direct mailings may not be for the purpose of supporting or opposing any political party, ballot measure, or candidate in any election, including any State general or primary election or any election within the retiree organization.

(3) (i) The Board of Trustees shall provide the retiree data for addressing envelopes only to the mail processing center under a secure data share agreement with the mail processing center under which neither the retiree organization nor any other entity has direct access to any names or addresses.

(ii) If the Board of Trustees provides any retiree data to a mail processing center under subparagraph (i) of this paragraph, the Board of Trustees is not required to notify a retiree whose data is released of the provisions of § 21–504 of this title.

(4) (i) A retiree organization shall provide the Board of Trustees with copies of all materials that will be included in the direct mailing.

(ii) The Board of Trustees shall review the materials provided under subparagraph (i) of this paragraph before providing any retiree data to a mail processing center.

(d) The direct mailing shall provide retirees of the several systems who are members of the retiree organization or eligible to become members of the retiree organization with information that explains the services offered by the retiree

organization.

(e) (1) A retiree organization is solely responsible for the procurement of a mail processing center under this section.

(2) The retiree organization shall provide all printed materials to be mailed and envelopes to a mail processing center.

(3) The retiree organization is responsible for paying all costs for generating mailing labels, inserting materials into envelopes, sealing, labeling, and delivering materials to be mailed to a bulk mail center or post office.

(4) The retiree organization is responsible for all postage costs involved for the direct mailings.

(f) The Board of Trustees is not liable for the content of any direct mailing sent under this section.

(g) On or before December 31 of each year, the Board of Trustees shall submit a report in accordance with § 2–1246 of the State Government Article to the Joint Committee on Pensions that includes a summary of any complaints received by the State Retirement Agency regarding any mailing received by a retiree under this section.

§21–201.

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

(b) "Fiduciary" means:

(1) a member of the Board of Trustees;

(2) a member of the Investment Committee; or

(3) an employee of the State Retirement Agency who exercises any discretionary authority or control over:

(i) the management or administration of the several systems; or

(ii) the management or disposition of the assets of the several systems.

(c) "Several systems" includes the optional retirement program to the extent that the Board of Trustees administers the program under Title 30 of this article.

§21–202.

The Board of Trustees shall hold the assets of each of the several systems for the exclusive purposes of providing:

(1) benefits to participants; and

(2) for reasonable expenses of administration.

§21–203.

A fiduciary shall discharge the fiduciary's duties with respect to the several systems solely in the interest of the participants and as follows:

(1) for the exclusive purposes of providing benefits to the participants and for reasonable expenses of administering the several systems;

(2) with the care, skill, prudence, and diligence under the circumstances then prevailing, that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(3) by diversifying the investments of the several systems so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so;

(4) in accordance with the laws governing the several systems; and

(5) in accordance with the documents and instruments governing the several systems to the extent that the documents and instruments are consistent with this subtitle.

§21–204.

(a) (1) Except as otherwise provided in subsection (c) of this section, in exercising the standards set forth in § 21-203 of this subtitle:

(i) the trustees jointly shall manage and control the assets of the several systems; and

(ii) each trustee of the several systems, when acting as a fiduciary, shall use reasonable care to prevent another trustee from committing a breach.

(2) Paragraph (1) of this subsection does not preclude any agreement that allocates specific responsibilities, obligations, or duties among the trustees.

(b) The Board of Trustees may:

(1) allocate the responsibilities of the fiduciaries among the fiduciaries; and

(2) designate any other person to carry out the responsibilities of a fiduciary.

(c) (1) If the Board of Trustees makes an allocation or designation to a person

under subsection (b) of this section, the Board of Trustees is not liable for an act or omission of that person in carrying out the responsibility, except to the extent that the Board of Trustees violates § 21-203 of this subtitle with respect to:

(i) the allocation or designation;

(ii) the establishment or implementation of a procedure to allocate or designate; or

(iii) the continuance or review of the allocation or designation.

(2) Except as otherwise provided in paragraph (1) of this subsection, a trustee to whom certain responsibilities, obligations, or duties have not been allocated is not liable, either individually or as a trustee, for any loss resulting to the several systems arising from an act or omission of another person to whom the responsibilities, obligations, or duties have been allocated.

§21–205.

In exercising authority, control, or discretion with respect to the several systems, a fiduciary may not:

(1) use the assets of the several systems for the fiduciary's own interest or account;

(2) act in a transaction involving the several systems on behalf of a person, or represent a person, if the interests of the person are adverse to the interests of the several systems or the interests of participants;

(3) receive any consideration for the fiduciary's own account from a person dealing with the several systems in connection with a transaction involving the assets of the several systems; or

(4) become an endorser or surety or, in any manner, an obligor, for money lent to or borrowed from the Board of Trustees.

§21–206.

(a) Subject to § 21-207 of this subtitle, a fiduciary who breaches any of the responsibilities, obligations, or duties imposed on a fiduciary by this subtitle:

(1) is personally liable to the several systems for any losses to the several systems resulting from a breach;

(2) shall restore to the several systems any profits of the fiduciary made through use of assets of the several systems by the fiduciary; and

(3) is subject to any equitable or remedial relief, including removal of the

fiduciary, that a court considers appropriate.

(b) A fiduciary is not liable with respect to a breach of fiduciary duty under this subtitle if the breach was committed:

(1) before the fiduciary became a fiduciary; or

(2) after the fiduciary ceased to be a fiduciary.

§21–207.

(a) Subject to the provisions of this section, the State shall indemnify a fiduciary who is, or is threatened to be made, a party to an action or proceeding, including an administrative or investigative proceeding, by reason of the fiduciary's service as a fiduciary.

(b) (1) In this subsection, "expenses" include:

(i) reasonable attorney's fees;

(ii) judgments;

(iii) fines; and

(iv) other expenses that were actually and reasonably incurred by the fiduciary in connection with the action or proceeding.

(2) With respect to a civil, administrative, or investigative action or proceeding, the State shall indemnify a fiduciary for the expenses of the action or proceeding if the fiduciary acted:

(i) in good faith; and

(ii) in a manner the fiduciary reasonably believed to be in or not opposed to the best interest of the several systems.

(3) With respect to a criminal action or proceeding, the State shall indemnify a fiduciary for the expenses of the action or proceeding if the fiduciary:

(i) acted in good faith;

(ii) acted in a manner the fiduciary reasonably believed to be in or not opposed to the best interest of the several systems; and

(iii) did not have reasonable cause to believe that the fiduciary's conduct was unlawful.

(c) Any termination of an action or proceeding does not, of itself, create a presumption that the fiduciary did not meet the standards for indemnification

described in subsection (b) (2) and (3) of this section.

(d) The State may not indemnify:

(1) a fiduciary with respect to an action or proceeding as to which the fiduciary was held liable for gross negligence or willful misconduct in the performance of the fiduciary's duty to the several systems; or

(2) an independent contractor furnishing services to the several systems.

(e) (1) The State shall provide insurance for a fiduciary eligible for indemnification under this section.

(2) For the purpose of paragraph (1) of this subsection, the State may provide self–insurance under terms and conditions satisfactory to the State Treasurer.

(3) A fiduciary may not be required to pay amounts attributable to liability described in this section because the State does not provide adequate insurance coverage or otherwise fails to indemnify in accordance with this section.

§21–208.

(a) Except as provided in § 21-204(b) and (c) of this subtitle, a provision in an agreement that purports to relieve a fiduciary from a responsibility, obligation, or duty, or liability for a responsibility, obligation, or duty under this subtitle is against public policy and void.

(b) This subtitle does not preclude indemnification of a fiduciary in accordance with § 21-207 of this subtitle.

§21–209.

(a) (1) Notwithstanding any other law, a person may not serve as a fiduciary if the person has been convicted of:

(i) a felony;

(ii) a misdemeanor involving moral turpitude;

(iii) a violation of this subtitle;

(iv) a conspiracy or attempt to commit a crime described under item (i), (ii), or (iii) of this paragraph; or

(v) a crime in which a crime described under item (i), (ii), (iii), or (iv) of this paragraph is an element.

(2) A person may not knowingly allow another person to serve as a fiduciary in violation of paragraph (1) of this subsection.

(b) Any person who intentionally violates subsection (a) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $10,000 or imprisonment not exceeding 1 year or both.

(c) For the purposes of this section, a person is deemed to be convicted on the later of:

(1) the date of judgment of the trial court; or

(2) the date of the final sustaining of judgment on appeal.

(d) A fiduciary may be removed for a violation of subsection (a) of this section.

§21–210.

(a) The State shall purchase a bond for each fiduciary in accordance with Title 9, Subtitle 17 of the State Government Article.

(b) (1) Unless a fiduciary is bonded as required by subsection (a) of this section, the fiduciary may not exercise custody or control of any assets of a State system.

(2) A fiduciary may not allow another fiduciary to act in violation of paragraph (1) of this subsection.

(c) The bond required by subsection (a) of this section is the only bond required for a fiduciary to exercise custody or control of any assets of a State system.

§21–301.

(a) In each State system, there is:

(1) an accumulation fund;

(2) an annuity savings fund; and

(3) an expense fund.

(b) The Board of Trustees shall credit the assets of each State system to the appropriate fund of the State system according to the purpose for which the assets are held.

§21–302.

(a) The following are obligations of the State:

(1) the payment of all allowances and other benefits payable under this Division II;

(2) the creation and maintenance of reserves in the accumulation funds of the several systems;

(3) the crediting of regular interest to the annuity savings funds of the several systems; and

(4) except as provided in § 21–316 of this subtitle, the payment of the expenses for administration and operation of the several systems.

(b) Subject to § 21–316 of this subtitle, the assets of the several systems shall be used to pay the obligations of the State specified in this section.

(c) Each fiscal year the State shall pay to the accumulation fund of each State system at least an amount that when combined with the amount in the accumulation fund of the system is sufficient to provide the allowances and other benefits payable out of the fund during that fiscal year.

§21–303.

(a) The Board of Trustees shall credit to the accumulation fund of each State system:

(1) all employer contributions to the State system;

(2) all interest, dividends, and other income derived from the assets of the State system; and

(3) amounts transferred under § 21-311(c) of this subtitle.

(b) The Board of Trustees shall pay from the accumulation fund of a State system all benefits payable under that State system except for benefits payable from the annuity savings fund of that State system.

(c) (1) Each year the Board of Trustees shall transfer from the accumulation fund of each State system to each member's account in the annuity savings fund of that State system regular interest on the account as provided in this Division II.

(2) If a retiree who has retired because of disability is restored to membership, the Board of Trustees shall transfer from the accumulation fund of the appropriate State system to the annuity savings fund of that State system an amount equal to the remaining portion of the retiree's annuity reserve.

(d) (1) Except as provided in paragraph (2) of this subsection, each year, the Board of Trustees shall transfer from the accumulation fund of each State system to the expense fund of that system the amounts required by § 21–315 of this subtitle.

(2) The administrative and operational expenses of the Board of Trustees and the State Retirement Agency, not including amounts as authorized by the Board of

Trustees necessary for investment management services, shall be paid by participating employers as provided in § 21–316 of this subtitle and may not be transferred from the accumulation fund of each system.

(3) (i) 1. Notwithstanding paragraph (2) of this subsection, if a budget amendment is approved in any fiscal year for administrative and operational expenses for the Board of Trustees and the State Retirement Agency, the Board of Trustees may transfer the amount approved by budget amendment from the accumulation funds of the State Retirement and Pension System to the expense funds of the State Retirement and Pension System.

2. A. Subject to subsubsubparagraph B of this subsubparagraph, any funds transferred from the accumulation funds under subsubparagraph 1 of this subparagraph shall be reimbursed to the accumulation funds on or before June 30 of the second following fiscal year from payments for administrative and operational expenses received by the Board of Trustees under § 21–316 of this subtitle.

B. Any funds transferred from the accumulation funds under subsubparagraph 1 of this subparagraph resulting from an underpayment of administrative and operational expenses owed by the State or local employers under § 21–316 of this subtitle, shall be reimbursed to the accumulation funds as part of the annual or quarterly administrative and operational expense reimbursements on or before June 30 of the second following fiscal year from payments for administrative and operational expenses received by the Board of Trustees under § 21–316 of this subtitle by the appropriate employers.

(ii) Notwithstanding paragraph (2) of this subsection, if the Board of Trustees and the State Retirement Agency receive administrative and operational expenses in excess of the amount expended, the Board of Trustees shall offset the annual or quarterly administrative and operational expense reimbursements of the appropriate employers on or before June 30 of the second following fiscal year by the excess amount of administrative and operational expenses received.

§21–304.

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

(2) With respect to local employees, "aggregate annual earnable compensation" means the total annual earnable compensation payable by a local employer to all of its local employees, calculated as of June 30 of the second prior fiscal year before the fiscal year for which the calculation is made under this section, adjusted by any actuarial assumed salary increases that were used in the actuarial valuation prepared under § 21–125(b) of this title for the immediate prior fiscal year.

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

(i) the aggregate normal rate that is based on the normal

contribution rate calculated under subsection (c) 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) of this section.

(4) "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.

(5) "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.

(6) "Local employee" means a member of the Teachers' Retirement System or the Teachers' Pension System who is an employee 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:

(i) a clerk;

(ii) a helping teacher;

(iii) a principal;

(iv) a superintendent;

(v) a supervisor; or

(vi) a teacher.

(7) "Local employer" means a county board of education or the Baltimore City Board of School Commissioners.

(8) "New legislative change" means a legislative change that results in an adjustment to the normal cost or accrued liabilities that has not previously been recognized in an actuarial valuation under § 21–125(b) of this title.

(9) "Preliminary funding rate" means the full funding rate without any adjustment to the normal cost or accrued liabilities for a new legislative change.

(10) "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.

(11) "Total employer contribution for local employees" means that portion of the employer contribution calculated under subsection (b) of this section that is

attributable to all local employees.

(b) (1) Subject to paragraphs (4) and (5) of this subsection, 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) 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) 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.

(4) (i) Subject to § 21–309.1 of this subtitle, beginning on July 1, 2012 and each fiscal year thereafter, each local employer shall pay to the appropriate accumulation fund an amount equal to the local share of the total employer contribution for local employees as provided in this paragraph.

(ii) For fiscal years 2013 through 2016, each local employer shall pay to the Board of Trustees its local share, which shall be equal to the following amounts:

Local Employer	Fiscal Year 2013	Fiscal Year 2014	Fiscal Year 2015	Fiscal Year 2016
Allegany	1,487,742	1,885,754	2,412,465	2,773,677
Anne Arundel	11,493,684	14,568,567	18,637,716	21,428,297
Baltimore City	12,922,862	16,380,092	20,955,217	24,092,793
Baltimore	15,755,802	19,970,922	25,549,002	29,374,395
Calvert	2,835,938	3,594,631	4,598,648	5,287,193
Caroline	793,934	1,006,334	1,287,413	1,480,175
Carroll	4,005,782	5,077,441	6,495,621	7,468,196
Cecil	2,459,819	3,117,889	3,988,747	4,585,973
Charles	3,936,516	4,989,645	6,383,304	7,339,061
Dorchester	656,543	832,186	1,064,625	1,224,028
Frederick	5,893,461	7,470,128	9,556,610	10,987,499
Garrett	664,714	842,544	1,077,874	1,239,262
Harford	5,529,741	7,009,102	8,966,815	10,309,396
Howard	9,821,066	12,448,477	15,925,463	18,309,945
Kent	366,147	464,102	593,730	682,628
Montgomery	27,227,553	34,511,689	44,151,153	50,761,802
Prince George's	19,554,579	24,785,979	31,708,954	36,456,662
Queen Anne's	1,105,527	1,401,286	1,792,679	2,061,093
St. Mary's	2,485,697	3,150,691	4,030,711	4,634,220
Somerset	480,124	608,570	778,550	895,121
Talbot	628,456	796,586	1,019,080	1,171,665
Washington	3,094,113	3,921,875	5,017,294	5,768,522
Wicomico	2,173,593	2,755,091	3,524,616	4,052,348
Worcester	1,271,561	1,611,739	2,061,914	2,370,640

(iii) Beginning in fiscal year 2017, each local employer shall pay to the Board of Trustees its local share equal to the normal contribution rate for the Teachers' Retirement System and the Teachers' Pension System multiplied by the

aggregate annual earnable compensation of the local employees of that local employer.

(5) The difference between the total employer contribution for local employees and the local share of the total employer contribution for all local employees shall be the obligation of the State.

(c) (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) Beginning July 1, 2013, each year the Board of Trustees shall set contribution rates for each State system that shall amortize:

(1) all unfunded liabilities or surpluses accrued as of June 30, 2013, over 25 years; and

(2) any new unfunded liabilities or surpluses that have accrued from July 1 of the preceding fiscal year over the time remaining until June 30, 2038, to reflect:

(i) experience gains and losses;

(ii) the effect of changes in actuarial assumptions and methods; and

(iii) the effect of legislation effective on or after July 1, 2013.

(e) (1) Except as provided in paragraph (3) of this subsection and subject to paragraph (2) of this subsection, the employees' system contribution rate shall be the sum of:

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

(ii) 1. 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; or

2. for a fiscal year for which an adjustment to normal cost or accrued liabilities for a new legislative change is first determined as a result of an actuarial valuation under § 21–125(b) of this title, 20% of the difference between

the preliminary funding rate for the current fiscal year and the employees' system contribution rate for the previous fiscal year.

(2) For a fiscal year for which an adjustment to normal cost or accrued liabilities for a new legislative change is determined as a result of an actuarial valuation under § 21–125(b) of this title, the contribution rate for the employees' systems under paragraph (1) of this subsection shall be adjusted to fully reflect the cost or savings of the new legislative changes that result in changes in normal contributions or accrued liabilities and to amortize over the time remaining until June 30, 2038, any changes in accrued liabilities of the employees' systems.

(3) The percentages used in paragraph (1)(ii) of this subsection shall be:

(i) 28% for the rate for fiscal year 2015;

(ii) 36% for the rate for fiscal year 2016;

(iii) 44% for the rate for fiscal year 2017;

(iv) 52% for the rate for fiscal year 2018;

(v) 60% for the rate for fiscal year 2019;

(vi) 68% for the rate for fiscal year 2020;

(vii) 76% for the rate for fiscal year 2021;

(viii) 84% for the rate for fiscal year 2022;

(ix) 92% for the rate for fiscal year 2023; and

(x) 100% for the rate for fiscal year 2024 and thereafter.

(f) (1) Except as provided in paragraph (3) of this subsection and subject to paragraph (2) of this subsection, the teachers' system contribution rate shall be the sum of:

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

(ii) 1. 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; or

2. for a fiscal year for which an adjustment to normal cost or accrued liabilities for a new legislative change is first determined as a result of an actuarial valuation under § 21–125(b) of this title, 20% of the difference between the preliminary funding rate for the current fiscal year and the teachers' system contribution rate for the previous fiscal year.

(2) For a fiscal year for which an adjustment to normal cost or accrued liabilities for a new legislative change is determined as a result of an actuarial valuation under § 21–125(b) of this title, the contribution rate for the teachers' systems under paragraph (1) of this subsection shall be adjusted to fully reflect the cost or savings of the new legislative changes that result in changes in normal contributions or accrued liabilities and to amortize over the time remaining until June 30, 2038, any changes in accrued liabilities of the teachers' systems.

(3) The percentages used in paragraph (1)(ii) of this subsection shall be:

(i) 28% for the rate for fiscal year 2015;

(ii) 36% for the rate for fiscal year 2016;

(iii) 44% for the rate for fiscal year 2017;

(iv) 52% for the rate for fiscal year 2018;

(v) 60% for the rate for fiscal year 2019;

(vi) 68% for the rate for fiscal year 2020;

(vii) 76% for the rate for fiscal year 2021;

(viii) 84% for the rate for fiscal year 2022;

(ix) 92% for the rate for fiscal year 2023; and

(x) 100% for the rate for fiscal year 2024 and thereafter.

§21–305.

(a) In this section, "employees' systems" means the Employees' Pension System and the Employees' Retirement System.

(b) (1) Each fiscal year, on behalf of its employees who are members of one of the employees' systems, a participating governmental unit shall pay an amount equal to or greater than the product of multiplying:

(i) the aggregate annual earnable compensation of those members; and

(ii) the sum of the normal contribution rate and the accrued liability contribution rate, as determined under §§ 21–305.1 and 21–305.2 of this subtitle.

(2) Each fiscal year, in addition to the amounts required to be paid under paragraph (1) of this subsection, a participating governmental unit shall pay:

(i) the special accrued liability contribution required by § 21–305.3

of this subtitle;

(ii) any withdrawal liability contribution required by § 21–305.5 of this subtitle;

(iii) an amount equal to 5% of the aggregate earnable compensation of its employees who are members of the Employees' Retirement System; and

(iv) any annual deficit payment required under § 21–305.4(c) of this subtitle.

(3) Each fiscal year, a participating governmental unit shall reduce the amounts required to be paid under paragraphs (1) and (2) of this subsection by any annual credit allowed to the participating governmental unit under § 21–305.4(b) of this subtitle.

(c) (1) The amount determined under subsection (b) of this section for the employees' systems shall be based on an actuarial determination of the amounts that are required to preserve the integrity of the accumulation fund of the employees' systems, using:

(i) the entry–age actuarial cost method;

(ii) actuarial assumptions adopted by the Board of Trustees; and

(iii) the asset valuation method recommended by the actuary and adopted by the Board of Trustees.

(2) Except as provided in subsection (b)(2)(iii) of this section, for the purpose of making the determinations required under this section, the Employees' Retirement System and the Employees' Pension System shall be considered together as one State system.

(d) The actuary shall compute the contributions payable under this section.

(e) The amounts computed under this section are a charge against the participating governmental unit to be paid in accordance with § 21–309 of this subtitle.

§21–305.1.

(a) In this section, "employees' systems" means the Employees' Pension System and the Employees' Retirement System.

(b) As part of each actuarial valuation, the actuary shall determine the normal contributions, net of member contributions, on account of members of the employees' systems who are employees of participating governmental units.

(c) Except as provided in subsection (d) of this section, the normal contribution

rate for participating governmental units equals the fraction that has:

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

(2) as its denominator, the aggregate annual earnable compensation of the members of the employees' systems who are employees of participating governmental units.

(d) On the recommendation of the actuary, the Board of Trustees may adjust the normal contribution rate to reflect:

(1) experience gains and losses;

(2) the effect of changes in actuarial assumptions; and

(3) the effect of legislation enacted after July 1, 1980.

§21–305.2.

(a) In this section, "employees' systems" means the Employees' Pension System and the Employees' Retirement System.

(b) As part of each actuarial valuation, the actuary shall determine the accrued liability contributions on account of members of the employees' systems who are employees of participating governmental units.

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

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

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

(i) experience gains and losses;

(ii) the effect of changes in actuarial assumptions; and

(iii) the effect of legislation effective on or after July 1, 2001.

§21–305.3.

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

(2) "Employees' systems" means the Employees' Pension System and the Employees' Retirement System.

(3) "Special accrued liability" means, as to any participating governmental unit, the liability of the employees' systems on account of the employees of the participating governmental unit who elect to become members under § 23-204(b) of this article.

(b) Each participating governmental unit shall make a special accrued liability contribution on account of its participation in the employees' systems.

(c) The special accrued liability contribution shall be determined by an actuarial valuation of the special accrued liability as of the date of approval of participation by the legislative body of the participating governmental unit.

(d) Except as provided in subsection (e) of this section, the annual special accrued liability contribution of each participating governmental unit shall be the level annual payment that is sufficient to liquidate, over 25 years beginning on the date of approval by the legislative body of the participating governmental unit, the amount by which the special accrued liability of the participating governmental unit exceeds the sum of:

(1) the present value, as of the date of approval, of future normal contributions, future accrued liability contributions, future contributions for members of the Employees' Retirement System required under § 21-305(b)(2)(iii) of this subtitle, future member contributions on behalf of or by members who are employees of the participating governmental unit; and

(2) any cash and securities transferred to the Employees' Pension System in accordance with § 31-113(d) of this article.

(e) Subject to the approval of the Board of Trustees, a participating governmental unit may liquidate its unfunded special accrued liability:

(1) over a period not to exceed 40 years; or

(2) subject to the actuary's concurrence, by means of annual payments other than level annual payments.

(f) A participating governmental unit may prepay the special accrued liability in whole or in part at any time with interest at the annual rate established by the Board of Trustees as of the date of payment.

(g) The expense of making the initial special accrued liability actuarial valuation shall be assessed against and paid by the participating governmental unit on whose account it is necessary.

§21–305.4.

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

(2) "Deficit" means, as to any participating governmental unit, the lesser of:

(i) the amount, as of June 30, 1995, by which the present value of the accrued benefit of the employees of the participating governmental unit who are members of the Employees' Retirement System exceeds the actuarial value of the assets to the credit of the participating governmental unit in the Employees' Retirement System; or

(ii) 40% of the aggregate annual earnable compensation of the participating governmental unit as of June 30, 1995.

(3) "Employees' systems" means the Employees' Pension System and the Employees' Retirement System.

(4) "Required employer contribution" means the amount payable each fiscal year under § 21-305(b)(1) and (2)(i) and (iii) of this subtitle by a participating governmental unit.

(5) "Surplus" means, as to any participating governmental unit, the amount, as of June 30, 1995, by which the actuarial value of the assets to the credit of the participating governmental unit in the employees' systems exceeds the present value of the future benefits of the employees of the participating governmental unit who are members of the employees' systems.

(b) (1) The actuary shall determine the surplus allocable to a participating governmental unit as of June 30, 1995, based on an actuarial valuation.

(2) The surplus of a participating governmental unit may not be less than zero.

(3) The annual credit of a participating governmental unit shall be the amount that is sufficient to amortize over a 25-year term commencing on July 1, 1995, the surplus allocated to a participating governmental unit as of June 30, 1995, by means of an annual credit that increases each year based on the actuarial assumptions adopted by the Board of Trustees on the recommendation of the actuary.

(4) Each fiscal year, a participating governmental unit's required employer contribution shall be reduced by the annual credit of the participating governmental unit, but not below zero.

(c) (1) The actuary shall determine the deficit allocable to a participating governmental unit as of June 30, 1995, based on an actuarial valuation.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the annual deficit payment of a participating governmental unit shall be the payment that is sufficient to liquidate over a 25-year term beginning as of July 1, 1995, the deficit allocated to the participating governmental unit by means of annual payments that

increase each year based on the actuarial assumptions adopted by the Board of Trustees on the recommendation of the actuary.

(ii) If, as of July 1, 1995, the annual deficit payment of a participating governmental unit increases the participating governmental unit's required contribution by more than 2% of the aggregate annual earnable compensation of the participating governmental unit as of July 1, 1995, the participating governmental unit may liquidate the deficit over a 40-year term beginning as of July 1, 1995.

(3) (i) Subject to subparagraph (ii) of this paragraph, with the concurrence of the Board of Trustees, a participating governmental unit may prepay all or a portion of the deficit.

(ii) A participating governmental unit that elects to prepay a portion of the deficit:

1. may not prepay less than the greater of $100,000 or 10% of the outstanding balance of the deficit as of the payment date;

2. may not make more than 2 additional payments during any fiscal year; and

3. shall be liable for payment of the expenses incurred by the agency for the actuary to recalculate the annual deficit payments required under § 21-305(b)(2)(iv) of this subtitle.

(d) On the recommendation of the actuary, the Board of Trustees shall adopt regulations that are necessary to carry out this section, and that set forth the amount of any surplus or deficit allocable to a participating governmental unit as of June 30, 1995.

§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 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.

(b) This section applies only to a participating governmental unit that on or after July 1, 2001, elects to withdraw from participation in the employees' systems and transfer to a local pension system all employees of the participating governmental unit who consent to the withdrawal.

(c) (1) On and after the date of a participating governmental unit's withdrawal from the employees' systems under § 31–302(1) of this article, the participating governmental unit and its employees are not required to make any further contributions to the employees' systems for those employees who elect to withdraw from the employees' systems.

(2) As of the effective date of withdrawal, the participating governmental unit shall continue to make any contributions required under § 21–305(b)(1) and (2) of this subtitle on behalf of those employees who do not elect to withdraw from the employees' systems.

(3) As of the effective date of withdrawal of a participating governmental unit, the Board of Trustees shall transfer to the administrative board of the local pension system the assets that are allocable to the employees of the participating governmental unit who elect to withdraw from the employees' systems as determined under either subsection (f) or (g) of this section.

(d) (1) This subsection applies to a participating governmental unit that elected to provide its employees with the contributory pension benefit 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.

(e) (1) This subsection applies to a noncontributory participating governmental unit.

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

(3) The noncontributory system 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 calculated as if all of the participating governmental units are noncontributory 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 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.

(g) (1) This subsection applies to a noncontributory participating governmental unit.

(2) The assets that are allocable to the employees of a noncontributory 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 noncontributory system funding ratio for the fiscal year preceding the effective date of withdrawal of the noncontributory participating governmental unit is less than 100%, the actuary shall multiply the noncontributory

system funding ratio for the fiscal year preceding the effective date of withdrawal of the noncontributory participating governmental unit by the actuarial liability allocable to the employees of the noncontributory participating governmental unit who elect to withdraw.

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

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

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

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

(h) (1) The withdrawal liability contribution of a participating governmental unit shall be computed by the actuary as provided in this subsection.

(2) The actuary shall:

(i) multiply the complement of 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 remain members of the employees' systems; and

(ii) reduce the amount determined under subparagraph (i) of this paragraph by the outstanding balance of the surplus allocable to the participating governmental unit as of the effective date of withdrawal.

(3) The amount determined under paragraph (2) of this subsection may not be less than zero.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, the annual withdrawal liability contribution of a participating governmental unit shall be the annual payment that is sufficient to liquidate, over not more than 25 years, the withdrawal liability contribution by means of annual payments that increase each year based on the actuarial assumptions adopted by the Board of Trustees on the recommendation of the actuary.

(ii) Subject to the approval of the Board of Trustees and the actuary's concurrence, a participating governmental unit:

1. may liquidate the withdrawal liability contribution by means of level annual payments or over a term of less than 25 years; or

2. prepay all or a portion of the withdrawal liability contribution.

(i) (1) This section applies only to a participating governmental unit with a deficit as determined under § 21–305.4(c) of this subtitle.

(2) The transition amount of a participating governmental unit shall be computed by the actuary as provided in this subsection.

(3) The actuary shall determine the pre–June 30, 1995 status and the post–June 30, 1995 status of a participating governmental unit using the assumptions that:

(i) the participating governmental unit elects to withdraw from the employees' systems as of June 30, 1995;

(ii) the employees of the withdrawing participating governmental unit who are members of the Employees' Retirement System elect to remain in the employees' systems; and

(iii) the employees of the withdrawing participating governmental unit who are members of the Employees' Pension System elect to withdraw from the employees' systems.

(4) The pre–June 30, 1995 status of a participating governmental unit is an amount equal to the difference between:

(i) the assets transferable to a participating governmental unit that are allocable to the employees of the participating governmental unit who elect to withdraw from the employees' systems as determined by the actuary applying the provisions of former § 21–305(f) of this article as of June 30, 1995; and

(ii) the withdrawal liability of a participating governmental unit that is attributable to the employees of the participating governmental unit who elect to remain members of the employees' systems as determined by the actuary applying the

provisions of former § 21–305(f) of this article as of June 30, 1995.

(5) The post–June 30, 1995 status of a participating governmental unit is an amount equal to the difference between:

(i) the assets transferable to a participating governmental unit that are allocable to the employees who elect to withdraw from the employees' systems as determined under subsection (d) of this section as of June 30, 1995; and

(ii) the withdrawal liability of a participating governmental unit that is attributable to the employees of the participating governmental unit who elect to remain in the employees' systems as determined under subsection (f) of this section as of June 30, 1995.

(6) (i) Subject to subparagraph (ii) of this paragraph, the transition amount of a participating governmental unit is the amount determined by the actuary as of June 30, 1995, equal to the difference between:

1. the post–June 30, 1995 status of the participating governmental unit as determined under paragraph (4) of this subsection; and

2. the pre–June 30, 1995 status of the participating governmental unit as determined under paragraph (3) of this subsection.

(ii) The transition amount of a participating governmental unit may not be less than zero.

(7) As of June 30 of each fiscal year, the transition amount of a participating governmental unit shall decrease by writing down the transition amount in equal annual installments over the 25–year term beginning on July 1, 1995.

(8) On the recommendation of the actuary, the Board of Trustees shall adopt regulations that are necessary to carry out this section, and that set forth a schedule reflecting:

(i) any transition amount allocable to a participating governmental unit; and

(ii) the outstanding balance of the transition amount each year.

§21–305.6.

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

(2) "Employees' systems" means the Employees' Pension System and the Employees' Retirement System.

(3) "Partial withdrawal" means that a participating governmental unit

elects to withdraw from participation in the employees' systems and transfer to a local pension system any of the following groups of employees of the participating governmental unit who consent to the withdrawal:

(i) firefighters;

(ii) law enforcement personnel; or

(iii) subject to the approval of the Board of Trustees, a homogeneous unit of at least 10 employees.

(b) This section applies only to a participating governmental unit that elects a partial withdrawal from participation in the employees' systems.

(c) (1) On and after the date of a participating governmental unit's partial withdrawal from the employees' systems, the participating governmental unit and its employees are not required to make any further contributions to the employees' systems for those employees who elect to withdraw from the employees' systems.

(2) As of the effective date of the partial withdrawal, the participating governmental unit shall continue:

(i) to make any contributions required under § 21-305(b)(1) and (2) of this subtitle on behalf of those employees who do not elect to withdraw from the employees' systems; and

(ii) to reduce the amounts required to be paid under § 21-305(b)(1) and (2) of this subtitle by any annual credit allowed to the participating governmental unit under § 21-305.4(b) of this subtitle.

(3) As of the effective date of the partial withdrawal, the Board of Trustees shall transfer to the administrative board of the local pension system the assets that are allocable to the employees of the participating governmental unit who elect to withdraw from the employees' systems as determined under subsection (d) of this section.

(d) On the recommendation of the actuary, the Board of Trustees shall adopt regulations that set forth the method for:

(1) computing the assets allocable to the employees of a participating governmental unit who elect to withdraw from the employees' systems;

(2) computing the withdrawal liability contribution of the participating governmental unit; and

(3) determining the portion of any surplus as determined under § 21-305.4(b) of this subtitle, deficit as determined under § 21-305.4(c) of this subtitle, or transition amount as determined under § 21-305.5(i) of this subtitle that is available to the participating governmental unit as of the effective date of the partial withdrawal

to compute the assets allocable to the withdrawing employees and the withdrawal liability contribution.

§21–306.

(a) (1) Each fiscal year, on behalf of its employees who are members of the Local Fire and Police System, a participating governmental unit shall pay an amount equal to or greater than the product of multiplying:

(i) the aggregate annual earnable compensation of those members; and

(ii) the sum of the normal contribution rate and the accrued liability contribution rate, as determined under this section.

(2) Each fiscal year, in addition to the amounts required to be paid under paragraph (1) of this subsection, a participating governmental unit shall pay:

(i) the special accrued liability contribution required by subsection (d) of this section; and

(ii) any withdrawal liability contribution required by subsection (e) of this section.

(3) The amounts determined under paragraphs (1) and (2) of this subsection shall be based on an actuarial determination of the amounts that are required to preserve the integrity of the accumulation fund of the Local Fire and Police System, using:

(i) the entry-age actuarial cost method;

(ii) actuarial assumptions adopted by the Board of Trustees; and

(iii) the asset valuation method recommended by the actuary and adopted by the Board of Trustees.

(4) The actuary shall compute the contributions payable under this section.

(5) The amounts computed under this section are a charge against the participating governmental unit to be paid in accordance with § 21-309 of this subtitle.

(b) (1) As part of each actuarial valuation, the actuary shall determine the normal contributions, net of member contributions, on account of members of the Local Fire and Police System.

(2) Except as provided in paragraph (3) of this subsection, the normal contribution rate for the Local Fire and Police System 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 members of the Local Fire and Police System.

(3) On the recommendation of the actuary, the Board of Trustees may adjust the normal contribution rate determined under this section to provide for:

(i) experience gains and losses;

(ii) the effect of changes in actuarial assumptions; and

(iii) the effect of legislation enacted after July 1, 1989.

(c) (1) The accrued liability contribution rate for the Local Fire and Police System shall be computed as the percent of the aggregate earnable compensation of the members of the Local Fire and Police System that is sufficient to liquidate over 40 years beginning July 1, 1989, the amount, as of June 30, 1989, by which the total liabilities of the Local Fire and Police System exceeded the sum of:

(i) the assets in the accumulation fund and the annuity savings fund of the Local Fire and Police System; and

(ii) the present value of future normal contributions, future special accrued liability contributions, future withdrawal liability contributions, and future member contributions.

(2) On the recommendation of the actuary, the Board of Trustees may adjust the accrued liability contribution rate to reflect:

(i) experience gains and losses;

(ii) the effect of changes in actuarial assumptions; and

(iii) the effect of legislation enacted after July 1, 1989.

(d) (1) In this subsection, "special accrued liability" means, as to any participating governmental unit, the liability of the Local Fire and Police System on account of the employees of the participating governmental unit who elect to become members under § 28–202(b) of this article.

(2) Each participating governmental unit shall make a special accrued liability contribution on account of the participation of its employees in the Local Fire and Police System.

(3) The special accrued liability contribution shall be determined by an actuarial valuation of the special accrued liability as of the date of approval of

participation by the legislative body of the participating governmental unit.

(4) Except as provided in paragraph (5) of this subsection, the annual special accrued liability contribution of each participating governmental unit shall be the level annual payment that is sufficient to liquidate, over 25 years beginning on the date of approval by the legislative body of the participating governmental unit, the amount by which the special accrued liability of the participating governmental unit exceeds the sum of:

(i) the present value, as of the date of approval, of future normal contributions, future accrued liability contributions, and future member contributions on behalf of or by members who are employees of the participating governmental unit; and

(ii) any cash and securities transferred to the Local Fire and Police System from the local pension system on or before December 31, 2004.

(5) Subject to the approval of the Board of Trustees, a participating governmental unit may liquidate its unfunded special accrued liability:

(i) over a period not to exceed 40 years; or

(ii) subject to the actuary's concurrence, by means of annual payments other than level annual payments.

(6) The expense of making the initial special accrued liability actuarial valuation shall be assessed against and paid by the participating governmental unit on whose account it is necessary.

(e) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Active participant funding ratio" means the ratio determined by the actuary as provided under paragraph (3) of this subsection.

(iii) "Complement of the active participant funding ratio" is a ratio equal to 1 minus the active participant funding ratio.

(2) (i) On and after the date of a participating governmental unit's withdrawal from the Local Fire and Police System under § 31–302 of this article, the participating governmental unit and its employees are not required to make any further contributions to the Local Fire and Police System.

(ii) As of the effective date of withdrawal of a participating governmental unit from the Local Fire and Police System, the Board of Trustees shall transfer to the administrative board of the local pension system the assets that are allocable to the employees of the participating governmental unit as determined under paragraph (4) of this subsection.

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

(ii) The active participant funding ratio shall be a fraction, not to exceed 1, that has:

1. as its numerator, the assets to the credit of the participating governmental units in the accumulation fund and the annuity savings fund of the Local Fire and Police System as adjusted under subparagraph (iii) of this paragraph, decreased by the sum of the actuarial liabilities allocable to retirees of the Local Fire and Police System who retired from the service of the participating governmental unit and the designated beneficiaries of those retirees, former members of the Local Fire and Police System who are eligible for a vested allowance who separated from employment with the participating governmental unit, and members of the Local Fire and Police System who separated from employment with the participating governmental unit but who may become eligible to receive prior eligibility service credit under § 28–303 of this article; and

2. as its denominator, the actuarial liabilities that are allocable to the employees of the participating governmental units who are members of the Local Fire and Police System.

(iii) The assets to the credit of the participating governmental units as of the valuation date shall be increased by the outstanding balance of the special accrued liability attributable to the participating governmental units under subsection (d) of this section.

(4) (i) The assets that are allocable to the employees of a participating governmental unit who withdraw from the Local Fire and Police System shall be computed by the actuary as provided in this paragraph.

(ii) The actuary shall first multiply the active 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 withdraw.

(iii) The actuary shall reduce the amount determined under subparagraph (ii) of this paragraph by the outstanding balance of the special accrued liability contribution attributable to the participating governmental unit as of the effective date of withdrawal.

(f) (1) This subsection only applies to a former vested member, retiree, or surviving beneficiary of a deceased member, former vested member, or retiree, who while a member of the Local Fire and Police System was employed by a participating governmental unit that withdrew from the Local Fire and Police System on or before December 31, 2004.

(2) The Board of Trustees shall transfer to the Employees' Pension System:

(i) the liabilities allocable to the former vested members, retirees, or surviving beneficiaries of deceased members, former vested members, or retirees that are accrued on or before June 30, 2005, as determined by an actuarial valuation of these liabilities as of June 30, 2005, based on assumptions that will be used in the actuarial valuation of the several systems as of June 30, 2005; and

(ii) the actuarial value of assets for the former vested members, retirees, or surviving beneficiaries of deceased members, former vested members, or retirees that is equal to the liabilities as of the date their employer withdrew from the Local Fire and Police System adjusted to reflect:

1. any benefit payments attributable to the former vested members, retirees, or surviving beneficiaries of deceased members, former vested members, or retirees; and

2. the actual investment experience based on the actuarial valuation of assets.

(3) (i) A transfer made under paragraph (2) of this subsection shall be completed on or before December 31, 2005.

(ii) After the transfer has been completed, the former vested members, retirees, or surviving beneficiaries of deceased members, former vested members, or retirees shall become former vested members, retirees, or surviving beneficiaries of deceased members, former vested members, or retirees of the Employees' Pension System.

(g) (1) This subsection applies only to a former vested member, retiree, or surviving beneficiary of a deceased member, former vested member, or retiree, who while a member of the Local Fire and Police System was employed by a participating governmental unit participating in the Local Fire and Police System on or after June 30, 2005.

(2) If a participating governmental unit withdraws from the Local Fire and Police System on or after June 30, 2005, as provided under § 31-302 of this article, the Board of Trustees shall transfer to the Employees' Pension System:

(i) the liabilities allocable to the former vested members, retirees, or surviving beneficiaries of deceased members, former vested members, or retirees that are accrued on or before the date the participating governmental unit elects to withdraw, as determined by an actuarial valuation of these liabilities as of the date the participating governmental unit elects to withdraw, based on assumptions that will be used in the actuarial valuation of the several systems as of the date the participating governmental unit elects to withdraw; and

(ii) the actuarial value of assets for the former vested members, retirees, or surviving beneficiaries of deceased members, former vested members, or retirees that is equal to the liabilities as of the date the participating governmental unit elects to withdraw from the Local Fire and Police System adjusted to reflect:

1. any benefit payments attributable to the former vested members, retirees, or surviving beneficiaries of deceased members, former vested members, or retirees; and

2. the actual investment experience based on the actuarial valuation of assets.

(3) (i) A transfer made under paragraph (2) of this subsection shall be completed within 1 year of the date the participating governmental unit elects to withdraw.

(ii) After the transfer has been completed, the former vested members, retirees, or surviving beneficiaries of deceased members, former vested members, or retirees shall become former vested members, retirees, or surviving beneficiaries of deceased members, former vested members, or retirees of the Employees' Pension System.

§21–306.1.

(a) (1) Each fiscal year, on behalf of its employees who are members of the Law Enforcement Officers' Pension System, a participating governmental unit shall pay an amount equal to or greater than the product of multiplying:

(i) the aggregate annual earnable compensation of those members; and

(ii) the sum of the normal contribution rate and the accrued liability contribution rate, as determined under this section.

(2) Each fiscal year, in addition to the amounts required to be paid under paragraph (1) of this subsection, a participating governmental unit shall pay:

(i) the special accrued liability contribution required by subsection (d) of this section; and

(ii) any withdrawal liability contribution required by subsection (e) of this section.

(3) The amounts determined under paragraphs (1) and (2) of this subsection shall be based on an actuarial determination of the amounts that are required to preserve the integrity of the accumulation fund of the Law Enforcement Officers' Pension System, using:

(i) the entry-age actuarial cost method;

(ii) actuarial assumptions adopted by the Board of Trustees; and

(iii) the asset valuation method recommended by the actuary and adopted by the Board of Trustees.

(4) The actuary shall compute the contributions payable under this section.

(5) The amounts computed under this section are a charge against the participating governmental unit to be paid in accordance with § 21-309 of this subtitle.

(b) (1) As part of each actuarial valuation, the actuary shall determine the normal contributions, net of member contributions, on account of members of the Law Enforcement Officers' Pension System.

(2) Except as provided in paragraph (3) of this subsection, the normal contribution rate for the Law Enforcement Officers' Pension System 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 members of the Law Enforcement Officers' Pension System.

(3) On the recommendation of the actuary, the Board of Trustees may adjust the normal contribution rate determined under this section to provide for:

(i) experience gains and losses;

(ii) the effect of changes in actuarial assumptions; and

(iii) the effect of legislation enacted after July 1, 1999.

(c) (1) The accrued liability contribution rate for the Law Enforcement Officers' Pension System shall be computed as the percent of the aggregate earnable compensation of the members of the Law Enforcement Officers' Pension System that is sufficient to liquidate over 40 years beginning July 1, 1999, the amount, as of June 30, 1999, by which the total liabilities of the Law Enforcement Officers' Pension System exceeded the sum of:

(i) the assets in the accumulation fund and the annuity savings fund of the Law Enforcement Officers' Pension System; and

(ii) the present value of future normal contributions, future special accrued liability contributions, future withdrawal liability contributions, and future

member contributions.

(2) On the recommendation of the actuary, the Board of Trustees may adjust the accrued liability contribution rate to reflect:

(i) experience gains and losses;

(ii) the effect of changes in actuarial assumptions; and

(iii) the effect of legislation enacted after July 1, 1999.

(d) (1) In this subsection, "special accrued liability" means, as to any participating governmental unit, the liability of the Law Enforcement Officers' Pension System on account of the employees of the participating governmental unit who elect to become members under § 26-202(b) of this article.

(2) Each participating governmental unit shall make a special accrued liability contribution on account of the participation of its employees in the Law Enforcement Officers' Pension System.

(3) The special accrued liability contribution shall be determined by an actuarial valuation of the special accrued liability as of the date of approval of participation by the legislative body of the participating governmental unit.

(4) Except as provided in paragraph (5) of this subsection, the annual special accrued liability contribution of each participating governmental unit shall be the level annual payment that is sufficient to liquidate, over 25 years beginning on the date of approval by the legislative body of the participating governmental unit, the amount by which the special accrued liability of the participating governmental unit exceeds the sum of:

(i) the present value, as of the date of approval, of future normal contributions, future accrued liability contributions, and future member contributions on behalf of or by members who are employees of the participating governmental unit; and

(ii) any cash and securities transferred to the Law Enforcement Officers' Pension System in accordance with § 31-2A-05(b) of this article.

(5) Subject to the approval of the Board of Trustees, a participating governmental unit may liquidate its unfunded special accrued liability:

(i) over a period not to exceed 40 years; or

(ii) subject to the actuary's concurrence, by means of annual payments other than level annual payments.

(6) The expense of making the initial special accrued liability actuarial

valuation shall be assessed against and paid by the participating governmental unit on whose account it is necessary.

(e) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Active participant funding ratio" means the ratio determined by the actuary as provided under paragraph (3) of this subsection.

(iii) "Complement of the active participant funding ratio" is a ratio equal to 1 minus the active participant funding ratio.

(2) (i) On and after the date of a participating governmental unit's withdrawal from the Law Enforcement Officers' Pension System under § 31–302 of this article, the participating governmental unit and its employees are not required to make any further contributions to the Law Enforcement Officers' Pension System for those employees who elect to withdraw from the Law Enforcement Officers' Pension System.

(ii) As of the effective date of withdrawal, the participating governmental unit shall continue to make any contributions required under subsection (a) of this section on behalf of those employees who do not elect to withdraw from the Law Enforcement Officers' Pension System.

(iii) As of the effective date of withdrawal of a participating governmental unit from the Law Enforcement Officers' Pension System, the Board of Trustees shall transfer to the administrative board of the local pension system the assets that are allocable to the employees of the participating governmental unit who elect to withdraw from the Law Enforcement Officers' Pension System as determined under paragraph (4) of this subsection.

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

(ii) The active participant funding ratio shall be a fraction, not to exceed 1, that has:

1. as its numerator, the assets to the credit of the participating governmental units in the accumulation fund and the annuity savings fund of the Law Enforcement Officers' Pension System as adjusted under subparagraph (iii) of this paragraph, decreased by the sum of the actuarial liabilities allocable to retirees of the Law Enforcement Officers' Pension System who retired from the service of the participating governmental unit and the designated beneficiaries of those retirees, former members of the Law Enforcement Officers' Pension System who are eligible for a vested allowance who separated from employment with the participating governmental unit, and members of the Law Enforcement Officers' Pension System who separated from employment with the participating governmental unit but who

may become eligible to receive prior eligibility service credit under § 26–304 of this article; and

2. as its denominator, the actuarial liabilities that are allocable to the employees of the participating governmental units who are members of the Law Enforcement Officers' Pension System.

(iii) The assets to the credit of the participating governmental units as of the valuation date shall be increased by the sum of the outstanding balances of:

1. the special accrued liability attributable to the participating governmental units under subsection (d) of this section; and

2. the withdrawal liability attributable to the participating governmental units under paragraph (5) of this subsection.

(4) (i) The assets that are allocable to the employees of a participating governmental unit who elect to withdraw from the Law Enforcement Officers' Pension System shall be computed by the actuary as provided in this paragraph.

(ii) The actuary shall first multiply the active 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.

(iii) The actuary shall reduce the amount determined under subparagraph (ii) of this paragraph by the outstanding balance of the special accrued liability contribution attributable to the participating governmental unit as of the effective date of withdrawal.

(5) (i) The withdrawal liability contribution of a participating governmental unit shall be computed by the actuary as provided in this paragraph.

(ii) The actuary shall multiply the complement of the active 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 remain members of the Law Enforcement Officers' Pension System.

(iii) The amount determined under subparagraph (ii) of this paragraph may not be less than zero.

(iv) Except as provided in subparagraph (v) of this paragraph, the annual withdrawal liability contribution of a participating governmental unit shall be the annual payment that is sufficient to liquidate, over not more than 25 years, the withdrawal liability contribution by means of annual payments that increase each year based on the actuarial assumptions adopted by the Board of Trustees on the recommendation of the actuary.

(v) Subject to the approval of the Board of Trustees and the actuary's concurrence, a participating governmental unit may:

1. liquidate the withdrawal liability contribution by means of level annual payments or over a term of less than 25 years; or

2. prepay all or a portion of the withdrawal liability contribution.

§21–306.2.

(a) (1) Each fiscal year, on behalf of its employees who are members of the Correctional Officers' Retirement System, a participating governmental unit shall pay an amount equal to or greater than the product of multiplying:

(i) the aggregate annual earnable compensation of those members; and

(ii) the sum of the normal contribution rate and the accrued liability contribution rate, as determined under this section.

(2) Each fiscal year, in addition to the amounts required to be paid under paragraph (1) of this subsection, a participating governmental unit shall pay:

(i) the special accrued liability contribution required by subsection (d) of this section; and

(ii) any withdrawal liability contribution required by subsection (e) of this section.

(3) The amounts determined under paragraphs (1) and (2) of this subsection shall be based on an actuarial determination of the amounts that are required to preserve the integrity of the accumulation fund of the Correctional Officers' Retirement System, using:

(i) the entry-age actuarial cost method;

(ii) actuarial assumptions adopted by the Board of Trustees; and

(iii) the asset valuation method recommended by the actuary and adopted by the Board of Trustees.

(4) The actuary shall compute the contributions payable under this section.

(5) The amounts computed under this section are a charge against the participating governmental unit to be paid in accordance with § 21-309 of this subtitle.

(b) (1) As part of each actuarial valuation, the actuary shall determine the

normal contributions, net of member contributions, on account of members of the Correctional Officers' Retirement System.

(2) Except as provided in paragraph (3) of this subsection, the normal contribution rate for the Correctional Officers' Retirement System 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 members of the Correctional Officers' Retirement System.

(3) On the recommendation of the actuary, the Board of Trustees may adjust the normal contribution rate determined under this section to provide for:

(i) experience gains and losses;

(ii) the effect of changes in actuarial assumptions; and

(iii) the effect of legislation enacted after July 1, 2006.

(c) (1) The accrued liability contribution rate for the Correctional Officers' Retirement System shall be computed as the percent of the aggregate earnable compensation of the members of the Correctional Officers' Retirement System that is sufficient to liquidate over 40 years beginning July 1, 2006, the amount, as of June 30, 2006, by which the total liabilities of the Correctional Officers' Retirement System exceeded the sum of:

(i) the assets in the accumulation fund and the annuity savings fund of the Correctional Officers' Retirement System; and

(ii) the present value of future normal contributions, future special accrued liability contributions, future withdrawal liability contributions, and future member contributions.

(2) On the recommendation of the actuary, the Board of Trustees may adjust the accrued liability contribution rate to reflect:

(i) experience gains and losses;

(ii) the effect of changes in actuarial assumptions; and

(iii) the effect of legislation enacted after July 1, 2006.

(d) (1) In this subsection, "special accrued liability" means, as to any participating governmental unit, the liability of the Correctional Officers' Retirement System on account of the employees of the participating governmental unit who elect

to become members under § 25-202(b) of this article.

(2) Each participating governmental unit shall make a special accrued liability contribution on account of the participation of its employees in the Correctional Officers' Retirement System.

(3) The special accrued liability contribution shall be determined by an actuarial valuation of the special accrued liability as of the date of approval of participation by the legislative body of the participating governmental unit.

(4) Except as provided in paragraph (5) of this subsection, the annual special accrued liability contribution of each participating governmental unit shall be the level annual payment that is sufficient to liquidate, over 25 years beginning on the date of approval by the legislative body of the participating governmental unit, the amount by which the special accrued liability of the participating governmental unit exceeds the sum of:

(i) the present value, as of the date of approval, of future normal contributions, future accrued liability contributions, and future member contributions on behalf of or by members who are employees of the participating governmental unit; and

(ii) any cash and securities transferred to the Correctional Officers' Retirement System in accordance with § 31-2B-05(b) of this article.

(5) Subject to the approval of the Board of Trustees, a participating governmental unit may liquidate its unfunded special accrued liability:

(i) over a period not to exceed 40 years; or

(ii) subject to the actuary's concurrence, by means of annual payments other than level annual payments.

(6) The expense of making the initial special accrued liability actuarial valuation shall be assessed against and paid by the participating governmental unit on whose account it is necessary.

(e) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Active participant funding ratio" means the ratio determined by the actuary as provided under paragraph (3) of this subsection.

(iii) "Complement of the active participant funding ratio" is a ratio equal to 1 minus the active participant funding ratio.

(2) (i) On and after the date of a participating governmental unit's withdrawal from the Correctional Officers' Retirement System under § 31–302 of this

article, the participating governmental unit and its employees are not required to make any further contributions to the Correctional Officers' Retirement System for those employees who elect to withdraw from the Correctional Officers' Retirement System.

(ii) As of the effective date of withdrawal, the participating governmental unit shall continue to make any contributions required under subsection (a) of this section on behalf of those employees who do not elect to withdraw from the Correctional Officers' Retirement System.

(iii) As of the effective date of withdrawal of a participating governmental unit from the Correctional Officers' Retirement System, the Board of Trustees shall transfer to the administrative board of the local pension system the assets that are allocable to the employees of the participating governmental unit who elect to withdraw from the Correctional Officers' Retirement System as determined under paragraph (4) of this subsection.

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

(ii) The active participant funding ratio shall be a fraction, not to exceed 1, that has:

1. as its numerator, the assets to the credit of the participating governmental units in the accumulation fund and the annuity savings fund of the Correctional Officers' Retirement System as adjusted under subparagraph (iii) of this paragraph, decreased by the sum of the actuarial liabilities allocable to retirees of the Correctional Officers' Retirement System who retired from the service of the participating governmental unit and the designated beneficiaries of those retirees, former members of the Correctional Officers' Retirement System who are eligible for a vested allowance who separated from employment with the participating governmental unit, and members of the Correctional Officers' Retirement System who separated from employment with the participating governmental unit but who may become eligible to receive prior eligibility service credit under § 25–306.1 of this article; and

2. as its denominator, the actuarial liabilities that are allocable to the employees of the participating governmental units who are members of the Correctional Officers' Retirement System.

(iii) The assets to the credit of the participating governmental units as of the valuation date shall be increased by the sum of the outstanding balances of:

1. the special accrued liability attributable to the participating governmental units under subsection (d) of this section; and

2. the withdrawal liability attributable to the participating

governmental units under paragraph (5) of this subsection.

(4) (i) The assets that are allocable to the employees of a participating governmental unit who elect to withdraw from the Correctional Officers' Retirement System shall be computed by the actuary as provided in this paragraph.

(ii) The actuary shall first multiply the active 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.

(iii) The actuary shall reduce the amount determined under subparagraph (ii) of this paragraph by the outstanding balance of the special accrued liability contribution attributable to the participating governmental unit as of the effective date of withdrawal.

(5) (i) The withdrawal liability contribution of a participating governmental unit shall be computed by the actuary as provided in this paragraph.

(ii) The actuary shall multiply the complement of the active 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 remain members of the Correctional Officers' Retirement System.

(iii) The amount determined under subparagraph (ii) of this paragraph may not be less than zero.

(iv) Except as provided in subparagraph (v) of this paragraph, the annual withdrawal liability contribution of a participating governmental unit shall be the annual payment that is sufficient to liquidate, over not more than 25 years, the withdrawal liability contribution by means of annual payments that increase each year based on the actuarial assumptions adopted by the Board of Trustees on the recommendation of the actuary.

(v) Subject to the approval of the Board of Trustees and the actuary's concurrence, a participating governmental unit may:

1. liquidate the withdrawal liability contribution by means of level annual payments or over a term of less than 25 years; or

2. prepay all or a portion of the withdrawal liability contribution.

§21–307.

(a) For a permanent employee of a board of supervisors of elections who is a member of the Employees' Retirement System or the Employees' Pension System, the

county where the member is employed shall:

(1) pay to the Board of Trustees or the Central Payroll Bureau the employer contributions otherwise required to be made by the State on behalf of the member; and

(2) deduct from the compensation payable to the member and pay to the Board of Trustees or the Central Payroll Bureau the required member contributions.

(b) For the fiscal year beginning July 1, 2010, and each subsequent fiscal year, for a master in chancery or a master in juvenile causes who is eligible for benefits under the Judges' Retirement System, the county where the master serves shall pay to the Judges' Retirement System the employer contributions required to be paid on behalf of the master.

(c) For a member or retiree who transferred to the Teachers' Retirement System of the State of Maryland from the Employees' Retirement System of the City of Baltimore, the local system shall pay any excess of the amount to which the member or retiree would have been entitled under the provisions of the local system as they existed as of July 1, 1971, over the amount that is provided under this Division II.

(d) For an additional employee or agent of the State Racing Commission who is a member of the Employees' Pension System, the licensees of the State Racing Commission shall pay the employer contributions otherwise required to be made by the State on behalf of the member in the manner that the licensees pay the salary for an additional employee or agent under the Maryland Horse Racing Act.

(e) For a member of the State Police Retirement System, the State shall pay the full cost of special death benefits under § 29–204 of this article.

(f) For an employee of the Maryland Environmental Service who is a member of the Employees' Retirement System or the Employees' Pension System, the Maryland Environmental Service shall pay to the Board of Trustees the employer contributions otherwise required to be made by the State on behalf of the member.

(g) For a court reporter for the Circuit Court for Charles County who is a member of the Employees' Retirement System or the Employees' Pension System, the County Commissioners of Charles County shall pay the employer contributions otherwise required to be made by the State on behalf of the member.

(h) (1) Except as provided in subsection (i) of this section, the University System of Maryland shall pay an annual accrued liability contribution equal to an amount that is sufficient to liquidate over not more than 5 years, the increase in the accrued liability by means of annual payments that increase each year based on actuarial assumptions adopted by the Board of Trustees on the recommendation of the actuary.

(2) The University System of Maryland:

(i) shall pay to the Board of Trustees the amount required under this subsection on July 1 of each year until the increase in the accrued liability is paid in full; and

(ii) may prepay all or a portion of the increase in the accrued liability in accordance with a calculation approved by the Board of Trustees.

(i) (1) The Medical System, as defined in § 13–301(k) of the Education Article, shall pay an annual accrued liability contribution equal to an amount that is sufficient to liquidate, over not more than 5 years, the increase in the accrued liability determined under § 21–304(d)(2) of this subtitle that is attributable to the retirement of Medical System university personnel, as defined in § 13–301(q) of the Education Article, by means of annual payments that increase each year based on actuarial assumptions adopted by the Board of Trustees on the recommendation of the actuary.

(2) The Medical System:

(i) shall pay to the Board of Trustees the amount required under this subsection on July 1 of each year until the increase in the accrued liability is paid in full; and

(ii) may prepay all or a portion of the increase in the accrued liability in accordance with a calculation approved by the Board of Trustees.

(j) (1) For each employee who is subject to the contributory pension benefit, 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.

(2) For each employee who is subject to the Alternate Contributory Pension Selection under Title 23, Subtitle 2, Part III of this article, Frederick County shall pay the additional liabilities that result from the Alternate Contributory Pension Selection according to a schedule of amortization that is subject to the approval of the Board of Trustees.

(k) For each employee of a participating governmental unit that initially elects to provide its employees with the contributory pension benefit 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.

(l) 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) 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.

(n) (1) In this section, "elected or appointed official" means an individual who is employed as:

(i) a State's attorney;

(ii) a sheriff;

(iii) a county treasurer;

(iv) a county commissioner;

(v) an orphans' court judge;

(vi) a bingo board member; or

(vii) a liquor and license board member.

(2) For the fiscal year beginning July 1, 2009, and each subsequent fiscal year, on behalf of the elected or appointed officials of each county who are members of the Employees' Retirement System, the Employees' Pension System, or the Law Enforcement Officers' Pension System, the county where each elected or appointed official is employed shall pay the employer contributions otherwise required to be made by the State on behalf of the member.

(o) (1) For the fiscal year beginning July 1, 2009, and each subsequent fiscal year, for a deputy sheriff employed by the Baltimore City Sheriff's Department who is a member of the Law Enforcement Officers' Pension System, Baltimore City shall pay the employer contributions otherwise required to be made by the State on behalf of the member.

(2) For the fiscal year beginning July 1, 2010, and each subsequent fiscal year, for an employee of the Baltimore City Sheriff's Department who is a member of the Employees' Retirement System or the Employees' Pension System, Baltimore City shall pay the employer contributions otherwise required to be made by the State on behalf of the member.

(p) (1) On and after October 1, 2013, on behalf of its employees who are members of the Employees' Retirement System or the Employees' Pension System, the Injured Workers' Insurance Fund shall:

(i) pay an amount equal to the product of multiplying:

1. the aggregate annual earnable compensation of those

members; and

2. the normal contribution rate otherwise paid by the State for members of the Employees' Retirement System and the Employees' Pension System;

(ii) pay an additional amount equal to 5% of the aggregate annual earnable compensation of its employees who are members of the Employees' Retirement System; and

(iii) remit to the Employees' Retirement System or the Employees' Pension System the contributions required to be paid by its employees.

(2) Beginning on or before December 31, 2013, and each year thereafter, in addition to the amounts required to be paid under paragraph (1) of this subsection, the Injured Workers' Insurance Fund shall pay a withdrawal liability contribution:

(i) as calculated by the actuary of the State Retirement and Pension System; and

(ii) in accordance with paragraphs (3) and (4) of this subsection.

(3) The participant funding ratio for the Injured Workers' Insurance Fund shall be a fraction that has:

(i) as its numerator, the market value of assets for the Employees' Retirement System and the Employees' Pension System reported in the June 30, 2013, annual actuarial valuation for the State; and

(ii) as its denominator, the entry age actuarial accrued liability for the Employees' Retirement System and the Employees' Pension System reported in the June 30, 2013, annual actuarial valuation for the State.

(4) The withdrawal liability contribution of the Injured Workers' Insurance Fund shall be the complement of the participant funding ratio for the Fund multiplied by the entry age actuarial accrued liability for the Fund based on data submitted as of October 1, 2013, for the Fund.

§21–308.

(a) (1) On or before December 1 of each year, the Board of Trustees shall:

(i) certify to the Governor and the Secretary of Budget and Management the rates to be used to determine the amounts to be paid by the State to the accumulation fund of each of the several systems during the next fiscal year, including a separate certification of the normal contribution rate for the Teachers' Retirement System and the Teachers' Pension System; and

(ii) provide to the Secretary of Budget and Management a statement

of the total amount to be paid by the State as determined under § 21–304 of this subtitle to the Teachers' Retirement System and the Teachers' Pension System expressed as a percentage of the payroll of all members of those State systems.

(2) The Governor shall include in the budget bill:

(i) the total amount of the State's contribution to each State system as ascertained based on the rates certified by the Board of Trustees under paragraph (1) of this subsection;

(ii) the additional amounts as ascertained under subsection (d) of this section for the State's payment to the professional and clerical employees of the Department of Public Libraries of Montgomery County who are members of the Employees' Retirement System of Montgomery County and are excluded from membership in the Teachers' Retirement System or the Teachers' Pension System; and

(iii) any additional amount required to be in the budget bill under § 3–501(c)(2)(ii) of this article.

(3) The amounts that the Governor is required to include in the budget bill under paragraph (2) of this subsection shall be reduced by the amount of administrative and operational expenses for the Board of Trustees and the State Retirement Agency that are to be paid by local employers under § 21–316 of this subtitle other than participating governmental units or employers who are required to make contributions under § 21–307 of this subtitle.

(4) (i) 1. For fiscal year 2014, in addition to the annual required contribution required under paragraph (2) of this subsection, the Governor shall include in the budget bill a supplemental contribution of $100,000,000.

2. For fiscal year 2015, in addition to the annual required contribution required under paragraph (2) of this subsection, the Governor shall include in the budget bill a supplemental contribution of $100,000,000.

3. For fiscal year 2016, in addition to the annual required contribution required under paragraph (2) of this subsection, the Governor shall include in the budget bill a supplemental contribution of $150,000,000.

4. For fiscal year 2017, in addition to the annual required contribution required under paragraph (2) of this subsection, the Governor shall include in the budget bill a supplemental contribution of $200,000,000.

5. For fiscal year 2018, in addition to the annual required contribution required under paragraph (2) of this subsection, the Governor shall include in the budget bill a supplemental contribution of $250,000,000.

6. For fiscal year 2019 and each fiscal year thereafter, in addition to the annual required contribution required under paragraph (2) of this

subsection, the Governor shall include in the budget bill a supplemental contribution of $300,000,000, until:

A. the total actuarial value of assets for the several systems divided by the total actuarial accrued liability for the several systems equals a funding ratio of 85%; and

B. the contribution rates certified under paragraph (1)(i) of this subsection are the full funding rates as defined in § 21–304(a)(3) of this subtitle.

(ii) If the amount of a supplemental contribution included in the budget bill for a fiscal year is less than the amount required under subparagraph (i) of this paragraph, the Governor shall increase the supplemental contribution for the following fiscal year by the amount of the reduction to the supplemental contribution in the previous fiscal year.

(b) (1) (i) As to members of the several systems whose compensation is paid by the State, the Comptroller shall compute the amounts to be charged to the appropriation of each unit as the unit's share of retirement costs for its employees.

(ii) The Comptroller shall make the computation under subparagraph (i) of this paragraph using the total rates of contributions as set by the actuary under § 21-304 of this subtitle.

(2) As to members of the Teachers' Retirement System or the Teachers' Pension System whose compensation is not paid by the State, on September 30, December 31, May 31, and April 15 of each year, the State Department of Education and the Maryland Higher Education Commission shall certify to the Comptroller 25% of the amount appropriated in the budget of those units for employer contributions.

(c) (1) As payrolls are paid, the Comptroller shall issue a warrant or warrants to the State Treasurer in the amounts to be charged under subsection (b)(1) of this section against the budgets of the units.

(2) On or before October 1, January 1, June 1, and April 16 of each year, the Comptroller shall issue a warrant or warrants to the State Treasurer for the amounts certified to the Comptroller under subsection (b)(2) of this section.

(3) On the receipt of the warrant of the Comptroller, the State Treasurer immediately shall transfer to the appropriate State system the amounts due.

(d) (1) (i) The State Superintendent of Schools shall determine the amount that equals the applicable percentage as determined under subparagraph (ii) of this paragraph of the payroll of the professional and clerical employees of the Department of Public Libraries of Montgomery County who are members of the Employees' Retirement System of Montgomery County and are excluded from membership in the Teachers' Retirement System or the Teachers' Pension System.

(ii) The applicable percentage under subparagraph (i) of this paragraph is the lesser of:

1. the State's contribution percentage for the Teachers' Retirement System and the Teachers' Pension System, as certified by the Board of Trustees; or

2. the percentage of the payroll of its employees that Montgomery County has contributed to the Employees' Retirement System of Montgomery County, as determined by an actuarial valuation.

(2) The amount determined under paragraph (1) of this subsection shall be:

(i) included in the budget estimate for the Superintendent of Schools;

(ii) certified by the State Superintendent of Schools to the State Comptroller; and

(iii) paid to Montgomery County as provided in this subsection.

(3) The Comptroller shall issue a warrant or warrants to the State Treasurer for the amount to be paid Montgomery County under this subsection.

(4) On the receipt of the warrant of the Comptroller, the State Treasurer shall pay to the treasurer of Montgomery County the amount due.

(e) For each nonclerical and nonprofessional former Community College of Baltimore employee who chose to remain a member of the Baltimore City Retirement Plan, the State shall contribute annually to the Baltimore City Retirement Plan on behalf of the employee an amount equal to the lesser of the contribution the State would otherwise have made on behalf of each employee of the State to the Employees' Pension System or the rate required for the Baltimore City Retirement Plan.

§21–309.

(a) In this section, "participating governmental unit" includes a county required to pay the employer contribution or part of the employer contribution under § 21-307 of this subtitle.

(b) Each year, the Board of Trustees shall certify to the chief fiscal officer of each participating governmental unit:

(1) the normal contribution rates, accrued liability contribution rates, special accrued liability contribution rate, and withdrawal liability contribution rate for the participating governmental unit; and

(2) any amount payable by the participating governmental unit for a master under § 21-307(b)(2) of this subtitle.

(c) Each participating governmental unit shall:

(1) include an amount determined based on the rates certified by the Board of Trustees as payable by the participating governmental unit under this section in the next budget, appropriation, or levy of the participating governmental unit after the certification by the Board of Trustees; and

(2) levy and collect those amounts in the same manner as any other tax.

(d) (1) Except as provided in paragraph (3) of this subsection, within 30 days after receiving the certification by the Board of Trustees of the amount payable by the participating governmental unit under this section, the proper fiscal officer of each participating governmental unit shall pay that amount to the Board of Trustees.

(2) A participating governmental unit that does not pay the amounts certified under this subsection within the time required is liable for:

(i) a penalty of 10% of the amount due; and

(ii) interest on delinquent amounts at 10% a year until payment.

(3) 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.

(4) 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 the delinquent participating governmental unit.

(e) On receipt of the payments from the fiscal officer of each participating governmental unit, the Board of Trustees shall credit these amounts to the accumulation fund of the appropriate State system.

§21–309.1.

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

(2) "Local employee" has the meaning stated in § 21–304 of this subtitle.

(3) "Local employer" has the meaning stated in § 21–304 of this subtitle.

(b) On or before December 1 of each year, the Board of Trustees shall determine and certify the amounts payable by each local employer under § 21–304(b)(4) of this subtitle for the next fiscal year.

(c) On or before October 1, January 1, April 1, and June 1 of each fiscal year,

each local employer shall pay to the Board of Trustees 25% of the amount of the charges certified to the local employer by the Board of Trustees under subsection (b) of this section.

(d) (1) The Secretary of the Board of Trustees may allow a grace period not to exceed 10 calendar days for payment of the amounts certified under this section.

(2) If a local employer does not pay the amounts required under this section within the time required, on notification by the Secretary of the Board of Trustees that a delinquency exists, the State Comptroller immediately:

(i) shall withhold the delinquent amounts, including interest on the delinquent amounts at a rate of 7.75% a year, from any installment due the local employer from the General State School Fund; and

(ii) shall pay to the Board of Trustees the delinquent amounts, including interest, withheld under this paragraph.

(e) On receipt of the payments from each local employer or the State Comptroller, the Board of Trustees shall credit these amounts to the accumulation fund of the appropriate State system.

§21–310.

(a) Each year, the Board of Trustees shall certify to the Maryland Environmental Service the State's normal contribution rate and the State's accrued liability contribution rate and the amounts payable under § 21–307(f) of this subtitle.

(b) (1) The Maryland Environmental Service shall pay to the Board of Trustees the amount of the charges certified to the Maryland Environmental Service 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 Maryland Environmental Service shall pay that amount to the Board of Trustees.

(3) If the Maryland Environmental Service 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 the Maryland Environmental Service.

(c) On receipt of the payments from the Maryland Environmental Service, the Board of Trustees shall credit these amounts to the accumulation fund of the appropriate State system.

§21–311.

(a) The Board of Trustees shall credit to each member's individual account in the annuity savings fund of the appropriate State system:

(1) the member contributions of the member as provided in this Division II; and

(2) regular interest on the accumulated contributions of the member as provided in this Division II.

(b) From the annuity savings fund of the appropriate system, the Board of Trustees shall pay the accumulated contributions of a member that, as provided in this Division II:

(1) are withdrawn by the member; or

(2) if a member dies, are paid to the member's estate or designated beneficiary.

(c) When a member retires or a former member commences to receive a vested allowance, the Board of Trustees shall transfer the member's or former member's accumulated contributions from the annuity savings fund of the appropriate State system to the accumulation fund of that system.

§21–312.

(a) To determine the earnable compensation of a member in a payroll period, the Board of Trustees may deem that the rate of annual compensation payable to the member on the first day of the payroll period continues throughout the payroll period.

(b) The Board of Trustees may omit member contributions for a period less than a full payroll period for an individual who was not a member on the first day of the payroll period.

(c) To facilitate the making of member contributions, the Board of Trustees may modify the member contribution required of any member by an amount not exceeding 0.1% of the annual earnable compensation on the basis of which the member contribution is to be made.

(d) (1) The member contributions provided for under this Division II shall be made notwithstanding any resulting reduction in the actual compensation received

below the minimum compensation provided for by law for a member.

(2) Each member is deemed to agree to make the member contributions required by this Division II and to have received full compensation.

(3) Except for the benefits provided under this Division II, payment of compensation less any member contribution is a complete discharge of all claims for services rendered by an employee during the time covered by the payment.

(e) If a member does not make the member contributions required by this Division II, on retirement, the member's retirement allowance shall be reduced by the actuarial equivalent of the missed accumulated contributions, including regular interest on those contributions at the statutory rate earned on member contributions in the member's system, compounded annually.

§21–313.

(a) In this section, "approved employer" means a participating employer who adopts a resolution and follows procedures as prescribed by the Board of Trustees for an employer pickup program in accordance with § 414(h)(2) of the Internal Revenue Code.

(b) The State or other approved employer of a member shall pick up, within the meaning of § 414(h)(2) of the Internal Revenue Code, the member contributions required by this Division II.

(c) The member contributions under subsection (b) of this section:

(1) are designated as employee contributions to be picked up by the employing unit within the meaning of § 414(h)(2) of the Internal Revenue Code and shall be treated as employer contributions in determining tax treatment under that section;

(2) shall reduce the compensation of the member in an amount that equals the member contribution picked up by the employer;

(3) may not be included as gross income of the member until the pickup amounts are distributed or made available to the member;

(4) shall be paid by the State or other approved employer from the same source of funds that is used to pay compensation to the member; and

(5) for purposes of this Division II, shall be treated in the same manner and to the same extent as member contributions made before establishment of the employer pickup program.

§21–314.

(a) Each participating employer shall submit to the Board of Trustees a statement that shows the name, date of birth, occupational title, duties, compensation, length of service, and other information that the Board of Trustees requires regarding employees or former employees of the participating employer.

(b) Each year the Board of Trustees shall certify the member contribution rates to the chief fiscal officer of each participating employer.

(c) (1) In this subsection, "compensation" means a member's earnable compensation as provided in § 20-101 of this article and includes the amount earned by the member for all pay periods ending during a calendar year even if an amount is paid to the member after December 31 of the calendar year.

(2) (i) As each payroll is paid or in a manner that the Board of Trustees prescribes each participating employer shall certify to the Board of Trustees, and the proper fiscal officer of the participating employer shall pay to the Board of Trustees, the member contributions deducted from the compensation of each member employed by the participating employer or made under an employer pickup program.

(ii) Within 5 working days after the payment of each payroll, each participating employer shall submit to the State Retirement Agency supporting payroll data required by the State Retirement Agency in a format specified by the State Retirement Agency.

(d) (1) A participating employer that does not pay the member contributions certified under this section to the Board of Trustees within the time required is liable for:

(i) a penalty of 10% of the amounts due; and

(ii) interest on delinquent amounts at 10% a year until paid.

(2) A participating employer that does not submit supporting payroll data as required by the State Retirement Agency within the time required is liable for:

(i) a late charge of $250 for each payroll for which the supporting data is late; and

(ii) interest on delinquent late charges at 10% per year if the late charge is not paid by the date certified by the State Retirement Agency.

(3) The Secretary of the Board of Trustees may allow a grace period for payment of the amounts due or submission of supporting payroll data as required under this section not to exceed 10 working days.

(4) On notification by the Secretary of the Board of Trustees that a

delinquency exists, the State Comptroller immediately shall set off the delinquent amount against any money due or coming due to the delinquent participating employer.

(e) On receipt of the payments from the participating employer, the Board of Trustees shall credit the amounts to the individual account of the member, from whose compensation the member contribution is made, in the annuity savings fund of the appropriate system.

§21–315.

(a) The Board of Trustees shall credit to the expense fund of each State system its pro rata share of:

(1) the amount provided in the annual State budget to pay the administrative and operational expenses of the Board of Trustees and the State Retirement Agency;

(2) the amounts authorized by the Board of Trustees under this section for investment management services; and

(3) the amount authorized by the Board of Trustees to implement a closing agreement with the Internal Revenue Service regarding former members of the Employees' Retirement System or the Teachers' Retirement System who elected to become members of or participate in those State systems under former Article 73B, §§ 2-206 and 3-206 of the Code.

(b) The Board of Trustees shall pay from the expense fund of each State system its pro rata share of:

(1) the administrative and operational expenses of the Board of Trustees and the State Retirement Agency, in accordance with the annual State budget;

(2) the amounts as authorized by the Board of Trustees necessary for investment management services; and

(3) the amounts as authorized by the Board of Trustees necessary to implement a closing agreement with the Internal Revenue Service regarding former members of the Employees' Retirement System or the Teachers' Retirement System who elected to become members of or participate in those State systems under former Article 73B, §§ 2-206 and 3-206 of the Code.

(c) Each year the Board of Trustees shall estimate the amount, not exceeding 0.22% of the payroll of members, necessary for the administrative and operational expenses of the Board of Trustees and the State Retirement Agency.

(d) (1) Each quarter of the fiscal year the Board of Trustees shall estimate one–fourth of an amount, not exceeding 0.5% of the market value as of the last day

of the preceding quarter of invested assets that are externally managed exclusive of assets invested in real estate or alternative investments, necessary to procure and retain investment management services other than external real estate or alternative investment management services.

(2) The Board of Trustees is not limited in the amount of investment manager fees that the Board of Trustees may pay as necessary for external real estate or alternative investment management services.

(e) (1) The amounts estimated under subsection (c) of this section shall be paid into the expense funds of the several systems during the ensuing year on a pro rata basis according to the total membership of each system.

(2) The amounts estimated under subsection (d) of this section shall be paid into the expense funds of the several systems during the ensuing year on a pro rata basis according to the total assets held by each system.

(f) The Board of Trustees may combine the expense funds of the several systems for budgetary and administrative efficiency.

(g) On or before December 31 of each year, the Board of Trustees shall report to the General Assembly the actual amount spent for investment management services during the preceding fiscal year.

§21–316.

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

(2) "Library" means a library that is established or operates under the Education Article.

(3) "Local employer" means a participating employer other than the State.

(b) (1) Subject to paragraph (3) of this subsection, for each fiscal year, the State and each local employer shall pay to the Board of Trustees their pro rata shares of the amount necessary for the administrative and operational expenses of the Board of Trustees and the State Retirement Agency.

(2) The pro rata share of the State and of each local employer for each fiscal year shall be based on the number of members of the several systems employed by the State or local employer as of June 30 of the second prior fiscal year compared to the total membership of the several systems as of that date.

(3) The State shall pay the pro rata share under this section of each library.

(c) As part of its annual budget submission for a fiscal year, the Board of Trustees shall certify to the Secretary of Budget and Management the percentage

of the total membership of the several systems that is employed by the State, the libraries, and each local employer as of June 30 of the second prior fiscal year.

(d) (1) The Governor shall include in the budget bill an appropriation to the expense funds of the State Retirement and Pension System that equals the authorized administrative and operational expenses of the Board of Trustees and the State Retirement Agency for the fiscal year.

(2) The amounts payable by the State under this section with respect to members employed by each State unit shall be charged against the budget of that unit.

(3) The State shall pay its pro rata share of the amount of administrative and operational expenses authorized in the State budget to the Board of Trustees on July 1 of the applicable fiscal year.

(e) (1) On or before February 1 of each year, the Board of Trustees shall:

(i) certify to each local employer other than a library the amount payable by the local employer that is equal to the percentage certified under subsection (c) of this section multiplied by the amount of administrative and operational expenses authorized in the State budget for the next fiscal year; and

(ii) notify the Secretary of Budget and Management and the Department of Legislative Services of the certifications sent under item (i) of this paragraph.

(2) On or before October 1, January 1, April 16, and June 1 of each fiscal year, each local employer shall pay to the Board of Trustees 25% of the amount certified to the local employer by the Board of Trustees under paragraph (1) of this subsection.

(3) If a local employer does not pay the amounts required under this section within the time required, the local employer is liable for interest on delinquent amounts at a rate of 4% a year until payment.

(4) The Secretary of the Board of Trustees may allow a grace period not to exceed 10 calendar days for payment of the amounts certified under this section.

(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 local employer from the State.

(6) A participating governmental unit or employer required to make employer contributions under § 21–307 of this subtitle may deduct the payments required under this section from payments for employer contributions required under §§ 21–305 through 21–307 of this subtitle.

(f) On receipt of payments under this section, the Board of Trustees shall credit these amounts to the expense fund of the appropriate State system.

§21–401.

(a) (1) Subject to paragraph (2) of this subsection, instead of the basic allowance provided under the State system of a member, the member may elect a reduced allowance to be paid as one of the options under § 21-403 of this subtitle.

(2) Paragraph (1) of this subsection applies to a member of:

(i) the Law Enforcement Officers' Pension System or State Police Retirement System only if, at retirement, the member does not have a spouse; and

(ii) the Judges' Retirement System only if, at retirement, the member does not have a spouse or child under the age of 18 years.

(b) To elect an optional form of allowance, a member shall:

(1) complete the appropriate form that the Board of Trustees provides; and

(2) file the form with the Board of Trustees before the first allowance payment normally becomes due.

(c) A member who has elected an optional form of allowance may change the election only if the member notifies the Board of Trustees before the first allowance payment normally becomes due.

(d) If a member dies before the effective date of retirement, the Board of Trustees shall pay the benefits payable on the member's behalf as if the member had not elected an optional form of allowance.

§21–402.

(a) Each optional form of allowance shall be the actuarial equivalent of the basic allowance under the State system of a member.

(b) (1) Subject to paragraph (2) of this subsection, for an optional form of allowance providing for payment to a designated beneficiary for life, the designated beneficiary must be an individual.

(2) If the designated beneficiary is a minor or an individual with a disability, the allowance may be paid into a trust for the benefit of the individual.

(3) A member who elects to receive a reduced optional allowance under § 21-403 of this subtitle may designate an individual other than the member's child as the member's designated beneficiary.

(c) (1) This subsection applies to a member who selects an optional form of allowance as provided in § 21-403(b) or (e) of this subtitle.

(2) If a member designates a beneficiary other than the member's spouse

or disabled child as defined under § 72(m)(7) of the Internal Revenue Code, a member may not designate a beneficiary who is more than 10 years younger than the member.

§21–403.

(a) (1) Under Option 1, if a retiree dies before receiving payments equal to the actuarial equivalent present value of the retiree's basic allowance computed at the time of retirement, the Board of Trustees shall pay the balance as a single payment:

(i) to the designated beneficiary; or

(ii) if there is no designated beneficiary, to the retiree's estate.

(2) (i) At the time of retirement, a member of the Judges' Retirement System described in § 21-401(a)(2) of this subtitle may designate more than one beneficiary for the optional benefit provided in paragraph (1) of this subsection.

(ii) If, at the time of retirement, a member of the Judges' Retirement System does designate more than one beneficiary for the optional benefit provided in paragraph (1) of this subsection, the single payment will be paid in equal shares to each of the designated beneficiaries.

(b) Under Option 2, when a retiree dies, the Board of Trustees shall pay the retiree's reduced allowance to the designated beneficiary for the designated beneficiary's life.

(c) Under Option 3, when a retiree dies, the Board of Trustees shall pay 50% of the retiree's reduced allowance to the designated beneficiary for the designated beneficiary's life.

(d) Under Option 4, if a retiree dies before receiving payments equal to the value of the retiree's accumulated contributions at the time of retirement, the Board of Trustees shall pay the balance as a single payment:

(1) to the designated beneficiary; or

(2) if there is no designated beneficiary, to the retiree's estate.

(e) (1) Subject to paragraph (2) of this subsection, under Option 5, when a retiree dies, the Board of Trustees shall pay the retiree's reduced allowance to the designated beneficiary for the designated beneficiary's life.

(2) If the designated beneficiary dies before the retiree, then:

(i) beginning in the month following the date of death of the designated beneficiary, the Board of Trustees shall pay the retiree the basic allowance; or

(ii) 1. the retiree may designate a new beneficiary in accordance with § 21–404 of this subtitle; and

2. the Board of Trustees shall pay the retiree an allowance as provided in § 21–404(d)(2) of this subtitle.

(f) (1) Subject to paragraph (2) of this subsection, under Option 6, when a retiree dies, the Board of Trustees shall pay 50% of the retiree's reduced allowance to the designated beneficiary for the designated beneficiary's life.

(2) If the designated beneficiary dies before the retiree, then:

(i) beginning in the month following the date of death of the designated beneficiary, the Board of Trustees shall pay the retiree the basic allowance; or

(ii) 1. the retiree may designate a new beneficiary in accordance with § 21–404 of this subtitle; and

2. the Board of Trustees shall pay the retiree an allowance as provided in § 21–404(d)(2) of this subtitle.

§21–404.

(a) This section does not apply to the Judges' Retirement System.

(b) To change a designated beneficiary, a retiree shall:

(1) complete the appropriate form that the Board of Trustees provides; and

(2) file the form with the Board of Trustees.

(c) Subject to subsection (d) of this section, if a retiree changes a designated beneficiary, the Board of Trustees shall recompute the allowance for the election based on the value of the balance in the retiree's annuity reserve and pension reserve when the change is made.

(d) (1) This subsection applies to a retiree if:

(i) the retiree elected the optional form of allowance payable under § 21-403(e) (Option 5) or § 21-403(f) (Option 6) of this subtitle;

(ii) the retiree's designated beneficiary dies before the retiree; and

(iii) after the death of the designated beneficiary, the retiree elects to change the designated beneficiary.

(2) The Board of Trustees shall recompute the reduced allowance payable to a retiree and the retiree's new designated beneficiary using:

(i) the retiree's basic allowance at the time of the new beneficiary designation;

(ii) the retiree's age at the time of the new beneficiary designation; and

(iii) the age of the new designated beneficiary.

§21–405.

A retiree of the Judges' Retirement System who has elected an optional form of an allowance under this subtitle may not change the designated beneficiary.

§21–406.

(a) (1) If a designated beneficiary who is receiving payments for life dies on or before the 15th day of a month, the Board of Trustees may not pay any portion of the designated beneficiary's allowance to the designated beneficiary's estate for the month in which the death occurs.

(2) If a designated beneficiary who is receiving payments for life dies on or after the 16th day of a month, the Board of Trustees shall pay to the designated beneficiary's estate the entire allowance due to the designated beneficiary for the month in which the death occurs.

(b) (1) If a retiree dies on or before the 15th day of a month, the Board of Trustees may not pay any portion of the retiree's allowance to the designated beneficiary or the retiree's estate for the month in which the death occurs.

(2) If a retiree dies on or after the 16th day of a month, the Board of Trustees shall pay the entire allowance due to the retiree for the month in which the death occurs:

(i) to the designated beneficiary; or

(ii) if there is no designated beneficiary, to the retiree's estate.

§21–501.

(a) A retiree may elect to have the Board of Trustees deduct from the retiree's allowance and pay for the retiree:

(1) dues for an employee organization;

(2) payments to the State Employees' Credit Union of Maryland, Inc.;

(3) all or part of a premium for:

(i) insurance offered through an employee organization; or

(ii) State-approved medical insurance for retirees; or

(4) any other deduction that the Board of Trustees allows by regulation, in the interest of members or retirees.

(b) (1) A retiree who participates in medical insurance offered through a county may elect to have the Board of Trustees deduct from the retiree's allowance and pay to the county all or part of the premium for locally approved medical insurance.

(2) Except for payments in accordance with paragraph (1) of this subsection, the State system or any unit of the State is not responsible for paying for medical insurance offered through a county.

§21–502.

(a) (1) Except as provided in paragraph (2) of this subsection, a person may not attach, execute, garnish, or otherwise seize any current or future benefit under this Division II or any money in a fund created under this Division II.

(2) A court of competent jurisdiction may expressly order that a benefit under this Division II be assigned in a decree or order of alimony, child support, or divorce, or in a court-approved property settlement incident to a court decree or order.

(b) An assignment under this section only applies to benefits paid after the Board of Trustees receives:

(1) written notice of the court decree or order; and

(2) any additional information that the Board of Trustees requires.

(c) The Board of Trustees is not liable for an improper payment to a person because the Board of Trustees did not receive written notice of a court decree or order.

§21–503.

The Board of Trustees shall offer counseling about retirement benefits:

(1) to the members, former members, and retirees of each State system; and

(2) if a member, former member, or retiree consents, to an immediate family member.

§21–504.

(a) This section applies only to the:

(1) Employees' Pension System;

(2) Employees' Retirement System;

(3) Teachers' Pension System; and

(4) Teachers' Retirement System.

(b) The Board of Trustees shall adopt regulations to allow a public employee organization to obtain, for a reasonable fee, each year:

(1) the name and last known address of each individual during the last year who became a retiree or commenced receiving a vested allowance;

(2) the name and last known address of each retiree or former member receiving a vested allowance who died in the last year; and

(3) any change in address in the last year of a retiree or former member receiving a vested allowance.

(c) (1) Except as provided in § 21–128 of this title, before the release of a name, the Board of Trustees shall notify the individual of the provisions of this section.

(2) If an individual notifies the Board of Trustees that the individual does not want the individual's name or address released to an employee organization, the Board of Trustees may not release the name or address.

(d) An employee organization may not release any information that it receives under this section.

§21–505.

The Board of Trustees and the State Board of Trustees of the Maryland Teachers and State Employees Supplemental Retirement Plans shall exchange information about participating employees of the optional defined contribution system as necessary to administer the system.

§21–506.

(a) This section applies to a former member, retiree, or a beneficiary of a deceased former member or retiree of a State system who:

(1) is entitled to a refund of accumulated contributions and has made no claim for those contributions; or

(2) is currently eligible to receive a vested allowance and has not filed an application for the vested allowance.

(b) Notwithstanding any other provision of law, the State Retirement Agency may post the names of the individuals described in subsection (a) of this section and the names of the last participating employer of the former members or retirees on the

State Retirement Agency's Web site or otherwise publish the names of the individuals and employers for the purpose of notifying the individuals that they have unclaimed money held by the State Retirement Agency.

§21–601.

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

(b) "Direct rollover" means a payment by the State Retirement Agency directly to the eligible retirement plan specified by the participant, the surviving spouse of a participant, or the designated beneficiary of the participant.

(c) "Eligible retirement plan" means:

(1) an individual retirement account described in § 408(a) of the Internal Revenue Code;

(2) an individual retirement annuity, other than an endowment contract, described in § 408(b) of the Internal Revenue Code;

(3) a qualified trust described in § 401(a) of the Internal Revenue Code that is exempt from tax under § 501(a) of the Internal Revenue Code;

(4) an annuity plan described in § 403(a) of the Internal Revenue Code;

(5) an annuity plan described in § 403(b) of the Internal Revenue Code;

(6) a deferred compensation plan described in § 457(b) of the Internal Revenue Code, or any successor provisions, that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to account separately for amounts transferred into that plan; or

(7) effective January 1, 2008, a Roth Individual Retirement Account described in § 408A of the Internal Revenue Code.

(d) (1) "Eligible rollover distribution" means a distribution:

(i) on or after January 1, 1993, to a participant of all or any part of the balance to the credit of the participant in any State system;

(ii) on or after January 1, 2002, to the surviving spouse of a member, former member, or retiree, or to a spouse or former spouse who is an alternate payee under an eligible domestic relations order, as defined in § 414(p) of the Internal Revenue Code, of all or any part of the balance to the credit of the member, former member, retiree, or surviving spouse in any State system; or

(iii) on or after January 1, 2007, to the designated nonspouse

beneficiary of a member, former member, or retiree of all or any part of the balance to the credit of the member, former member, retiree, or designated nonspouse beneficiary in any State system.

(2) "Eligible rollover distribution" does not include:

(i) any distribution that is one of a series of substantially equal periodic payments that are made at least annually for the life or life expectancy of the participant or the joint lives or joint life expectancies of the participant and the participant's beneficiary;

(ii) any distribution that is one of a series of substantially equal periodic payments made for a specified period of at least 10 years;

(iii) any distribution that is required under § 401(a)(9) of the Internal Revenue Code;

(iv) any distribution that is reasonably expected to total less than $200 during the calendar year; or

(v) any other distribution that the Internal Revenue Service does not consider eligible for rollover treatment, including corrective distributions necessary to comply with the provisions of § 415 of the Internal Revenue Code.

(3) (i) Effective January 1, 2002, a portion of a distribution will not fail to be an eligible rollover distribution merely because that portion consists of after–tax employee contributions that are not includible in gross income.

(ii) A portion of a distribution described in subparagraph (i) of this paragraph may be transferred only to:

1. an individual retirement account or annuity described in § 408(a) or (b) of the Internal Revenue Code;

2. a qualified defined contribution plan described in § 401(a) of the Internal Revenue Code that agrees to account separately for amounts transferred to the account and earning received as a result of the transferred amounts;

3. on or after January 1, 2007, to a qualified defined benefit plan described in § 401(a) of the Internal Revenue Code or to an annuity contract described in § 403(b) of the Internal Revenue Code, that agrees to account separately for amounts transferred to the account and earnings received as a result of the transferred amounts; or

4. on or after January 1, 2008, to a Roth IRA described in § 408 of the Internal Revenue Code.

(iii) A transfer to an eligible retirement plan described in

subparagraph (ii)2, 3, or 4 may be made only through a direct rollover.

(e) "Supplemental plan" means the Board of Trustees of the Maryland Teachers and State Employees Supplemental Retirement Plans.

§21–602.

(a) A participant may elect on the form the Board of Trustees requires to have all or any part of an eligible rollover distribution paid to an eligible retirement plan in a direct rollover.

(b) (1) If an eligible rollover distribution is payable to the designated spouse beneficiary of a member, former member, or retiree, the designated spouse beneficiary may elect to have all or any part of the eligible rollover distribution paid to an eligible retirement plan in a direct rollover.

(2) (i) A nonspouse designated beneficiary may roll over an eligible rollover distribution only to a traditional or Roth individual retirement account or individual retirement annuity established for the purpose of receiving the distribution.

(ii) A traditional or Roth individual retirement account or individual retirement annuity established under this paragraph shall be treated as an inherited individual retirement account or annuity within the meaning of § 408(d)(3)(C) of the Internal Revenue Code.

(c) A member who is eligible to participate in the plan administered by the supplemental plan under Title 35, Subtitle 5 of this article may elect to have all or any part of the eligible rollover distribution paid in a direct rollover to the plan in accordance with the regulations adopted by the supplemental plan.

§21–603.

The Board of Trustees shall adopt regulations that are necessary to carry out this subtitle and that are consistent with the requirements of § 401(a)(31) and any other applicable sections of the Internal Revenue Code and the regulations under those sections.

§21–604.

Within a reasonable time before making an eligible rollover distribution, the Board of Trustees shall provide written notices as required under § 402(f) of the Internal Revenue Code.

§22–101.

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

(b) "Selection A (Additional member contributions)" means the retirement

selection described in § 22-219 of this title.

(c) "Selection B (Limited cost-of-living adjustment)" means the retirement selection described in § 22-220 of this title.

(d) "Selection C (Combination formula)" means the retirement selection described in § 22-221 of this title.

§22–102.

This title applies to:

(1) the Employees' Retirement System; and

(2) the Teachers' Retirement System.

§22–201.

(a) Except as provided in subsection (b) of this section, §§ 22-202 through 22-204 of this subtitle apply only to:

(1) a regular employee whose compensation is provided by State appropriation or paid from State funds;

(2) an appointed or elected official of the State, including:

(i) a clerk of the circuit court;

(ii) a register of wills;

(iii) a State's Attorney; and

(iv) a sheriff;

(3) an employee or official of a participating governmental unit who is eligible to participate under Title 31, Subtitle 1 of this article;

(4) an employee of the Office of the Sheriff of Baltimore City;

(5) a permanent employee of the board of supervisors of elections of a county;

(6) an employee of the Maryland Environmental Service who is a member of the Employees' Retirement System on June 30, 1993;

(7) an employee of Dorchester County who is not a member of the county's general pension and retirement program and who is a member of the Employees' Retirement System;

(8) a court reporter for the Circuit Court for Charles County who is a member of the Employees' Retirement System on July 1, 1994; and

(9) a staff employee of the University System of Maryland, Morgan State University, or St. Mary's College who is a member of the Employees' Retirement System as of January 1, 1998.

(b) Sections 22-202 through 22-204 of this subtitle do not apply to:

(1) an individual who is a member of any State system other than the Employees' Retirement System;

(2) an individual who is entitled to be a member of any State system other than the Employees' Retirement System or the Employees' Pension System;

(3) a contractual, emergency, or temporary extra employee;

(4) an individual who is employed under a federal public service employment program;

(5) an assessor who is a member of a retirement or pension system operated by a political subdivision of the State; or

(6) an employee of a local board of elections who chooses to stay in a local merit system under § 2-207 of the Election Law Article.

§22–202.

(a) Except as provided in § 22-203 of this subtitle, an individual described in § 22-201(a) of this subtitle who was a member of the Employees' Retirement System on or before December 31, 1979, became a member of the Employees' Retirement System as a condition of employment.

(b) Except as provided in former Article 73B, § 2-206 of the Code, an individual who is not a member of the Employees' Retirement System on December 31, 1979, is not eligible for membership in the Employees' Retirement System.

§22–203.

(a) (1) This subsection applies only to:

(i) an elected or appointed official;

(ii) an employee of the Governor's office; and

(iii) a desk officer or employee of either house of the General Assembly who receives an annual salary as compensation for employment.

(2) Membership in the Employees' Retirement System is optional for an

individual who was elected or appointed to a position described in paragraph (1) of this subsection from July 1, 1957, to December 31, 1979, both inclusive.

(3) During an individual's term, the individual may become a member of the Employees' Retirement System under this subsection by completing and submitting an application for membership to the Board of Trustees.

(b) Membership in the Employees' Retirement System is optional for the employees of a participating governmental unit who are employed by the participating governmental unit on the effective date of participation in the State systems.

§22–204.

If eligibility of an individual for membership in the Employees' Retirement System is unclear, the Board of Trustees shall determine whether the individual is a member without regard to the method of payment of the individual's compensation.

§22–205.

(a) Except as provided in subsection (b) of this section, §§ 22-206 through 22-208 of this subtitle apply only to:

(1) an employee 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:

(i) an attendance officer;

(ii) a clerk;

(iii) a helping teacher;

(iv) a principal;

(v) a superintendent;

(vi) a supervisor; or

(vii) a teacher;

(2) a faculty employee of an educational institution supported by and under the control of the State;

(3) a librarian or clerical employee of any library that is established or operates under the Education Article;

(4) a professional or clerical employee of a community college that is established or operates under the Education Article; or

(5) a staff employee of the University System of Maryland, Morgan State University, or St. Mary's College who is a member of the Teachers' Retirement System as of January 1, 1998.

(b) Sections 22-206 through 22-208 of this subtitle do not apply to:

(1) an individual who has elected to participate in an optional retirement program under Title 30 of this article;

(2) an individual who is employed under a federal public service employment program;

(3) a professional or clerical employee of the Department of Public Libraries of Montgomery County who elected to transfer to the employees' retirement system of Montgomery County; or

(4) an employee of the University System of Maryland, Morgan State University, or St. Mary's College who becomes an employee on or after January 1, 1998 in a position as a staff employee of the educational institution that was eligible for membership in the Teachers' Retirement System or Teachers' Pension System under Chapter 6, § 8, paragraphs 1(a) and 2(a) of the Acts of 1994.

§22–206.

(a) Except as provided in § 22-207 of this subtitle, an individual who was a member of the Teachers' Retirement System on or before December 31, 1979, became a member of the Teachers' Retirement System as a condition of employment.

(b) Except as provided in former Article 73B, § 3-206 of the Code, an individual who is not a member of the Teachers' Retirement System on December 31, 1979, is not eligible for membership in the Teachers' Retirement System.

§22–207.

The Board of Trustees may deny membership in the Teachers' Retirement System to, or make membership optional for, any class of individuals described in § 22-205(a) of this subtitle whose:

(1) compensation is paid only partly by the State; or

(2) employment is temporary or on other than a yearly basis.

§22–208.

If eligibility of an individual for membership in the Teachers' Retirement System is unclear, the Board of Trustees shall determine whether the individual is a member.

§22–209.

(a) Subject to subsection (c) of this section, as a condition of an individual's employment contract, an individual may remain a member of the Employees' Retirement System or the Teachers' Retirement System without change in the benefits under that retirement system as of December 31, 1979, if:

(1) the individual is a member of that retirement system on December 31, 1979; and

(2) the individual's membership does not terminate under § 22-217 of this subtitle.

(b) (1) Subject to subsection (c) of this section, an individual receiving benefits under this title on December 31, 1979, shall continue to receive the benefits provided as of December 31, 1979.

(2) The benefits that an individual may continue to receive include:

(i) eligibility for service retirement on or after 30 years of eligibility service or age 60;

(ii) eligibility for a reduced service retirement allowance after a certain length of eligibility service;

(iii) a normal service retirement allowance of one fifty-fifth of average final compensation multiplied by the number of years of creditable service;

(iv) the retirement allowances provided for ordinary or accidental disability;

(v) the selection of options for allowances;

(vi) the adjustment of the allowance for increases in the Consumer Price Index;

(vii) the death benefit;

(viii) the level of member contributions; and

(ix) the length of eligibility service for members to vest benefits in the system.

(c) For a member who receives creditable service under this title on or after July 1, 1984, §§ 22-219 through 22-221 of this subtitle determine:

(1) the rate of earnable compensation that is payable as member contributions;

(2) the computation of the member's allowance; and

(3) the cost-of-living adjustment of the member's allowance.

§22–210.

A member of the Employees' Retirement System who is an elected or appointed official may continue membership in the Employees' Retirement System after the member's last term of office if the member pays to the Board of Trustees the member contributions and employer contributions that would have been made by or for the member had the member remained in office.

§22–211.

A former member of the Employees' Retirement System who was a member as an elected or appointed official may continue membership in the Employees' Retirement System if the former member pays to the Board of Trustees the member contributions and employer contributions that would have been made by or for the former member had the former member remained in office.

§22–212.

On or after January 1, 2005, an individual who is a member of the Employees' Retirement System or the Teachers' Retirement System may not transfer membership to the:

(1) Employees' Pension System, if the individual is a member of the Employees' Retirement System; or

(2) Teachers' Pension System, if the individual is a member of the Teachers' Retirement System.

§22–213.

On or after January 1, 2005, a former member who has elected a vested allowance under § 29-302 of this article may not elect to be vested in:

(1) the Employees' Pension System, if a former member of the Employees' Retirement System; or

(2) the Teachers' Pension System, if a former member of the Teachers' Retirement System.

§22–214.

(a) (1) This subsection applies only to a member who is subject to Selection A (Additional member contributions).

(2) For a member whose membership started on or before June 30, 1973,

the contribution rate as a percent of a member's earnable compensation is the lesser of:

(i) 2% plus the contribution rate adopted by the Board of Trustees and in effect when membership began; or

(ii) 7%.

(3) For a member whose membership started on or after July 1, 1973, the contribution rate is 7% of a member's earnable compensation.

(4) For a member who under § 22-308(b)(2) of this title elects to receive full-time service credit for regular part-time employment, the contribution rate is 7% of the compensation the member would have earned had the member been a full-time employee.

(b) (1) This subsection applies to a member who is subject to Selection B (Limited cost-of-living adjustment).

(2) For a member whose membership started on or before June 30, 1973, the contribution rate as a percent of a member's earnable compensation is the lesser of:

(i) the contribution rate adopted by the Board of Trustees and in effect when membership began; or

(ii) 5%.

(3) For a member whose membership started on or after July 1, 1973, the contribution rate is 5% of a member's earnable compensation.

(4) For a member who elects under § 22-308(b)(2) of this title to receive full-time service credit for regular part-time employment, the contribution rate is 5% of the compensation the member would have earned had the member been a full-time employee.

(c) (1) This subsection applies to a member who is subject to Selection C (Combination formula).

(2) A member's contribution rate is as provided in § 23-212 of this article.

§22–215.

(a) Except as provided in subsection (b) of this section, regular interest is payable on member contributions at the rate of 4% a year compounded annually, until retirement or withdrawal of the accumulated contributions.

(b) No further interest shall be paid on member contributions after membership ends if the former member is not eligible to receive a vested allowance under Title 29, Subtitle 3 of this article.

§22–216.

(a) This section applies to an individual who is:

(1) a member of the Teachers' Retirement System;

(2) an employee of the Baltimore City Board of School Commissioners or another county board of education; and

(3) hired by a third party contractor to work in a school that is reconstituted by order of the Maryland State Board of Education.

(b) An individual who is hired by a third party contractor may withdraw the member's accumulated contributions, within the meaning of § 20-101(b) of this article, at any time while the individual is employed by the third party contractor to work in a school that is reconstituted by order of the Maryland State Board of Education.

(c) An individual who is hired by a third party contractor and subsequently becomes employed by the Baltimore City Board of School Commissioners or another county board of education at any time while the order of reconstitution is in effect and on termination of the contract with the third party contractor:

(1) is not subject to the provisions of § 22-217 of this subtitle;

(2) shall be reinstated as a member of the Teachers' Retirement System;

(3) shall be entitled to restoration of any service credit to which the individual was entitled before employment by the third party contractor whether or not the individual was vested; and

(4) shall redeposit any of the amounts withdrawn under subsection (b) of this section with regular interest to the date of redeposit or, 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.

(d) Except as provided in subsection (e) of this section, at any time before retirement, an individual may purchase service credit for a period of employment by a third party contractor to work in a school that is reconstituted by order of the Maryland State Board of Education if the individual:

(1) completes a claim for the service credit and files it with the Board of Trustees on a form that the Board of Trustees provides; and

(2) pays to the Board of Trustees in a single payment the member contributions the individual would have made for the period of employment for which service credit is being purchased plus regular interest to the date of payment.

(e) An individual may not purchase more than 5 years of service credit for

the period of employment by a third party contractor to work in a school that is reconstituted by order of the Maryland State Board of Education.

§22–217.

Membership ends if the member:

(1) is separated from employment for more than:

(i) 4 years, if a member of the Employees' Retirement System; or

(ii) 5 years, if a member of the Teachers' Retirement System;

(2) withdraws the member's accumulated contributions;

(3) transfers to the Employees' Pension System or Teachers' Pension System;

(4) becomes a retiree; or

(5) dies.

§22–219.

(a) This section applies only to a member who is subject to Selection A (Additional member contributions) on October 1, 1994.

(b) A member who is subject to Selection A (Additional member contributions) shall:

(1) receive an allowance for all creditable service as follows:

(i) for normal service retirement as provided by § 22–401 of this title;

(ii) for early service retirement as provided by § 22–402 of this title;

(iii) for ordinary disability retirement as provided by § 29–106 of this article; and

(iv) for accidental disability retirement as provided by § 29–110 of this article;

(2) have the allowance adjusted as provided in §§ 29–401 through 29–403 of this article; and

(3) make the member contributions at the rate specified by § 22–214(a) of this subtitle.

§22–220.

(a) This section applies only to a member who is subject to Selection B (Limited cost-of-living adjustment) on October 1, 1994.

(b) A member who is subject to Selection B (Limited cost–of–living adjustment) shall:

(1) receive an allowance for all creditable service as follows:

(i) for normal service retirement as provided by § 22–401 of this title;

(ii) for early service retirement as provided by § 22–402 of this title;

(iii) for ordinary disability retirement as provided by § 29–106 of this article; and

(iv) for accidental disability retirement as provided by § 29–110 of this article;

(2) have the allowance adjusted as provided in §§ 29–401, 29–402, and 29–405 of this article; and

(3) make the member contributions at the rate specified by § 22–214(b) of this subtitle.

§22–221.

(a) (1) This section applies only to a member who is not subject to Selection A (Additional member contributions) or Selection B (Limited cost-of-living adjustment).

(2) The effective date for application of this section is:

(i) July 1, 1984, for a member employed by a participating employer on that day who had not elected Selection A (Additional member contributions) or Selection B (Limited cost-of-living adjustment);

(ii) the date of return to employment by a participating employer for a member who returned to active employment and had not elected Selection A (Additional member contributions) or Selection B (Limited cost-of-living adjustment); or

(iii) the date of election of Selection C (Combination formula) by a member who on or before December 31, 2004, had formerly elected Selection A (Additional member contributions) or Selection B (Limited cost-of-living adjustment).

(b) For purposes of computing a member's allowance under this section:

(1) service credit, other than military service credit, received by an

individual before the individual last became a member shall be treated as service credit as of the date the service was rendered; and

(2) military service credit, received by a member in accordance with Title 38 of this article, shall be determined as of the date the Board of Trustees verifies the military service credit.

(c) (1) From the effective date for application of this section, a member shall receive an allowance as provided in this subsection.

(2) For normal service retirement, the allowance is computed:

(i) for creditable service before the effective date, as provided by § 22-401 of this title; and

(ii) for creditable service on and after the effective date, as provided by § 23-401 of this article.

(3) For early service retirement, the allowance is computed:

(i) for creditable service before the effective date, as provided by § 22-402 of this title; and

(ii) for creditable service on and after the effective date, as provided by § 23-402 of this article, except that the reduction under that section may not exceed 42% of the normal service retirement allowance based on the creditable service on or after the effective date.

(4) For ordinary disability retirement, the allowance is computed on the greater of:

(i) the allowance computed as provided by § 29-106 of this article; or

(ii) the allowance computed as provided by § 29-108 of this article.

(5) For accidental disability retirement the allowance is computed as provided by § 29-110 of this article.

(6) For determining the average final compensation of a member who was employed on a part time basis, the average final compensation is computed:

(i) for employment before the effective date, as provided in § 20-204 of this article; and

(ii) for employment on and after the effective date, as provided in § 20-205 of this article.

(d) A member who is subject to this section and who at the time of retirement is entitled to service credit for unused sick leave under § 20-206 of this article shall

have the total amount of unused sick leave credit apportioned in the same ratio that the member's creditable service is apportioned for computation of the allowance under subsection (c) of this section.

(e) A member who retires on or after the effective date for application of this section shall have the allowance adjusted as provided in §§ 29–401, 29–402, and 29–407 of this article.

(f) For creditable service received on and after the effective date for application of this section, the rate of member contributions is that provided by § 23-212 of this article.

§22–301.

A member of the Employees' Retirement System or Teachers' Retirement System is entitled to:

(1) eligibility service as provided in §§ 22-303 through 22-307 of this subtitle; and

(2) creditable service as provided in § 22-308 of this subtitle.

§22–302.

(a) Subject to subsections (b) through (d) of this section, the Board of Trustees shall adopt regulations that specify the period of employment in a year that is equal to 1 year of service credit.

(b) The Board of Trustees may not allow more than 1 year of service credit for a calendar year.

(c) Except as provided in subsection (d) of this section or § 22-304(c)(2) of this subtitle, a member is entitled to receive:

(1) 1 year of service credit for:

(i) employment for the normal working time in a year for the member's position; or

(ii) regular part-time employment for a calendar year; and

(2) 1 month of service credit for employment for a month or a part of a month if a member contribution is made in the month.

(d) (1) Except as otherwise provided in this subsection, a member of the Employees' Retirement System who is an elected or appointed official is entitled to receive 1 year of service credit for each 12-month period during which the member holds the office.

(2) Except for an official of a participating governmental unit, an appointed official who is appointed on or after July 1, 1979, is not entitled to receive service credit if the normal working time for the position is less than 130 days per year.

(3) An elected or appointed official who purchases service credit under § 22-307 of this subtitle, is entitled to receive 1 year of service credit for a part of a year of employment if the part of the year is at least equal to the number of days of the regular session of the General Assembly for the year for which the service credit is requested.

§22–303.

Eligibility service for a member of the Employees' Retirement System or the Teachers' Retirement System consists of service credit:

(1) for employment as a member;

(2) transferred from a retirement or pension system under Title 37 of this article or Title 31, Subtitle 1 of this article;

(3) for military service, as provided in Title 38 of this article;

(4) purchased under this subtitle; and

(5) that equals, for a member who has transferred between the Employees' Retirement System and the Teachers' Retirement System, the member's eligibility service recognized under the previous system through the date before the member became a member of the current system.

§22–303.1.

(a) Except as provided in subsection (b) of this section, a member may not purchase service credit under this title if the member is separated from employment.

(b) A member who is separated from employment may purchase service credit under this title for a leave of absence approved by the Board of Trustees under regulations that apply to all members, if the member purchases the service credit within 60 days after the expiration of the leave of absence.

§22–304.

(a) A member may purchase service credit as provided in subsection (b) of this section for periods of employment described in subsection (c) or (d) of this section for which the member is not otherwise entitled to service credit.

(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 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.

(c) (1) A member of the Employees' Retirement System may purchase service credit for a period of employment:

(i) by the State or a participating governmental unit;

(ii) as a member of the State Police Retirement System for which the member was not vested in that State system;

(iii) when the member was on an employer-approved leave of absence not exceeding 2 years that has qualified for purchase under regulations adopted by the Board of Trustees;

(iv) by the Department of Legislative Services, the Office of the Attorney General, or as secretary to the Speaker of the House of Delegates or as secretary to the President of the Senate during a session of the General Assembly;

(v) by a member of the Senate or House of Delegates or the Office of the Secretary of the Senate or the Chief Clerk of the House of Delegates;

(vi) as a member of the Employees' Retirement System or the Teachers' Retirement System for which the member had withdrawn the member's accumulated contributions after a prior termination of membership; or

(vii) when membership was mandatory but for which member contributions were not made.

(2) For service credit purchased under:

(i) paragraph (1)(iv) of this subsection, a year or part of a year of employment equals 1 year of service credit; and

(ii) paragraph (1)(v) of this subsection, employment for at least 130 days per year as a legislative employee equals 1 year of service credit.

(d) A member of the Teachers' Retirement System may purchase service credit for periods of employment:

(1) during which a member held an emergency teaching certificate;

(2) as a member of the State Police Retirement System for which the member was not vested in that State system;

(3) when membership was mandatory but for which member contributions were not made;

(4) when the member was on an employer-approved leave of absence not exceeding 2 years that has qualified for purchase under regulations adopted by the Board of Trustees;

(5) as a member of the Employees' Retirement System or the Teachers' Retirement System for which the member had withdrawn the member's accumulated contributions after a prior termination of membership; or

(6) by the State or a participating governmental unit on a permanent basis.

§22–305.

(a) A member may purchase service credit as provided in this section for periods of employment described in subsection (c) or (d) of this section for which the member is not otherwise entitled to service credit.

(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 an amount equal to the annuity reserve and pension reserve required to fund the additional allowance.

(2) Except as provided in paragraphs (3) and (4) of this subsection, the member shall pay for service credit purchased under this section at retirement.

(3) The surviving spouse of a member of the Teachers' Retirement System may pay for the appropriate final adjustment under paragraph (3) of this subsection if:

(i) the member dies while employed as a member;

(ii) the member was purchasing service credit through a payroll deduction; and

(iii) the service credit qualifies for benefits under § 29-205 of this article.

(c) A member of the Employees' Retirement System may purchase service credit for a period of employment:

(1) not exceeding 10 years of out-of-state public school teaching service;

(2) not exceeding 10 years for public or nonpublic school teaching service;

(3) not exceeding 5 years for postsecondary school teaching service;

(4) not exceeding 10 years of federal service or out-of-state service with a political subdivision; or

(5) as an employee of a political subdivision of the State if:

(i) the member is not otherwise entitled to receive service credit for the same period under this Division II;

(ii) the member is not receiving retirement benefits from a political subdivision of the State for the same period; and

(iii) the member, the political subdivision, or both, pay the amount required under subsection (b)(1) of this section.

(d) A member of the Teachers' Retirement System may purchase service credit for a period of employment:

(1) not exceeding 10 years of out-of-state public school teaching service;

(2) not exceeding 10 years of public or nonpublic school teaching service;

(3) not exceeding 5 years of postsecondary school teaching service;

(4) on or before December 31, 1970, with Baltimore City as a teacher on a verified leave of absence not exceeding 2 years that is similar in all respects to leaves of absence approved by the Board of Trustees;

(5) not exceeding 10 years of federal or out-of-state municipal service; or

(6) employment as an employee of a municipal corporation of the State if the member is not otherwise entitled to receive service credit under this Division II.

§22–305.1.

(a) This section applies only to a member of the Employees' Retirement System who:

(1) was an employee of the State prior to November 1, 1996;

(2) as of November 1, 1996 was employed by a private vendor to provide child support enforcement services in Baltimore City; and

(3) resumed employment with the State as of November 1, 2002.

(b) (1) A member described in subsection (a) of this section is entitled to receive service credit for the time the member was employed by a private vendor to provide child support enforcement services in Baltimore City prior to October 31, 2002.

(2) Prior to the member's date of retirement, and subject to paragraph (3) of this subsection, a member who receives service credit under this subsection shall deposit in the annuity savings fund or other corresponding fund an amount of money equal to the contribution payments that the member would have paid had the member been a State employee, including regular interest on the contributions at the rate of 4% per year compounded annually.

(3) On retirement, the member's retirement allowance shall be reduced by the actuarial equivalent of the amount determined under paragraph (2) of this subsection if the member elects not to deposit this amount in the annuity savings or other corresponding fund.

§22–306.

(a) An elected or appointed official who elected to become a member of the Employees' Retirement System may receive service credit for previous service as an official with the State or a participating governmental unit including service as an official before the establishment of the Employees' Retirement System.

(b) To receive service credit for previous service, an elected or appointed official shall complete a claim for the service credit and file it with the Board of Trustees on a form the Board of Trustees provides.

(c) (1) On receiving a claim for service credit for service as an official with a participating governmental unit, the Board of Trustees shall:

(i) verify the previous service and the amount of service credit to which the member is entitled;

(ii) compute the amount due from the participating governmental unit because of the claim; and

(iii) submit a statement to the participating governmental unit for that amount.

(2) The computation made under paragraph (1)(ii) of this subsection shall be based on the compensation actually received by the official from the participating governmental unit during the period for which service credit is to be granted.

(3) A participating governmental unit that receives a statement from the Board of Trustees shall pay the amount immediately to the Board of Trustees or place it in the next budget for prompt payment when that budget becomes effective.

(d) On receiving a claim for service credit for service as an official with the State, the Board of Trustees shall:

(1) compute the amount due from the State; and

(2) include in the State budget for the next fiscal year an appropriation for the amount due from the State.

(e) (1) An official who receives service credit under this section:

(i) shall pay to the Board of Trustees in a single payment, within the period determined by the Board of Trustees, the member contributions, plus regular interest, that the official would have paid had the official been a member of the Employees' Retirement System; or

(ii) subject to paragraph (2) of this subsection, may waive the payment of any part of the member contributions plus regular interest.

(2) If an official who receives credit under this section waives payment of any contributions or interest, the Board of Trustees shall reduce the official's allowance by the actuarial equivalent of those contributions, plus interest to the date of retirement, that the official had not paid.

§22–307.

A member of the Employees' Retirement System who had served as an elected or appointed official of the State or a participating governmental unit may receive service credit for the previous service as an official including service before the establishment of the Employees' Retirement System, if the member makes a single payment, within the period determined by the Board of Trustees, of the member contributions, plus interest, that the Board of Trustees considers appropriate.

§22–308.

(a) Creditable service on which the allowance of a member is based consists of:

(1) eligibility service, except as provided in subsection (b) of this section; and

(2) credit for unused sick leave as provided in § 20-206 of this article.

(b) (1) Except as provided in paragraph (2) of this subsection, a member's creditable service for a period of regular part-time employment equals the member's actual employment during that period.

(2) Subject to paragraph (3) of this subsection, a member's creditable service for a period of regular part-time employment equals the member's eligibility service for that period if:

(i) the medical board determines that the member's part-time employment is a result of a medically determined disability that prevents full-time work; and

(ii) the member then elects to make the contributions for full-time employment required by § 22-214 of this title.

(3) Except to the extent that a disability was aggravated after a member's enrollment, paragraph (2) of this subsection does not apply to a disability incurred before a member's enrollment.

§22–401.

(a) A member may retire with a normal service retirement allowance if:

(1) on or before the date of retirement, the member:

(i) has at least 30 years of eligibility service; or

(ii) is at least 60 years old; and

(2) the member completes and submits a written application to the Board of Trustees stating the date when the member desires to retire.

(b) On retirement under this section, a member is entitled to receive a normal service retirement allowance that equals one fifty-fifth of the member's average final compensation multiplied by the number of years of creditable service.

§22–402.

(a) A member may retire with an early service retirement allowance if:

(1) on or before the date of retirement, the member:

(i) has at least 25 but less than 30 years of eligibility service; and

(ii) is less than 60 years old; and

(2) the member completes and submits a written application to the Board of Trustees stating the date when the member desires to retire.

(b) On retirement under this section, a member is entitled to an early service retirement allowance that equals one fifty-fifth of the member's average final compensation multiplied by the number of years of creditable service reduced by 0.5% for each month by which the member's date of retirement precedes the earlier of:

(1) the date the member will be 60 years old; or

(2) the date the member would have completed 30 years of eligibility service had the member continued employment.

§22–403.

(a) This section applies to a former member who:

(1) was eligible for a retirement allowance under § 22-401 or § 22-402 of this subtitle when the former member's membership terminated;

(2) did not submit a written application under § 22-401 or § 22-402 of this subtitle before membership terminated; and

(3) has not withdrawn accumulated contributions.

(b) (1) A former member described in subsection (a) of this section may retire with a retirement allowance under § 22-401 or § 22-402 of this subtitle on the first day of the month after the Board of Trustees receives a written application for retirement from the former member.

(2) A former member who retires under this section may not receive benefits for the period before the former member submitted a completed application for retirement to the Board of Trustees.

§22–404.

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

(2) "Appointed official" means an individual appointed to a public office of the State who meets the legal criteria for an appointed official as determined by the Attorney General.

(3) "Unclassified service of the State" means the unclassified service in the State Personnel Management System or a comparable position in an independent personnel system of a participating employer.

(b) The Board of Trustees shall pay a member of the Employees' Retirement System who qualifies under subsection (c) of this section a pension equal to an ordinary disability pension, regardless of age, if the member:

(1) has at least 16 years of creditable service; and

(2) elects to have the member's accumulated contributions paid as an annuity of equivalent actuarial value instead of withdrawing the accumulated contributions.

(c) A member qualifies for a pension under subsection (b) of this section if the member:

(1) (i) is an elected or appointed official of the State at the time of application for retirement; and

(ii) was initially an elected or appointed official of the State before July 22, 1981;

(2) (i) is an elected or appointed official of the State when separating from employment;

(ii) was initially an elected or appointed official of the State during the period from July 22, 1981, through June 30, 1982, both inclusive; and

(iii) separated from employment involuntarily as certified by the Secretary of Budget and Management;

(3) (i) was promoted to a position in the unclassified service of the State on or before June 30, 1982;

(ii) has been in the unclassified service or its equivalent in the State continuously from June 30, 1982, until separating from employment; and

(iii) separated from employment involuntarily as certified by the Secretary of Budget and Management; or

(4) (i) is a deputy clerk of the court at the time of application for retirement; and

(ii) was initially a deputy clerk of the court before July 22, 1981.

(d) (1) This subsection applies to a retiree who:

(i) retires as an elected or appointed official under this section; and

(ii) is appointed or elected to an office for which the State pays compensation.

(2) On the appointment or election of a retiree described in paragraph (1) of this subsection:

(i) the retiree's retirement allowance shall stop;

(ii) the retiree may rejoin the Employees' Retirement System;

(iii) the retiree shall make member contributions at the same rate the retiree paid before retirement; and

(iv) the Board of Trustees shall restore any creditable service or eligibility service to the retiree's credit at the time of retirement.

(3) Subject to paragraph (4) of this subsection, on subsequent retirement of a retiree described in paragraph (1) of this subsection, the Board of Trustees shall credit the retiree with all of the retiree's creditable service and eligibility service as a

member.

(4) The pension, on subsequent retirement, may not exceed the sum of:

(i) the pension the retiree was receiving during the previous retirement; and

(ii) the pension that has accrued on account of employment as a member after the previous retirement.

§22–405.

(a) Subject to subsection (d) of this section, if a Governor serves for at least:

(1) one full term, the Governor is entitled to receive a retirement allowance equal to one–third of the annual salary received by the current Governor in office; or

(2) two full terms, the Governor is entitled to receive a retirement allowance equal to one–half of the annual salary received by the current Governor in office.

(b) The Board of Trustees shall suspend a retirement allowance received under this section during any period when the former Governor is employed by a unit of State government.

(c) Except as provided in subsection (d) of this section, a Governor may not receive a retirement allowance under this subsection until the Governor is at least 62 years old.

(d) (1) A Governor who leaves office because of physical or mental disability, under Article II, Section 6(c) of the Maryland Constitution, shall immediately receive a disability retirement allowance equal to the amount the Governor would have received had the Governor completed the current term and become 62 years old.

(2) If the physical or mental disability ends before the former Governor becomes 62 years old, the Board of Trustees shall stop the disability retirement allowance, but the former Governor shall receive the normal retirement allowance at age 62 if otherwise qualified.

(e) On the death of a former Governor, the surviving spouse of the former Governor shall receive an allowance that is equal to one–half of the former Governor's retirement allowance.

(f) On the death of a Governor while in office, the deceased Governor's surviving spouse shall receive one–half of the retirement allowance that the deceased Governor would have been entitled to receive had the deceased Governor completed the current term and become 62 years old.

§22–406.

(a) In this section, "area of critical shortage" means an academic field identified by the State Department of Education in accordance with the provisions of § 18–703(g)(1) of the Education Article as having projected employment vacancies that substantially exceed projected qualified graduates.

(b) Except as provided in subsection (d) of this section, an individual who is receiving a service retirement allowance or vested allowance may accept employment with a participating employer on a permanent, temporary, or contractual basis, if:

(1) the individual immediately notifies the Board of Trustees of the individual's intention to accept this employment; and

(2) the individual specifies the compensation to be received.

(c) (1) Except as provided in § 22–407 of this subtitle, the Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (b) of this section if:

(i) the individual's current employer is a participating employer other than the State and is the same participating employer that employed the individual at the time of the individual's last separation from employment with a participating employer before the individual commenced receiving a service retirement allowance or vested allowance;

(ii) the individual's current employer is any unit of State government and the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance or vested allowance was also a unit of State government; or

(iii) the individual becomes reemployed within 12 months of receiving an early service retirement allowance under § 22–402 of this subtitle.

(2) (i) Except as provided in subparagraph (ii) of this paragraph and subject to subparagraph (iii) of this paragraph, the reduction required under paragraph (1) of this subsection shall equal:

1. the amount by which the sum of the individual's initial annual basic allowance and the individual's annual compensation exceeds the average final compensation used to compute the basic allowance; or

2. for a retiree who retired under the Workforce Reduction Act (Chapter 353 of the Acts of 1996), the amount by which the sum of the retiree's annual compensation and the retiree's annual basic allowance at the time of retirement, including the incentive provided by the Workforce Reduction Act, exceeds the average final compensation used to compute the basic allowance.

(ii) 1. This subparagraph applies to a retiree of the Teachers' Retirement System who as faculty received a 10–month salary and retired directly from:

A. the University System of Maryland;

B. Morgan State University;

C. St. Mary's College; or

D. a community college established or operating under Title 16 of the Education Article.

2. The reduction required under paragraph (1) of this subsection shall equal the amount by which the sum of the retiree's initial annual basic allowance and the retiree's annual compensation, as calculated in subsubparagraph 3 of this subparagraph, exceeds the average final compensation of the retiree used to compute the basic allowance.

3. The calculation of the retiree's annual compensation in subsubparagraph 2 of this subparagraph does not include any of the following earnings the retiree received during the previous calendar year from the employer with whom the retiree is reemployed:

A. bonuses;

B. overtime;

C. summer school salaries;

D. adult education salary;

E. additional temporary payments from special research projects;

F. honorariums; and

G. vehicle stipends.

(iii) 1. Any reduction taken to a retiree's allowance under this subsection may not exceed an amount that would reduce the retiree's allowance to less than what is required to be deducted for:

A. if the retiree retired from any unit of State government, the retiree's monthly State–approved medical insurance premiums; or

B. if the retiree retired from a participating employer other than the State, the approved monthly medical insurance premiums required by the participating employer that employed the retiree at the time of the retiree's retirement.

2. If a reduction for a calendar year taken under subsubparagraph 1 of this subparagraph is less than the reduction required under subparagraph (i) of this paragraph, the Board of Trustees shall recover from the retiree an amount equal to the reduction required under subparagraph (i) of this paragraph less the reduction taken under subsubparagraph 1 of this subparagraph.

(3) A reduction of an early service retirement allowance under paragraph (1)(iii) of this subsection shall be applied only until the individual has received an allowance for 12 months.

(4) Except for an individual whose allowance is subject to a reduction as provided under paragraphs (1)(iii) and (3) of this subsection, the reduction of an allowance under this subsection does not apply to:

(i) an individual who has been retired for 5 years, beginning on January 1 after the date the individual retires;

(ii) an individual whose average final compensation was less than $25,000 and who is reemployed on a permanent, temporary, or contractual basis;

(iii) an individual who is serving in an elected position as an official of a participating governmental unit or as a constitutional officer for a county that is a participating governmental unit;

(iv) a retiree of the Teachers' Retirement System:

1. who retired and was reemployed by a participating employer other than the State on or before September 30, 1994; and

2. whose employment compensation does not derive, in whole or in part, from State funds;

(v) a retiree of the Teachers' Retirement System who:

1. is or has been certified to teach in the State;

2. has verification of satisfactory or better performance in the last assignment prior to retirement;

3. based on the retired teacher's qualifications, has been appointed in accordance with § 4–103 of the Education Article; and

4. receives verification of satisfactory or better performance each year the teacher is employed under paragraph (5) of this subsection;

(vi) a retiree of the Teachers' Retirement System who:

1. A. was employed as a principal within 5 years of

retirement; or

B. was employed as a principal not more than 10 years before retirement and was employed in a position supervising principals in the retiree's last assignment prior to retirement;

2. has verification of satisfactory performance for each year as a principal and, if applicable, in a position supervising principals prior to retirement;

3. based on the retiree's qualifications, has been hired as a principal; and

4. receives verification of satisfactory performance each year the retiree is employed as a principal under paragraph (6) of this subsection;

(vii) a former employee of the Domestic Relations Division of Anne Arundel County Circuit Court who transfers into the State Employees' Personnel System under § 2–510 of the Courts Article;

(viii) a retiree of the Employees' Retirement System who is reemployed on a contractual basis by the Department of Health and Mental Hygiene as a health care practitioner, as defined in § 1–301 of the Health Occupations Article, in:

1. a State residential center as defined in § 7–101 of the Health – General Article;

2. a chronic disease center subject to Title 19, Subtitle 5 of the Health – General Article;

3. a State facility as defined in § 10–101 of the Health – General Article; or

4. a local health department subject to Title 3, Subtitle 2 of the Health – General Article;

(ix) a retiree of the Employees' Retirement System and the Judges' Retirement System who is temporarily assigned to sit in a court of this State under the authority of Article IV, § 3A of the Maryland Constitution; or

(x) a retiree of the Employees' Retirement System who is reemployed on a contractual basis for not more than 4 years as a parole and probation employee in a position authorized under Title 6, Subtitle 1 of the Correctional Services Article.

(5) (i) An individual who is rehired under paragraph (4)(v) of this subsection shall be employed as a classroom teacher, substitute classroom teacher, or teacher mentor in:

1. a public school that:

A. is not making adequate yearly progress or is a school in need of improvement as defined under the federal No Child Left Behind Act of 2001 and as implemented by the State Department of Education;

B. is receiving funds under Title 1 of the federal No Child Left Behind Act of 2001;

C. has more than 50% of the students attending that school who are eligible for free and reduced–price meals established by the United States Department of Agriculture; or

D. provides an alternative education program for adjudicated youths or students who have been expelled, suspended, or identified for suspension or expulsion from a public school; or

2. the Maryland School for the Deaf.

(ii) An individual rehired at a school described under subparagraph (i) of this paragraph shall teach:

1. in an area of critical shortage;

2. a special education class for students with special needs; or

3. a class for students with limited English proficiency.

(6) An individual who is rehired under paragraph (4)(vi) of this subsection shall be employed as a principal at:

(i) a public school that:

1. is not making adequate yearly progress or is a school in need of improvement as defined under the federal No Child Left Behind Act of 2001 and as implemented by the State Department of Education;

2. is receiving funds under Title 1 of the federal No Child Left Behind Act of 2001;

3. has more than 50% of the students attending that school who are eligible for free and reduced–price meals established by the United States Department of Agriculture; or

4. provides an alternative education program for adjudicated youths or students who have been expelled, suspended, or identified for suspension or expulsion from a public school; or

(ii) the Maryland School for the Deaf.

(7) An individual who is reemployed under paragraph (4)(v) or (vi) of this

subsection at a school described under paragraph (5) or (6) of this subsection may not continue that reemployment after the school makes adequate yearly progress for 4 consecutive years.

(8) (i) Notwithstanding paragraph (5) of this subsection, each superintendent of a local school system and the superintendent of the Maryland School for the Deaf may rehire an additional number of individuals described under paragraph (4)(v) of this subsection equal to the greater of:

1. five; or

2. 0.2% of the total full–time equivalent instructional teachers employed by that local school system or the Maryland School for the Deaf, rounded up to the nearest whole number not to exceed 15, as reported annually by the State Department of Education.

(ii) At any one time, the total number of individuals rehired by a superintendent of a local school system or the superintendent of the Maryland School for the Deaf under this paragraph may not exceed the number determined under subparagraph (i) of this paragraph.

(iii) An individual rehired under this paragraph:

1. A. shall be reemployed at a school specified in paragraph (5)(i) of this subsection; and

B. may teach any subject or class or provide educational services assigned by the individual's superintendent; or

2. A. may be reemployed at any school assigned by the individual's superintendent; and

B. shall teach a subject or class or provide educational services specified in paragraph (5)(ii) of this subsection.

(9) (i) The superintendent of the local school system or the superintendent of the Maryland School for the Deaf rehiring an individual under paragraph (4)(v) or (vi) of this subsection shall:

1. approve the rehiring of that individual; and

2. determine the school where the individual is to be reemployed.

(ii) Within 30 days after rehiring an individual, the superintendent of a local school system or the superintendent of the Maryland School for the Deaf shall complete and file with the Board of Trustees and the State Department of Education a form provided by the Board of Trustees that certifies that the individual rehired by the

local school system or the Maryland School for the Deaf under paragraph (4)(v) or (vi) of this subsection:

1. satisfied the criteria provided in paragraph (4)(v) or (vi) of this subsection;

2. was reemployed at a school described under paragraph (5)(i) or (6) of this subsection; and

3. if rehired under paragraph (4)(v) of this subsection, was:

A. teaching in an area specified in paragraph (5)(ii) of this subsection; or

B. teaching in any class or subject or providing educational services as provided under paragraph (8) of this subsection.

(iii) 1. On or before April 1 of each year, the Board of Trustees and the State Department of Education shall jointly review any forms filed by a superintendent of a local school system or the superintendent of the Maryland School for the Deaf under subparagraph (ii) of this paragraph during the previous calendar year.

2. If the Board of Trustees and the State Department of Education agree that a superintendent of a local school system or the Maryland School for the Deaf has rehired an individual that does not satisfy the criteria provided in paragraphs (4)(v) and (5), paragraphs (4)(vi) and (6), or paragraph (8) of this subsection:

A. on or before July 1 of the year of the finding, the Board of Trustees shall notify the superintendent of the local school system or the Maryland School for the Deaf of this individual; and

B. the local school system or the Maryland School for the Deaf shall reimburse the Board of Trustees the amount equal to the reduction to the individual's retirement allowance that would have been made in paragraph (2) of this subsection.

(iv) If a superintendent of a local school system or the superintendent of the Maryland School for the Deaf rehires an individual that satisfies the criteria provided in paragraphs (4)(v) or (vi) and (5), (6), or (8) of this subsection and the Board of Trustees and the State Department of Education do not receive certification from the superintendent in the time required under subparagraph (ii) of this paragraph:

1. on or before July 1 of the year of the finding, the Board of Trustees shall notify the superintendent of the local school system or the superintendent of the Maryland School for the Deaf of this individual; and

2. the local school system or the Maryland School for the Deaf shall pay the Board of Trustees $50 for each month the superintendent fails to submit the certification under subparagraph (ii) of this paragraph in the time required, not to exceed a total of $1,000 for each individual whose certification is not submitted in the time required.

(v) The local school system or the Maryland School for the Deaf shall make the reimbursement on or before December 31 of the year the local school system or the Maryland School for the Deaf receives notice from the Board of Trustees under subparagraph (iii)2A of this paragraph.

(10) On or before August 1 of each year, the local superintendent and the superintendent of the Maryland School for the Deaf shall report to the State Department of Education for the previous school year:

(i) the number of individuals rehired under paragraph (4)(v) or (vi) or (8) of this subsection;

(ii) 1. the school and school system where each individual was rehired; and

2. whether the school:

A. was not making adequate yearly progress or was a school in need of improvement as defined under the federal No Child Left Behind Act of 2001 and as implemented by the State Department of Education;

B. was receiving funds under Title 1 of the federal No Child Left Behind Act of 2001;

C. has more than 50% of the students attending that school who are eligible for free and reduced–price meals established by the United States Department of Agriculture; or

D. provided an alternative education program for adjudicated youths or students who have been expelled, suspended, or identified for suspension or expulsion from a public school;

(iii) the original date of rehire for each individual;

(iv) the subject matter taught by each individual;

(v) the annual salary of each individual; and

(vi) the percentage of student population composed of children in poverty that is required to be present in a school in that school system in order for that school to qualify as a Title 1 school.

(d) An individual who is receiving a service retirement allowance under this title may not be employed within 45 days of the date the individual retired, on a permanent, temporary, or contractual basis, by:

(1) the State or other participating employer; or

(2) a withdrawn participating governmental unit, if the retiree was an employee of the withdrawn participating governmental unit while the withdrawn governmental unit was a participating employer.

(e) An individual who is receiving a service retirement allowance or a vested allowance and who is reemployed by a participating employer may not receive creditable service or eligibility service during the period of reemployment.

(f) The individual's compensation during the period of reemployment may not be subject to the employer pickup provisions of § 21–303 of this article or any reduction or deduction as a member contribution for pension or retirement purposes.

(g) The State Retirement Agency shall institute appropriate reporting procedures with the affected payroll systems to ensure compliance with this section.

(h) (1) Immediately on the employment of any individual receiving a service retirement allowance or a vested allowance, a participating employer shall notify the State Retirement Agency of the type of employment and the anticipated earnings of the individual.

(2) At least once each year, in a format specified by the State Retirement Agency, each participating employer shall provide the State Retirement Agency with a list of all employees included on any payroll of the employer, the Social Security numbers of the employees, and their earnings for that year.

(i) The State Department of Education shall adopt regulations to carry out this section.

(j) At the request of the State Retirement Agency:

(1) a participating employer shall certify to the State Retirement Agency that it is not the same participating employer that employed an individual at the time of the individual's last separation from employment before the individual commenced receiving a service retirement allowance or a vested allowance; or

(2) a unit of State government shall certify to the State Retirement Agency that the individual was not employed by any unit of State government at the time of the individual's last separation from employment before the individual commenced receiving a service retirement allowance or a vested allowance.

(k) The Department of Health and Mental Hygiene shall notify the State Retirement Agency of any retirees who qualify under subsection (c)(4)(viii) of this

section.

(l) On or before September 1 of each year, the Secretary of Health and Mental Hygiene shall submit a report in accordance with § 2–1246 of the State Government Article to the Joint Committee on Pensions that provides:

(1) the number of rehired retirees under subsection (c)(4)(viii) of this section;

(2) the annual salary of each rehired retiree at the time of retirement and the current annual salary of each rehired retiree;

(3) the number of health care practitioners hired who are not retirees; and

(4) the annual salary of each health care practitioner who is hired.

(m) On or before October 1 of each year, the State Superintendent of Schools shall submit a report for the previous school year, to the Joint Committee on Pensions, in accordance with § 2–1246 of the State Government Article, that provides:

(1) the number of rehired retirees under subsection (c)(4)(v) and (vi) and (8) of this section;

(2) (i) the school and school system where each retiree was rehired; and

(ii) whether the school:

1. was not making adequate yearly progress or was a school in need of improvement as defined under the federal No Child Left Behind Act of 2001 and as implemented by the State Department of Education;

2. was receiving funds under Title 1 of the federal No Child Left Behind Act of 2001;

3. has more than 50% of the students attending that school who are eligible for free and reduced–price meals established by the United States Department of Agriculture; or

4. provided an alternative education program for adjudicated youths or students who have been expelled, suspended, or identified for suspension or expulsion from a public school;

(3) a copy of the annual staffing report generated by the State Superintendent of Schools in accordance with § 18–703(g)(1) of the Education Article certifying areas of critical shortage for the previous school year as evidenced by projected employment vacancies substantially exceeding projected qualified graduates;

(4) the subject matter that each rehired retiree was teaching;

(5) the salary of each rehired retiree;

(6) the total number of years each retiree has been reemployed at the school where the retiree was rehired for the previous school year; and

(7) the percentage of student population composed of children in poverty that is required to be present in a school in that school system in order for that school to qualify as a Title 1 school.

(n) On or before October 1 of each year, the Board of Trustees shall submit a report for the previous calendar year to the Joint Committee on Pensions, in accordance with § 2–1246 of the State Government Article, that provides:

(1) the number of individuals in each local school system that the Board of Trustees and the State Department of Education agree were rehired and did not satisfy the criteria provided in subsection (c)(4)(v) or (vi) and (5), (6), or (8) of this section; and

(2) any reimbursements a local school system made under subsection (c)(9)(iii) of this section.

(o) On or before September 1 of each year, the Secretary of Public Safety and Correctional Services shall submit a report in accordance with § 2–1246 of the State Government Article to the Joint Committee on Pensions that provides:

(1) the number of rehired retirees under subsection (c)(4)(x) of this section;

(2) the annual salary of each rehired retiree at the time of retirement and the current annual salary of each rehired retiree;

(3) the number of parole and probation employees hired who are not retirees; and

(4) the annual salary of each parole and probation employee who is hired.

§22–406.1.

(a) Notwithstanding § 22-406 of this subtitle and Chapter 703 of the Acts of 1994, if a retiree of the Employees' Retirement System who had an average final compensation of less than $10,000, retired from an elected position as an official of a participating governmental unit, retired with a service retirement allowance before July 1, 1994, has been reemployed in a permanent position as a State employee and would otherwise have been entitled to be restored to membership in the Employees' Retirement System except for the enactment of Chapter 703, the Board of Trustees shall, at the option of the retiree:

(1) restore the membership of the reemployed retiree;

(2) stop retirement allowance payments after the last day of the month

that membership is restored;

(3) restore previous creditable service and eligibility service to the account of the member; and

(4) on payment of the amounts required under subsection (b) of this section, credit the member with creditable service and eligibility service performed beginning the date of reemployment.

(b) On restoration of membership, the member shall reimburse the employees' retirement system for the retirement allowance payments made from the date of reemployment and shall pay the amount of member contributions the member would have made from the date of reemployment plus regular interest to the date of payment.

(c) If the member later retires or dies while employed by a participating employer, the Board of Trustees shall reduce the member's annuity reserve and pension reserve by the amount of payments made to the member during the member's earlier retirement less any amount that the member reimbursed the Employees' Retirement System for those payments.

§22–407.

(a) This section applies to an individual who:

(1) is eligible for membership in the Judges' Retirement System as provided in § 27–201(a) of this title; and

(2) (i) is receiving a service retirement allowance from the Employees' Retirement System at the time of appointment in item (1) of this subsection; or

(ii) 1. has earned a vested allowance from the Employees' Retirement System; and

2. begins receiving the vested allowance while serving as a judge described in item (1) of this subsection.

(b) An individual described in subsection (a) of this section may elect to receive service credit in the Judges' Retirement System.

(c) (1) An individual described in subsection (a) of this section who elects to receive service credit in the Judges' Retirement System under subsection (b) of this section shall complete and file a form provided by the Board of Trustees directing the Board of Trustees to suspend the individual's allowance while the individual is receiving service credit in the Judges' Retirement System.

(2) (i) An individual shall file a form described in paragraph (1) of this subsection with the Board of Trustees:

1. if the individual is receiving a service retirement allowance from the Employees' Retirement System prior to serving as a judge, at the time the individual becomes a member of the Judges' Retirement System; or

2. if the individual has earned a vested allowance from the Employees' Retirement System and becomes eligible to receive that allowance after the individual becomes a member of the Judges' Retirement System, at the time the individual applies to receive the vested allowance.

(ii) A temporary suspension under this subsection shall begin on the first day of the month following the month in which the Board of Trustees received the individual's request to temporarily suspend the allowance.

(d) An individual whose allowance is temporarily suspended under subsection (c) of this section is not subject to a reduction as provided in § 22–406 of this subtitle during the period the individual is serving as a judge.

(e) (1) On receiving satisfactory documentation that the individual is no longer serving as a judge, the Board of Trustees shall reinstate the individual's allowance with accumulated cost–of–living adjustments from the date the allowance was temporarily suspended.

(2) The individual's allowance will be reinstated on the first day of the month following the month in which the individual ceased serving as a judge.

(f) If an individual whose allowance is temporarily suspended dies while serving as a judge, the surviving spouse of the individual shall receive:

(1) survivorship benefits as provided in § 27–403 of this article; and

(2) if the surviving spouse is the individual's designated beneficiary, the survivorship benefits selected by the individual at the time of retirement from the Employees' Retirement System.

§22–408.

A member may be entitled to benefits under Title 29 of this article other than, or in addition to, the benefits provided under this subtitle.

§23–101.

This title applies only to:

(1) the Employees' Pension System; and

(2) the Teachers' Pension System.

§23–201.

(a) Except as provided in subsection (b) of this section, §§ 23–203 through 23–205 of this subtitle apply only to:

(1) a regular employee whose compensation is provided by State appropriation or paid from State funds;

(2) an appointed or elected official of the State, including:

(i) a clerk of the circuit court;

(ii) a register of wills;

(iii) a State's Attorney; and

(iv) a sheriff;

(3) an employee or official of a participating governmental unit who is eligible to participate under Title 31, Subtitle 1 of this article;

(4) an employee of the Office of the Sheriff of Baltimore City;

(5) an additional employee or agent of the State Racing Commission authorized by § 11–207 of the Business Regulation Article;

(6) a permanent employee of the board of supervisors of elections of a county;

(7) a full–time master in chancery or in juvenile causes who is appointed on or after July 1, 1989, in any county by the circuit court for that county;

(8) an employee of the Maryland Environmental Service who is a member of the Employees' Pension System on June 30, 1993, or transfers from the Employees' Retirement System on or after July 1, 1993;

(9) a former Baltimore City jail employee who became an employee of the Baltimore City Detention Center and a member of the Employees' Pension System on July 1, 1991;

(10) a nonfaculty employee of the Baltimore City Community College who:

(i) is a member of the Employees' Pension System on October 1, 2002;

(ii) transfers from the Employees' Retirement System on or after October 1, 2002;

(iii) transfers from the Teachers' Pension System in accordance with

§ 23–202.1 of this subtitle; or

(iv) becomes an employee of the Baltimore City Community College on or after October 1, 2002;

(11) a court reporter for the Circuit Court for Charles County who is a member of the Employees' Pension System on July 1, 1994, or transfers from the Employees' Retirement System on or after July 1, 1994;

(12) a staff employee of the University System of Maryland, Morgan State University, or St. Mary's College who is:

(i) a member of the Employees' Pension System on January 1, 1998, or transfers from the Employees' Retirement System on or after January 1, 1998; or

(ii) a staff employee of the University System of Maryland, Morgan State University, or St. Mary's College who becomes an employee on or after January 1, 1998;

(13) on or after the date that the Board of Education of Kent County begins participation in the Employees' Pension System, a supportive service employee of the Board of Education of Kent County;

(14) an employee of the Town of Oakland on or after the date that the Town of Oakland begins participation in the Employees' Pension System;

(15) an employee of the City of Frostburg on or after the date that the City of Frostburg begins participation in the Employees' Pension System;

(16) an employee of the Town of Berwyn Heights on or after the date that the Town of Berwyn Heights begins participation in the Employees' Pension System;

(17) an employee of the Town of Sykesville on or after the date that the Town of Sykesville begins participation in the Employees' Pension System;

(18) an employee of the Town of University Park on or after the date that the Town of University Park begins participation in the Employees' Pension System;

(19) an employee of the Maryland Automobile Insurance Fund on or after the date that the Maryland Automobile Insurance Fund begins participation in the Employees' Pension System; and

(20) an employee of the City of College Park on or after the date that the City of College Park begins participation in the Employees' Pension System.

(b) Sections 23–203 through 23–205 of this subtitle do not apply to:

(1) an individual who is or is entitled to be a member of any State system

other than the Employees' Pension System;

(2) a contractual, emergency, or temporary extra employee;

(3) an individual who is employed under a federal public service employment program;

(4) an assessor who is a member of a retirement or pension system operated by a political subdivision of the State;

(5) an employee of a local board of elections who chooses to stay in a local merit system under § 2–207 of the Election Law Article;

(6) a nonclerical or nonprofessional employee of the Baltimore City Community College who:

(i) was an employee of the New Community College of Baltimore during the 1989–1990 academic year;

(ii) was employed by the New Community College of Baltimore on or before December 31, 1990, as a "Class A" member of the Baltimore City Retirement Plan; and

(iii) elected to remain a member of the Baltimore City Retirement Plan;

(7) an employee who is not a member of a State system and who accepts a position for which the budgeted hours per fiscal year are less than 500 hours in the first fiscal year of employment;

(8) an employee of the Domestic Relations Division of the Anne Arundel County Circuit Court who:

(i) was transferred on or after July 1, 2002, into the State Personnel Management System as an employee of the Child Support Enforcement Administration of the Maryland Department of Human Resources;

(ii) elected, under § 2–510 of the Courts Article, to remain as a participant in the Anne Arundel County Retirement and Pension System; and

(iii) remains as an employee of the Child Support Enforcement Administration of the Maryland Department of Human Resources or an attorney employed to represent the Child Support Enforcement Administration;

(9) a nonfaculty employee of the Baltimore City Community College who is eligible to participate and elects to participate in an optional retirement program under Title 30 of this article;

(10) an appointed or elected official who on or after July 1, 2007, is a member of any other State or local retirement or pension system as defined under Title 37 of this article; or

(11) the Director of the Department of Social Services in Montgomery County who:

(i) was transferred into the State Personnel Management System as an employee of the Social Services Administration of the Maryland Department of Human Resources;

(ii) elected, under § 3–403.1 of the Human Services Article, to remain as a participant in the Montgomery County Employees' Retirement System; and

(iii) remains as an employee of the Social Services Administration of the Maryland Department of Human Resources.

§23–202.1.

A nonfaculty employee of the Baltimore City Community College who is a member of the Teachers' Pension System on October 1, 2002 may transfer membership to the Employees' Pension System on or before December 31, 2002.

§23–203.

Except as provided in § 23-204 of this subtitle, an individual described in § 23-201(a) of this subtitle who becomes an employee of a participating employer on or after January 1, 1980, or who transfers membership from the Employees' Retirement System, is a member of the Employees' Pension System as a condition of employment.

§23–204.

(a) (1) This subsection applies to an individual who on June 30, 2004, receives an annual salary and who is:

(i) an elected or appointed official;

(ii) an employee of the Governor's office;

(iii) an employee of the Senate or House of Delegates;

(iv) a member of the Prince George's County Board of License Commissioners; or

(v) an employee of Dorchester County who is not a member of the county's general pension and retirement program.

(2) Membership in the Employees' Pension System is optional for an individual under paragraph (1) of this subsection while the individual remains

employed in the position the individual held on June 30, 2004.

(3) (i) In lieu of membership in any other retirement or pension system operated under the laws of the State or any political subdivision of the State, an individual under paragraph (1)(i) of this subsection may elect to join the Employees' Pension System within 1 year of employment or July 1, 2008, whichever is later.

(ii) An individual under paragraph (1)(i) of this subsection who elects to join the Employees' Pension System under subparagraph (i) of this paragraph, may transfer from a State or local retirement or pension system to the Employees' Pension System in accordance with Title 37 of this article, any service credit earned while serving in that position.

(b) (1) This subsection does not apply to:

(i) an employee of the Town of Berwyn Heights;

(ii) the City of College Park; or

(iii) an individual employed by Prince George's County who is subject to the provisions of subsection (g) of this section.

(2) (i) Except as provided in paragraph (3) of this subsection, this subsection applies only to the employees of a participating governmental unit who:

1. are employed by the participating governmental unit on June 30, 2004; and

2. were employed by the participating governmental unit on the effective date of participation in the State systems.

(ii) Except as provided in paragraph (3) of this subsection, membership in the Employees' Pension System is optional for an individual under subparagraph (i) of this paragraph until the individual ceases employment with the participating governmental unit that was employing the individual on June 30, 2004.

(3) Membership in the Employees' Pension System is not optional for individuals who are:

(i) supportive service employees of the Board of Education of Kent County;

(ii) employees of the Town of Oakland;

(iii) employees of the City of Frostburg;

(iv) employees of the Town of Sykesville; or

(v) employees of the Town of University Park.

(c) (1) Subject to paragraph (2) of this subsection, membership in the Employees' Pension System is optional for an individual described in § 23–201(a)(2)(iv) of this subtitle who is elected or appointed as the Baltimore City Sheriff.

(2) An individual who is elected or appointed as the Baltimore City Sheriff and who does not elect to join the Employees' Pension System is a member of the Law Enforcement Officers' Pension System under Title 26 of this article as a condition of employment.

(3) To elect to be a member of the Employees' Pension System under this subsection, an individual shall file a written application with the State Retirement Agency.

(4) An individual who does not elect membership within 6 months of the date the individual begins serving as the Baltimore City Sheriff shall become a member of the Law Enforcement Officers' Pension System.

(d) (1) This subsection applies to an individual described in § 23–201(a)(2)(iv) of this subtitle who elects membership in the Employees' Pension System under this section.

(2) An individual described in paragraph (1) of this subsection may elect membership in the Law Enforcement Officers' Pension System if the county employing the individual elects to become an eligible governmental unit in the Law Enforcement Officers' Pension System in accordance with §§ 31–2A–02 through 31–2A–05 of this article.

(3) If an individual transfers to the Law Enforcement Officers' Pension System under this subsection, the eligible governmental unit is responsible for all employer contributions required for the individual under § 21–306.1 of this article.

(e) (1) This subsection applies only to an individual who is an employee of the Town of Berwyn Heights on June 30, 2008.

(2) Subject to paragraph (3) of this subsection, membership in the Employees' Pension System is optional for an individual described in paragraph (1) of this subsection who elects membership on July 1, 2008.

(3) To elect to be a member of the Employees' Pension System, an individual shall file a written application with the Board of Trustees on a form that the Board of Trustees provides.

(f) (1) This subsection applies only to an individual who is an employee of the City of College Park on June 30, 2014.

(2) Subject to paragraph (3) of this subsection, membership in the Employees' Pension System is optional for an individual described in paragraph (1) of this subsection who elects membership on July 1, 2014.

(3) To elect to be a member of the Employees' Pension System, an individual shall file a written application with the Board of Trustees on a form that the Board of Trustees provides.

(g) (1) This subsection applies to an individual who is employed by Prince George's County as:

(i) the Chief Administrative Officer;

(ii) a Deputy Chief Administrative Officer;

(iii) a director of a county office or department;

(iv) a County Council Administrator;

(v) a Deputy Director of a county office or department; or

(vi) an Executive Director.

(2) (i) Membership in the Employees' Pension System is optional for an individual who begins serving in a position listed in paragraph (1) of this subsection on or after July 1, 2014.

(ii) An individual described under subparagraph (i) of this paragraph who elects to join the Employees' Pension System shall make the election in writing on a form provided by the Board of Trustees and must file the form with the Board of Trustees within 1 year of employment.

(3) Membership in the Employees' Pension System is mandatory for:

(i) an individual who:

1. is employed in one of the positions listed under paragraph (1) of this subsection on or before June 30, 2014; and

2. is enrolled as a member of the Employees' Pension System; or

(ii) an individual described under paragraph (2)(i) of this subsection who elected to join the Employees' Pension System under paragraph (2)(ii) of this subsection.

(4) Membership in the Employees' Pension System is prohibited for an individual who:

(i) begins serving in a position listed in paragraph (1) of this subsection on or after July 1, 2004, but before July 1, 2014;

(ii) remains in a position listed in paragraph (1) of this subsection on

or after July 1, 2014; and

(iii) is not enrolled in the Employees' Pension System.

(5) (i) An individual's election under paragraph (2)(ii) of this subsection to join the Employees' Pension System or an individual's failure to elect to join the Employees' Pension System within the required time period is a one–time, irrevocable decision.

(ii) An individual employed in one of the positions listed under paragraph (1) of this subsection who does not elect to join the Employees' Pension System under paragraph (2)(ii) of this subsection may not join the Employees' Pension System while employed in one of the positions listed under paragraph (1) of this subsection.

(iii) An individual described under paragraph (4) of this subsection or subparagraph (ii) of this paragraph who changes employment to a different position under paragraph (1) of this subsection, whether or not a break in employment occurs, may not elect to join the Employees' Pension System.

(6) The Board of Trustees shall adopt regulations to implement this section.

§23–205.

If eligibility of an individual for membership in the Employees' Pension System is unclear, the Board of Trustees shall determine whether the individual is a member without regard to the method of payment of the individual's compensation.

§23–206.

(a) Except as provided in subsection (b) of this section, §§ 23-208 through 23-210 of this subtitle apply only to:

(1) an employee 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:

(i) a clerk;

(ii) a helping teacher;

(iii) a principal;

(iv) a superintendent;

(v) a supervisor; or

(vi) a teacher;

(2) a faculty employee of an educational institution supported by and under the control of the State;

(3) a librarian or clerical employee of a library that is established or operates under the Education Article;

(4) a professional or clerical employee of a community college that is established or operates under the Education Article;

(5) a staff employee of the University System of Maryland, Morgan State University, or St. Mary's College who is a member of the Teachers' Pension System as of January 1, 1998, or who transfers from the Teachers' Retirement System on or after January 1, 1998; or

(6) a nonfaculty employee of the Baltimore City Community College who:

(i) is a member of the Teachers' Pension System as of October 1, 2002 and does not transfer to the Employees' Pension System in accordance with § 23-202.1 of this subtitle; or

(ii) transfers from the Teachers' Retirement System on or after October 1, 2002.

(b) Sections 23-208 and 23-209 of this subtitle do not apply to:

(1) an individual who has elected to participate in an optional retirement program under Title 30 of this article;

(2) an individual who is employed under a federal public service employment program;

(3) a professional or clerical employee of the Department of Public Libraries of Montgomery County who is participating in the Employees' Retirement System of Montgomery County;

(4) a staff employee of the University System of Maryland, Morgan State University, or St. Mary's College who becomes employed on or after January 1, 1998 in a position as a staff employee of the educational institution that was eligible for membership in the Teachers' Retirement System or Teachers' Pension System under Chapter 6, § 8, paragraphs 1(a) and 2(a) of the Acts of 1994;

(5) an employee who is not a member of a State system and who accepts a position for which the budgeted hours per fiscal year are less than 500 hours in the first fiscal year of employment; or

(6) a nonfaculty employee of the Baltimore City Community College who becomes employed on or after October 1, 2002, or who transfers to the Employees' Pension System in accordance with § 23-202.1 of this subtitle.

§23–208.

Except as provided in § 23-209 of this subtitle, an individual described in § 23-206(a) of this subtitle who becomes employed by a participating employer on or after January 1, 1980, or who transfers membership from the Teachers' Retirement System, is a member of the Teachers' Pension System as a condition of employment.

§23–209.

The Board of Trustees may deny membership in the Teachers' Pension System to, or make membership optional for, any class of individuals described in § 23-206(a) of this subtitle whose:

(1) compensation is paid only partly by the State; or

(2) employment is temporary or on other than a yearly basis.

§23–210.

If eligibility of an individual for membership in the Teachers' Pension System is unclear, the Board of Trustees shall determine whether the individual is a member.

§23–211.

Membership continues for a member who is:

(1) on leave of absence approved by the Board of Trustees; or

(2) in the military service within the periods specified in Title 38 of this article.

§23–212.

(a) Except as otherwise provided in this section, a member's contribution rate is 5% of the part of the member's earnable compensation that exceeds the taxable wage base for each year.

(b) The contribution rate of a member who is subject to the contributory pension benefit under Part II of this subtitle is 2% of the member's earnable compensation.

(c) The contribution rate of a member who is subject to the Alternate Contributory Pension Selection under Part III of this subtitle is:

(1) 3% of the member's earnable compensation received from July 1, 2006 to June 30, 2007, both inclusive;

(2) 4% of the member's earnable compensation received from July 1, 2007 to June 30, 2008, both inclusive;

(3) 5% of the member's earnable compensation received from July 1, 2008 to June 30, 2011, both inclusive; and

(4) 7% of the member's earnable compensation received on or after July 1, 2011.

(d) The contribution rate of a member who is subject to the reformed contributory pension benefit under Part IV of this subtitle is 7% of the member's earnable compensation.

§23–213.

(a) Except as provided in subsection (b) of this section, regular interest is payable on member contributions at the rate of 5% per year compounded annually until retirement or withdrawal of contributions and interest.

(b) No further interest shall be paid on member contributions after membership ends if the former member is not eligible to receive a vested allowance under Title 29, Subtitle 3 of this article.

§23–214.

(a) This section applies to an individual who is:

(1) a member of the Teachers' Pension System;

(2) an employee of the Baltimore City Board of School Commissioners or another county board of education; and

(3) hired by a third party contractor to work in a school that is reconstituted by order of the Maryland State Board of Education.

(b) An individual who is hired by a third party contractor may withdraw the member's accumulated contributions, within the meaning of § 20-101(b) of this article, at any time while the individual is employed by the third party contractor to work in a school that is reconstituted by order of the Maryland State Board of Education.

(c) An individual who is hired by a third party contractor and subsequently becomes employed by the Baltimore City Board of School Commissioners or another county board of education at any time while the order of reconstitution is in effect and on termination of the contract with the third party contractor:

(1) is not subject to the provisions of § 23-215 of this subtitle;

(2) shall be reinstated as a member of the Teachers' Pension System;

(3) shall be entitled to restoration of any service credit to which the individual was entitled before employment by the third party contractor whether or

not the individual was vested; and

(4) shall redeposit any of the amounts withdrawn under subsection (b) of this section with regular interest to the date of redeposit or, 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.

(d) Except as provided in subsection (e) of this section, at any time before retirement, an individual may purchase service credit for a period of employment by a third party contractor to work in a school that is reconstituted by order of the Maryland State Board of Education if the individual:

(1) completes a claim for the service credit and files it with the Board of Trustees on a form that the Board of Trustees provides; and

(2) pays to the Board of Trustees in a single payment the member contributions the individual would have made for the period of employment for which service credit is being purchased plus regular interest to the date of payment.

(e) An individual may not purchase more than 5 years of service credit for the period of employment by a third party contractor to work in a school that is reconstituted by order of the Maryland State Board of Education.

§23–215.

(a) Except as provided in § 23–215.1 of this subtitle, 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;

(3) withdraws the member's accumulated contributions;

(4) becomes a retiree; or

(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.

§23–215.1.

(a) This section applies to a member who:

(1) on or before June 30, 2011, is subject to the Alternate Contributory

Pension Selection;

(2) (i) is separated from employment for 4 years or less; or

(ii) 1. is separated from employment for more than 4 years for military service that meets the requirements of the federal Uniformed Services Employment and Reemployment Rights Act; and

2. resumes employment within 1 year of leaving military service in a position that is included in the Employees' Pension System or Teachers' Pension System;

(3) does not withdraw the member's accumulated contributions; and

(4) does not become a retiree.

(b) A member described in subsection (a) of this section who on or before June 30, 2016, resumes employment in a position that is included in the Employees' Pension System or Teachers' Pension System, shall resume participation in the Alternate Contributory Pension Selection if the employer participates in the Alternate Contributory Pension Selection.

(c) On or before October 1, 2012, and each October 1 through October 1, 2016, the Board of Trustees shall submit a report in accordance with § 2–1246 of the State Government Article to the Joint Committee on Pensions that provides the number of members described under subsection (a) of this section who were:

(1) rehired in the preceding fiscal year into a position included in the Employees' Pension System or Teachers' Pension System; and

(2) participating in the Alternate Contributory Pension Selection.

§23–215.2.

If an individual was a member of any one of the several systems on June 30, 2011, and without incurring a break in employment of more than 30 days, becomes a member of the Employees' Pension System or the Teachers' Pension System on or after July 1, 2011, the individual:

(1) shall be considered to be a new member of the Employees' Pension System or the Teachers' Pension System as of the date the individual joins the system; and

(2) is subject to the same requirements to which an individual who was a member of the Employees' Pension System or the Teachers' Pension System on June 30, 2011, and remains a member on July 1, 2011, is subject.

§23–217.

(a) Except as provided in subsection (b) of this section, this Part II of this subtitle applies to an individual who is:

(1) a member of the Employees' Pension System or the Teachers' Pension System; or

(2) a member of the Employees' Retirement System or the Teachers' Retirement System subject to Selection C (Combination Formula) as provided in § 22-221 of this article.

(b) This Part II of this subtitle does not apply to an individual who is:

(1) an employee of:

(i) a participating governmental unit that has not elected the contributory pension benefit for its employees under § 31-116 of this article; or

(ii) a former participating governmental unit, other than Frederick County, that has withdrawn;

(2) a member of the Employees' Pension System or Teachers' Pension System who transferred from the Employees' Retirement System or Teachers' Retirement System after April 1, 1998; or

(3) a member who is subject to the Alternate Contributory Pension Selection under Part III of this subtitle.

§23–218.

A member who is subject to this Part II of this subtitle shall:

(1) receive an allowance for all creditable service as follows:

(i) for normal service retirement as provided in § 23–401(c) of this title;

(ii) for early service retirement as provided in § 23–402 of this title;

(iii) for ordinary disability retirement as provided in § 29–108 of this article; and

(iv) for accidental disability retirement as provided in § 29–110 of this article;

(2) have the allowance adjusted as provided in §§ 29–401, 29–402, 29–406, and 29–408 of this article; and

(3) make the member contributions at the rate specified in § 23–212(b) of this subtitle.

§23–221.

(a) In this section, "active member" means a member who is not separated from employment with the State or a participating employer of the State.

(b) Except as provided in subsection (d) of this section, this part applies to an individual who on or after June 30, 2006, is:

(1) an active member of the Employees' Pension System or the Teachers' Pension System; or

(2) a member of the Teachers' Retirement System or Employees' Retirement System who is subject to Selection C (Combination Formula) as provided in § 22–221 of this article.

(c) (1) This subsection applies to an individual who was an employee of the Somerset County Economic Development Commission on June 30, 2011, and who remains an employee through the effective date of participation for the Somerset County Economic Development Commission as a participating governmental unit.

(2) An individual described in paragraph (1) of this subsection shall be considered subject to the alternate contributory pension benefit under Part III of this subtitle in the same manner as an individual who was a member of the Employees' Pension System on June 30, 2011.

(d) This Part III does not apply to:

(1) an employee of a participating governmental unit participating in the Employees' Pension System that has not elected to participate in the Alternate Contributory Pension Selection under § 31–116.1 of this article or a former participating governmental unit, other than Frederick County, that has withdrawn from the Employees' Pension System; or

(2) a member of the Employees' Pension System or the Teachers' Pension System who transferred from the Employees' Retirement System or the Teachers' Retirement System after April 1, 1998.

§23–222.

A member who is subject to this part shall:

(1) receive an allowance for all creditable service as follows:

(i) for normal service retirement as provided in § 23-401(d) of this title;

(ii) for early service retirement as provided in § 23-402 of this title;

(iii) for ordinary disability retirement as provided in § 29-108 of this article; and

(iv) for accidental disability retirement as provided in § 29-110 of this article;

(2) have the allowance adjusted as provided in Title 29, Subtitle 4 of this article; and

(3) make the member contributions at the rate specified in § 23-212(c) of this subtitle.

§23–225.

(a) This Part IV of this subtitle (Reformed Contributory Pension Benefit) applies to:

(1) an individual who becomes a member of the Employees' Pension System or the Teachers' Pension System on or after July 1, 2011; and

(2) except as provided in § 23–215.1 of this subtitle, a member of the Employees' Pension System or Teachers' Pension System who separated from employment on or before June 30, 2011, and subsequently becomes employed in a position eligible for membership in the Employees' Pension System or the Teachers' Pension System on or after July 1, 2011.

(b) This Part IV does not apply to an employee of:

(1) a participating governmental unit that was participating in the Employees' Pension System prior to July 1, 2011, and that has not elected to participate in the Alternate Contributory Pension Selection under § 31–116.1 of this article; or

(2) a former participating governmental unit, other than Frederick County, that has withdrawn from the Employees' Pension System.

§23–226.

(a) Except as provided in subsection (b) of this section, a member who is subject to this Part IV of this subtitle shall:

(1) receive an allowance for all creditable service as follows:

(i) for normal service retirement as provided in § 23–401(f) of this title;

(ii) for early service retirement as provided in § 23–402(c) of this title;

(iii) for a vested allowance as provided in § 29–303(b–1) of this article;

(iv) for ordinary disability retirement as provided in § 29–108 of this article; and

(v) for accidental disability retirement as provided in § 29–110 of this article;

(2) have the allowance adjusted as provided in §§ 29–401, 29–402, and 29–408 of this article; and

(3) make the member contributions at the rate specified in § 23–212(d) of this subtitle.

(b) A member described in § 23–225(a)(2) of this subtitle is not subject to this Part IV of this subtitle with respect to the service credit earned in the member's previous membership.

§23–301.

A member of the Employees' Pension System or Teachers' Pension System is entitled to:

(1) eligibility service as provided in §§ 23-302 through 23-308 of this subtitle; and

(2) creditable service as provided in § 23-309 of this subtitle.

§23–302.

(a) Subject to subsections (b), (c), and (d) of this section, a member is entitled to eligibility service for periods of employment while a member of the Employees' Pension System or the Teachers' Pension System.

(b) The Board of Trustees may not allow more than 1 year of service credit for a calendar year.

(c) (1) If a member completes at least 500 hours of employment while a member in any fiscal year, the member is entitled to 1 year of eligibility service.

(2) Except in the first and last fiscal years or except as provided in subsection (d) of this section, a member may not receive any eligibility service for a fiscal year in which the member completes less than 500 hours of employment while a member.

(3) In the first and last fiscal years, if a member completes less than 500 hours of employment while a member, the Board of Trustees shall prorate the eligibility service based on the number of hours worked.

(d) If a member who is subject to the contributory pension benefit 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.

(a) In this section, "break in service" means a period of separation from employment in a fiscal year after the one in which a member first becomes employed, if during that fiscal year the member does not complete more than 350 hours of employment while a member.

(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 or the Alternate Contributory Pension Selection.

(c) A member is entitled to the eligibility service to which the member was entitled before the separation from employment if:

(1) the member has not incurred a break in service;

(2) the member was entitled to a vested allowance at the time of the separation from employment; or

(3) (i) the member has completed 1 year of eligibility service after a break in service; and

(ii) the number of consecutive years in which the member incurred a break in service is less than the years of eligibility service as a member before the break in service.

(d) To determine if a member is eligible for prior eligibility service under subsection (c)(3)(ii) of this section, the Board of Trustees shall determine the number of years of prior eligibility service:

(1) as of the day the member separated from employment; but

(2) excluding any eligibility service lost because of a prior break in service.

(e) When a member receives credit for eligibility service under subsection (c)

of this section from the other system, the member has no further rights in the other system.

§23–303.1.

(a) This section applies to a member of the Employees' Pension System or Teachers' Pension System who 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, Alternate Contributory Pension Selection, or Reformed Contributory Pension Benefit is entitled to combine the member's prior eligibility service 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 of the pension benefit or selection in which the member is earning service credit as an active member at the time the prior service credit is combined with the current service credit.

(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.

(d) (1) A member may combine the member's prior credit for eligibility service with the member's current service under this section if the member:

(i) completes a claim for the service credit and 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 combines credit for eligibility service under this section, the member has no further rights in the 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.

(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 noncontributory pension benefit in both the current and previous systems;

(ii) is subject to the contributory pension benefit in both the current and previous systems; or

(iii) is subject to the Alternate Contributory Pension Selection in both the current and previous systems.

§23–304.1.

(a) Except as provided in subsection (b) of this section, a member may not purchase service credit under this title if the member is separated from employment.

(b) (1) A member who is separated from employment may purchase service credit under this title for a leave of absence approved by the Board of Trustees under regulations that apply to all members, if the member purchases the service credit within 60 days after the expiration of the leave of absence.

(2) For good cause shown, the Executive Director, in the Executive Director's sole discretion, may extend the time period to purchase service credit under paragraph (1) of this subsection if:

(i) the purchased service credit would allow the member to meet the eligibility service requirements to apply for an ordinary disability retirement under § 29–105(a) of this article; and

(ii) the member completes the purchase of the service credit before the earlier of:

1. 4 years after the expiration of the leave of absence; or

2. the date membership ends.

(3) The Board of Trustees shall adopt regulations to carry out this subsection.

§23–305.

A member is entitled to eligibility service equal to the military service credit granted under Title 38 of this article.

§23–306.

(a) A member is entitled to eligibility service during a leave of absence if the leave of absence:

(1) is approved by the Board of Trustees under regulations that apply to all members similarly situated; and

(2) is not otherwise recognized as eligibility service under this subtitle.

(b) To receive service credit for a leave of absence described under subsection (a) of this section, a member shall pay the member contributions with regular interest, if any, as determined by the Board of Trustees under regulations that apply to all members similarly situated.

§23–306.1.

(a) (1) Except as provided in paragraph (2) of this subsection, a member of the Employees' Pension System who is an additional employee or agent of the State Racing Commission authorized by § 11-207 of the Business Regulation Article is entitled to eligibility service for any service on or after January 1, 1986 as an additional employee or agent of the State Racing Commission.

(2) For the purpose of computing benefits under this Division II, a member of the Employees' Pension System who is an additional employee or agent of the State Racing Commission authorized by § 11-207 of the Business Regulation Article is entitled to creditable service for service on or after the initial date of employment or July 1, 1991, whichever is later.

(b) If the Board of Trustees determines that the eligibility service and creditable service granted in subsection (a) of this section creates an unfunded liability to the Employees' Pension System, the licensees of the State Racing Commission shall pay, over a period of 25 years, an amount sufficient to amortize the unfunded liability.

§23–306.2.

(a) A member who is subject to the contributory pension benefit 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 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 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 on or before June 30, 2003;

(4) completes 1 year of employment as a member who is subject to the contributory pension benefit;

(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.

(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.

(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.

§23–307.

(a) (1) Except as provided in subsection (b) of this section, in the year of retirement, a member of the Employees' Pension System may purchase credit for eligibility service of up to 10 years for periods of employment described in paragraph (3) of this subsection for which the member is not otherwise entitled to service credit.

(2) To purchase service credit under this subsection, a member must:

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

(ii) pay to the Board of Trustees an amount equal to the annuity reserve and pension reserve required to fund the additional allowance.

(3) A member may only purchase service credit under this subsection for employment with:

(i) the State;

(ii) a political subdivision in the State;

(iii) an out–of–state school as a teacher;

(iv) the federal government;

(v) an out–of–state political subdivision;

(vi) a public or nonpublic school as a teacher; or

(vii) a postsecondary school as a teacher.

(b) (1) This subsection does not apply to an employee of a participating governmental unit or a former participating governmental unit that has withdrawn.

(2) In the year of retirement, a member of the Employees' Pension System may purchase credit for eligibility service for periods of employment with the State for which the member is not otherwise entitled to service credit in a State system.

(3) Except as provided in paragraph (4) of this subsection, a member who purchases service credit under this subsection, may not purchase:

(i) more than a total of 10 years of service credit in the Employees' Pension System;

(ii) service credit for any period of employment during which the member participated in the optional retirement program; or

(iii) more than a total of 5 years of service credit in the Employees' Pension System for employment as a postsecondary school teacher.

(4) To purchase service credit under this subsection, a member must:

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

(ii) pay to the Board of Trustees an amount equal to one-half of the annuity reserve and one-half of the pension reserve required to fund the additional allowance.

(c) (1) A member of the Employees' Pension System may purchase credit for

eligibility service for previous service in a position described in § 23-204(a) of this title.

(2) To purchase the service credit, the member must pay in a single payment, the contributions, with interest, that the Board of Trustees considers appropriate.

(d) (1) A member of the Employees' Pension System who is employed by a member of the State Senate or House of Delegates for at least 130 days per year as a legislative employee before becoming a member is considered to have been a permanent part-time legislative employee.

(2) A member described in paragraph (1) of this subsection may purchase credit for eligibility service for that period of legislative employment by paying to the Board of Trustees:

(i) for a period of employment on or before December 31, 1979, the sum of:

1. the amount that the member would have been required to contribute for that period of employment; and

2. interest on the member's contributions, compounded annually; and

(ii) for a period of employment on or after January 1, 1980, the sum of:

1. the amount that the member would have been required to contribute for that period of employment;

2. the amount that the State would have been required to contribute for the member for that period of employment; and

3. interest on the member's and State's contributions, compounded annually.

(3) The rate of interest to be paid under this subsection is the average for the 5 years preceding the year of payment of the yearly rate of interest computed as the sum of the investment income and the realized gains and losses divided by the book value of the total investments.

§23–307.1.

(a) This section applies only to a former member, member, retiree, or surviving beneficiary of the Employees' Pension System who, while a member, was an employee of a participating governmental unit that elected the contributory pension benefit for its employees under § 31-116 of this article.

(b) Except as provided in subsection (c) of this section, a member who is subject to the contributory pension benefit under Subtitle 2, Part II of this title may purchase credit for eligibility service for the period of employment from July 1, 1998, through the effective date of election of the member's participating employer, by paying to the Board of Trustees:

(1) on or before June 30, 2003, the amount the member would have been required to contribute for that period of employment; or

(2) on or after July 1, 2003, the amount the member would have been required to contribute for that period of employment plus regular interest compounded annually.

(c) If the member fails to make the payment as provided under subsection (b) of this section, the Board of Trustees shall reduce actuarially the allowance payable to a former member, retiree, or surviving beneficiary of a deceased member, former member, or retiree.

§23–307.2.

(a) This section applies only to a former member, member, retiree, or surviving beneficiary of the Employees' Pension System who, while a member, was an employee of Frederick County.

(b) Except as provided in subsection (d) of this section, a member who is subject to the contributory pension benefit under Subtitle 2, Part II of this title may purchase credit for eligibility service for the period of employment from July 1, 1998, through July 1, 2000, by paying to the Board of Trustees:

(1) on or before June 30, 2001, the amount the member would have been required to contribute for that period of employment; or

(2) on or after July 1, 2001, the amount the member would have been required to contribute for that period of employment plus regular interest compounded annually.

(c) Except as provided in subsection (d) of this section, a member who is subject to the Alternate Contributory Pension Selection under Subtitle 2, Part III of this title may purchase credit for eligibility service for the period of employment from July 1, 2006, through July 1, 2007, by paying to the Board of Trustees:

(1) on or before June 30, 2008, the amount the member would have been required to contribute for that period of employment; or

(2) on or after July 1, 2008, the amount the member would have been required to contribute for that period of employment plus regular interest compounded annually.

(d) If the member fails to make the payment as provided under subsection (b) or (c) of this section, the Board of Trustees shall reduce actuarially the allowance payable to a former member, retiree, or surviving beneficiary of a deceased member, former member, or retiree.

§23–307.3.

(a) (1) A member of the Employees' Pension System who as of July 1, 2001, has been employed by the State for at least 40 years on a full-time or part-time basis may purchase credit for eligibility service of up to 10 years for which the member is not otherwise entitled to service credit.

(2) This section does not apply to:

(i) an employee of a participating governmental unit or a former participating governmental unit that has withdrawn; or

(ii) any period of employment during which an individual participated in the optional retirement program.

(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 the form that the Board of Trustees provides; and

(ii) pay to the Board of Trustees the member contributions the member would have made for the period of employment for which service credit is being purchased plus regular interest to the date of payment.

(2) A member may pay the amount required by paragraph (1)(ii) of this subsection on an installment basis by contributing at least 2% of earnable compensation per year with the appropriate final adjustments being made in the year the member retires.

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

(c) (1) A member who purchases service credit under this section may not purchase more than a total of 10 years of service credit for periods of employment with the State.

(2) For service credit purchased under this section, a year or a part of a year of employment equals 1 year of service credit.

§23–307.4.

(a) This section applies only to a member of the Employees' Pension System who:

(1) was an employee of the State prior to November 1, 1996;

(2) as of November 1, 1996 was employed by a private vendor to provide child support enforcement services in Baltimore City; and

(3) resumed employment with the State as of November 1, 2002.

(b) A member described in subsection (a) of this section shall receive service credit for the time the member was employed by a private vendor to provide child support enforcement services in Baltimore City prior to July 1, 1998.

(c) (1) A member described in subsection (a) of this section is entitled to receive service credit for the time the member was employed by a private vendor to provide child support enforcement services in Baltimore City from July 1, 1998 through October 31, 2002.

(2) Prior to retirement, and subject to paragraph (3) of this subsection, a member who receives service credit under this subsection shall deposit in the annuity savings fund or other corresponding fund an amount of money equal to the contribution payments that the member would have paid had the member been a State employee, including regular interest on the contributions at the rate of 5% per year compounded annually.

(3) On retirement, the member's retirement allowance shall be reduced by the actuarial equivalent of the amount determined under paragraph (2) of this subsection if the member elects not to deposit this amount in the annuity savings or other corresponding fund.

§23–307.5.

(a) This section applies only to a former member, member, retiree, or surviving beneficiary of the Employees' Pension System who, while a member, was an employee of a participating governmental unit that elected the Alternate Contributory Pension Selection for its employees under § 31-116.1 of this article.

(b) Except as provided in subsection (c) of this section, a member who is subject to the Alternate Contributory Pension Selection under Subtitle 2, Part III of this title may purchase credit for eligibility service for the period of employment from July 1, 2006, through the effective date of election of the member's participating employer, by paying to the Board of Trustees:

(1) on or before June 30, 2007, the amount the member would have been required to contribute for that period of employment; or

(2) on or after July 1, 2007, the amount the member would have been required to contribute for that period of employment plus regular interest compounded annually.

(c) If the member fails to make the payment as provided under subsection (b) of this section, the Board of Trustees shall reduce actuarially the allowance payable to a former member, retiree, or surviving beneficiary of a deceased member, former member, or retiree.

§23–308.

(a) In the year of retirement, a member of the Teachers' Pension System may purchase credit for eligibility service for periods of employment described in subsection (f) of this section for which the member is not otherwise entitled to service credit.

(b) Except as provided in § 23–308.2 of this subtitle, to purchase service credit under this section, a member must:

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

(2) pay to the Board of Trustees an amount equal to the annuity reserve and pension reserve required to fund the additional allowance.

(c) A member may pay the amount required by subsection (b) of this section by transferring, on written request to the Board of Trustees, any prior contributions to a voluntary retirement benefit, less any costs of administering that benefit.

(d) A member who elects to make payments under subsection (c) of this section and who retires before completing the payments required to purchase this service credit:

(1) is entitled to receive the service credit purchased before the date of retirement; or

(2) may pay at the time of retirement the amount necessary to receive full credit.

(e) The surviving spouse of a member who elects to make payments under subsection (c) of this section may pay for the appropriate final adjustment if:

(1) the member dies while actively employed as a member; and

(2) the deceased member's service qualifies for a death benefit under § 29–206 of this article.

(f) A member may only purchase service credit under this section for employment:

(1) with an out–of–state public school;

(2) with the federal government;

(3) with a nonpublic school;

(4) with a political subdivision;

(5) as a postsecondary teacher;

(6) with the State;

(7) with a public school as a teacher; or

(8) as a Baltimore City teacher on or before December 31, 1970, on verified leave of absence of not more than 2 years that is similar in all respects to leaves of absence approved by the Board of Trustees.

(g) (1) Except as provided in paragraph (2) of this subsection, the total amount of service credit in the Teachers' Retirement System or Teachers' Pension System that a member may purchase under this section and § 23–308.2 of this subtitle may not exceed 10 years.

(2) A member who purchases service credit under this subsection may not purchase more than 5 years of service credit in the Teachers' Pension System for employment as a postsecondary school teacher.

§23–308.1.

(a) This section applies only to a former member, member, retiree, or surviving beneficiary of the Employees' Retirement System or the Teachers' Retirement System who is subject to the Selection C (Combination Formula) as provided in § 22-221 of this article and to Subtitle 2, Part II of this title.

(b) Except as provided in subsection (c) of this section, a member who is subject to the contributory pension benefit under Subtitle 2, Part II of this title may purchase credit for eligibility service for the period of employment from July 1, 1998 through June 30, 1999, or, if an employee of a participating governmental unit, from July 1, 1998 through the effective date of election of the member's participating employer, by paying to the Board of Trustees:

(1) on or before June 30, 2000, the amount the member would have been required to contribute for that period of employment; or

(2) on or after July 1, 2000, the amount the member would have been required to contribute for that period of employment plus regular interest compounded annually.

(c) If the member fails to make the payment as provided under subsection (b) of this section, the Board of Trustees shall reduce actuarially the allowance payable to a former member, retiree, or surviving beneficiary of a deceased member, former member, or retiree.

§23–308.2.

(a) For periods of employment as a member of the Teachers' Retirement System or the Teachers' Pension System for which the member is not otherwise entitled to service credit, a member of the Teachers' Pension System may purchase credit for eligibility service as provided in this section.

(b) The total amount of service credit in the Teachers' Retirement System or Teachers' Pension System that a member may purchase under this section and § 23-308 of this subtitle may not exceed 10 years.

(c) A member who purchases service credit under this section may not purchase service credit for any period of employment during which the member participated in the optional retirement program.

(d) To purchase service credit under this section, a member must:

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

(2) pay to the Board of Trustees an amount equal to one-half of the annuity reserve and one-half of the pension reserve required to fund the additional allowance.

§23–309.

(a) For the purpose of computing benefits under this title, creditable service consists of:

(1) eligibility service as adjusted under subsection (b) of this section; and

(2) credit for unused sick leave as provided in § 20-206 of this article and § 23-310 of this subtitle.

(b) (1) This subsection does not apply to eligibility service that consists of:

(i) service credit transferred from another retirement or pension system;

(ii) military service credit granted under Title 38 of this article; or

(iii) service credit purchased under this subtitle.

(2) The Board of Trustees shall adjust a member's eligibility service as provided in this subsection.

(3) (i) The Board of Trustees shall adopt regulations to determine for any fiscal year the amount of creditable service that equals the eligibility service for a member who has completed less than the normal hours of employment for the member's position.

(ii) The normal hours of employment for a position equals the minimum number of hours to be completed by a full-time employee serving in the member's position.

(iii) The creditable service recognized for a fiscal year may not be less than the eligibility service for the member multiplied by a fraction not to exceed 1 that has:

1. as its numerator, the number of hours of employment as a member that the member has completed during that year; and

2. as its denominator, the normal number of hours of employment for the member's position.

§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 or the Alternate Contributory Pension Selection; and

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

§23–401.

(a) Except as provided in subsection (f) of this section, a member may retire with a normal service retirement allowance if:

(1) the member completes and submits a written application to the Board of Trustees stating the date when the member desires to retire; and

(2) on or before the date of retirement, the member:

(i) has at least 30 years of eligibility service;

(ii) has a combined total of at least 30 years of eligibility service from the Employees' Pension System, the Teachers' Pension System, the Employees' Retirement System, or the Teachers' Retirement System; or

(iii) has attained the age and the years of eligibility service as follows:

Age		Years of Eligibility Service
62	with	5

63	with	4
64	with	3
65	or more with	2

(b) Except as provided in subsections (c), (d), (e), and (f) of this section, on retirement under this section, a member is entitled to receive a normal service retirement allowance that equals the number of years of the member's creditable service multiplied by:

(1) 0.8% of the member's average final compensation that is not in excess of the Social Security integration level; and

(2) 1.5% of the member's average final compensation that exceeds the Social Security integration level.

(c) Except as provided in subsection (e) of this section, on retirement under this section, a member who is subject to the contributory pension benefit under Subtitle 2, Part II of this title is entitled to receive a normal service retirement allowance that equals the sum of:

(1) the number of years of the member's creditable service on or after July 1, 1998 multiplied by 1.4% of the member's average final compensation; and

(2) the greater of:

(i) the number of years of the member's creditable service on or before June 30, 1998 multiplied by 1.2% of the member's average final compensation; or

(ii) the number of years of the member's creditable service on or before June 30, 1998 multiplied by:

1. 0.8% of the member's average final compensation that is not in excess of the Social Security integration level; and

2. 1.5% of the member's average final compensation that exceeds the Social Security integration level.

(d) Except as provided in subsection (e) of this section, a member who is subject to the Alternate Contributory Pension Selection under Subtitle 2, Part III of this title is entitled to receive a normal service retirement allowance that equals the sum of:

(1) the greater of:

(i) the number of years of the member's creditable service on or before June 30, 1998 multiplied by 1.2% of the member's average final compensation;

or

(ii) the number of years of the member's creditable service on or before June 30, 1998 multiplied by:

1. 0.8% of the member's average final compensation that is not in excess of the Social Security integration level; and

2. 1.5% of the member's average final compensation that exceeds the Social Security integration level; and

(2) the number of years of the member's creditable service on or after July 1, 1998 multiplied by 1.8% of the member's average final compensation.

(e) (1) This subsection applies only to a member who has a combined total of 30 years of eligibility service as provided in subsection (a)(2)(ii) of this section.

(2) A member is entitled to receive a normal service retirement allowance that equals:

(i) an allowance based on the creditable service the member earned in the Employees' Pension System;

(ii) an allowance based on the creditable service the member earned in the Employees' Retirement System;

(iii) an allowance based on the creditable service the member earned in the Teachers' Pension System; plus

(iv) an allowance based on the creditable service the member earned in the Teachers' Retirement System.

(f) (1) A member who begins membership on or after July 1, 2011, may retire with a normal service retirement allowance if:

(i) the member completes and submits a written application to the Board of Trustees stating the date when the member desires to retire; and

(ii) on or before the date of retirement, the member:

1. has at least 90 years of combined age and years of eligibility service; or

2. is at least 65 years old and has at least 10 years of eligibility service.

(2) A member who is subject to the reformed contributory pension benefit under Subtitle 2, Part IV of this title is entitled to receive a normal service retirement that equals the number of years of the member's creditable service multiplied by 1.5%

of the member's average final compensation.

§23–402.

(a) Except as provided in subsection (b) of this section, a member may retire with an early service retirement allowance if:

(1) the member completes and submits a written application to the Board of Trustees stating the date when the member desires to retire; and

(2) on or before the date of retirement, the member:

(i) has at least 15 years but less than 30 years of eligibility service; and

(ii) is at least 55 but less than 62 years old.

(b) A member who begins membership on or after July 1, 2011, may retire with an early service retirement allowance if:

(1) the member completes and submits a written application to the Board of Trustees stating the date when the member desires to retire; and

(2) on or before the date of retirement, the member:

(i) has at least 15 years of eligibility service; and

(ii) is at least 60 but less than 65 years old.

(c) (1) Except as provided in paragraph (2) of this subsection, on retirement under this section, a member is entitled to receive an early service retirement allowance that equals the normal service retirement allowance under § 23–401 of this subtitle, reduced by 0.5% for each month that the member's early retirement date precedes the date the member will be 62 years old.

(2) On retirement under this section, a member who begins membership on or after July 1, 2011, is entitled to receive an early service retirement allowance that equals the normal service retirement allowance to which the member would otherwise be entitled under § 23–401 of this subtitle, reduced by 0.5% for each month that the member's early retirement date precedes the date the member will be 65 years old.

§23–403.

(a) This section applies to a former member who:

(1) was eligible for a retirement allowance under § 23-401 or § 23-402 of this subtitle when the former member's membership terminated;

(2) did not submit a written application under § 23-401 or § 23-402 of this

subtitle before membership terminated; and

(3) has not withdrawn the former member's accumulated contributions, if any.

(b) (1) A former member described in subsection (a) of this section may retire with a retirement allowance under § 23-401 or § 23-402 of this subtitle on the first day of the month after the Board of Trustees receives a written application for retirement from the former member.

(2) A former member who retires under this section may not receive benefits for the period before the former member submitted a completed application for retirement to the Board of Trustees.

§23–404.

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

(2) "Appointed official" means an individual appointed to a public office of the State who meets the legal criteria for an appointed official as determined by the Office of the Attorney General.

(3) "Unclassified service of the State" means the unclassified service in the State Personnel Management System or a comparable position in an independent personnel system of a participating employer.

(b) The Board of Trustees shall pay a member of the Employees' Pension System who qualifies under subsection (c) of this section a normal service retirement allowance, regardless of age, if the member:

(1) has at least 16 years of creditable service; and

(2) elects to have the member's accumulated contributions paid as an annuity of equivalent actuarial value instead of withdrawing the accumulated contributions.

(c) A member qualifies for a normal service retirement allowance under subsection (b) of this section if the member:

(1) (i) is an elected or appointed official of the State at the time of application for retirement; and

(ii) was initially an elected or appointed official of the State before July 22, 1981;

(2) (i) is an elected or appointed official of the State when separating from employment;

(ii) was initially an elected or appointed official of the State during the period from July 22, 1981, through June 30, 1982, both inclusive; and

(iii) separated from employment involuntarily, as certified by the Secretary of Budget and Management;

(3) (i) was promoted to a position in the unclassified service of the State on or before June 30, 1982;

(ii) has been in the unclassified service or its equivalent in the State continuously from June 30, 1982, until separating from employment; and

(iii) separated from employment involuntarily, as certified by the Secretary of Budget and Management; or

(4) (i) is a deputy clerk of the court at the time of application for retirement; and

(ii) was initially a deputy clerk of the court before July 22, 1981.

(d) (1) This subsection applies to a retiree who:

(i) retires as an elected or appointed official under this section; and

(ii) is appointed or elected to an office for which the State pays the compensation.

(2) On the appointment or election of a retiree described in paragraph (1) of this subsection:

(i) the retiree's retirement allowance shall stop;

(ii) the retiree may rejoin the Employees' Pension System;

(iii) the retiree shall make member contributions as provided in this title; and

(iv) the Board of Trustees shall restore any creditable service or eligibility service to the retiree's credit at the time of retirement.

(3) Subject to paragraph (4) of this subsection, on subsequent retirement of a retiree described in paragraph (1) of this subsection, the Board of Trustees shall credit the retiree with all of the retiree's creditable service and eligibility service as a member.

(4) The allowance, on the subsequent retirement, may not exceed the sum of:

(i) the allowance the retiree was receiving during the previous

retirement; and

(ii) the allowance that has accrued on account of creditable service earned after the previous retirement.

§23–405.

(a) When a member of the Employees' Retirement System or the Teachers' Retirement System transfers on or before December 31, 2004, to the Employees' Pension System or the Teachers' Pension System, the Board of Trustees shall allocate any amounts transferred from the Annuity Savings Fund as provided in subsections (b) and (c) of this section.

(b) (1) This subsection does not apply to a member's employer pickup contributions.

(2) A member who transfers to a pension system under subsection (a) of this section is eligible to receive within 90 days after the date of transfer a refund of the member contributions described in paragraph (3) of this subsection, plus interest computed as provided in paragraph (5) of this subsection, unless the member elects to have any part of the member contributions described in paragraph (3) of this subsection transferred as additional contributions to the annuity savings fund of the pension system to which the member is transferring.

(3) The amount to be refunded under this subsection is the amount obtained by multiplying the total of the member contributions attributed to that member by a fraction not exceeding 1, that has:

(i) as its numerator, the member's average taxable wage base for the 3 calendar years immediately preceding the calendar year of transfer; and

(ii) as its denominator, the average of the member's annual earnable compensation as of the end of the preceding 3 fiscal years.

(4) The Board of Trustees shall transfer for the member's benefit the balance, if any, of the member's contributions plus regular interest to the annuity savings fund of the pension system to which the member is transferring.

(5) (i) The interest rate to be applied to the member contributions under paragraph (2) of this subsection is the average rate of interest, compounded yearly, for the 5 fiscal years preceding the calendar year of transfer.

(ii) The rate of interest for each fiscal year that is used to compute the average rate of interest under subparagraph (i) of this paragraph equals the sum of the investment income and the realized gains and losses divided by the book value of the total investments.

(c) (1) If a member transfers to a pension system under subsection (a) of

this section, the Board of Trustees shall transfer the member's employer pickup contributions for the member's benefit to the annuity savings fund of the pension system to which the member is transferring.

(2) The Board of Trustees shall transfer:

(i) as additional contributions, the part of a member's employer pickup contributions obtained by multiplying the member's total employer pickup contributions as of the date of transfer by the fraction specified in subsection (b)(3) of this section, plus interest computed as provided in paragraph (3) of this subsection; and

(ii) as member contributions, any balance of the member's employer pickup contributions plus regular interest.

(3) (i) The interest rate to be applied to the member contributions under paragraph (2) of this subsection is the average rate of interest, compounded yearly, for the 5 fiscal years preceding the calendar year of transfer.

(ii) The rate of interest for each fiscal year that is used to compute the average rate of interest under subparagraph (i) of this paragraph equals the sum of the investment income and the realized gains and losses divided by the book value of the total investments.

(d) On retirement or other withdrawal from service on the basis of which an allowance is payable, the member's additional contributions, including any employer pickup contributions transferred as additional contributions, with interest, shall be paid either in cash or as an additional allowance equal to an annuity that is the actuarial equivalent of that amount, in the same manner as the benefit otherwise payable under the Employees' Pension System or Teachers' Pension System.

§23–406.

(a) The Board of Trustees shall reduce a member's allowance if the member:

(1) received any accumulated contributions, other than additional contributions, in connection with a prior separation from employment;

(2) is credited with prior eligibility service; and

(3) does not repay, with interest to the date of retirement, the amount received.

(b) A reduction under subsection (a) of this section shall equal the actuarial equivalent of the amount, including interest, that is not repaid.

§23–407.

(a) In this section, "area of critical shortage" means an academic field identified by the State Department of Education in accordance with the provisions of § 18–703(g)(1) of the Education Article as having projected employment vacancies that substantially exceed projected qualified graduates.

(b) Except as provided in subsection (d) of this section, an individual who is receiving a service retirement allowance or a vested allowance may accept employment with a participating employer on a permanent, temporary, or contractual basis, if:

(1) the individual immediately notifies the Board of Trustees of the individual's intention to accept this employment; and

(2) the individual specifies the compensation to be received.

(c) (1) Except as provided in § 23–408 of this subtitle, the Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (b) of this section if:

(i) the individual's current employer is a participating employer other than the State and is the same participating employer that employed the individual at the time of the individual's last separation from employment with a participating employer before the individual commenced receiving a service retirement allowance or vested allowance;

(ii) the individual's current employer is any unit of State government and the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance or vested allowance was also a unit of State government; or

(iii) the individual becomes reemployed within 12 months of receiving an early service retirement allowance or an early vested allowance computed under § 23–402 of this subtitle.

(2) (i) Except as provided in subparagraph (ii) of this paragraph and subject to subparagraph (iii) of this paragraph, the reduction required under paragraph (1) of this subsection shall equal:

1. the amount by which the sum of the individual's initial annual basic allowance and the individual's annual compensation exceeds the average final compensation used to compute the basic allowance; or

2. for a retiree who retired under the Workforce Reduction Act (Chapter 353 of the Acts of 1996), the amount by which the sum of the retiree's annual compensation and the retiree's annual basic allowance at the time of retirement, including the incentive provided by the Workforce Reduction Act, exceeds the average final compensation used to compute the basic allowance.

(ii) 1. This subparagraph applies to a retiree of the Teachers' Pension System who as faculty receiving a 10–month salary, retired directly from:

A. the University System of Maryland;

B. Morgan State University;

C. St. Mary's College; or

D. a community college established or operating under Title 16 of the Education Article.

2. The reduction required under paragraph (1) of this subsection shall equal the amount by which the sum of the retiree's initial annual basic allowance and the retiree's annual compensation, as calculated in subsubparagraph 3 of this subparagraph, exceeds the average final compensation of the retiree used to compute the basic allowance.

3. The calculation of the retiree's annual compensation in subsubparagraph 2 of this subparagraph does not include any of the following earnings the retiree received during the previous calendar year from the employer with whom the retiree is reemployed:

A. bonuses;

B. overtime;

C. summer school salaries;

D. adult education salary;

E. additional temporary payments from special research projects;

F. honorariums; and

G. vehicle stipends.

(iii) 1. Any reduction taken to a retiree's allowance under this subsection may not exceed an amount that would reduce the retiree's allowance to less than what is required to be deducted for:

A. if the retiree retired from any unit of State government, the retiree's monthly State–approved medical insurance premiums; or

B. if the retiree retired from a participating employer other than the State, the approved monthly medical insurance premiums required by the participating employer that employed the retiree at the time of the retiree's retirement.

2. If a reduction for a calendar year taken under subsubparagraph 1 of this subparagraph is less than the reduction required under subparagraph (i) of this paragraph, the Board of Trustees shall recover from the retiree an amount equal to the reduction required under subparagraph (i) of this paragraph less the reduction taken under subsubparagraph 1 of this subparagraph.

(3) A reduction of an early service retirement allowance or an early vested allowance under paragraph (1)(iii) of this subsection shall be applied only until the individual has received an allowance for 12 months.

(4) Except for an individual whose allowance is subject to a reduction as provided under paragraphs (1)(iii) and (3) of this subsection, the reduction of an allowance under this subsection does not apply to:

(i) an individual whose average final compensation was less than $25,000 and who is reemployed on a permanent, temporary, or contractual basis;

(ii) an individual who is serving in an elected position as an official of a participating governmental unit or as a constitutional officer for a county that is a participating governmental unit;

(iii) an individual who has been retired for 5 years, beginning on January 1 after the date the individual retires;

(iv) a retiree of the Teachers' Pension System who:

1. is or has been certified to teach in the State;

2. has verification of satisfactory or better performance in the last assignment prior to retirement;

3. based on the retired teacher's qualifications, has been appointed in accordance with § 4–103 of the Education Article; and

4. receives verification of satisfactory or better performance each year the teacher is employed under paragraph (5) of this subsection;

(v) a retiree of the Teachers' Pension System who:

1. A. was employed as a principal within 5 years of retirement; or

B. was employed as a principal not more than 10 years before retirement and was employed in a position supervising principals in the retiree's last assignment prior to retirement;

2. has verification of satisfactory performance for each year as a principal and, if applicable, in a position supervising principals prior to retirement;

3. based on the retiree's qualifications, has been hired as a principal; and

4. receives verification of satisfactory performance each year the retiree is employed as a principal under paragraph (6) of this subsection;

(vi) a retiree of the Employees' Pension System who is reemployed on a contractual basis by the Department of Health and Mental Hygiene as a health care practitioner, as defined in § 1–301 of the Health Occupations Article in:

1. a State residential center as defined in § 7–101 of the Health – General Article;

2. a chronic disease center subject to Title 19, Subtitle 5 of the Health – General Article;

3. a State facility as defined in § 10–101 of the Health – General Article; or

4. a local health department subject to Title 3, Subtitle 2 of the Health – General Article;

(vii) a retiree of the Employees' Pension System and the Judges' Retirement System who is temporarily assigned to sit in a court of this State under the authority of Article IV, § 3A of the Maryland Constitution; or

(viii) a retiree of the Employees' Pension System who is reemployed on a contractual basis for not more than 4 years as a parole and probation employee in a position authorized under Title 6, Subtitle 1 of the Correctional Services Article.

(5) (i) An individual who is rehired under paragraph (4)(iv) of this subsection shall be employed as a classroom teacher, substitute classroom teacher, or teacher mentor in:

1. a public school that:

A. is not making adequate yearly progress or is a school in need of improvement as defined under the federal No Child Left Behind Act of 2001 and as implemented by the State Department of Education;

B. is receiving funds under Title 1 of the federal No Child Left Behind Act of 2001;

C. has more than 50% of the students attending that school who are eligible for free and reduced–price meals established by the United States Department of Agriculture; or

D. provides an alternative education program for adjudicated

youths or students who have been expelled, suspended, or identified for suspension or expulsion from a public school; or

2. the Maryland School for the Deaf.

(ii) An individual rehired at a school described under subparagraph (i) of this paragraph shall teach:

1. in an area of critical shortage;

2. a special education class for students with special needs; or

3. a class for students with limited English proficiency.

(6) An individual who is rehired under paragraph (4)(v) of this subsection shall be employed as a principal at:

(i) a public school that:

1. is not making adequate yearly progress or is a school in need of improvement as defined under the federal No Child Left Behind Act of 2001 and as implemented by the State Department of Education;

2. is receiving funds under Title 1 of the federal No Child Left Behind Act of 2001;

3. has more than 50% of the students attending that school who are eligible for free and reduced–price meals established by the United States Department of Agriculture; or

4. provides an alternative education program for adjudicated youths or students who have been expelled, suspended, or identified for suspension or expulsion from a public school; or

(ii) the Maryland School for the Deaf.

(7) An individual who is reemployed under paragraph (4)(iv) or (v) of this subsection at a school described under paragraph (5) or (6) of this subsection may not continue that reemployment after the school makes adequate yearly progress for 4 consecutive years.

(8) (i) Notwithstanding paragraph (5) of this subsection, each superintendent of a local school system and the superintendent of the Maryland School for the Deaf may rehire an additional number of individuals described under paragraph (4)(v) of this subsection equal to the greater of:

1. five; or

2. 0.2% of the total full–time equivalent instructional teachers

employed by that local school system or the Maryland School for the Deaf, rounded up to the nearest whole number not to exceed 15, as reported annually by the State Department of Education.

(ii) At any one time, the total number of individuals rehired by a superintendent of a local school system or the superintendent of the Maryland School for the Deaf under this paragraph may not exceed the number determined under subparagraph (i) of this paragraph.

(iii) An individual rehired under this paragraph:

1. A. shall be reemployed at a school specified in paragraph (5)(i) of this subsection; and

B. may teach any subject or class or provide educational services assigned by the individual's superintendent; or

2. A. may be reemployed at any school assigned by the individual's superintendent; and

B. shall teach a subject or class or provide educational services specified in paragraph (5)(ii) of this subsection.

(9) (i) The superintendent of the local school system or the superintendent of the Maryland School for the Deaf rehiring an individual under paragraph (4)(iv) or (v) of this subsection shall:

1. approve the rehiring of that individual; and

2. determine the school where the individual is to be reemployed.

(ii) Within 30 days after rehiring an individual, the superintendent of a local school system or the superintendent of the Maryland School for the Deaf shall complete and file with the Board of Trustees and the State Department of Education a form provided by the Board of Trustees that certifies that the individual rehired by the local school system or the Maryland School for the Deaf under paragraph (4)(iv) or (v) of this subsection:

1. satisfied the criteria provided in paragraph (4)(iv) or (v) of this subsection;

2. was reemployed at a school described under paragraph (5)(i) or (6) of this subsection; and

3. if rehired under paragraph (4)(iv) of this subsection, was:

A. teaching in an area specified in paragraph (5)(ii) of this

subsection; or

B. teaching in any class or subject or providing educational services as provided under paragraph (8) of this subsection.

(iii) 1. On or before April 1 of each year, the Board of Trustees and the State Department of Education shall jointly review any forms filed by a superintendent of a local school system or the superintendent of the Maryland School for the Deaf under subparagraph (ii) of this paragraph.

2. If the Board of Trustees and the State Department of Education agree that a superintendent of a local school system or the Maryland School for the Deaf has rehired an individual that does not satisfy the criteria provided in paragraphs (4)(iv) and (5), paragraphs (4)(v) and (6), or paragraph (8) of this subsection:

A. on or before July 1 of the year of the finding, the Board of Trustees shall notify the superintendent of the local school system or the Maryland School for the Deaf of this individual; and

B. the local school system or the Maryland School for the Deaf shall reimburse the Board of Trustees the amount equal to the reduction to the individual's retirement allowance that would have been made in paragraph (2) of this subsection.

(iv) If a superintendent of a local school system or the superintendent of the Maryland School for the Deaf rehires an individual that satisfies the criteria provided in paragraphs (4)(iv) or (v) and (5), (6), or (8) of this subsection and the Board of Trustees and the State Department of Education do not receive certification from the superintendent in the time required under subparagraph (ii) of this paragraph:

1. on or before July 1 of the year of the finding, the Board of Trustees shall notify the superintendent of the local school system or the superintendent of the Maryland School for the Deaf of this individual; and

2. the local school system or the Maryland School for the Deaf shall pay the Board of Trustees $50 for each month the superintendent fails to submit the certification under subparagraph (ii) of this paragraph in the time required, not to exceed a total of $1,000 for each individual whose certification is not submitted in the time required.

(v) The local school system or the Maryland School for the Deaf shall make the reimbursement on or before December 31 of the year the local school system or the Maryland School for the Deaf receives notice from the Board of Trustees under subparagraph (iii)2A of this paragraph.

(10) On or before August 1 of each year, the local superintendent and the superintendent of the Maryland School for the Deaf shall report to the State

Department of Education for the previous school year:

(i) the number of individuals rehired under paragraph (4)(iv) or (v) or (8) of this subsection;

(ii) 1. the school and school system where each individual was rehired; and

2. whether the school:

A. was not making adequate yearly progress or was a school in need of improvement as defined under the federal No Child Left Behind Act of 2001 and as implemented by the State Department of Education;

B. was receiving funds under Title 1 of the federal No Child Left Behind Act of 2001;

C. has more than 50% of the students attending that school who are eligible for free and reduced–price meals established by the United States Department of Agriculture; or

D. provided an alternative education program for adjudicated youths or students who have been expelled, suspended, or identified for suspension or expulsion from a public school;

(iii) the original date of rehire for each individual;

(iv) the subject matter taught by each individual;

(v) the annual salary of each individual; and

(vi) the percentage of student population composed of children in poverty that is required to be present in a school in that school system in order for that school to qualify as a Title 1 school.

(d) An individual who is receiving a service retirement allowance under this title may not be employed within 45 days of the date the individual retired, on a permanent, temporary, or contractual basis, by:

(1) the State or other participating employer; or

(2) a withdrawn participating governmental unit, if the retiree was an employee of the withdrawn participating governmental unit while the withdrawn governmental unit was a participating employer.

(e) An individual who is receiving a service retirement allowance or a vested allowance and who is reemployed by a participating employer may not receive creditable service or eligibility service during the period of reemployment.

(f) The individual's compensation during the period of reemployment may not be subject to the employer pickup provisions of § 21–303 of this article or any reduction or deduction as a member contribution for pension or retirement purposes.

(g) The State Retirement Agency shall institute appropriate reporting procedures with the affected payroll systems to ensure compliance with this section.

(h) (1) Immediately on the employment of any individual receiving a service retirement allowance or a vested allowance, a participating employer shall notify the State Retirement Agency of the type of employment and the anticipated earnings of the individual.

(2) At least once each year, in a format specified by the State Retirement Agency, each participating employer shall provide the State Retirement Agency with a list of all employees included on any payroll of the employer, the Social Security numbers of the employees, and their earnings for that year.

(i) The State Department of Education shall adopt regulations to carry out this section.

(j) At the request of the State Retirement Agency:

(1) a participating employer shall certify to the State Retirement Agency that it is not the same participating employer that employed an individual at the time of the individual's last separation from employment before the individual commenced receiving a service retirement allowance or a vested allowance; or

(2) a unit of State government shall certify to the State Retirement Agency that the individual was not employed by any unit of State government at the time of the individual's last separation from employment before the individual commenced receiving a service retirement allowance or a vested allowance.

(k) The Department of Health and Mental Hygiene shall notify the State Retirement Agency of any retirees who qualify under subsection (c)(4)(vi) of this section.

(l) On or before September 1 of each year, the Secretary of Health and Mental Hygiene shall submit a report in accordance with § 2–1246 of the State Government Article to the Joint Committee on Pensions that provides:

(1) the number of rehired retirees under subsection (c)(4)(vi) of this section;

(2) the annual salary of each rehired retiree at the time of retirement and the current annual salary of each rehired retiree;

(3) the number of health care practitioners hired who are not retirees; and

(4) the annual salary of each health care practitioner who is hired.

(m) On or before October 1 of each year, the State Superintendent of Schools shall submit a report for the previous school year, to the Joint Committee on Pensions, in accordance with § 2–1246 of the State Government Article, that provides:

(1) the number of rehired retirees under subsection (c)(4)(iv) and (v) and (8) of this section;

(2) (i) the school and school system where each retiree was rehired; and

(ii) whether the school:

1. was not making adequate yearly progress or was a school in need of improvement as defined under the federal No Child Left Behind Act of 2001 and as implemented by the State Department of Education;

2. was receiving funds under Title 1 of the federal No Child Left Behind Act of 2001;

3. has more than 50% of the students attending that school who are eligible for free and reduced–price meals established by the United States Department of Agriculture; or

4. provided an alternative education program for adjudicated youths or students who have been expelled, suspended, or identified for suspension or expulsion from a public school;

(3) a copy of the annual staffing report generated by the State Superintendent of Schools in accordance with § 18–703(g)(1) of the Education Article certifying areas of critical shortage for the previous school year as evidenced by projected employment vacancies substantially exceeding projected qualified graduates;

(4) the subject matter that each rehired retiree was teaching;

(5) the salary of each rehired retiree;

(6) the total number of years each retiree has been reemployed at the school where the retiree was rehired for the previous school year; and

(7) the percentage of student population composed of children in poverty that is required to be present in a school in that school system in order for that school to qualify as a Title 1 school.

(n) On or before October 1 of each year, the Board of Trustees shall submit a report for the previous calendar year to the Joint Committee on Pensions, in accordance with § 2–1246 of the State Government Article, that provides:

(1) the number of individuals in each local school system that the Board of Trustees and the State Department of Education agree were rehired and did not satisfy the criteria provided in subsection (c)(4)(iv) or (v) and (5), (6), or (8) of this section; and

(2) any reimbursements a local school system made under subsection (c)(9)(ii) of this section.

(o) On or before September 1 of each year, the Secretary of Public Safety and Correctional Services shall submit a report in accordance with § 2–1246 of the State Government Article to the Joint Committee on Pensions that provides:

(1) the number of rehired retirees under subsection (c)(4)(viii) of this section;

(2) the annual salary of each rehired retiree at the time of retirement and the current annual salary of each rehired retiree;

(3) the number of parole and probation employees hired who are not retirees; and

(4) the annual salary of each parole and probation employee who is hired.

§23–408.

(a) This section applies to an individual who:

(1) is eligible for membership in the Judges' Retirement System as provided in § 27–201(a) of this title; and

(2) (i) is receiving a service retirement allowance from the Employees' Pension System at the time of appointment in item (1) of this subsection; or

(ii) 1. has earned a vested allowance from the Employees' Pension System; and

2. begins receiving the vested allowance while serving as a judge described in item (1) of this subsection.

(b) An individual described in subsection (a) of this section may elect to receive service credit in the Judges' Retirement System.

(c) (1) An individual described in subsection (a) of this section who elects to receive service credit in the Judges' Retirement System under subsection (b) of this section shall complete and file a form provided by the Board of Trustees directing the Board of Trustees to suspend the individual's allowance while the individual is receiving service credit in the Judges' Retirement System.

(2) (i) An individual shall file a form described in paragraph (1) of this

subsection with the Board of Trustees:

1. if the individual is receiving a service retirement allowance from the Employees' Pension System prior to serving as a judge, at the time the individual becomes a member of the Judges' Retirement System; or

2. if the individual has earned a vested allowance from the Employees' Pension System and becomes eligible to receive that allowance after the individual becomes a member of the Judges' Retirement System, at the time the individual applies to receive the vested allowance.

(ii) A temporary suspension under this subsection shall begin on the first day of the month following the month in which the Board of Trustees received the individual's request to temporarily suspend the allowance.

(d) An individual whose allowance is temporarily suspended under subsection (c) of this section is not subject to a reduction as provided in § 23–407 of this subtitle during the period the individual is serving as a judge.

(e) (1) On receiving satisfactory documentation that the individual is no longer serving as a judge, the Board of Trustees shall reinstate the individual's allowance with accumulated cost–of–living adjustments from the date the allowance was temporarily suspended.

(2) The individual's allowance will be reinstated on the first day of the month following the month in which the individual ceased serving as a judge.

(f) If an individual whose allowance is temporarily suspended dies while serving as a judge, the surviving spouse of the individual shall receive:

(1) survivorship benefits as provided in § 27–403 of this article; and

(2) if the surviving spouse is the individual's designated beneficiary, the survivorship benefits selected by the individual at the time of retirement from the Employees' Pension System.

§23–409.

A member may be entitled to benefits under Title 29 of this article other than, or in addition to, the benefits provided under this subtitle.

§23–501.

(a) This section applies to an individual who is a former vested member, retiree, or surviving beneficiary of a deceased member, former vested member, or retiree, who, on or after June 30, 2005, is required to become a former vested member, retiree, or surviving beneficiary of a deceased member, former vested member, or retiree of the Employees' Pension System as provided under § 21-306(f) or (g) of this article.

(b) An individual described under subsection (a) of this section shall continue to receive benefits in accordance with the provisions of Title 28 of this article.

§24–101.

This title applies to the State Police Retirement System.

§24–201.

This subtitle applies only to:

(1) a police employee as defined in § 2-101 of the Public Safety Article; and

(2) a Maryland State Police cadet.

§24–202.

Except as provided in § 24-203 of this subtitle, an individual described in § 24-201 of this subtitle is a member of the State Police Retirement System as a condition of employment.

§24–203.

The Secretary of State Police may waive membership in the State Police Retirement System and elect to become a member of the Employees' Pension System.

§24–204.

If eligibility of an individual for membership is unclear, the Board of Trustees shall determine whether the individual is a member of the State Police Retirement System.

§24–205.

A member's contribution rate is 8% of the member's earnable compensation.

§24–206.

(a) Except as provided in subsection (b) of this section, regular interest is payable on member contributions at the rate of 4% a year, compounded annually, until retirement or withdrawal of the accumulated contributions.

(b) No further interest shall be paid on member contributions after membership ends if the former member is not eligible to receive a vested allowance under Title 29, Subtitle 3 of this article.

§24–207.

Membership ends if the member:

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

(2) withdraws the member's accumulated contributions;

(3) becomes a retiree;

(4) dies; or

(5) elects to participate in the Deferred Retirement Option Program established under § 24-401.1 of this title.

§24–208.

If an individual was a member of any one of the several systems on June 30, 2011, and without incurring a break in employment of more than 30 days, becomes a member of the State Police Retirement System on or after July 1, 2011, the individual:

(1) shall be considered to be a new member of the State Police Retirement System as of the date the individual joins the system; and

(2) is subject to the same requirements to which an individual who was a member of the State Police Retirement System on June 30, 2011, and remains a member on July 1, 2011, is subject.

§24–301.

A member is entitled to:

(1) eligibility service as provided in §§ 24-303 through 24-306 of this subtitle; and

(2) creditable service as provided in § 24-307 of this subtitle.

§24–302.

(a) Subject to subsections (b) and (c) of this section, the Board of Trustees shall adopt regulations that specify the period of employment in a year that is equal to 1 year of service credit.

(b) The Board of Trustees may not allow more than 1 year of service credit for a calendar year.

(c) A member is entitled to receive 1 month of service credit for employment for a month or a part of a month if a member contribution is made in that month.

§24–303.

Eligibility service for a member consists of service credit:

(1) for employment as a member;

(2) regained under § 24-304 of this subtitle by a member who redeposits accumulated contributions previously withdrawn;

(3) transferred from a retirement or pension system under Title 37 of this article;

(4) for military service as provided in Title 38 of this article; or

(5) purchased under this subtitle.

§24–304.

(a) A member who previously terminated membership and withdrew accumulated contributions from either the State Police Retirement System, the Employees' Retirement System, or the Teachers' Retirement System may receive service credit for the period of employment during the previous membership if the member redeposits in a single payment the withdrawn accumulated contributions plus regular interest to the date of redeposit.

(b) If a member receives service credit under this section, the member may not retire within 3 years from the date the member enters or reenters the State Police Retirement System.

§24–304.1.

(a) Except as provided in subsection (b) of this section, a member may not purchase service credit under this title if the member is separated from employment.

(b) (1) A member who is separated from employment may purchase service credit under this title for a leave of absence approved by the Board of Trustees under regulations that apply to all members, if the member purchases the service credit within 60 days after the expiration of the leave of absence.

(2) For good cause shown, the Executive Director, in the Executive Director's sole discretion, may extend the time period to purchase service credit under paragraph (1) of this subsection if:

(i) the purchased service credit would allow the member to meet the eligibility service requirements to apply for an ordinary disability retirement under § 29–105(a) of this article; and

(ii) the member completes the purchase of the service credit before the earlier of:

1. 4 years after the expiration of the leave of absence; or

2. the date membership ends.

(3) The Board of Trustees shall adopt regulations to carry out this subsection.

§24–305.

(a) A member may purchase service credit as provided in subsection (b) of this section:

(1) for a period of employment when the member was on an employer-approved leave of absence not exceeding 2 years that has qualified for purchase under regulations adopted by the Board of Trustees; or

(2) when membership was mandatory but for which member contributions were not made.

(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 the 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 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.

§24–306.

(a) A member may purchase service credit as provided in this section for periods of employment described in subsection (c) of this section for which the member is not otherwise entitled to service credit.

(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 the form that the Board of Trustees provides; and

(ii) pay to the Board of Trustees an amount equal to the annuity reserve and pension reserve required to fund the additional allowance.

(2) The member shall pay for service credit purchased under this section in a single payment at retirement.

(c) A member may purchase service credit for a period of employment not exceeding 10 years for:

(1) federal service; or

(2) out-of-state service with a political subdivision.

§24–307.

Creditable service on which the allowance of a member is based consists of:

(1) eligibility service; and

(2) credit for unused sick leave as provided in § 20-206 of this article.

§24–401.

(a) (1) (i) This paragraph applies to an individual who is a member on or before June 30, 2011.

(ii) A member may retire with a normal service retirement allowance if:

1. on or before the date of retirement, the member:

A. has at least 22 years of eligibility service; or

B. is at least 50 years old; and

2. the member completes and submits a written application to the Board of Trustees, on the form that the Board of Trustees provides, stating the date when the member desires to retire.

(2) (i) This paragraph applies to an individual who becomes a member on or after July 1, 2011.

(ii) A member may retire with a normal service retirement allowance if:

1. on or before the date of retirement, the member:

A. has at least 25 years of eligibility service; or

B. is at least 50 years old; and

2. the member completes and submits a written application to the Board of Trustees, on the form that the Board of Trustees provides, stating the date when the member desires to retire.

(b) (1) Subject to the approval of the Board of Trustees, the Secretary of State Police may order a member who is at least 50 years old to retire on the first day of the month after the member is notified of the Secretary's order.

(2) Before approving the Secretary's order, the Board of Trustees shall give the member at least 30 days' notice and an opportunity to be heard.

(c) Except for the Secretary of State Police, a member shall retire with a normal service retirement allowance not later than the first day of the month after the member becomes 60 years old.

(d) (1) Except as provided in paragraph (2) of this subsection, on retirement under this section, a member is entitled to receive a normal service retirement allowance that equals 2.55% of the member's average final compensation multiplied by each year of the member's years of creditable service.

(2) A member's normal service retirement allowance may not exceed 71.4% of the member's average final compensation.

(e) Subject to §§ 29–401, 29–402, and 29–403 of this article, a retiree, or a beneficiary of a retiree, who retires on or before June 30, 1999 with a service retirement allowance, shall receive an annual retirement allowance adjustment as of July 1, 1999, as follows:

(1) for a retiree who has been retired not more than 5 years, $1,200;

(2) for a retiree who has been retired more than 5 years but not more than 10 years, $1,500;

(3) for a retiree who has been retired more than 10 years but not more than 15 years, $1,800; and

(4) for a retiree who has been retired more than 15 years, $2,100.

§24–401.1.

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

(2) "DROP" means the Deferred Retirement Option Program established under this section.

(3) "DROP member" means a member of the State Police Retirement System who:

(i) is eligible to participate in the DROP as provided in subsection (c) of this section; and

(ii) elects to participate in the DROP as provided in subsection (e) of this section.

(b) There is a DROP for eligible members of the State Police Retirement System.

(c) (1) (i) This paragraph applies to an individual who is a member of the

State Police Retirement System on or before June 30, 2011.

(ii) Except for the Secretary of State Police, a member of the State Police Retirement System is eligible to participate in the DROP if the member:

1. has at least 22 and less than 28 years of eligibility service; and

2. is less than 60 years old.

(iii) The Secretary of State Police is eligible to participate in the DROP if the Secretary has at least 22 years of eligibility service.

(2) (i) This paragraph applies to an individual who becomes a member of the State Police Retirement System on or after July 1, 2011.

(ii) Except for the Secretary of State Police, a member of the State Police Retirement System is eligible to participate in the DROP if the member:

1. has at least 25 years and less than 29 years of eligibility service; and

2. is less than 60 years old.

(iii) The Secretary of State Police is eligible to participate in the DROP if the Secretary has at least 25 years of eligibility service.

(d) An eligible member may elect to participate in the DROP for a period not to exceed the lesser of:

(1) 4 years;

(2) (i) the difference between 28 years and the member's eligibility service as of the date of the member's election to participate in the DROP and retire from the State Police Retirement System, if the member is a member of the State Police Retirement System on or before June 30, 2011; or

(ii) the difference between 29 years and the member's eligibility service as of the date of the member's election to participate in the DROP and retire from the State Police Retirement System, if the member becomes a member of the State Police Retirement System on or after July 1, 2011;

(3) the difference between age 60 and the member's age as of the date of the member's election to participate in the DROP and retire from the State Police Retirement System; or

(4) a term selected by the member.

(e) (1) An eligible member who elects to participate in the DROP shall:

(i) complete and submit a written election form to the Board of Trustees, on the form that the Board of Trustees provides, stating:

1. the member's intention to participate in the DROP;

2. the date when the member desires to retire;

3. the period that the member desires to participate in the DROP, as provided in subsection (d) of this section;

4. the date when the member intends to terminate employment with the Maryland State Police in the form of a binding letter of resignation accepted by the Secretary of the State Police or the Secretary's designee; and

5. any other information required by the Board of Trustees to implement the DROP; and

(ii) complete and submit a written retirement application form to the Board of Trustees, on the form that the Board of Trustees provides.

(2) An eligible member's election to participate in the DROP is irrevocable.

(f) (1) A DROP member's participation in the DROP shall commence on the first day of the month following acceptance by the Board of Trustees of the DROP member's completed election form, retirement application form, and any other information required by the Board of Trustees.

(2) A DROP member is a retiree of the State Police Retirement System.

(g) Participation in the DROP ends if the DROP participant:

(1) separates from employment in accordance with the binding letter of resignation submitted with the member's election form;

(2) except for the Secretary of State Police, attains age 60;

(3) dies;

(4) is terminated from employment by the Maryland State Police at any time before the date specified on the member's election form;

(5) shortens the time period for participation in the DROP by delivering to the Maryland State Police and the Board of Trustees written notice of the intent of the DROP member to terminate employment; or

(6) accepts a special disability retirement allowance as provided in subsection (k) of this section.

(h) (1) As of the effective date of participation in the DROP, the Board of Trustees shall determine the DROP member's normal service retirement allowance under § 24–401 of this subtitle.

(2) During the period that a DROP member participates in the DROP, the Board of Trustees shall:

(i) deposit the DROP member's normal service retirement allowance in the DROP for the DROP member's benefit;

(ii) adjust the DROP member's normal service retirement allowance each fiscal year as provided in §§ 29–401 through 29–403 and 29–408 of this article; and

(iii) accrue interest on the amounts calculated under items (i) and (ii) of this paragraph for the DROP member into the DROP at the rate of:

1. 6% a year, compounded monthly if the individual is a DROP member on or before June 30, 2011; or

2. 4% a year, compounded annually, if the individual becomes a DROP member on or after July 1, 2011.

(3) A DROP member may not receive creditable service or eligibility service during the period that the DROP member participates in the DROP.

(4) A DROP member's compensation during the period that the DROP member participates in the DROP may not be:

(i) subject to the employer pickup provisions of § 21–303 of this article or any reduction or deduction as a member contribution for pension or retirement purposes; or

(ii) used to increase the DROP member's average final compensation except as provided in subsection (k) of this section.

(5) During the period that a DROP member participates in the DROP, the DROP member shall:

(i) continue to receive compensation, health insurance and other benefit options established under the State Employee and Retiree Health and Welfare Benefit Program administered by the Secretary of Budget and Management, and any other benefits as an employee of the Maryland State Police;

(ii) be subject to the personnel law, regulations, and policies applicable to an employee of the Maryland State Police; and

(iii) receive retirement benefits only to the extent provided in this

section.

(6) The Board of Trustees is not required to establish an individual DROP account for each DROP member.

(7) Each year, the Board of Trustees shall provide a DROP member with a written accounting of the DROP member's account balance in the DROP.

(i) (1) Subject to paragraphs (2), (3), and (4) of this subsection, on termination of a DROP member's participation in the DROP, the Board of Trustees shall pay to the DROP member or, if the DROP member has died, the designated beneficiary of the DROP member, the amount accrued in the DROP for the DROP member under subsection (h)(2) of this section, reduced by any withholding taxes remitted to the Internal Revenue Service or other taxing authority, in a lump sum.

(2) The designated beneficiary of a DROP member is:

(i) the DROP member's surviving spouse;

(ii) if there is not a surviving spouse or if the surviving spouse dies before the youngest child is 18 years old, each child of the deceased DROP member who is under 18 years old; or

(iii) if there is not a surviving spouse or a child who is under 18 years old, the person named as a beneficiary in an acknowledged written designation filed with the Board of Trustees by the DROP member.

(3) A DROP member or designated beneficiary of a DROP member may direct the Board of Trustees to pay all or a portion of the amount accrued for the DROP member's benefit under subsection (h)(2) of this section directly to the custodian of an eligible retirement plan as provided in Title 21, Subtitle 6 of this article.

(4) A DROP member or designated beneficiary of a DROP member is eligible to receive the amount due under this subsection within 90 days after the:

(i) date of termination of the DROP member's participation in the DROP;

(ii) receipt by the Board of Trustees of a completed application to receive the DROP amount, on the form that the Board of Trustees provides; and

(iii) receipt by the Board of Trustees of any other information that the Board of Trustees requires to process payment of the DROP member's account balance to the DROP participant, the designated beneficiary of the DROP participant, or the custodian of an eligible retirement plan.

(j) (1) Except as provided in paragraph (2) of this subsection, as of the first day of the month following termination of a DROP member's participation in the

DROP, the Board of Trustees shall commence and continue payment of the normal service retirement allowance, including the cost–of–living adjustments as provided in §§ 29–401 through 29–403 and 29–408 of this article, to the member as provided in §§ 24–401 and 24–403 of this subtitle.

(2) If a DROP member dies before termination of the DROP member's participation in the DROP, the Board of Trustees shall pay 50% of the normal service retirement allowance, including the cost–of–living adjustments as provided in §§ 29–401 through 29–403 and 29–408 of this article, to the beneficiary as provided in § 24–403 of this subtitle.

(k) (1) A DROP member is eligible to apply for a special disability retirement allowance under § 29–111 of this article if after the DROP member commences participation in the DROP:

(i) the member is totally and permanently incapacitated for duty arising out of or in the course of the actual performance of duty that occurs while participating in DROP, and without willful negligence of the member; and

(ii) the medical board certifies that:

1. the member is totally incapacitated, either mentally or physically, for the further performance of duty by the occurrence described under item (i) of this paragraph;

2. the incapacity is likely to be permanent; and

3. the member should be retired.

(2) (i) If a DROP member is granted a special disability retirement allowance, the DROP member shall:

1. submit an application to the Board of Trustees, on the form the Board of Trustees provides, to receive payment of the amount accrued in the DROP in accordance with subsection (i) of this section;

2. execute a written waiver of any benefits to which the DROP member may be entitled under the DROP; and

3. submit an application to retire with a special disability retirement allowance, on the form the Board of Trustees provides, stating the effective date of the DROP member's retirement as a special disability retiree.

(ii) On acceptance of the application for payment and application to retire, the Board of Trustees shall commence payment of a special disability allowance to the DROP member as provided in § 29–111(c) of this article, except that the DROP member's average final compensation shall be computed as of the effective date of the DROP member's application for a special disability retirement allowance.

§24–402.

(a) This section applies to a former member who:

(1) was eligible for a retirement allowance under § 24-401 of this subtitle when the former member's membership terminated;

(2) did not submit a written application under § 24-401 of this subtitle before membership terminated; and

(3) has not withdrawn accumulated contributions.

(b) (1) A former member described in subsection (a) of this section may retire with a retirement allowance under § 24-401 of this subtitle on the first day of the month after the Board of Trustees receives a written application for retirement from the former member.

(2) A former member who retires under this section may not receive benefits for the period before the former member submitted a completed application for retirement to the Board of Trustees.

§24–403.

(a) This section applies only to a retiree who has retired with a service retirement allowance or a disability retirement allowance or a former member who has retired with a deferred vested allowance.

(b) On the death of a retiree or former member, the Board of Trustees shall pay 80% of the retiree's retirement allowance:

(1) to the surviving spouse; or

(2) if there is not a surviving spouse or if the surviving spouse dies before the youngest child is 18 years old, to any children of the deceased retiree who are under 18 years of age.

(c) If the Board of Trustees pays an allowance to more than one child, the Board of Trustees shall divide the allowance among the children under the age of 18 years in a manner that provides for payments to continue until each child dies or becomes 18 years old.

§24–405. IN EFFECT

(a) Except as provided in § 24–405.1 of this subtitle and subject to subsections (b), (c), and (d) of this section, an individual who is receiving a service retirement allowance or vested allowance may accept employment with a participating employer on a contractual basis as a police employee, as defined in § 2–101 of the Public Safety Article, at a rank of trooper first class or on a temporary basis, if:

(1) the employment is not in a regularly allocated position; and

(2) the individual immediately notifies the Board of Trustees:

(i) of the individual's intention to accept the employment; and

(ii) of the compensation that the individual will receive.

(b) (1) Except as provided in paragraph (3) of this subsection, the Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (a) of this section if:

(i) the individual's current employer is any unit of State government; and

(ii) the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance or vested allowance was also a unit of State government.

(2) (i) Subject to subparagraph (ii) of this paragraph, the reduction under paragraph (1) of this subsection shall equal the amount by which the sum of the individual's initial annual basic allowance and the individual's annual compensation exceeds the average final compensation used to compute the basic allowance.

(ii) 1. Any reduction taken to a retiree's allowance under this subsection may not exceed an amount that would reduce the retiree's allowance to less than what is required to be deducted for the retiree's monthly State–approved medical insurance premiums.

2. If a reduction for a calendar year taken under subsubparagraph 1 of this subparagraph is less than the reduction required under subparagraph (i) of this paragraph, the Board of Trustees shall recover from the retiree an amount equal to the reduction required under subparagraph (i) of this paragraph less the reduction taken under subsubparagraph 1 of this subparagraph.

(3) The reduction under paragraph (1) of this subsection does not apply to:

(i) an individual who has been retired for 5 years, beginning on January 1, after the date the individual retires;

(ii) an individual who participates in the Deferred Retirement Option Program established under § 24–401.1 of this subtitle; or

(iii) a retiree of the State Police Retirement System who is reemployed by the Department of State Police on a contractual basis as a police employee, as defined in § 2–101 of the Public Safety Article, at a rank of trooper first class.

(c) For purposes of this section, employment is not on a temporary basis if, in any 12–month period, an individual works:

(1) full time for more than 6 months; or

(2) part time for the equivalent of more than 6 months of full–time work.

(d) Prior to commencing reemployment under subsection (b)(3)(iii) of this section, a retiree shall terminate participation in the Deferred Retirement Option Program and receive any lump sum payment associated with the retiree's participation in the Deferred Retirement Option Program as provided under § 24–401.1(i) of this subtitle.

(e) (1) Subject to paragraph (2) of this subsection, a retiree reemployed under subsection (b)(3)(iii) of this section may not be reemployed for more than 4 years.

(2) A retiree reemployed under subsection (b)(3)(iii) of this section may not be reemployed after becoming 60 years old.

(f) An individual who is receiving a service retirement allowance or a vested allowance and who is reemployed by a participating employer may not receive creditable service or eligibility service during the period of reemployment.

(g) The individual's compensation during the period of reemployment may not be subject to the employer pickup provisions of § 21–303 of this article or any reduction or deduction as a member contribution for pension or retirement purposes.

(h) The State Retirement Agency shall institute appropriate reporting procedures with the affected payroll systems to ensure compliance with this section.

(i) (1) Immediately on the employment of a retiree who is rehired under subsection (b)(3)(iii) of this section, the Department of State Police shall notify the State Retirement Agency of the type of employment and the anticipated earnings of the individual.

(2) At least once each year, in a format specified by the State Retirement Agency, the Department of State Police shall provide the State Retirement Agency with a list of all employees included on any payroll of the employer, the Social Security numbers of the employees, and their earnings for that year.

(j) On or before September 1 of each year, the Secretary of State Police shall submit a report in accordance with § 2–1246 of the State Government Article to the Joint Committee on Pensions that provides:

(1) the number of rehired retirees under subsection (b)(3)(iii) of this section;

(2) the annual salary of each rehired retiree at the time of retirement and

the current annual salary of each rehired retiree;

(3) the number of police employees hired who are not retirees; and

(4) the annual salary of each police employee who is hired.

24–405. // EFFECTIVE JUNE 30, 2018 PER CHAPTER 649 OF 2013 //

(a) Except as provided in § 24–405.1 of this subtitle and subject to subsections (b) and (c) of this section, an individual who is receiving a service retirement allowance or vested allowance may accept employment with a participating employer on a temporary basis, if:

(1) the employment is not in a regularly allocated position; and

(2) the individual immediately notifies the Board of Trustees:

(i) of the individual's intention to accept the employment; and

(ii) of the compensation that the individual will receive.

(b) (1) This subsection does not apply to:

(i) an individual who has been retired for 5 years, beginning on January 1, after the date the individual retires; or

(ii) an individual who participates in the Deferred Retirement Option Program established under § 24–401.1 of this subtitle.

(2) (i) Subject to subparagraph (ii) of this paragraph, the Board of Trustees shall reduce an individual's allowance by the amount that the sum of the individual's initial annual basic allowance and the individual's annual compensation exceeds the average final compensation used to compute the basic allowance.

(ii) 1. Any reduction taken to a retiree's allowance under this subsection may not exceed an amount that would reduce the retiree's allowance to less than what is required to be deducted for the retiree's monthly State–approved medical insurance premiums.

2. If a reduction for a calendar year taken under subsubparagraph 1 of this subparagraph is less than the reduction required under subparagraph (i) of this paragraph, the Board of Trustees shall recover from the retiree an amount equal to the reduction required under subparagraph (i) of this paragraph less the reduction taken under subsubparagraph 1 of this subparagraph.

(c) For purposes of this section, employment is not on a temporary basis if, in any 12–month period, an individual works:

(1) full time for more than 6 months; or

(2) part time for the equivalent of more than 6 months of full–time work.

§24–405.1.

An individual who is receiving a service retirement allowance under this title may not be employed by the State or other participating employer on a permanent, temporary, or contractual basis within 45 days of the date the individual retired.

§24–405.2. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2018 PER CHAPTER 649 OF 2013 //

(a) (1) This subsection applies to a retiree who:

(i) 1. is reemployed under § 24–405(b)(3)(iii) of this subtitle; or

2. is reemployed as a Maryland State Police Aviation Command helicopter pilot;

(ii) while reemployed under item (i) of this paragraph is totally and permanently incapacitated for duty in the course of the actual performance of duty without willful negligence by the retiree; and

(iii) the medical board certifies that:

1. the retiree is totally incapacitated, either mentally or physically, for the further performance of duty;

2. the retiree's incapacity is likely to be permanent; and

3. the retiree should cease reemployment.

(2) The normal service retirement allowance that a retiree described under paragraph (1) of this subsection is receiving at the time the retiree is determined to be disabled under this subsection shall be readjusted to equal two–thirds of the retiree's average final compensation at the time the retiree retired, with accumulated cost–of–living adjustments from the date the retiree retired.

(b) (1) This subsection applies to a retiree who:

(i) 1. dies while reemployed under § 24–405(b)(3)(iii) of this subtitle; or

2. dies while reemployed as a Maryland State Police Aviation Command helicopter pilot;

(ii) dies without willful negligence by the retiree; and

(iii) is killed in the course of the actual performance of duty.

(2) When the Board of Trustees receives proof of death of a retiree and finds that the death has occurred in the manner described in paragraph (1) of this subsection, the Board of Trustees shall pay the balance of the retiree's accumulated contributions and a special death benefit allowance equal to two–thirds of the retiree's average final compensation at the time of retirement, with accumulated cost–of–living adjustments from the date the retiree retired:

(i) to the surviving spouse;

(ii) if there is no surviving spouse or if the surviving spouse dies before the youngest child of the member is 18 years old, to all children under the age of 18 years; or

(iii) if there is no surviving spouse or children younger than 18 years of age, to the member's dependent parent to continue as the Board of Trustees may direct for the rest of the parent's life.

(3) Any benefits under Title 21, Subtitle 4 of this article or § 24–403 of this subtitle may not be paid if a special death benefit is paid under paragraph (2) of this subsection.

§24–406.

(a) A member may be entitled to benefits under Title 29 of this article other than, or in addition to, the service retirement benefits provided under this subtitle.

(b) (1) This subsection does not apply to an individual receiving a service retirement allowance or a vested allowance from the State Police Retirement System who is:

(i) serving as a sheriff or State's Attorney for a county that is a participating governmental unit; or

(ii) elected or appointed to the General Assembly and eligible to enroll in the Legislative Pension Plan.

(2) A member is not entitled to receive a pension or retirement allowance from another pension or retirement system supported wholly or in part by the State.

(c) An individual receiving a service retirement allowance or a vested allowance from the State Police Retirement System who is elected or appointed to the General Assembly and eligible to join the Legislative Pension Plan, may only receive an additional retirement allowance from the Legislative Pension Plan.

§25–101.

This title applies to the Correctional Officers' Retirement System.

§25–102.

Except as otherwise provided in this title, the administration, management, and funding of the benefits for members of the Correctional Officers' Retirement System are the same as those for the Employees' Retirement System.

§25–201.

(a) Except as provided in subsection (b) of this section, this subtitle applies only to:

(1) correctional officers serving in any of the first six job classifications;

(2) security attendants at Clifton T. Perkins Hospital Center;

(3) a detention center officer employed by a participating governmental unit that on or after July 1, 2006, has elected to participate in the Correctional Officers' Retirement System;

(4) an individual serving as a correctional dietary, maintenance, laundry, or supply officer;

(5) an individual serving as a Maryland Correctional Enterprises officer, officer trainee, plant supervisor, plant manager, or regional manager; and

(6) a correctional officer serving as a security chief, a facility administrator, an assistant warden, or a warden who:

(i) begins employment in that position on or after July 1, 2014; or

(ii) is serving in that position on June 30, 2014, and elects to transfer to the Correctional Officers' Retirement System on or before December 31, 2014.

(b) This subtitle does not apply to:

(1) an employee of the Baltimore City Jail as of June 30, 1991, who:

(i) became an employee of the Baltimore City Detention Center on July 1, 1991; and

(ii) did not elect to become a member of the Correctional Officers' Retirement System on that date;

(2) a detention center officer employed by a participating governmental unit as a local detention center officer on the effective date of participation on or after July 1, 2006, who did not elect to become a member of the Correctional Officers' Retirement System within 6 months of the effective date of participation; or

(3) a correctional officer serving as a security chief, a facility

administrator, an assistant warden, or a warden who is in that position on June 30, 2014, and does not elect to transfer membership to the Correctional Officers' Retirement System on or before December 31, 2014.

§25–202.

(a) Except as provided in subsection (b) of this section, an individual described in § 25-201(a) of this subtitle is a member of the Correctional Officers' Retirement System as a condition of employment.

(b) (1) Subject to paragraph (2) of this subsection, membership in the Correctional Officers' Retirement System is optional for an individual described in § 25-201 of this subtitle who was employed by a participating governmental unit as a local detention center officer on the effective date of participation on or after July 1, 2006, for that participating governmental unit and who elects membership within 6 months of the effective date of participation.

(2) To elect to be a member of the Correctional Officers' Retirement System, an individual shall file a written application with the State Retirement Agency.

(3) If an individual does not elect membership during the applicable period specified under paragraph (1) of this subsection, the individual may not become a member of the Correctional Officers' Retirement System.

§25–203.

A member's contribution rate is 5% of the member's earnable compensation.

§25–203.1.

For members who transfer from the Employees' Pension System or the Employees' Retirement System, the Board of Trustees shall transfer to the accumulation fund of the Correctional Officers' Retirement System the employer contributions that were made to the Employees' Pension System or the Employees' Retirement System on behalf of those members who transferred, plus the interest earned on those contributions through the date of transfer.

§25–204.

(a) Except as provided in subsection (b) of this section, regular interest is payable on member contributions at the rate of 4% a year, compounded annually, until retirement or withdrawal of the accumulated contributions.

(b) No further interest shall be paid on member contributions after membership ends if the former member is not eligible to receive a vested allowance under Title 29, Subtitle 3 of this article.

§25–205.

Membership ends if the member:

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

(2) withdraws the member's accumulated contributions;

(3) becomes a retiree; or

(4) dies.

§25–206.

(a) For members who transfer from a local pension system, the local pension system shall transfer to the Board of Trustees the employer contributions that were made to the local pension system on behalf of those members who transferred, plus the interest earned on those contributions through the date of transfer.

(b) The Board of Trustees shall deposit any funds transferred under subsection (a) of this section in the accumulation fund of the Correctional Officers' Retirement System.

§25–207.

If an individual was a member of any one of the several systems on June 30, 2011, and without incurring a break in employment of more than 30 days, becomes a member of the Correctional Officers' Retirement System on or after July 1, 2011, the individual:

(1) shall be considered to be a new member of the Correctional Officers' Retirement System as of the date the individual joins the system; and

(2) is subject to the same requirements to which an individual who was a member of the Correctional Officers' Retirement System on June 30, 2011, and remains a member on July 1, 2011, is subject.

§25–301.

A member is entitled to:

(1) eligibility service as provided in §§ 25-303 through 25-306 of this subtitle; and

(2) creditable service as provided in § 25-307 of this subtitle.

§25–302.

(a) Subject to subsections (b) and (c) of this section, the Board of Trustees shall adopt regulations that specify the period of employment in a year that is equal to 1 year

of service credit.

(b) The Board of Trustees may not allow more than 1 year of service credit for a calendar year.

(c) A member is entitled to receive 1 month of service credit for employment for a month or a part of a month if a member contribution is made in that month.

§25–303.

Eligibility service for a member consists of service credit:

(1) for employment as a member;

(2) regained under § 25-304 of this subtitle by a member who redeposits accumulated contributions previously withdrawn;

(3) transferred from a retirement or pension system under Title 37 of this article or Title 31, Subtitle 1 of this article;

(4) for military service as provided in Title 38 of this article;

(5) purchased under this subtitle; or

(6) transferred from the Employees' Pension System under § 25-306.1 of this subtitle.

§25–304.

A member of the Correctional Officers' Retirement System who previously terminated membership and withdrew accumulated contributions from either the Correctional Officers' Retirement System, the Employees' Retirement System, or the Teachers' Retirement System may receive service credit for the period of employment during the previous membership if the member redeposits in a single payment the withdrawn accumulated contributions plus regular interest to the date of redeposit.

§25–304.1.

(a) Except as provided in subsection (b) of this section, a member may not purchase service credit under this title if the member is separated from employment.

(b) (1) A member who is separated from employment may purchase service credit under this title for a leave of absence approved by the Board of Trustees under regulations that apply to all members, if the member purchases the service credit within 60 days after the expiration of the leave of absence.

(2) For good cause shown, the Executive Director, in the Executive Director's sole discretion, may extend the time period to purchase service credit under paragraph (1) of this subsection if:

(i) the purchased service credit would allow the member to meet the eligibility service requirements to apply for an ordinary disability retirement under § 29–105(a) of this article; and

(ii) the member completes the purchase of the service credit before the earlier of:

1. 4 years after the expiration of the leave of absence; or

2. the date membership ends.

(3) The Board of Trustees shall adopt regulations to carry out this subsection.

§25–305.

(a) A member may purchase service credit as provided in subsection (b) of this section for periods of employment for which the member:

(1) (i) would have been entitled to purchase service credit under the Employees' Retirement System; and

(ii) is not otherwise entitled to service credit under the Correctional Officers' Retirement System; or

(2) was not vested in the Employees' Pension System.

(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 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.

§25–306.

(a) A member may purchase service credit as provided in this section for periods of employment described in subsection (c) of this section for which the member is not otherwise entitled to service credit.

(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 the form that the Board of Trustees provides; and

(ii) pay to the Board of Trustees an amount equal to the annuity reserve and pension reserve required to fund the additional allowance.

(2) The member shall pay for service credit purchased under this section in a single payment at retirement.

(c) A member may purchase service credit for a period of employment:

(1) not exceeding 10 years for out-of-state public school teaching service;

(2) not exceeding 10 years for public or nonpublic school teaching service;

(3) not exceeding 5 years for postsecondary school teaching service;

(4) not exceeding 10 years for federal service or out-of-state service with a political subdivision; or

(5) as an employee of a political subdivision of this State if the employee is not receiving retirement benefits from a political subdivision of the State for the same period of employment.

§25–306.1.

(a) A member who is a former member of the Employees' Pension System who was vested but whose membership in the Employees' Pension System terminated as a result of being laid off for nondisciplinary reasons may transfer service credit for eligibility service to the Correctional Officers' Retirement System if the member files with the Board of Trustees an executed waiver of all benefits to which the member may be entitled under the Employees' Pension System.

(b) Eligibility service transferred from the Employees' Pension System under subsection (a) of this section shall be transferred at the rate of 6 months of eligibility service in the Correctional Officers' Retirement System for each year of eligibility service in the Employees' Pension System.

§25–307.

(a) Creditable service on which the allowance of a member is based consists of:

(1) eligibility service, except as provided in subsection (b) of this section; and

(2) credit for unused sick leave as provided in § 20-206 of this article.

(b) A member's creditable service for a period of regular part-time employment equals the member's actual employment during that period.

§25–401.

(a) A member may retire with a normal service retirement allowance if:

(1) on or before the date of retirement, the member has at least 20 years of eligibility service;

(2) for at least 5 years immediately before retirement, the member was:

(i) a security attendant at Clifton T. Perkins Hospital Center;

(ii) a correctional officer in any of the first six job classifications;

(iii) a detention center officer employed by a participating governmental unit that has elected to participate in the Correctional Officers' Retirement System;

(iv) an individual serving as a correctional dietary, maintenance, laundry, or supply officer;

(v) an individual serving as a Maryland Correctional Enterprises officer, officer trainee, plant supervisor, plant manager, or regional manager;

(vi) a correctional officer serving as a security chief, a facility administrator, an assistant warden, or a warden; or

(vii) in a combination of these positions; and

(3) the member completes and submits a written application to the Board of Trustees stating the date when the member desires to retire.

(b) On retirement under this section, a member is entitled to receive a normal service retirement allowance that equals one fifty–fifth of the member's average final compensation multiplied by the number of years of creditable service.

§25–401.1.

(a) This section applies only to a Baltimore City Jail employee who:

(1) on or before June 30, 1991, was employed by the City of Baltimore as an employee of the Baltimore City Jail for at least 5 years; and

(2) is a member of the Correctional Officers' Retirement System on or after June 30, 2006.

(b) A member described in subsection (a) of this section may retire with an early service retirement allowance if:

(1) the member completes and submits a written application to the Board

of Trustees stating the date when the member desires to retire; and

(2) on or before the date of retirement, the member has at least 10 years but less than 20 years of eligibility service.

(c) On retirement under this section, a member is entitled to receive an early service retirement allowance that equals the normal service retirement allowance under § 25-401 of this subtitle.

§25–402.

(a) This section applies to a former member who:

(1) was eligible for a retirement allowance under § 25-401 of this subtitle when the former member's membership terminated;

(2) did not submit a written application under § 25-401 before membership terminated; and

(3) has not withdrawn accumulated contributions.

(b) (1) A former member described in subsection (a) of this section may retire with a retirement allowance under § 25-401 of this subtitle on the first day of the month after the Board of Trustees receives a written application for retirement from the former member.

(2) A former member who retires under this section may not receive benefits for the period before the former member submits a completed application to the Board of Trustees.

§25–403.

(a) Except as provided in subsection (h) of this section, an individual who is receiving a service retirement allowance or vested allowance may accept employment with a participating employer on a permanent, temporary, or contractual basis, if the individual immediately notifies the Board of Trustees:

(1) of the individual's intention to accept the employment; and

(2) of the compensation that the individual will receive.

(b) (1) The Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (a) of this section if:

(i) the individual's current employer is a participating employer other than the State and is the same participating employer that employed the individual at the time of the individual's last separation from employment with a participating employer before the individual commenced receiving a service retirement

allowance or vested allowance; or

(ii) the individual's current employer is any unit of State government and the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance or vested allowance was also a unit of State government.

(2) (i) Subject to subparagraph (ii) of this paragraph, the reduction under paragraph (1) of this subsection shall equal the amount by which the sum of the individual's initial annual basic allowance and the individual's annual compensation exceeds the average final compensation used to compute the basic allowance.

(ii) 1. Any reduction taken to a retiree's allowance under this subsection may not exceed an amount that would reduce the retiree's allowance to less than what is required to be deducted for:

A. if the retiree retired from any unit of State government, the retiree's monthly State–approved medical insurance premiums; or

B. if the retiree retired from a participating employer other than the State, the approved monthly medical insurance premiums required by the participating employer that employed the retiree at the time of the retiree's retirement.

2. If a reduction for a calendar year taken under subsubparagraph 1 of this subparagraph is less than the reduction required under subparagraph (i) of this paragraph, the Board of Trustees shall recover from the retiree an amount equal to the reduction required under subparagraph (i) of this paragraph less the reduction taken under subsubparagraph 1 of this subparagraph.

(3) The reduction under this subsection does not apply to:

(i) an individual who has been retired for 5 years, beginning on January 1, after the date the individual retires;

(ii) an individual whose average final compensation was less than $25,000 and who is reemployed on a permanent, temporary, or contractual basis;

(iii) an individual who is serving in an elected position as an official of a participating governmental unit or as a constitutional officer for a county that is a participating governmental unit; or

(iv) a retiree of the Correctional Officers' Retirement System who is reemployed on a contractual basis for not more than 4 years by the Division of Corrections, the Division of Pretrial Detention and Services, or the Patuxent Institution in the Department of Public Safety and Correctional Services as a correctional officer in a correctional facility defined in § 1–101 of the Correctional Services Article.

(c) An individual who is receiving a service retirement allowance or a vested allowance and who is reemployed by a participating employer may not receive creditable service or eligibility service during the period of reemployment.

(d) The individual's compensation during the period of reemployment may not be subject to the employer pickup provisions of § 21–303 of this article or any reduction or deduction as a member contribution for pension or retirement purposes.

(e) The State Retirement Agency shall institute appropriate reporting procedures with the affected payroll systems to ensure compliance with this section.

(f) (1) Immediately on the employment of any individual receiving a service retirement allowance or a vested allowance, a participating employer shall notify the State Retirement Agency of the type of employment and the anticipated earnings of the individual.

(2) At least once each year, in a format specified by the State Retirement Agency, each participating employer shall provide the State Retirement Agency with a list of all employees included on any payroll of the employer, the Social Security numbers of the employees, and their earnings for that year.

(g) At the request of the State Retirement Agency, a unit of State government shall certify to the State Retirement Agency that the individual was not employed by any unit of State government at the time of the individual's last separation from employment before the individual commenced receiving a service retirement allowance or a vested allowance.

(h) An individual who is receiving a service retirement allowance under this title may not be employed within 45 days of the date the individual retired, on a permanent, temporary, or contractual basis, by:

(1) the State or other participating employer; or

(2) a withdrawn participating governmental unit, if the retiree was an employee of the withdrawn participating governmental unit while the withdrawn governmental unit was a participating employer.

(i) The Division of Corrections, the Division of Pretrial Detention and Services, or the Patuxent Institution in the Department of Public Safety and Correctional Services shall notify the State Retirement Agency of any retirees who qualify under subsection (b)(3)(iv) of this section.

(j) On or before September 1 of each year, the Commissioner of Corrections, the Commissioner of Pretrial Detention and Services, and the Director of the Patuxent Institution in the Department of Public Safety and Correctional Services shall jointly submit a report in accordance with § 2–1246 of the State Government Article to the Joint Committee on Pensions that provides:

(1) the number of rehired retirees under subsection (b)(3)(iv) of this section;

(2) the annual salary of each rehired retiree at the time of retirement and the current annual salary of each rehired retiree;

(3) the number of correctional officers hired who are not retirees; and

(4) the annual salary of each correctional officer who is hired.

§25–404.

A member may be entitled to benefits under Title 29 of this article other than, or in addition to, the benefits provided under this subtitle.

§26–101.

This title applies to the Law Enforcement Officers' Pension System.

§26–102.

Except as otherwise provided in this title, the operation of the Law Enforcement Officers' Pension System shall be the same as the operation of the Employees' Pension System.

§26–201.

(a) Except as provided in subsection (b) of this section, this subtitle applies only to:

(1) an employee of the Department of Natural Resources commissioned by the Secretary of Natural Resources as:

(i) a Natural Resources police officer; or

(ii) a law enforcement officer, other than a Natural Resources police officer;

(2) a law enforcement officer employed by the Field Enforcement Bureau;

(3) a member of the Maryland Transportation Authority Police Force who has the powers granted to a police officer under § 4–208 of the Transportation Article;

(4) a deputy sheriff employed by the Baltimore City Sheriff's Department;

(5) a member of the University of Maryland Police Force who has the powers granted to a police officer under § 13–601 of the Education Article;

(6) a law enforcement officer or firefighter employed by a participating

governmental unit that on or after July 1, 1999 has elected to participate in the Law Enforcement Officers' Pension System;

(7) the State Fire Marshal or a Deputy State Fire Marshal;

(8) a member of the Morgan State University Police Force who has the powers granted to a police officer under § 14–106 of the Education Article;

(9) a member of the BWI Airport Fire & Rescue Department;

(10) a member of the Department of General Services Police Force who has the powers granted to a police officer under § 4–605 of the State Finance and Procurement Article;

(11) an employee of the Department of Health and Mental Hygiene commissioned by the Secretary of Health and Mental Hygiene as a Health and Mental Hygiene police officer;

(12) an employee of the Motor Vehicle Administration commissioned by the Secretary of Transportation as a Motor Vehicle Administration police officer;

(13) an employee of the Department of Labor, Licensing, and Regulation commissioned by the Secretary of Labor, Licensing, and Regulation as a Labor, Licensing, and Regulation police officer;

(14) a firefighter or law enforcement officer for the Martin State Airport employed by the Military Department;

(15) a police officer employed by the Division of Rehabilitation Services in the Department of Education, certified in accordance with the Maryland Police and Correctional Training Commissions;

(16) a firefighter or paramedic employed by the Salisbury Fire Department who is eligible to be a member as provided in Title 31, Subtitle 2A of this article;

(17) an aviator employed by the Department of State Police to operate an aircraft for the State Emergency Medical System;

(18) a member of the Maryland Transit Administration Police Force who has the powers granted to a police officer under § 7–207 of the Transportation Article;

(19) an individual who is elected or appointed as the Baltimore City Sheriff and who does not elect to join the Employees' Pension System under Title 23 of this article within 6 months of the date the individual begins serving as the Baltimore City Sheriff;

(20) a member of the Department of Public Safety and Correctional Services Intelligence and Investigative Division who has the powers granted to a police officer

under § 10–701 of the Correctional Services Article; or

(21) a police officer employed by the Baltimore City Community College who has the power granted to a police officer under § 16–513 of the Education Article.

(b) This subtitle does not apply to:

(1) a Maryland Transportation Authority police officer who transferred from the Employees' Retirement System to the Employees' Pension System on or after December 1, 1996;

(2) a deputy sheriff employed by the Baltimore City Sheriff's Department who transferred from the Employees' Retirement System to the Employees' Pension System on or after December 1, 1996;

(3) a member of the University of Maryland Police Force who transferred from the Employees' Retirement System to the Employees' Pension System on or after December 1, 1997;

(4) a law enforcement officer or firefighter employed by a participating governmental unit who transferred from the Employees' Retirement System to the Employees' Pension System on or after December 1, 1997;

(5) a Maryland Port Administration police officer who transferred from the Employees' Retirement System to the Employees' Pension System on or after December 1, 1997;

(6) a State Fire Marshal or Deputy State Fire Marshal who transferred from the Employees' Retirement System to the Employees' Pension System on or after December 1, 1996;

(7) a member of the Morgan State University Police Force who transferred from the Employees' Retirement System to the Employees' Pension System on or after December 1, 1997;

(8) a member of the BWI Airport Fire & Rescue Department who transferred from the Employees' Retirement System to the Employees' Pension System on or after April 1, 1998;

(9) a member of the Department of General Services, Department of Health and Mental Hygiene, Motor Vehicle Administration, or Department of Labor, Licensing, and Regulation Police Force who transferred from the Employees' Retirement System to the Employees' Pension System on or after April 1, 1998;

(10) a firefighter or law enforcement officer for the Martin State Airport employed by the Military Department who transferred from the Employees' Retirement System to the Employees' Pension System on or after April 1, 1998;

(11) a police officer employed by the Division of Rehabilitation Services in the Department of Education who:

(i) is certified in accordance with the Maryland Police and Correctional Training Commissions; and

(ii) transferred from the Employees' Retirement System to the Employees' Pension System on or after April 1, 1998;

(12) a firefighter or paramedic employed by the Salisbury Fire Department who transferred from the Employees' Retirement System to the Employees' Pension System on or after April 1, 1998;

(13) an aviator employed by the Department of State Police to operate an aircraft for the State Emergency Medical System who transferred from the Employees' Retirement System to the Employees' Pension System on or after April 1, 1998; or

(14) a police officer employed by the Baltimore City Community College who transferred from the Employees' Retirement System to the Employees' Pension System on or after December 1, 1996.

§26–202.

(a) Except as provided in subsection (b) of this section, an individual described in § 26–201 of this subtitle is a member of the Law Enforcement Officers' Pension System as a condition of employment.

(b) (1) Subject to paragraph (2) of this subsection, membership in the Law Enforcement Officers' Pension System is optional for an individual described in § 26–201 of this subtitle:

(i) who was employed by the Department of Natural Resources on July 1, 1990 and who elects membership on or before December 31, 2002;

(ii) who was employed by the Field Enforcement Division on June 30, 1995 and who elects membership on or before December 31, 2002;

(iii) who was employed by the Maryland Transportation Authority on June 30, 1997 and who elects membership on or before December 31, 2002;

(iv) who was employed by the Baltimore City Sheriff's Department on June 30, 1997 and who elects membership on or before December 31, 2002;

(v) who was employed by the University of Maryland Police Force on June 30, 1999 and who elects membership on or before December 31, 2002;

(vi) who is employed by a participating governmental unit on the effective date of participation on or after July 1, 1999 for that participating

governmental unit and who elects membership within 6 months of the effective date of participation;

(vii) who was employed by the Maryland Port Administration Police Force and was subsequently transferred to and employed by the Maryland Transportation Authority Police Force on July 1, 1998 and who elects membership on or before December 31, 2002;

(viii) who was employed by the office of the State Fire Marshal on June 30, 1998 and who elects membership on or before December 31, 2002;

(ix) who was employed by the Morgan State University Police Force on June 30, 1999 and who elects membership on or before December 31, 2002;

(x) who was employed by the BWI Airport Fire & Rescue Department on June 30, 2000, and who elects membership on or before December 31, 2002;

(xi) who was employed by the Department of General Services, Department of Health and Mental Hygiene, Motor Vehicle Administration, and Department of Labor, Licensing, and Regulation Police Force on June 30, 2000 and who elects membership on or before December 31, 2002;

(xii) who was employed by the Military Department as a firefighter at Martin State Airport on June 30, 2001, and who elects membership on or before December 31, 2002;

(xiii) who was employed on June 30, 2002, by the Division of Rehabilitation Services in the Department of Education as a police officer certified in accordance with the Maryland Police and Correctional Training Commissions, and who elects membership on or before December 31, 2002;

(xiv) who was employed on June 30, 2004, by the Salisbury Fire Department as a firefighter or paramedic and who elects membership on or before December 31, 2004, if eligible under Title 31, Subtitle 2A of this article;

(xv) who was employed on June 30, 2005, by the Department of State Police as an aviator operating an aircraft for the State Emergency Medical System, and who elects membership on or before December 31, 2005;

(xvi) who was employed by the Military Department as a law enforcement officer at Martin State Airport on June 30, 2007, and who elects membership on or before December 31, 2007;

(xvii) who was a member of the Department of Public Safety and Correctional Services Intelligence and Investigative Division who has powers granted to a police officer under § 10–701 of the Correctional Services Article on June 30, 2007, and who elects membership on or before December 31, 2007; or

(xviii) who was employed on July 1, 2008, as a police officer by the Baltimore City Community College Police Force and who elects membership on or before December 31, 2008.

(2) To elect to be a member of the Law Enforcement Officers' Pension System, an individual shall file a written application with the State Retirement Agency.

(3) If an individual does not elect membership during the applicable period specified under paragraph (1) of this subsection, the individual may not become a member of the Law Enforcement Officers' Pension System.

§26–203.

Membership continues for a member who is:

(1) on leave of absence approved by the Board of Trustees; or

(2) in military service within the periods specified in Title 38 of this article.

§26–203.1.

(a) For members who transfer from the Employees' Pension System or the Employees' Retirement System, the Board of Trustees shall transfer to the accumulation fund of the Law Enforcement Officers' Pension System the employer contributions that were made to the Employees' Retirement System and the Employees' Pension System on behalf of those members who transferred, plus the interest earned on those contributions through the date of transfer.

(b) For those full–time employees of the BWI Airport Fire & Rescue Department who were employed on or after October 1, 1993 and who elect membership in the Law Enforcement Officers' Pension System on or before December 31, 2000, the Board of Trustees shall transfer to the accumulation fund of the Law Enforcement Officers' Pension System the employer contributions made to the Employees' Retirement System and the Employees' Pension System on behalf of those transferring members, plus the interest earned on those contributions through the date of transfer.

(c) (1) For members who transfer from a local pension system, the local pension system shall transfer to the Board of Trustees the employer contributions that were made to the local pension system on behalf of those members who transferred, plus the interest earned on those contributions through the date of transfer.

(2) The Board of Trustees shall deposit any funds transferred under paragraph (1) of this subsection in the accumulation fund of the Law Enforcement Officers' Pension System.

(d) (1) On or before January 1, 2006, for members who transfer from the Maryland Transit Administration Pension System established under § 7–603 of the

Transportation Article, the Maryland Transit Administration shall transfer to the Board of Trustees the employer contributions made to the pension system established under § 7–603 of the Transportation Article on behalf of those members who transfer, plus the interest earned on those contributions through July 1, 2005.

(2) The Board of Trustees shall deposit any funds transferred under paragraph (1) of this subsection in the accumulation fund of the Law Enforcement Officers' Pension System.

(e) (1) This subsection applies to members of the Department of Public Safety and Correctional Services Intelligence and Investigative Division who:

(i) have the powers granted to a police officer under § 10–701 of the Correctional Services Article; and

(ii) transfer to the Law Enforcement Officers' Pension System on or before December 31, 2007.

(2) The Board of Trustees shall transfer to the accumulation fund of the Law Enforcement Officers' Pension System the employer contributions made to the Correctional Officers' Retirement System or the Employees' Pension System on behalf of those members under paragraph (1) of this subsection, plus the interest earned on those contributions through the date of transfer.

§26–203.2.

(a) This section applies to a member of the Maryland Transit Administration Police Force who:

(1) has the powers granted to a police officer under § 7-207 of the Transportation Article; and

(2) who transfers to the Law Enforcement Officers' Pension System on or before December 31, 2005.

(b) Before the transfer of a member to the Law Enforcement Officers' Pension System, the Maryland Transit Administration shall perform all calculations and compile all necessary information and documentation as directed or required by the State Retirement and Pension System for the transfer of each individual account.

(c) (1) At least 60 days before transferring to the Law Enforcement Officers' Pension System, a member of the Maryland Transit Administration Police Force may elect to pay all or a portion of the member contribution that would have been paid by a member of the Law Enforcement Officers' Pension System for the period of time the member of the Maryland Transit Administration Police Force was employed with the Maryland Transit Administration from July 1, 2000 through December 31, 2005.

(2) A member who elects to pay all or a portion of the member

contributions under paragraph (1) of this subsection, shall pay the Maryland Transit Administration in accordance with subsection (e)(1) of this section.

(3) The member shall complete and file with the Maryland Transit Administration a form stating the member's intent to pay all or a portion of the member contributions under this subsection.

(4) The Maryland Transit Administration shall coordinate and manage the member's election to pay all or a portion of the member contributions under this subsection.

(d) If a member elects not to pay all or a portion of the member contributions as provided in subsection (c) of this section:

(1) the Maryland Transit Administration may not pay any amount of member contributions due for prior service credit for that member to the Board of Trustees; and

(2) on retirement from the Law Enforcement Officers' Pension System, the member's retirement allowance shall be reduced by the actuarial equivalent of the member contributions that would have been deducted if the member had earned the service credit under the Law Enforcement Officers' Pension System, including interest on those contributions.

(e) (1) If a member elects to pay for all or a portion of the member contributions as provided in subsection (d) of this section, the member shall pay the Maryland Transit Administration 4% of the member's Maryland Transit Administration annual salary on February 23, 2005, multiplied by 50% of the member's number of years of service, including partial years, from July 1, 2000 through July 1, 2005.

(2) Payments made under this subsection shall begin the first pay period of 2006 and continue until the total amount owed by the member is paid.

(3) The Maryland Transit Administration shall administer and manage the payments as follows:

(i) the member shall pay to the Maryland Transit Administration, through payroll deductions, the sum of $30 per week until the amount as calculated by the Maryland Transit Administration is paid;

(ii) the member shall pay the Maryland Transit Administration any remaining balance due at the time of separation from service with the Maryland Transit Administration; and

(iii) any amount remaining to be paid by a member who dies while still employed by the Maryland Transit Administration shall be forgiven by the Maryland Transit Administration.

(4) For a member who elects to pay a portion of the member contributions under this section, the State Retirement and Pension System shall bill the Maryland Transit Administration, and the Maryland Transit Administration shall pay, the entire amount of member contributions due for the period of July 1, 2000 through July 1, 2005, including interest, no later than January 1, 2006, as specified by the State Retirement and Pension System.

(f) (1) If a member participated in the Maryland Transit Administration's Supplemental Pension Plan in addition to the Maryland Transit Administration's Pension System, the member's retirement allowance shall be reduced by the set-off amount that was fixed upon termination of the Supplemental Pension Plan in December 2003.

(2) The Maryland Transit Administration shall provide the names and set-off amounts for all members to the State Retirement and Pension System at the time of retirement.

§26–203.3.

(a) This section applies to members of the Department of Public Safety and Correctional Services Intelligence and Investigative Division who:

(1) have the powers granted to a police officer under § 10–701 of the Correctional Services Article; and

(2) transfer to the Law Enforcement Officers' Pension System on or before December 31, 2007.

(b) A member shall deposit in the annuity savings fund of the Law Enforcement Officers' Pension System contributions at the rate of 4% of the individual's earnable compensation after July 1, 2000, including regular interest on the contributions at the rate of 5% per year compounded annually.

§26–204.

(a) Except as provided in subsection (b) of this section, a member's contribution rate is:

(1) 4% of the member's earnable compensation received before July 1, 2011;

(2) 6% of the member's earnable compensation received from July 1, 2011 to June 30, 2012, both inclusive; and

(3) 7% of the member's earnable compensation received on or after July 1, 2012.

(b) (1) This subsection applies only to a member who:

(i) transferred to the Law Enforcement Officers' Pension System from the Employees' Retirement System on or after January 1, 2001, and on or before December 31, 2004; or

(ii) 1. transferred to the Law Enforcement Officers' Pension System from the Employees' Retirement System on or before December 31, 2000; and

2. 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 subtitle.

(2) The contribution rate for a member who has transferred from the Employees' Retirement System is the rate set under:

(i) Section 22-214(a) of this article, for a member who had elected Selection A (Additional member contributions) under § 22-219 of this article; or

(ii) Section 22-214(b) of this article, for a member who had elected Selection B (Limited cost-of-living adjustment) under § 22-220 of this article.

§26–205.

(a) Except as provided in subsection (b) of this section, regular interest is payable on member contributions until retirement or withdrawal of accumulated contributions at the rate of:

(1) 4% a year, compounded annually, for a member who has transferred from the Employees' Retirement System on or before December 31, 2004; or

(2) 5% a year, compounded annually, for each other member.

(b) No further interest shall be paid on member contributions after membership ends if the former member is not eligible to receive a vested allowance under Title 29, Subtitle 3 of this article.

§26–206.

Membership ends if the member:

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

(2) withdraws the member's accumulated contributions;

(3) becomes a retiree; or

(4) dies.

§26–207.

If an individual was a member of any one of the several systems on June 30, 2011, and without incurring a break in employment of more than 30 days, becomes a member of the Law Enforcement Officers' Pension System on or after July 1, 2011, the individual:

(1) shall be considered to be a new member of the Law Enforcement Officers' Pension System as of the date the individual joins the system; and

(2) is subject to the same requirements to which an individual who was a member of the Law Enforcement Officers' Pension System on June 30, 2011, and remains a member on July 1, 2011, is subject.

§26–209.

(a) Except as provided in subsection (b) of this section, this Part II of this subtitle applies to an individual who is a member of the Law Enforcement Officers' Pension System.

(b) This Part II of this subtitle does not apply to an individual who:

(1) is a member of the Law Enforcement Officers' Pension System;

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

(3) did not elect to participate in the Contributory Law Enforcement Officers' Modified Pension Benefit as provided in § 26-211 of this subtitle.

§26–210.

(a) A member who is subject to this Part II of this subtitle shall:

(1) receive an allowance for all creditable service as follows:

(i) for normal service retirement as provided in § 26–401(b) of this title;

(ii) for ordinary disability retirement as provided in § 29–108 of this article; and

(iii) for accidental disability retirement as provided in §§ 29–109(c) and 29–110 of this article;

(2) have the allowance adjusted as provided in §§ 29–401, 29–402, 29–406, and 29–408 of this article; and

(3) make member contributions at the rate specified in § 26–204(a) of this

subtitle.

(b) A member who is not subject to this Part II of this subtitle shall receive an allowance for accidental disability retirement as provided in §§ 29-109(c) and 29-110 of this article.

§26–211.

(a) This section applies only to a member of the Law Enforcement Officers' Pension System who transferred to the Law Enforcement Officers' Pension System from the Employees' Retirement System.

(b) On or before December 31, 2000, a member may elect to participate in the Law Enforcement Officers' Modified Pension Benefit under Part II of this subtitle by submitting an election on a form provided by the State Retirement Agency.

(c) (1) An election by a member under this section is irrevocable.

(2) Subject to § 26-401(a)(2) of this title, an election by a member under this section shall be effective on the date that it is filed with the State Retirement Agency.

(3) The Board of Trustees may not accept an election to participate in the Law Enforcement Officers' Modified Pension Benefit that is filed with the State Retirement Agency after 5 p.m. on December 29, 2000.

§26–212.

A member of the Law Enforcement Officers' Pension System who did not elect to participate in the Law Enforcement Officers' Modified Pension Benefit as provided in § 26-211 of this subtitle, shall receive each benefit enhancement added on or after July 1, 2001 to the Law Enforcement Officers' Modified Pension Benefit.

§26–301.

A member is entitled to:

(1) eligibility service as provided in §§ 26-302 through 26-307 of this subtitle; and

(2) creditable service as provided in § 26-308 of this subtitle.

§26–302.

(a) Subject to subsections (b), (c), and (d) of this section, a member is entitled to eligibility service for periods of employment while a member of the Law Enforcement Officers' Pension System.

(b) The Board of Trustees may not allow more than 1 year of service credit for

a calendar year.

(c) (1) If a member completes at least 500 hours of employment while a member in any fiscal year, the member is entitled to 1 year of eligibility service.

(2) Except in the first and last fiscal years, a member may not receive any eligibility service for a fiscal year in which the member completes less than 500 hours of employment while a member.

(3) In the first and last fiscal years, if a member completes less than 500 hours of employment while a member, the Board of Trustees shall prorate the eligibility service based on the number of hours worked.

(d) If a member who is subject to the Law Enforcement Officers' Modified Pension Benefit under Subtitle 2, Part II of this title 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.

§26–303.

(a) This section applies to a member of the Law Enforcement Officers' Pension System who is subject to the Law Enforcement Officers' Modified Pension Benefit under Subtitle 2, Part II of this title.

(b) A member is entitled to the eligibility service to which the member was entitled before the separation from employment if the member:

(1) was entitled to a vested allowance from the Law Enforcement Officers' Pension System at the time of the separation from employment; and

(2) has completed 1 year of employment as a member of the Law Enforcement Officers' Pension System who is subject to the Law Enforcement Officers' Modified Pension Benefit under Subtitle 2, Part II of this title.

§26–304.

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 from the Employees' Retirement System, the member's creditable service recognized under the Employees' Retirement System through the date before the member became a member of the Law Enforcement Officers' Pension System; and

(3) for a member who has transferred from the Employees' Pension System, the member's eligibility service recognized under the Employees' Pension

System through the date before the member became a member of the Law Enforcement Officers' Pension System.

§26–305.

A member is entitled to eligibility service equal to the military service credit granted under Title 38 of this article.

§26–306.

(a) A member is entitled to eligibility service during a leave of absence if the leave of absence:

(1) is approved by the Board of Trustees under regulations that apply to all members similarly situated; and

(2) is not otherwise recognized as eligibility service under this subtitle.

(b) To receive service credit for a leave of absence described under subsection (a) of this section, a member shall pay the member contributions with regular interest, if any, as determined by the Board of Trustees under regulations that apply to all members similarly situated.

§26–306.1.

(a) Except as provided in subsection (b) of this section, a member may not purchase service credit under this title if the member is separated from employment.

(b) (1) A member who is separated from employment may purchase service credit under this title for a leave of absence approved by the Board of Trustees under regulations that apply to all members, if the member purchases the service credit within 60 days after the expiration of the leave of absence.

(2) For good cause shown, the Executive Director, in the Executive Director's sole discretion, may extend the time period to purchase service credit under paragraph (1) of this subsection if:

(i) the purchased service credit would allow the member to meet the eligibility service requirements to apply for an ordinary disability retirement under § 29–105(a) of this article; and

(ii) the member completes the purchase of the service credit before the earlier of:

1. 4 years after the expiration of the leave of absence; or

2. the date membership ends.

(3) The Board of Trustees shall adopt regulations to carry out this

subsection.

§26–307.

(a) (1) In the year of retirement, a member may purchase service credit for eligibility service of up to 10 years for periods of employment for which the member:

(i) would have been entitled to purchase the service credit under the Employees' Pension System; and

(ii) is not otherwise entitled to service credit under the Law Enforcement Officers' Pension System.

(2) To purchase service credit under this section, a member must:

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

(ii) pay to the Board of Trustees an amount equal to the annuity reserve and pension reserve required to fund the additional allowance.

(b) (1) A member may purchase credit for eligibility service for previous service in a position described in § 23-204(a) of this article.

(2) To purchase the service credit, the member must pay, in a single payment, the contributions, with interest, that the Board of Trustees considers appropriate.

§26–307.1.

(a) A member 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 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.

(c) (1) Subject to paragraph (2) of this subsection, a member may purchase service credit for a period of employment as a member of the Law Enforcement Officers' 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 modified pension benefit under Subtitle 2, Part II of this title when the member previously terminated membership in the Law Enforcement Officers' Pension System.

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

§26–308.

(a) For the purpose of computing benefits under this title, creditable service consists of:

(1) eligibility service as adjusted under subsection (b) of this section; and

(2) credit for unused sick leave as provided in § 20-206 of this article.

(b) (1) This subsection does not apply to eligibility service that consists of:

(i) service credit transferred from another retirement or pension system;

(ii) military service credit granted under Title 38 of this article; or

(iii) service credit purchased under this subtitle.

(2) The Board of Trustees shall adjust a member's eligibility service as provided in this subsection.

(3) (i) The Board of Trustees shall adopt regulations to determine for any fiscal year the amount of creditable service that equals the eligibility service for a member who has completed less than the normal hours of employment for the member's position.

(ii) The normal hours of employment for a position equals the minimum number of hours to be completed by a full-time employee serving in the member's position.

(iii) The creditable service recognized for a fiscal year may not be less than the eligibility service for the member multiplied by a fraction, not to exceed 1, that has:

1. as its numerator, the number of hours of employment as a member that the member has completed during that year; and

2. as its denominator, the normal number of hours for the member's position.

§26–401.

(a) (1) Subject to paragraph (2) of this subsection, a member may retire with a normal service retirement allowance if:

(i) on or before the date of retirement, the member:

1. has at least 25 years of eligibility service; or

2. is at least 50 years old; and

(ii) the member completes and submits a written application to the Board of Trustees on the form that the Board of Trustees provides stating the date when the member desires to retire.

(2) A member may not retire before the first day of the month after employment ends.

(b) (1) Except as provided in paragraphs (2) and (3) of this subsection, on retirement under this section, a member is entitled to receive a normal service retirement allowance that equals the number of years of the member's creditable service multiplied by 2% of the member's average final compensation.

(2) A member's normal service retirement allowance under paragraph (1) of this subsection may not exceed 60% of the member's average final compensation.

(3) (i) This paragraph applies only to a member who is not subject to the Law Enforcement Officers' Modified Pension Benefit under Subtitle 2, Part II of this title.

(ii) On retirement under this paragraph, the member is entitled to receive a normal service retirement allowance that equals:

1. 2.3% of the member's average final compensation multiplied by each year of the member's first 30 years of creditable service; and

2. 1% of the member's average final compensation multiplied by each year of creditable service in excess of 30 years.

§26–401.1.

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

(2) "DROP" means the Deferred Retirement Option Program established under this section.

(3) "DROP member" means a member of the Law Enforcement Officers' Pension System who:

(i) is eligible to participate in the DROP as provided in subsection (c) of this section; and

(ii) elects to participate in the DROP as provided in subsection (e) of this section.

(b) There is a DROP for eligible members of the Law Enforcement Officers' Pension System.

(c) (1) In this subsection, "creditable service" does not include credit for unused sick leave as provided in § 20–206 of this article.

(2) A member of the Law Enforcement Officers' Pension System is eligible to participate in the DROP if the member has at least 25 and less than 30 years of creditable service.

(d) (1) In this subsection, "creditable service" does not include credit for unused sick leave as provided in § 20–206 of this article.

(2) An eligible member may elect to participate in the DROP for a period not to exceed the lesser of:

(i) 5 years;

(ii) the difference between 30 years and the member's creditable service as of the date of the member's election to participate in the DROP and retire from the Law Enforcement Officers' Pension System; or

(iii) a term selected by the member.

(e) (1) An eligible member who elects to participate in the DROP shall:

(i) complete and submit a written election form to the Board of Trustees, on the form that the Board of Trustees provides, stating:

1. the member's intention to participate in the DROP;

2. the date when the member desires to retire;

3. the period that the member desires to participate in the DROP, as provided in subsection (d) of this section;

4. the date when the member intends to terminate employment with the State in the form of a binding letter of resignation accepted by the Secretary or the Secretary's designee of the Department for which the member is employed; and

5. any other information required by the Board of Trustees to implement the DROP; and

(ii) complete and submit a written retirement application form to the Board of Trustees, on the form that the Board of Trustees provides.

(2) An eligible member's election to participate in the DROP is irrevocable.

(f) (1) A DROP member's participation in the DROP shall commence on the first day of the month following acceptance by the Board of Trustees of the DROP member's completed election form, retirement application form, and any other information required by the Board of Trustees.

(2) A DROP member is a retiree of the Law Enforcement Officers' Pension System.

(g) Participation in the DROP ends if the DROP participant:

(1) separates from employment in accordance with the binding letter of resignation submitted with the member's election form;

(2) dies;

(3) is terminated from employment by the DROP member's participating employer at any time before the date specified on the member's election form;

(4) shortens the time period for participation in the DROP by delivering to the DROP member's participating employer and the Board of Trustees written notice of the intent of the DROP member to terminate employment; or

(5) accepts an accidental disability retirement allowance as provided in subsection (k) of this section.

(h) (1) As of the effective date of participation in the DROP, the Board of Trustees shall determine the DROP member's normal service retirement allowance under § 26–401 of this subtitle.

(2) During the period that a DROP member participates in the DROP, the Board of Trustees shall:

(i) deposit the DROP member's normal service retirement allowance in the DROP for the DROP member's benefit;

(ii) adjust the DROP member's normal service retirement allowance each fiscal year as provided in §§ 29–401, 29–402, 29–406, and 29–408 of this article; and

(iii) accrue interest on the amounts calculated under subparagraphs (i) and (ii) of this paragraph for the DROP member into the DROP at the rate of:

1. 6% a year, compounded monthly if the individual is a DROP

member on or before June 30, 2011; or

2. 4% a year, compounded annually, if the individual becomes a DROP member on or after July 1, 2011.

(3) A DROP member may not receive creditable service or eligibility service during the period that the DROP member participates in the DROP.

(4) A DROP member's compensation during the period that the DROP member participates in the DROP may not be:

(i) subject to the employer pickup provisions of § 21–303 of this article or any reduction or deduction as a member contribution for pension or retirement purposes; or

(ii) used to increase the DROP member's average final compensation except as provided in subsection (k) of this section.

(5) During the period that a DROP member participates in the DROP, the DROP member shall:

(i) continue to receive compensation, health insurance, and other benefit options established under the State Employee and Retiree Health and Welfare Benefit Program administered by the Secretary of Budget and Management, and any other benefits as an employee of the State;

(ii) be subject to the personnel law, regulations, and policies applicable to an employee of the State agency for which the member is employed; and

(iii) receive retirement benefits only to the extent provided in this section.

(6) The Board of Trustees is not required to establish an individual DROP account for each DROP member.

(7) Each year, the Board of Trustees shall provide a DROP member with a written accounting of the DROP member's account balance in the DROP.

(i) (1) Subject to paragraphs (2), (3), and (4) of this subsection, on termination of a DROP member's participation in the DROP, the Board of Trustees shall pay to the DROP member or, if the DROP member has died, the designated beneficiary of the DROP member, the amount accrued in the DROP for the DROP member under subsection (h)(2) of this section, reduced by any withholding taxes remitted to the Internal Revenue Service or other taxing authority, in a lump sum.

(2) The designated beneficiary of a DROP member is:

(i) the DROP member's surviving spouse;

(ii) if there is not a surviving spouse or if the surviving spouse dies before the youngest child is 18 years old, each child of the deceased DROP member who is under 18 years old; or

(iii) if there is not a surviving spouse or a child who is under 18 years old, the person named as a beneficiary in an acknowledged written designation filed with the Board of Trustees by the DROP member.

(3) A DROP member or designated beneficiary of a DROP member may direct the Board of Trustees to pay all or a portion of the amount accrued for the DROP member's benefit under subsection (h)(2) of this section directly to the custodian of an eligible retirement plan as provided in Title 21, Subtitle 6 of this article.

(4) A DROP member or designated beneficiary of a DROP member is eligible to receive the amount due under this subsection within 90 days after:

(i) the date of termination of the DROP member's participation in the DROP;

(ii) the receipt by the Board of Trustees of a completed application to receive the DROP amount, on the form that the Board of Trustees provides; and

(iii) the receipt by the Board of Trustees of any other information that the Board of Trustees requires to process payment of the DROP member's account balance to the DROP participant, the designated beneficiary of the DROP participant, or the custodian of an eligible retirement plan.

(j) (1) Except as provided in paragraph (2) of this subsection, as of the first day of the month following termination of a DROP member's participation in the DROP, the Board of Trustees shall commence and continue payment of the normal service retirement allowance, including the cost–of–living adjustments as provided in §§ 29–401, 29–402, 29–406, and 29–408 of this article, to the member as provided in §§ 26–401 and 26–402 of this subtitle.

(2) If a DROP member dies before termination of the DROP member's participation in the DROP, the Board of Trustees shall pay 50% of the normal service retirement allowance, including the cost–of–living adjustments as provided in §§ 29–401, 29–402, 29–406, and 29–408 of this article, to the beneficiary as provided in § 26–402 of this subtitle.

(k) (1) A DROP member is eligible to apply for an accidental disability retirement allowance under § 29–109 of this article if after the DROP member commences participation in the DROP:

(i) the member is totally and permanently incapacitated for duty arising out of or in the course of the actual performance of duty that occurs while participating in DROP, and without willful negligence of the member; and

(ii) the medical board certifies that:

1. the member is totally incapacitated, either mentally or physically, for the further performance of duty by the occurrence described under item (i) of this paragraph;

2. the incapacity is likely to be permanent; and

3. the member should be retired.

(2) (i) If a DROP member is granted an accidental disability retirement allowance, the DROP member shall:

1. submit an application to the Board of Trustees, on the form the Board of Trustees provides, to receive payment of the amount accrued in the DROP in accordance with subsection (i) of this section;

2. execute a written waiver of any benefits to which the DROP member may be entitled under the DROP; and

3. submit an application to retire with an accidental disability retirement allowance, on the form the Board of Trustees provides, stating the effective date of the DROP member's retirement as an accidental disability retiree.

(ii) On acceptance of the application for payment and application to retire, the Board of Trustees shall commence payment of an accidental disability allowance to the DROP member as provided in § 29–110 of this article, except that the DROP member's average final compensation shall be computed as of the effective date of the DROP member's application for an accidental disability retirement allowance.

§26–402.

(a) This section applies to the surviving spouse or a child of a retiree in receipt of a service retirement allowance or a disability retirement allowance.

(b) On the death of a retiree, the Board of Trustees shall pay 50% of the retiree's retirement allowance to:

(1) the surviving spouse; or

(2) if there is no surviving spouse or if the surviving spouse dies before the youngest child of the retiree is 18 years old, all children of the deceased retiree who are under 18 years old.

(c) If the Board of Trustees pays an allowance to more than one child, the Board of Trustees shall divide the allowance among the children under the age of 18 years in a manner that provides for payments to continue until each child dies or becomes 18 years old.

§26–403.

(a) Except as provided in subsection (f) of this section, a retiree who is receiving a service retirement allowance may accept employment with a participating employer on a permanent, temporary, or contractual basis, without any reduction in retirement allowance.

(b) A reemployed retiree who is receiving a service retirement allowance may not receive creditable service or eligibility service during the period of reemployment.

(c) The retiree's compensation during the period of reemployment may not be subject to the employer pickup provisions of § 21-303 of this article or any reduction or deduction as a member contribution for pension or retirement purposes.

(d) The State Retirement Agency shall institute appropriate reporting procedures with the affected payroll systems to ensure compliance with this section.

(e) (1) Immediately on the employment of any retiree, a participating employer shall notify the State Retirement Agency of the type of employment and the anticipated earnings of the retiree.

(2) At least once each year, in a format specified by the State Retirement Agency, each participating employer shall provide the State Retirement Agency with a list of all employees included on any payroll of the employer, the Social Security numbers of the employees, and their earnings for that year.

(f) An individual who is receiving a service retirement allowance under this title may not be employed within 45 days of the date the individual retired, on a permanent, temporary, or contractual basis, by:

(1) the State or other participating employer; or

(2) a withdrawn participating governmental unit, if the retiree was an employee of the withdrawn participating governmental unit while the withdrawn governmental unit was a participating employer.

§26–404.

A member may be entitled to benefits under Title 29 of this article other than, or in addition to, the benefits provided under this subtitle.

§27–101.

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

(b) "Termination of service" includes:

(1) retirement at the age of 70 years as required by Article IV, § 3 of the

Maryland Constitution;

(2) voluntary retirement;

(3) resignation because of disability;

(4) retirement by order of the Court of Appeals;

(5) resignation;

(6) nonelection or nonconfirmation when election or confirmation is required;

(7) expiration of term without reappointment; or

(8) abolition of the member's office.

§27–102.

This title applies only to the Judges' Retirement System.

§27–103.

This title does not impair or reduce any benefit that a former member or retiree or a spouse of a member, former member, or retiree has been or would be entitled to receive under any public general law.

§27–201.

(a) The following individuals are members of the Judges' Retirement System:

(1) a judge of the Court of Appeals, Court of Special Appeals, circuit court of a county, or District Court of Maryland;

(2) a member of the State Workers' Compensation Commission; and

(3) a master in chancery or master in juvenile causes who:

(i) was appointed by the circuit court of a county on or before June 30, 1989; and

(ii) serves full time as a master.

(b) A former judge who is temporarily assigned to sit in a court of the State under the authority of Article IV, § 3A of the Maryland Constitution is not a member.

§27–202.

(a) Except as provided in subsection (b) of this section, a member's contribution

rate is 8% of the member's earnable compensation.

(b) After 16 years of service as a member, a member does not make any further contributions.

§27–203.

Regular interest is payable on member contributions at the rate of 4% a year compounded annually, until retirement or withdrawal of the accumulated contributions.

§27–204.

A former member who withdraws accumulated contributions does not have further rights under the Judges' Retirement System.

§27–301.

A member is entitled to service credit:

(1) for service as a member;

(2) regained under § 27-302 of this subtitle by a member who redeposits accumulated contributions previously withdrawn;

(3) for prior service as provided in § 27-303 of this subtitle;

(4) for military service as provided in Title 38 of this article; or

(5) purchased under § 27-304 of this subtitle.

§27–302.

A member who, on a prior termination of service, withdrew accumulated contributions from the Judges' Retirement System may receive service credit for the period of service during the previous membership if, within 1 year after the member's restoration of membership, the member redeposits in a single payment the withdrawn accumulated contributions plus regular interest to the date of redeposit.

§27–303.

A member is entitled to service credit for prior service as a full-time judge of a people's court or municipal court.

§27–304.

(a) A member may purchase service credit as provided in subsection (b) of this section for periods of service described in subsection (c) of this section for which the member is not otherwise entitled to service credit.

(b) (1) To purchase service credit under this section, a member must:

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

(ii) pay to the Board of Trustees in a single payment 6% of the amount received in compensation for that full-time service 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.

(c) A member may purchase service credit for prior service as:

(1) a full-time master in chancery or master in juvenile causes on or before June 30, 1975; or

(2) a member of the State Workers' Compensation Commission on or before June 30, 1977.

(d) Service credit that is purchased under this section may not be used as service credit in another retirement or pension system of the State or a political subdivision of the State.

§27–401.

(a) (1) This subsection applies only to an individual who is a member of the Judges' Retirement System on or before June 30, 2012.

(2) A member or former member is entitled to a retirement allowance:

(i) on termination of service, if the member is at least 60 years old;

(ii) on the recommendation of the medical board, if the member or former member resigns because of disability;

(iii) when retired by order of the Court of Appeals; or

(iv) at the age of 60 years, if the former member's termination of service occurred earlier.

(b) (1) This subsection applies only to an individual who becomes a member of the Judges' Retirement System on or after July 1, 2012.

(2) A member or former member is entitled to a retirement allowance:

(i) on termination of service, if the member is at least 60 years old and has at least 5 years of eligibility service;

(ii) on the recommendation of the medical board, if the member or former member resigns because of disability;

(iii) when retired by order of the Court of Appeals; or

(iv) at the age of 60 years, if the former member's termination of service occurred earlier and the former member had at least 5 years of eligibility service when the former member terminated service.

§27–402.

(a) Except as provided in subsection (b) of this section and subject to subsections (c) and (d) of this section, on retirement under this subtitle, a retiree is entitled to receive a retirement allowance that equals two-thirds of the salary payable in that fiscal year to a member holding the same level judicial position as that held by the retiree on termination of service.

(b) (1) This subsection applies only to a retiree who is a master in chancery or juvenile causes at the time of termination of service.

(2) Subject to subsections (c) and (d) of this section, on retirement under this subtitle, a retiree is entitled to receive a retirement allowance that equals:

(i) two-thirds of the salary payable at the time of termination of service; or

(ii) for a retiree who was receiving a retirement allowance as of June 30, 1993, the retirement allowance being received as of that date.

(3) A retirement allowance computed under paragraph (2) of this subsection shall be increased each fiscal year that circuit court judges receive salary increases, at a rate equal to the average rate of increase of salaries of all circuit court judges for that fiscal year.

(c) (1) (i) This paragraph applies only to an individual who is a member of the Judges' Retirement System on or before June 30, 2012.

(ii) On retirement under this subtitle by a retiree who has less than 16 years of service credit as a member, the retiree is entitled to a reduced retirement allowance that equals the retirement allowance computed under subsection (a) or (b) of this section multiplied by a fraction that has:

1. for its numerator, the number of years of service credit as a member; and

2. for its denominator, 16.

(2) (i) This paragraph applies only to an individual who becomes a

member of the Judges' Retirement System on or after July 1, 2012.

(ii) On retirement under this subtitle by a retiree who has at least 5 years but less than 16 years of service credit as a member, the retiree is entitled to a reduced retirement allowance that equals the retirement allowance computed under subsection (a) or (b) of this section multiplied by a fraction that has:

1. for its numerator, the number of years of service credit as a member; and

2. for its denominator, 16.

(d) (1) This subsection applies to a member or former member who:

(i) retires on disability; or

(ii) is deemed to retire on disability under paragraph (3) of this subsection.

(2) If a member or former member has at least 3 years of service credit as a member, the member or former member is entitled to a retirement allowance that is at least one-third of the member's or former member's salary at retirement.

(3) A member who dies after submitting an application for disability but before the medical board approves the application is deemed retired on disability.

§27–403.

(a) (1) Except as provided in paragraph (2) of this subsection, on the death of a member, the Board of Trustees shall pay to the surviving spouse 50% of the retirement allowance that would be payable were the member alive and eligible to receive a retirement allowance.

(2) (i) If at the time of death the member does not have a surviving spouse, the Board of Trustees shall pay to the member's designated beneficiary or beneficiaries a lump–sum death benefit consisting of the sum of:

1. the member's accumulated contributions; and

2. an amount equal to the member's annual salary at the time of death.

(ii) If a member has designated more than one beneficiary, the lump–sum death benefit provided in subparagraph (i) of this paragraph shall be divided equally among the beneficiaries.

(b) On the death of a former member or retiree, the Board of Trustees shall pay to the surviving spouse 50% of the retirement allowance that would be payable were

the former member or retiree alive and eligible to receive a retirement allowance.

(c) (1) This subsection applies to a member, former member, or retiree who at the time of death:

(i) does not have a spouse; and

(ii) has a child under the age of 18 years.

(2) Until each child reaches the age of 18 years, the Board of Trustees shall pay to the surviving children of the member, former member, or retiree who are under the age of 18 years the retirement allowance that would have been paid to a surviving spouse under subsection (a) or (b) of this section.

(3) If the Board of Trustees pays an allowance to more than one child, the Board of Trustees shall divide the allowance equally among the children who are under the age of 18 years.

§27–404.

Except for a retiree who elects an optional form of an allowance under §§ 21-401 and 21-402 of this article, payment of an allowance ends and further rights may not arise from service as a member if:

(1) a member, former member, or retiree dies; and

(2) (i) the member, former member, or retiree leaves no surviving spouse or children under the age of 18 years;

(ii) the surviving spouse dies and there are no children of the member, former member, or retiree, who are under the age of 18 years; or

(iii) the last of any children under the age of 18 years becomes 18 years old or dies before becoming 18 years old.

§27–405.

(a) If a member's service is terminated by death and the member leaves no spouse, child under the age of 18 years, or designated beneficiary or beneficiaries, the member's accumulated contributions shall be paid to the member's estate.

(b) (1) At the time of termination of service, or within 6 months thereafter, but before receiving payment of a retirement allowance, a former member may elect to withdraw in a single payment the former member's accumulated contributions from the dates of payment.

(2) If the former member elects to withdraw the accumulated contributions, the former member has no further rights under the Judges' Retirement

System.

§27–406.

(a) This section does not apply to a retiree who:

(1) is temporarily assigned to sit in a court of this State under the authority of Article IV, § 3A of the Maryland Constitution; or

(2) is employed as a member of the faculty of a public institution of higher education in the State.

(b) Subject to subsection (e) of this section, a retiree may accept employment in which all or part of the compensation for the employment comes from municipal, county, or State funds, if the retiree immediately notifies the Board of Trustees of:

(1) the retiree's intention to accept the employment; and

(2) the compensation that the retiree will receive.

(c) (1) Except as provided in paragraph (3) of this subsection, the Board of Trustees shall reduce the retirement allowance of a retiree who accepts employment as provided under subsection (b) of this section if the retiree's current employer is any unit of State government and the retiree's employer at the time of the retiree's last separation from employment with the State before the retiree commenced receiving a service retirement allowance was also a unit of State government.

(2) The reduction required under paragraph (1) of this subsection shall equal the amount that the sum of the retiree's annual retirement allowance and the retiree's annual compensation exceeds the amount of the compensation on which the retirement allowance is based.

(3) The reduction required under paragraph (1) of this subsection does not apply to an individual who has been retired for 5 years, beginning on January 1 after the date the individual retires.

(d) (1) Subject to paragraph (2) of this subsection, if a retiree accepts employment as allowed by subsection (a) of this section and is subsequently awarded retirement benefits because of that employment, the Board of Trustees shall reduce the retiree's benefits under this subtitle by the amount of the retirement benefits resulting from the subsequent employment if the retiree's current employer is any unit of State government and the retiree's employer at the time of the retiree's last separation from employment with the State before the retiree commenced receiving a service retirement allowance was also a unit of State government.

(2) (i) Any reduction taken to a retiree's allowance under this subsection may not exceed an amount that would reduce the retiree's allowance to less than what is required to be deducted for the retiree's monthly State–approved medical

insurance premiums.

(ii) If a reduction for a calendar year taken under subparagraph (i) of this paragraph is less than the reduction required under paragraph (1) of this subsection, the Board of Trustees shall recover from the retiree an amount equal to the reduction required under paragraph (1) of this subsection less the reduction taken under subparagraph (i) of this paragraph.

(e) A retiree may not be employed by the State or other participating employer on a permanent, temporary, or contractual basis within 45 days of the date the individual retired.

§27–407.

(a) In this section:

(1) "supplement" means a payment in addition to a retirement allowance that is paid to a retiree or a surviving spouse of a member, former member, or retiree; and

(2) "supplement" includes a salary, bonus, pension, or spouse's benefits.

(b) Except as provided in subsection (c) of this section, a county may not pay a supplement to a retiree or a surviving spouse of a member, former member, or retiree.

(c) If a retiree was covered by the contributory plan of the Judges' Retirement System as a member or former member on or before June 30, 1974, a county may pay a supplement to the retiree or surviving spouse of the retiree, if:

(1) the sum of the supplement and the retirement allowance of the retiree does not exceed $20,000; or

(2) the sum of the supplement and the retirement allowance of the surviving spouse does not exceed $10,000.

§28–101.

This title applies to the Local Fire and Police System.

§28–102.

Except as otherwise provided in this title, the operation of the Local Fire and Police System shall be the same as the operation of the Employees' Pension System.

§28–201.

(a) This subtitle applies only to an employee of a participating governmental unit who is:

(1) a law enforcement officer who is certified by the Maryland Police Training Commission as a law enforcement officer; or

(2) a fire fighter who is:

(i) a paid firefighter, as determined by the eligible governmental unit; or

(ii) a paid paramedic, as determined by the eligible governmental unit.

(b) This subtitle does not apply to an employee of a participating governmental unit who is a volunteer firefighter or volunteer paramedic.

§28–202.

(a) Except as provided in subsection (b) of this section, an individual described in § 28-201 of this subtitle is a member of the Local Fire and Police System as a condition of employment.

(b) Membership in the Local Fire and Police System is optional for an individual who was employed by a participating governmental unit on the date the participating governmental unit begins to participate in the Local Fire and Police System.

§28–203.

Membership continues for a member who is:

(1) on a leave of absence approved by the Board of Trustees; or

(2) in the military service within the periods specified in Title 38 of this article.

§28–204.

(a) Except as provided in subsection (b) of this section, a member's contribution rate is 5% of the part of the member's earnable compensation that exceeds the taxable wage base for each year.

(b) The contribution rate for a member who has transferred from the Employees' Retirement System is 7% of the member's earnable compensation.

§28–205.

(a) Except as provided in subsection (b) of this section, regular interest is payable on member contributions until retirement or withdrawal of accumulated contributions at the rate of:

(1) 4% a year, compounded annually, for a member who has transferred

from the Employees' Retirement System; or

(2) 5% a year, compounded annually, for each other member.

(b) No further interest shall be paid on member contributions after membership ends if the former member is not eligible to receive a vested allowance under Title 29, Subtitle 3 of this article.

§28–206.

Membership ends if the member is separated from employment for more than 4 years.

§28–301.

A member of the Local Fire and Police System is entitled to:

(1) eligibility service as provided in §§ 28-302 through 28-307 of this subtitle; and

(2) creditable service as provided in § 28-308 of this subtitle.

§28–302.

(a) Subject to subsection (b) of this section, a member is entitled to eligibility service for periods of employment while a member of the Local Fire and Police System.

(b) (1) If a member completes at least 500 hours of employment while a member in any fiscal year, the member is entitled to 1 year of eligibility service.

(2) Except in the first and last fiscal years, a member may not receive any eligibility service for a fiscal year in which the member completes less than 500 hours of employment while a member.

(3) In the first and last fiscal years, if a member completes less than 500 hours of employment while a member, the Board of Trustees shall prorate the eligibility service based on the number of hours worked.

§28–303.

(a) In this section, "break in service" means a period of separation from employment in a fiscal year after the one in which a member first becomes employed, if during that fiscal year the member does not complete more than 350 hours of employment while a member.

(b) A former member is entitled to the eligibility service to which the former member was entitled before the separation from employment if:

(1) the former member has not incurred a break in service;

(2) the former member was entitled to a vested allowance at the time of separation from employment; or

(3) (i) the former member has completed 1 year of eligibility service after a break in service; and

(ii) the number of consecutive years in which the member incurred a break in service is less than the years of eligibility service as a member before the break in service.

(c) To determine if a former member is eligible for prior eligibility service under subsection (b)(3)(ii) of this section, the Board of Trustees shall determine the number of years of prior eligibility service:

(1) as of the day the former member separated from employment; but

(2) excluding any eligibility service lost because of a prior break in service.

§28–304.

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; and

(2) the member's service credit transferred from a retirement or pension system on or before December 31, 2005.

§28–305.

A member is entitled to eligibility service equal to the military service credit granted under Title 38 of this article.

§28–306.

(a) A member is entitled to eligibility service during a leave of absence if the leave of absence:

(1) is approved by the Board of Trustees under regulations that apply to all members similarly situated; and

(2) is not otherwise recognized as eligibility service under this subtitle.

(b) To receive service credit for a leave of absence described under subsection (a) of this section, a member shall pay the member contributions with regular interest, if any, as determined by the Board of Trustees under regulations that apply to all members similarly situated.

§28–306.1.

(a) Except as provided in subsection (b) of this section, a member may not purchase service credit under this title if the member is separated from employment.

(b) A member who is separated from employment may purchase service credit under this title for a leave of absence approved by the Board of Trustees under regulations that apply to all members, if the member purchases the service credit within 60 days after the expiration of the leave of absence.

§28–307.

(a) (1) In the year of retirement, a member may purchase service credit for eligibility service of up to 10 years for periods of employment for which the member:

(i) would have been entitled to purchase service credit under the Employees' Pension System; and

(ii) is not otherwise entitled to service credit under the Local Fire and Police System.

(2) To purchase service credit under this section, a member must:

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

(ii) pay to the Board of Trustees an amount equal to the annuity reserve and pension reserve required to fund the additional allowance.

(b) (1) A member may purchase credit for eligibility service for previous service in a position described in § 23-204(a) of this article.

(2) To purchase the service credit, the member must pay, in a single payment, the contributions, with interest, that the Board of Trustees considers appropriate.

§28–308.

(a) For the purpose of computing benefits under this title, creditable service consists of:

(1) eligibility service as adjusted under subsection (b) of this section; and

(2) credit for unused sick leave as provided in § 20-206 of this article.

(b) (1) This subsection does not apply to eligibility service that consists of:

(i) service credit transferred from another retirement or pension system;

(ii) military service credit granted under Title 38 of this article; or

(iii) service credit purchased under this subtitle.

(2) The Board of Trustees shall adjust a member's eligibility service as provided in this subsection.

(3) (i) The Board of Trustees shall adopt regulations to determine for any fiscal year the amount of creditable service that equals the eligibility service for a member who has completed less than the normal hours of employment for the member's position.

(ii) The normal hours of employment for a position equals the minimum number of hours to be completed by a full-time employee serving in the member's position.

(iii) The creditable service recognized for a fiscal year may not be less than the eligibility service for the member multiplied by a fraction, not to exceed one, that has:

1. as its numerator, the number of hours of employment as a member that the member has completed during that year; and

2. as its denominator, the normal number of hours for the member's position.

§28–401.

(a) (1) Subject to paragraphs (2) and (3) of this subsection, a member may retire with a normal service retirement allowance if, on or before the date of retirement, the member:

(i) has at least 25 years of eligibility service;

(ii) is at least 62 years old; or

(iii) is at least 60 years old and has transferred to the Local Fire and Police System from the Employees' Retirement System.

(2) To retire under this subsection, a member shall complete and submit a written application to the Board of Trustees on the form that the Board of Trustees provides stating the date when the member desires to retire.

(3) A member may not retire before the first day of the month after employment ends.

(b) Except as provided in subsections (c) and (d) of this section, on retirement under this section, a member is entitled to receive a normal service retirement

allowance that equals the number of years of the member's creditable service multiplied by:

(1) 1% of the member's average final compensation that is not in excess of the Social Security integration level; and

(2) 1.5% of the member's average final compensation that exceeds the Social Security integration level.

(c) (1) This subsection applies to a member:

(i) who has not transferred from the Employees' Retirement System; and

(ii) whose employer does not contribute to Social Security.

(2) On retirement under this section, a member is entitled to receive a normal service retirement allowance that equals the number of years of the member's creditable service multiplied by 1.5% of the member's average final compensation.

(d) (1) This subsection applies to a member who has transferred from the Employees' Retirement System.

(2) On retirement under this section, a member is entitled to receive a normal service retirement allowance that equals:

(i) 2% of the member's average final compensation multiplied by each year of the member's first 30 years of creditable service; and

(ii) 1% of the member's average final compensation multiplied by each year of creditable service in excess of 30 years.

§28–402.

(a) Except as provided in subsection (g) of this section, an individual who is receiving a service retirement allowance or vested allowance may accept employment with a participating employer on a permanent, temporary, or contractual basis, without any reduction in the allowance, if:

(1) the individual immediately notifies the Board of Trustees of the individual's intention to accept the employment; and

(2) the individual specifies the compensation to be received.

(b) (1) The Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (a) of this section if the individual's current employer is a participating employer other than the State and is the same participating employer that employed the individual at the time of the individual's

last separation from employment with a participating employer before the individual commenced receiving a service retirement allowance or vested allowance.

(2) The reduction required under paragraph (1) of this subsection shall equal the amount that the sum of the individual's initial annual basic allowance and the individual's annual compensation exceeds the average final compensation used to compute the basic allowance.

(3) Except for an individual whose allowance is subject to a reduction as provided under paragraph (1) of this subsection, the reduction of an allowance under this subsection does not apply to:

(i) an individual whose average final compensation was less than $25,000 and who is reemployed on a temporary or contractual basis;

(ii) an individual who is serving in an elected position as an official of a participating governmental unit or as a constitutional officer for a county that is a participating governmental unit; or

(iii) an individual who has been retired for 5 years, beginning on January 1 after the date the individual retires.

(c) An individual who is receiving a service retirement allowance or a vested allowance and who is reemployed by a participating employer may not receive creditable service or eligibility service during the period of reemployment.

(d) The individual's compensation during the period of reemployment may not be subject to the employer pickup provisions of § 21-303 of this article or any reduction or deduction as a member contribution for pension or retirement purposes.

(e) The State Retirement Agency shall institute appropriate reporting procedures with the affected payroll systems to ensure compliance with this section.

(f) (1) Immediately on the employment of any individual receiving a service retirement allowance or a vested allowance, a participating employer shall notify the State Retirement Agency of the type of employment and the anticipated earnings of the individual.

(2) At least once each year, in a format specified by the State Retirement Agency, each participating employer shall provide the State Retirement Agency with a list of all employees included on any payroll of the employer, the Social Security numbers of the employees, and their earnings for that year.

(g) An individual who is receiving a service retirement allowance under this title may not be employed by the State or other participating employer on a permanent, temporary, or contractual basis within 45 days of the date the individual retired.

§28–403.

A member may be entitled to benefits under Title 29 of this article other than, or in addition to, the benefits provided under this subtitle.

§29–101.

This subtitle does not apply to the Judges' Retirement System.

§29–102.

Before the Board of Trustees grants a retirement allowance for a disability, an application must be completed and submitted to the Board of Trustees in accordance with §§ 29-103 and 29-104 of this subtitle.

§29–103.

(a) Subject to § 29–104 of this subtitle, an application for disability retirement may be submitted:

(1) by a member;

(2) by a former member;

(3) by a surviving beneficiary of a deceased member; or

(4) for a member, as provided in subsections (b) through (d) of this section.

(b) (1) This subsection does not apply to members of:

(i) the State Police Retirement System;

(ii) the Teachers' Pension System; or

(iii) the Teachers' Retirement System.

(2) If a member is unable to apply, the member's department head may complete and submit an application to the Board of Trustees for the member.

(c) (1) This subsection applies to a member of the State Police Retirement System.

(2) The Secretary of State Police may complete an application and submit it to the Board of Trustees for a member if:

(i) the member is unable or refuses to submit an application for disability retirement;

(ii) the Secretary believes the member to be permanently physically

or mentally incapable of performing assigned duties;

(iii) there is sufficient medical evidence in the form of a professional opinion of an independent medical practitioner who has recognized expertise in the diagnosis and treatment of the specified illness of the officer to support the Secretary's determination of permanent disability;

(iv) the onset of the disability occurred at least 1 year earlier; and

(v) any administrative leave granted under § 2-410 of the Public Safety Article has expired.

(3) This subsection does not prevent an officer from exercising rights granted under § 21-111(b) of this article.

(d) (1) This subsection applies to members of:

(i) the Teachers' Pension System; and

(ii) the Teachers' Retirement System.

(2) If a member is unable to apply, the member's State or county superintendent may complete and submit an application to the Board of Trustees for the member.

§29–104.

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

(b) (1) This subsection applies only to an application for an ordinary or accidental disability retirement allowance filed by a member of the Employees' 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.

(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 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) 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) The Board of Trustees shall accept an application for ordinary, accidental, or special disability retirement from a surviving beneficiary of a deceased member, if a preliminary application for disability retirement or an application for disability retirement:

(i) is signed and dated by the deceased member within 7 days before the death of the member; and

(ii) is received by the Board of Trustees on or before 30 days after the date of the death of the member.

(2) If the Board of Trustees receives an application under paragraph (1) of this subsection:

(i) the medical board shall review the application to determine if the deceased member was mentally or physically incapacitated for the further performance of the normal duties of the individual's position; and

(ii) the Board of Trustees shall review the application to determine if the preliminary application for disability retirement or the application for disability retirement was signed by the deceased member before the death of the member.

(3) The Board of Trustees shall grant a disability retirement allowance, if:

(i) the medical board determines that the deceased member would have been eligible for disability retirement at the time the deceased member signed the disability application; and

(ii) the Board of Trustees determines that the signature is valid.

(4) In order for the signature to be valid, a surviving beneficiary shall submit to the Board of Trustees an affidavit signed by an individual who witnessed the deceased member signing the preliminary application for disability retirement or the application for disability retirement before the death of the member.

(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.

(e) (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.

§29–105.

(a) The Board of Trustees shall grant an ordinary disability retirement allowance to a member if:

(1) the member has at least 5 years of eligibility service; and

(2) the medical board certifies that:

(i) the member is mentally or physically incapacitated for the further performance of the normal duties of the member's position;

(ii) the incapacity is likely to be permanent; and

(iii) the member should be retired.

(b) (1) This subsection applies only to a member of the Employees' Pension System who:

(i) is promoted within the Department of Corrections to a position that no longer is eligible for membership in the Correctional Officers' Pension System as provided in § 25-201 of this article;

(ii) elects not to transfer the years of creditable service the individual accrued in the Correctional Officers' Retirement System to the Employees' Pension System; and

(iii) is eligible to receive a vested allowance from the Correctional Officers' Retirement System.

(2) A member may combine the eligibility service accrued in the Correctional Officers' Retirement System and the Employees' Pension System to determine if the member is eligible for an ordinary disability retirement allowance under subsection (a) of this section from the Employees' Pension System.

§29–106.

(a) This section applies only to members of:

(1) the Correctional Officers' Retirement System;

(2) the Employees' Retirement System; and

(3) the Teachers' Retirement System.

(b) An ordinary disability retirement allowance equals the greater of:

(1) a normal service retirement allowance; or

(2) the amount computed under subsection (c) or (d) of this section.

(c) If a member is at least normal retirement age, the amount to be used under subsection (b)(2) of this section is 25% of the member's average final compensation.

(d) If a member is under normal retirement age, the amount to be used under subsection (b)(2) of this section is the lesser of:

(1) 25% of the member's average final compensation; or

(2) the normal service retirement allowance that is computed by using:

(i) the number of years of creditable service that the member would have received if the member continued employment until normal retirement age; and

(ii) an average final compensation that the member would have received if the member continued employment without a change in earnable compensation.

§29–107.

(a) This section applies only to members of the State Police Retirement System.

(b) An ordinary disability retirement allowance equals the greater of:

(1) a normal service retirement allowance; or

(2) 35% of the member's average final compensation.

§29–108.

(a) This section applies only to members of:

(1) the Employees' Pension System;

(2) the Local Fire and Police System;

(3) the Law Enforcement Officers' Pension System; and

(4) the Teachers' Pension System.

(b) Except as provided in subsections (c), (d), and (e) of this section, an ordinary disability retirement allowance equals:

(1) if the member is at least normal retirement age, a normal service retirement allowance; or

(2) if the member is under normal retirement age, a normal service retirement allowance that is computed by using:

(i) the number of years of creditable service the member would have received if the member continued employment until normal retirement age; and

(ii) an average final compensation the member would have received if the member continued employment without a change in earnable compensation.

(c) A member of the Employees' Pension System or the Teachers' Pension System who has transferred from the Employees' Retirement System or the Teachers' Retirement System shall receive the benefits provided under the State system from which the member transferred, offset by any refunded contributions including any interest received in connection with the transfer, if:

(1) the member applies for the retirement allowance within 2 years after the transfer; and

(2) the Board of Trustees grants a disability retirement allowance to the member.

(d) (1) This subsection applies only to:

(i) a member of the Local Fire and Police Pension System who has transferred from the Employees' Retirement System; or

(ii) a member of the Law Enforcement Officers' Pension System who has transferred from the Employees' Retirement System after electing to receive benefits in accordance with Selection A (Additional member contributions) as defined in § 22-101(b) of this article or Selection B (Limited cost-of-living adjustment) as defined in § 22-101(c) of this article.

(2) An ordinary disability retirement allowance equals the greater of:

(i) a normal service retirement allowance; or

(ii) 25% of the member's average final compensation.

(e) (1) This subsection applies only to a member of the Employees' Pension System who:

(i) is promoted within the Department of Corrections to a position that no longer is eligible for membership in the Correctional Officers' Retirement System as provided in § 25-201 of this article;

(ii) elects not to transfer the years of creditable service the individual accrued in the Correctional Officers' Retirement System to the Employees' Pension System; and

(iii) is eligible to receive a vested allowance from the Correctional Officers' Retirement System.

(2) An ordinary disability retirement allowance equals:

(i) a normal service retirement allowance in the Correctional Officers' Retirement System based on the member's total years of creditable service accrued in the Correctional Officers' Retirement System; plus

(ii) an ordinary disability retirement allowance based on the member's total years of creditable service accrued in the Employees' Pension System.

§29–109.

(a) This section does not apply to the State Police Retirement System.

(b) Except as provided in subsection (c) of this section, the Board of Trustees shall grant an accidental disability retirement allowance to a member if:

(1) the member is totally and permanently incapacitated for duty as the natural and proximate result of an accident that occurred in the actual performance of duty at a definite time and place without willful negligence by the member; and

(2) the medical board certifies that:

(i) the member is mentally or physically incapacitated for the further performance of the normal duties of the member's position;

(ii) the incapacity is likely to be permanent; and

(iii) the member should be retired.

(c) The Board of Trustees shall grant an accidental disability retirement allowance to a member of the Law Enforcement Officers' Pension System if:

(1) the member is totally and permanently incapacitated for duty arising out of or in the course of the actual performance of duty without willful negligence by the member; and

(2) the medical board certifies that:

(i) the member is totally incapacitated, either mentally or physically, for the further performance of duty;

(ii) the incapacity is likely to be permanent; and

(iii) the member should be retired.

§29–110.

(a) This section does not apply to the State Police Retirement System.

(b) Except as provided in subsection (c) of this section, an accidental disability retirement allowance equals the lesser of:

(1) the member's average final compensation; or

(2) the sum of:

(i) an annuity that is the actuarial equivalent of the member's accumulated contributions at retirement; and

(ii) a pension equal to two-thirds of the member's average final compensation.

(c) (1) This subsection applies to a member of a State system other than the Law Enforcement Officers' Pension System who is at least normal retirement age.

(2) An accidental disability retirement allowance equals the greater of:

(i) a normal service retirement allowance; or

(ii) an accidental disability retirement allowance computed in accordance with subsection (b) of this section.

(d) (1) This subsection applies only to a member of the Employees' Pension System who:

(i) is promoted within the Department of Corrections to a position that no longer is eligible for membership in the Correctional Officers' Retirement System as provided in § 25-201 of this article;

(ii) elects not to transfer the years of creditable service the individual accrued in the Correctional Officers' Retirement System to the Employees' Pension System; and

(iii) is eligible to receive a vested allowance from the Correctional Officers' Retirement System.

(2) A member may receive an accidental disability retirement allowance under this section if the member:

(i) does not elect to receive a vested allowance from the Correctional Officers' Retirement System; and

(ii) transfers the member's accumulated contributions in the Correctional Officers' Retirement System to the Employees' Pension System.

§29–111.

(a) This section applies to the State Police Retirement System.

(b) Except as provided in § 24–401.1(k) of this article, the Board of Trustees shall grant a special disability retirement allowance to a member if:

(1) the member is totally and permanently incapacitated for duty arising out of or in the course of the actual performance of duty without willful negligence by the member; and

(2) the medical board certifies that:

(i) the member is totally incapacitated, either mentally or physically, for the further performance of duty;

(ii) the incapacity is likely to be permanent; and

(iii) the member should be retired.

(c) Except as provided in subsection (d) of this section, a special disability retirement allowance equals the lesser of:

(1) the member's average final compensation; or

(2) the sum of:

(i) an annuity that is the actuarial equivalent of the member's accumulated contributions at retirement; and

(ii) a pension equal to two–thirds of the member's average final compensation.

(d) (1) This subsection applies to a member who is at least normal retirement age.

(2) A special disability retirement allowance equals the greater of:

(i) a normal service retirement allowance; or

(ii) a special disability retirement allowance computed in accordance with subsection (c) of this section.

§29–112.

If the Board of Trustees approves an application for disability retirement for a member of the State Police Retirement System that was filed by the Secretary of State Police under § 29-103(c) of this subtitle or § 2-415(b) of the Public Safety Article, the member:

(1) within 90 days after approval, may exercise an option as provided under §§ 21-402 and 21-403 of this article; or

(2) shall receive the basic allowance.

§29–113.

(a) Subject to subsection (b) of this section, a disability retiree of the State Police Retirement System, or a beneficiary of a disability retiree of the State Police Retirement System, who retires on or before June 30, 1999 with an ordinary or special disability retirement allowance under § 29-107 or § 29-111 of this subtitle, shall receive an annual retirement allowance adjustment as of July 1, 1999, as follows:

(1) for a retiree who has been retired not more than 5 years, $1,200;

(2) for a retiree who has been retired more than 5 years but not more than 10 years, $1,500;

(3) for a retiree who has been retired more than 10 years but not more than 15 years, $1,800; and

(4) for a retiree who has been retired more than 15 years, $2,100.

(b) Each fiscal year, the Board of Trustees shall increase the adjustment received by the retiree or the beneficiary as of July 1, 1999, by multiplying the adjustment by a fraction that has:

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

(2) as its denominator, the Consumer Price Index for the calendar year ending December 31, 1998.

§29–114.

A member entitled to an accidental disability retirement allowance or a special disability retirement allowance may not receive a retirement allowance for ordinary disability.

§29–115.

(a) (1) This section applies only to a disability retiree who is not eligible to receive a normal service retirement.

(2) This section does not apply to a disability retiree who is:

(i) a retiree of:

1. the State Police Retirement System;

2. the Law Enforcement Officers' Pension System;

3. the Local Fire and Police System; or

4. the Employees' Retirement System or the Employees' Pension System, if at the time of retirement the retiree was a law enforcement officer for a participating employer under § 26–201(a) of this article; and

(ii) reemployed by a participating employer in any position other than a probationary status law enforcement officer, a law enforcement officer, or chief, as defined in § 3–101 of the Public Safety Article.

(b) (1) (i) The Board of Trustees shall, after giving notice, temporarily suspend the retiree's allowance if the retiree:

1. began receiving a disability retirement allowance on or after July 1, 1998; and

2. is employed by a participating employer at an annual compensation that is at least equal to the retiree's average final compensation at retirement.

(ii) A temporary suspension under this subsection shall begin as of the date the retiree is reemployed by a participating employer under subparagraph (i)2 of this paragraph.

(2) A retiree whose allowance is temporarily suspended under this subsection is not subject to a reduction as provided in § 29–116 of this subtitle during the period of employment by a participating employer.

(3) Upon receiving satisfactory documentation that the retiree is no longer employed by a participating employer, the Board of Trustees shall reinstate the retiree's allowance with accumulated cost–of–living adjustments from the date the allowance was temporarily suspended.

(4) The retiree's allowance will be reinstated on the first day of the month following the month in which the retiree ceased employment with the participating

employer.

§29–116.

(a) This section does not apply to a retiree who is:

(1) a retiree of:

(i) the State Police Retirement System;

(ii) the Law Enforcement Officers' Pension System;

(iii) the Local Fire and Police System; or

(iv) the Employees' Retirement System or the Employees' Pension System, if at the time of retirement the retiree was a law enforcement officer for a participating employer under § 26–201(a) of this article; and

(2) reemployed by a participating employer in any position other than a probationary status law enforcement officer, a law enforcement officer, or chief, as defined in § 3–101 of the Public Safety Article.

(b) The Board of Trustees shall reduce the pension of a retiree on ordinary disability if:

(1) the retiree is under normal retirement age;

(2) the medical board certifies in a report to the Board of Trustees that the retiree is employed by a participating employer at an annual compensation that is greater than the difference between:

(i) the retiree's retirement allowance at retirement; and

(ii) the retiree's average final compensation plus $5,000;

(3) the Board of Trustees agrees with the medical board's report; and

(4) the retiree's allowance has not been temporarily suspended as provided in § 29–115 of this subtitle.

(c) The Board of Trustees shall reduce the pension of a retiree who has been receiving an ordinary disability retirement allowance for:

(1) less than 10 years, by $1 for every $2 that the retiree's current compensation exceeds the limit under subsection (b) of this section; or

(2) at least 10 years, by $1 for every $5 that the retiree's current compensation exceeds the limit under subsection (b) of this section.

(d) The pension to be reduced under this section is the pension at retirement without any cost–of–living adjustment.

§29–117.

(a) A disability retiree who is rehired by a participating employer may not receive creditable service or eligibility service during the period of reemployment.

(b) The disability retiree's compensation during the period of reemployment may not be subject to the employer pickup provisions of § 21-303 of this article or any reduction or deduction as a member contribution for pension or retirement purposes.

(c) The State Retirement Agency shall institute appropriate reporting procedures with the affected payroll systems to ensure compliance with this section.

(d) (1) Immediately on the employment of any retiree, a participating employer shall notify the State Retirement Agency of the type of employment and the anticipated earnings of the retiree.

(2) At least once each year, in a format specified by the State Retirement Agency, each participating employer shall provide the State Retirement Agency with a list of all employees included on any payroll of the employer, the Social Security numbers of the employees, and their earnings for that year.

(e) An individual who is receiving a disability retirement allowance under this title may not be employed within 45 days of the date the individual retired, on a permanent, temporary, or contractual basis, by:

(1) the State or other participating employer; or

(2) a withdrawn participating governmental unit, if the retiree was an employee of the withdrawn participating governmental unit while the withdrawn governmental unit was a participating employer.

§29–118.

(a) (1) Except as otherwise provided in this subsection, this section applies to a retiree and any designated beneficiary.

(2) (i) This section does not apply to:

1. a retiree of a participating governmental unit, or a designated beneficiary of that retiree; or

2. a retiree of the Employees' Pension System or the Employees' Retirement System who receives a disability retirement benefit as a former employee of a county board of education or the Board of School Commissioners of Baltimore City, or a designated beneficiary of that retiree.

(ii) A retiree described in subparagraph (i) of this paragraph, or a designated beneficiary of that retiree is subject to § 9–610 of the Labor and Employment Article.

(b) (1) The Board of Trustees shall reduce an accidental or special disability retirement benefit by any related workers' compensation benefits paid or payable after the effective date of retirement if the workers' compensation benefits:

(i) are paid or payable while a pension is paid or payable; and

(ii) are for an accidental personal injury arising out of and in the course of the retiree's employment by a participating employer.

(2) A retirement allowance may not be reduced:

(i) to be less than the sum of the retiree's annuity and the amount authorized to be deducted for health insurance premiums; or

(ii) for workers' compensation benefits that are reimbursements for legal fees, medical expenses, or other payments made to third parties and not to the retiree.

(c) The retirement allowance to be reduced under this section is the retirement allowance at retirement without any cost-of-living adjustment and is retroactive.

§29–201.

This subtitle does not apply to the Judges' Retirement System.

§29–202.

(a) (1) When the Board of Trustees receives proof of death of an individual who died while employed as a member, the Board of Trustees shall pay to the designated beneficiary or, if there is no designated beneficiary, to the member's estate the amounts specified in this subsection.

(2) Subject to paragraph (1) of this subsection, the Board of Trustees shall pay the member's accumulated contributions.

(3) Subject to paragraph (1) of this subsection, the Board of Trustees shall pay an amount equal to the member's annual earnable compensation at death if the member dies in the course of the performance of duty or the member has at least 1 year of eligibility service.

(b) (1) A death benefit under this section may not be paid for the death of a member of the State Police Retirement System if a special death benefit under § 29–204 of this subtitle is payable or has been paid for that death.

(2) A death benefit under this section may not be paid for the death of a member of the Correctional Officers' Retirement System if a special death benefit under § 29–204.1 of this subtitle is payable or has been paid for that death.

(3) A death benefit under this section may not be paid for the death of a member of the Employees' Retirement System, Employees' Pension System, Teachers' Retirement System, or Teachers' Pension System if a special death benefit under § 29–204.2 of this subtitle is payable or has been paid for that death.

(4) A death benefit under this section may not be paid for the death of a member of the Law Enforcement Officers' Pension System if a special death benefit under § 29–203 of this subtitle is payable or has been paid for that death.

(c) The Board of Trustees may provide the death benefit as group life insurance if the Board of Trustees finds that the designated beneficiaries would receive a more favorable tax treatment of the death benefit.

§29–203.

(a) (1) This subsection applies only to an individual who dies while employed as a member of the Law Enforcement Officers' Pension System:

(i) without willful negligence by the member; and

(ii) with more than 2 years of eligibility service.

(2) When the Board of Trustees receives proof of death of a member and finds that the death has occurred in the manner described in paragraph (1) of this subsection, the Board of Trustees shall pay:

(i) if the member is survived by a spouse or child under the age of 18 years:

1. the member's accumulated contributions to the designated beneficiary, or otherwise to the member's estate; and

2. an allowance of 50% of the ordinary disability retirement allowance provided for in § 29-108 of this title:

A. to the surviving spouse; or

B. if there is no surviving spouse or if the surviving spouse dies before the youngest child of the member is 18 years old, to any children of the deceased member who are under the age of 18 years; or

(ii) if the member is not survived by a spouse or child under the age of 18 years, the death benefit under § 29-202 of this subtitle.

(b) (1) This subsection applies only to an individual who dies while employed as a member of the Law Enforcement Officers' Pension System:

(i) without willful negligence by the member; and

(ii) with death arising out of or in the course of the actual performance of duty.

(2) When the Board of Trustees receives proof of death of a member and finds that the death has occurred in the manner described in paragraph (1) of this subsection, the Board of Trustees shall pay:

(i) if the member is survived by a spouse or child under the age of 18 years:

1. the member's accumulated contributions to the designated beneficiary, or otherwise to the member's estate; and

2. an allowance of two-thirds of the member's average final compensation:

A. to the surviving spouse; or

B. if there is no surviving spouse or if the surviving spouse dies before the youngest child of the member is 18 years old, to any children of the deceased member who are under the age of 18 years; or

(ii) if the member is not survived by a spouse or child under the age of 18 years, the death benefit under § 29-202 of this subtitle.

(c) If the Board of Trustees pays an allowance under this section to more than one child, the Board of Trustees shall divide the allowance among the children under the age of 18 years in a manner that provides for payments to continue until each child dies or becomes 18 years old.

§29–204.

(a) (1) This subsection applies only to an individual who dies while employed as a member of the State Police Retirement System:

(i) without willful negligence by the member; and

(ii) with more than 2 years of eligibility service.

(2) When the Board of Trustees receives proof of death of a member and finds that the death has occurred in the manner described in paragraph (1) of this subsection, the Board of Trustees shall pay:

(i) if the member is survived by a spouse, a child under the age of 18

years, or a dependent parent:

1. the member's accumulated contributions to the designated beneficiary, or otherwise to the member's estate; and

2. an allowance of 50% of the member's average final compensation:

A. to the surviving spouse;

B. if there is no surviving spouse or if the surviving spouse dies before the youngest child of the member is 18 years old, to all children under the age of 18 years; or

C. if there is no surviving spouse or children younger than 18 years of age, to the member's dependent parent to continue as the Board of Trustees may direct for the rest of the parent's life; or

(ii) if the member is not survived by a spouse, a child under the age of 18 years, or a dependent parent, the death benefit under § 29-202 of this subtitle.

(b) (1) This subsection applies only to an individual who dies while employed as a member of the State Police Retirement System:

(i) without willful negligence by the member; and

(ii) with death arising out of or in the course of the actual performance of duty.

(2) When the Board of Trustees receives proof of death of a member and finds that the death has occurred in the manner described in paragraph (1) of this subsection, the Board of Trustees shall pay:

(i) if the member is survived by a spouse, a child under the age of 18 years, or a dependent parent:

1. the member's accumulated contributions to the designated beneficiary, or otherwise to the member's estate; and

2. an allowance of two-thirds of the member's average final compensation:

A. to the surviving spouse;

B. if there is no surviving spouse or if the surviving spouse dies before the youngest child of the member is 18 years old, to all children under the age of 18 years; or

C. if there is no surviving spouse or children younger than 18

years of age, to the member's dependent parent to continue as the Board of Trustees may direct for the rest of the parent's life; or

(ii) if the member is not survived by a spouse, a child under the age of 18 years, or a dependent parent, the death benefit under § 29-202 of this subtitle.

(c) If the Board of Trustees pays an allowance under this section to more than one child, the Board of Trustees shall divide the allowance among the children under the age of 18 years in a manner that provides for payments to continue until each child dies or becomes 18 years old.

§29–204.1.

(a) This section applies only to an individual who dies while employed as a member of the Correctional Officers' Retirement System:

(1) without willful negligence by the member; and

(2) with death arising out of or in the course of the actual performance of duty.

(b) When the Board of Trustees receives proof of death of a member and finds that the death has occurred in the manner described in subsection (a) of this section, the Board of Trustees shall pay:

(1) if the member is survived by a spouse or a child under the age of 18 years:

(i) the member's accumulated contributions to the designated beneficiary, or otherwise to the member's estate; and

(ii) an allowance of two-thirds of the member's average final compensation:

1. to the surviving spouse; or

2. if there is no surviving spouse or if the surviving spouse dies before the youngest child of the member is 18 years old, to any children of the deceased member who are under the age of 18 years; or

(2) if the member is not survived by a spouse or a child under the age of 18 years, the death benefit under § 29-202 of this subtitle.

(c) If the Board of Trustees pays an allowance under this section to more than one child, the Board of Trustees shall divide the allowance among the children under the age of 18 years in a manner that provides for payments to continue until each child dies or becomes 18 years old.

§29–204.2.

(a) This section applies only to an individual who is killed while a member of the Employees' Retirement System, Employees' Pension System, Teachers' Retirement System, or Teachers' Pension System:

(1) without willful negligence by the member; and

(2) with death arising out of or in the course of the actual performance of duty.

(b) When the Board of Trustees receives proof of death of a member and finds that the death has occurred in the manner described in subsection (a) of this section, the Board of Trustees shall pay:

(1) if the member is survived by a spouse, a child under the age of 18 years, or a dependent parent:

(i) the member's accumulated contributions to the designated beneficiary, or otherwise to the member's estate; and

(ii) an allowance of two–thirds of the member's average final compensation:

1. to the surviving spouse;

2. if there is no surviving spouse or if the surviving spouse dies before the youngest child of the member is 18 years old, to all children of the deceased member who are under the age of 18 years; or

3. if there is no surviving spouse or children younger than 18 years of age, to the member's dependent parent to continue as the Board of Trustees may direct for the rest of the parent's life; or

(2) if the member is not survived by a spouse, a child under the age of 18 years, or a dependent parent, the death benefit under § 29–202 of this subtitle.

(c) If the Board of Trustees pays an allowance under this section to more than one child, the Board of Trustees shall divide the allowance among the children under the age of 18 years in a manner that provides for payments to continue until each child dies or becomes 18 years old.

§29–205.

(a) This section applies to the surviving spouse of an individual who died while employed as a member of:

(1) the Correctional Officers' Retirement System;

(2) the Employees' Retirement System;

(3) the Local Fire and Police System, if the member had transferred from the Employees' Retirement System; or

(4) the Teachers' Retirement System.

(b) Except as provided in subsections (c) and (d) of this section, a surviving spouse may elect to receive one of the following:

(1) the death benefit, under § 29–202 of this subtitle; or

(2) an allowance equal to the amount payable under Option 2 as described in § 21–403 of this article, if:

(i) the spouse is the sole primary designated beneficiary; and

(ii) the member:

1. was eligible to retire; or

2. was at least 55 years old with at least 15 years of eligibility service.

(c) A death benefit under this section may not be paid for the death of a member of the Correctional Officers' Retirement System if a special death benefit under § 29–204.1 of this subtitle is payable or has been paid for that death.

(d) A death benefit under this section may not be paid for the death of a member of the Employees' Retirement System or Teachers' Retirement System if a special death benefit under § 29–204.2 of this subtitle is payable or has been paid for that death.

§29–206.

(a) This section applies to the surviving spouse of an individual who died while employed as a member of:

(1) the Employees' Pension System;

(2) the Teachers' Pension System; or

(3) the Local Fire and Police System, if the member had not transferred from the Employees' Retirement System.

(b) Except as provided in subsection (c) of this section, a surviving spouse may elect to receive one of the following:

(1) the death benefit under § 29–202 of this subtitle; or

(2) an allowance equal to the amount payable under Option 2 as described in § 21–403 of this article, if:

(i) the spouse is the sole primary designated beneficiary; and

(ii) the member:

1. was eligible to retire;

2. had at least 25 years of eligibility service; or

3. was at least 55 years old with at least 15 years of eligibility service.

(c) A death benefit under this section may not be paid for the death of a member of the Employees' Pension System or Teachers' Pension System if a special death benefit under § 29–204.2 of this subtitle is payable or has been paid for that death.

§29–207.

If a former member who is eligible for a vested allowance dies before payment of the vested allowance starts, the Board of Trustees, after receiving proof of death, shall pay the former member's accumulated contributions to:

(1) the designated beneficiary; or

(2) if there is no designated beneficiary, the former member's estate.

§29–301.

(a) This section applies only to a member of the Judges' Retirement System who becomes a member on or after July 1, 2012.

(b) (1) A member may elect to receive a vested allowance if:

(i) the member is separated from employment other than by death or retirement; and

(ii) the member has at least 5 years of eligibility service.

(2) A member is deemed to have elected a vested allowance, unless the member requests the return of the accumulated contributions before membership ends.

(c) A vested allowance is a deferred allowance starting at age 60.

(d) A vested allowance:

(1) is computed as a retirement allowance under § 27–402 of this article on the basis of the former member's creditable service at the time of separation from

employment; and

(2) may be paid in one of the optional forms of allowances under § 21–403 of this article, if at retirement, the member does not have a spouse or child under the age of 18.

(e) (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) When accumulated contributions are returned to a former member, the former member is not entitled to further benefits on account of the former member's previous membership.

§29–302.

(a) This section applies only to members of:

(1) the Correctional Officers' Retirement System;

(2) the Employees' Retirement System;

(3) the State Police Retirement System; and

(4) the Teachers' Retirement System.

(b) (1) This subsection applies to an individual who is a member on or before June 30, 2011.

(2) A member may elect to receive a vested allowance if:

(i) the member is separated from employment other than by death or retirement; and

(ii) subject to paragraph (3) of this subsection, the member has at least 5 years of eligibility service.

(3) A former member of the State Police Retirement System who separated from employment on or before June 30, 1989, must have at least 15 years of eligibility service to elect a vested allowance.

(4) A member is deemed to have elected a vested allowance, unless the member requests the return of the accumulated contributions before membership ends.

(b–1) (1) This subsection applies to an individual who becomes a member on or after July 1, 2011.

(2) A member is eligible to receive a vested allowance if:

(i) the member separated from employment other than by death or retirement; and

(ii) the member has at least 10 years of eligibility service.

(c) A vested allowance is a deferred allowance starting at:

(1) normal retirement age for members of:

(i) the Employees' Retirement System;

(ii) the State Police Retirement System; and

(iii) the Teachers' Retirement System;

(2) age 55 for a member of the Correctional Officers' Retirement System who is:

(i) a correctional officer in the first six job classifications;

(ii) a detention center officer employed by a participating governmental unit who has elected to participate in the Correctional Officers' Retirement System;

(iii) an individual serving as a correctional dietary, maintenance, laundry, or supply officer; or

(iv) an individual serving as a Maryland Correctional Enterprises officer, officer trainee, plant supervisor, plant manager, or regional manager; or

(3) age 60 for a member of the Correctional Officers' Retirement System who is a maximum security attendant at the Clifton T. Perkins Hospital Center.

(d) A vested allowance:

(1) is computed as a normal service retirement allowance on the basis of the former member's creditable service and average final compensation at the time of separation from employment; and

(2) may be paid in one of the optional forms of allowances under § 21–403 of this article.

(e) If a member separated from employment on or before June 30, 1990, unused sick leave reported by the member's employer at the time of separation from employment is creditable service for computing the vested allowance.

(f) (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) When accumulated contributions are returned to a former member, the former member is not entitled to further benefits on account of the former member's previous membership.

§29–302.1.

(a) This section applies only to an individual who:

(1) is a former member of:

(i) the Employees' Retirement System; or

(ii) the Teachers' Retirement System;

(2) is eligible to receive a vested allowance under § 29-302 of this subtitle; and

(3) has not elected to receive a benefit under § 29-302 of this subtitle.

(b) Notwithstanding § 29-302 of this subtitle, an individual under subsection (a) of this section may elect a lump-sum payment equal to the present value of the individual's vested allowance if:

(1) the vested allowance is less than $50 a month;

(2) (i) the individual is not a member of the Optional Retirement Program and has terminated any employment with a participating employer for the State; or

(ii) the individual is a member of the Optional Retirement Program and has terminated employment with an employing institution as defined in § 30-101(e) of this article; and

(3) the individual requests a lump-sum payment of the vested allowance on a form provided by the State Retirement Agency.

§29–303.

(a) This section applies only to members of:

(1) the Employees' Pension System;

(2) the Local Fire and Police System;

(3) the Law Enforcement Officers' Pension System; or

(4) the Teachers' Pension System.

(b) (1) This subsection applies to an individual who is a member on or before

June 30, 2011.

(2) A member is eligible to receive a vested allowance if:

(i) the member separated from employment other than by death or retirement; and

(ii) the member has at least 5 years of eligibility service.

(b–1) (1) This subsection applies to an individual who becomes a member on or after July 1, 2011.

(2) A member is eligible to receive a vested allowance if:

(i) the member separated from employment other than by death or retirement; and

(ii) the member has at least 10 years of eligibility service.

(c) Except as provided in subsections (e), (f), and (g) of this section, a vested allowance:

(1) is a deferred allowance that begins at normal retirement age;

(2) is computed as a normal service retirement allowance on the basis of the member's average final compensation and eligibility service at separation from employment; and

(3) may be paid in one of the optional forms of allowances under § 21–403 of this article.

(d) If a member of the Employees' Pension System or the Teachers' Pension System separated from employment on or before June 30, 1990, unused sick leave reported by the member's employer at the time of separation from employment is creditable service for computing the vested allowance.

(e) Except as provided in subsection (f) of this section, a former member of the Employees' Pension System or the Teachers' Pension System who has separated from employment before the age of 55 with at least 15 years of eligibility service is eligible to receive a vested allowance that:

(1) begins on the first day of the month following the member's 55th birthday; and

(2) equals the reduced allowance computed under § 23–402 of this article.

(f) (1) The vested allowance of a former member of the Employees' Pension System or the Teachers' Pension System who separates from employment on or before June 30, 1998:

(i) is a deferred allowance that begins at normal retirement age;

(ii) is computed on the basis of the member's average final compensation and eligibility service at separation from employment;

(iii) shall equal the number of years of the member's creditable service multiplied by:

1. 0.8% of the member's average final compensation that is not in excess of the Social Security integration level; and

2. 1.5% of the member's average final compensation that exceeds the Social Security integration level; and

(iv) may be paid in one of the optional forms of allowances under § 21–403 of this article.

(2) A former member of the Employees' Pension System or the Teachers' Pension System who has separated from employment on or before June 30, 1998 and before the age of 55 with at least 15 years of eligibility service is eligible to receive a vested allowance that:

(i) begins on the first day of the month following the member's 55th birthday; and

(ii) equals the allowance under paragraph (1) of this subsection, reduced by 0.5% for each month that the member's early retirement date precedes the date the member will be 62 years old.

(g) (1) Except as provided in paragraph (2) of this subsection and subject to paragraph (3) of this subsection, the vested allowance of a former member of the Law Enforcement Officers' Pension System who separates from employment on or before June 30, 2000:

(i) is a deferred allowance that begins at normal retirement age;

(ii) is computed on the basis of the member's average final compensation and eligibility service at separation from employment; and

(iii) shall equal the number of years of the member's creditable service multiplied by:

1. 1% of the member's average final compensation that is not in excess of the Social Security integration level; and

2. 1.7% of the member's average final compensation that exceeds the Social Security integration level.

(2) (i) This subsection applies only to a former member of the Law Enforcement Officers' Pension System who:

1. transferred to the Law Enforcement Officers' Pension System from the Employees' Retirement System; and

2. separates from employment on or before June 30, 2000.

(ii) The vested allowance of a former member:

1. is a deferred allowance that begins at normal retirement age;

2. is computed on the basis of the member's average final compensation and eligibility service at separation from employment; and

3. shall equal:

A. 2% of the member's average final compensation multiplied by each year of the member's first 30 years of creditable service; and

B. 1% of the member's average final compensation multiplied by each year of creditable service in excess of 30 years.

(3) (i) This paragraph applies only to a former member who is:

1. receiving a deferred allowance under paragraph (1) of this subsection; and

2. under the age of 62 years.

(ii) On receipt of a vested allowance, a former member shall receive a supplemental deferred allowance that equals the difference between:

1. the former member's vested allowance; and

2. 1.7% of the member's average final compensation for each year of creditable service.

(iii) Payment of the supplemental deferred allowance ends when the former member:

1. attains the age of 62 years; or

2. dies.

(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) When accumulated contributions are returned to a former member, the former member is not entitled to further benefits on account of the former member's previous membership.

§29–303.1.

(a) This section applies only to an individual who:

(1) is a former member of:

(i) the Employees' Pension System; or

(ii) the Teachers' Pension System;

(2) is eligible to receive a vested allowance under § 29-303 of this subtitle; and

(3) has not elected to receive a benefit under § 29-303 of this subtitle.

(b) Notwithstanding § 29-303 of this subtitle, an individual under subsection (a) of this section may elect a lump-sum payment equal to the present value of the vested allowance if:

(1) the vested allowance is less than $50 a month;

(2) (i) the individual is not a member of the Optional Retirement Program and has terminated any employment with a participating employer for the State; or

(ii) the individual is a member of the Optional Retirement Program and has terminated employment with an employing institution as defined in § 30-101(e) of this article; and

(3) the individual requests a lump-sum payment of the vested allowance on a form provided by the State Retirement Agency.

§29–304.

An individual who is a secretary of a principal department or a head of a department, office, or other unit of the State government serving at the Governor's pleasure has immediate vesting rights on taking office in the State system in which the individual is a member.

§29–305.

(a) In this section, "constitutional officer" means:

(1) the Attorney General of the State;

(2) the Comptroller of the State;

(3) the Lieutenant Governor of the State;

(4) the Secretary of State; or

(5) the Treasurer of the State.

(b) (1) A constitutional officer who is a member of the Employees' Pension System:

(i) on taking office, has immediate vesting rights in the Employees' Pension System; and

(ii) except as provided in paragraph (2) of this subsection, is entitled to a retirement allowance as provided in Title 23, Subtitle 4 of this article.

(2) The retirement allowance of a constitutional officer who serves at least one full term may not be less than 10% of the annual salary received during the constitutional officer's last term.

§29–401.

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

(b) (1) "Accumulated cost–of–living adjustment amount" means the sum of all prior cost–of–living adjustments made to an allowance.

(2) "Accumulated cost–of–living adjustment amount" does not include the cost–of–living adjustment made as of July 1 of the current fiscal year.

(c) (1) "Allowance" has the meaning stated in § 20–101 of this article.

(2) "Allowance" includes an annual retirement allowance adjustment payable as of July 1, 1999 to a retiree of the State Police Retirement System who retired on or before June 30, 1999, under § 24–401(e) of this article.

(d) "Consumer Price Index" means the annual average Consumer Price Index (all urban consumers, United States city average, all items, not seasonally adjusted, 1967 = 100) for the calendar year ending December 31 as published by the United States Department of Labor, Bureau of Labor Statistics.

(e) "Cost–of–living adjustment" means the amount by which an allowance is adjusted as of July 1 of a fiscal year.

(f) "Cost–of–living rate" means the rate computed in accordance with § 29–402(c) of this subtitle that is used to determine a cost–of–living adjustment.

(g) "Cost–of–living rate cap" means the maximum cost–of–living rate that may

be used to determine a cost–of–living adjustment in a fiscal year.

(h) "Effective date" means:

(1) for an allowance of a former member, a retiree, or the surviving beneficiary of a deceased member, the first day of the month in which an allowance is first paid to the former member, retiree, or surviving beneficiary; or

(2) for an allowance of a surviving beneficiary of a former member or a retiree, the first day of the month in which an allowance was first paid to the former member or retiree.

(i) "Initial allowance" means a basic allowance or an optional allowance paid in accordance with § 21–403 of this article, not including a cost–of–living adjustment, accumulated cost–of–living adjustment, or any additional annuity.

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

(k) "Selection B (Limited cost–of–living adjustment)" means the retirement selection described in § 22–220 of this article.

(l) "Selection C (Combination formula)" means the retirement selection described in § 22–221 of this article.

§29–402.

(a) (1) This subtitle applies only to an allowance paid to a former member, a retiree, or the surviving beneficiary of a deceased member, former member, or retiree of:

(i) the Correctional Officers' Retirement System;

(ii) the Employees' Pension System;

(iii) the Employees' Retirement System;

(iv) the Law Enforcement Officers' Pension System;

(v) the Local Fire and Police System;

(vi) the State Police Retirement System;

(vii) the Teachers' Pension System; and

(viii) the Teachers' Retirement System.

(2) This subtitle does not apply to an allowance that is payable under the Judges' Retirement System, under the Legislative Pension Plan, or for a Governor

under § 22–405 of this article.

(b) (1) Except as provided in paragraph (2) of this subsection, each fiscal year, the Board of Trustees shall adjust an allowance as provided in this subtitle.

(2) An initial cost–of–living adjustment may not be made until the second July 1 after the day preceding the effective date of an allowance.

(3) A cost–of–living adjustment does not apply to:

(i) benefits paid in a single payment;

(ii) the return of accumulated contributions; or

(iii) benefits attributable to additional contributions.

(c) (1) Except as provided in paragraph (2) of this subsection, and subject to subsection (f) of this section, to determine the cost–of–living rate used to adjust an allowance in a fiscal year, the Board of Trustees shall:

(i) subtract the Consumer Price Index for the calendar year ending December 31 in the second preceding fiscal year from the Consumer Price Index for the calendar year ending December 31 in the preceding fiscal year; and

(ii) divide the amount determined under item (i) of this paragraph by the Consumer Price Index for the calendar year ending December 31 in the second preceding fiscal year.

(2) The cost–of–living rate used to adjust an allowance in a fiscal year may not exceed any cost–of–living rate cap that is applicable to the allowance under § 29–404(c), § 29–405(c), § 29–406(c), or § 29–408(c) of this subtitle.

(d) (1) A cost–of–living adjustment payable in a fiscal year shall be determined as provided in this subsection.

(2) For a compound cost–of–living adjustment, the cost–of–living adjustment as of July 1 of a fiscal year shall be determined by multiplying the cost–of–living rate determined in subsection (c) of this section by the sum of:

(i) the initial allowance; and

(ii) the accumulated cost–of–living adjustment amount.

(3) For a simple cost–of–living adjustment, the cost–of–living adjustment as of July 1 of a fiscal year shall be determined by multiplying the cost–of–living rate determined in subsection (c) of this section by the initial allowance.

(e) The total allowance payable in any fiscal year shall be the sum of:

(1) the initial allowance;

(2) the cost–of–living adjustment;

(3) the accumulated cost–of–living adjustment amount; and

(4) any additional annuity.

(f) (1) In this subsection, "zero rate fiscal year" means any fiscal year when the cost–of–living rate calculated under subsection (c) of this section is less than 0%.

(2) For any fiscal year in which the cost–of–living rate determined under subsection (c) of this section is less than 0%, the cost–of–living rate for that fiscal year shall be 0%.

(3) (i) This paragraph applies only to a fiscal year that is not a zero rate fiscal year.

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

1. for a fiscal year that follows immediately after a zero rate fiscal year, the cost–of–living rate determined under subsection (c) of this section shall be reduced by the difference between 0% and the cost–of–living rate that would have been determined under subsection (c) of this section for the preceding fiscal year without regard to paragraph (2) of this subsection; and

2. for a fiscal year that follows immediately after 2 or more consecutive zero rate fiscal years, the cost–of–living rate determined under subsection (c) of this section shall be reduced by the difference between 0% and the total cost–of–living rate that would have been determined under subsection (c) of this section for each of those fiscal years without regard to paragraph (2) of this subsection.

(iii) If the rate reduction required for any fiscal year under subparagraph (ii) of this paragraph would reduce the cost–of–living rate for the fiscal year to be less than 0%, the difference between 0% and the excess rate reduction shall be deducted from the cost–of–living rate in future years, subject to paragraph (2) of this subsection, until the total required rate reduction has been fully applied.

§29–403.

(a) This section applies only to:

(1) an allowance of a former member, retiree, or surviving beneficiary of a deceased member, former member, or retiree:

(i) of the Employees' Retirement System or the Teachers' Retirement System who elected Selection A (Additional member contributions);

(ii) who transferred to the Local Fire and Police System from the Employees' Retirement System; or

(iii) who transferred to the Law Enforcement Officers' Pension System from the Employees' Retirement System and had elected Selection A (Additional member contributions);

(2) an allowance based on creditable service earned before July 1, 2011, for a former member, retiree, or surviving beneficiary of a deceased member, former member, or retiree of:

(i) the Correctional Officers' Retirement System; or

(ii) the State Police Retirement System; and

(3) an additional annual allowance adjustment payable to a retiree or the beneficiary of a retiree of the State Police Retirement System under § 24–401(e) of this article.

(b) A cost–of–living adjustment payable under this section shall be a compound cost–of–living adjustment computed in accordance with § 29–402(d)(2) of this subtitle.

(c) A cost–of–living adjustment payable under this section is not subject to any cost–of–living rate cap.

(d) A cost–of–living adjustment payable under this section may not reduce an allowance to an amount that is less than the initial allowance.

§29–404.

(a) (1) Except as provided in paragraph (2) of this subsection, this section applies only to an allowance based on creditable service earned before July 1, 2011, for a former member, retiree, or surviving beneficiary of a deceased member, former member, or retiree of:

(i) the Employees' Pension System, if the deceased member, former member, or retiree was an employee of:

1. a participating governmental unit that has not elected the contributory pension benefit or the Alternate Contributory Pension Selection for its members in accordance with § 31–116 or § 31–116.1 of this article; or

2. a former participating governmental unit, other than Frederick County, that has withdrawn before July 1, 1998, while a member;

(ii) the Law Enforcement Officers' Pension System, only if the deceased member, former member, or retiree transferred to the Law Enforcement Officers' Pension System from the Employees' Retirement System and 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; or

(iii) the Local Fire and Police System.

(2) This section does not apply to an allowance that is subject to adjustment under § 29–403, § 29–405, § 29–406, § 29–407, or § 29–408 of this subtitle.

(b) A cost–of–living adjustment payable under this section shall be a simple cost–of–living adjustment computed in accordance with § 29–402(d)(3) of this subtitle.

(c) A cost–of–living adjustment payable under this section shall be subject to a cost–of–living rate cap of 3%.

§29–405.

(a) This section applies only to an allowance received by a former member, retiree, or surviving beneficiary of a deceased member, former member, or retiree:

(1) of the Employees' Retirement System or the Teachers' Retirement System who elected Selection B (Limited cost–of–living adjustment); or

(2) who transferred to the Law Enforcement Officers' Pension System from the Employees' Retirement System and had elected Selection B (Limited cost–of–living adjustment).

(b) A cost–of–living adjustment payable under this section shall be a compound cost–of–living adjustment computed in accordance with § 29–402(d)(2) of this subtitle.

(c) A cost–of–living adjustment payable under this section shall be subject to a cost–of–living rate cap of 5%.

§29–406.

(a) (1) Except as provided in subsection (a)(2) of this section, this section applies:

(i) 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

(ii) on or after December 31, 2000, 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 Law Enforcement Officers' Pension System.

(2) This section does not apply if the member, former member, or retiree:

(i) was an employee of a participating governmental unit that did not elect the contributory pension benefit or the Alternate Contributory Pension Selection for its employees in accordance with § 31–116 or § 31–116.1 of this article;

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

(iii) transferred to the Law Enforcement Officers' Pension System from the Employees' Retirement System and 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.

(b) A cost–of–living adjustment payable under this section shall be a compound cost–of–living adjustment computed in accordance with § 29–402(d)(2) of this subtitle.

(c) A cost–of–living adjustment payable under this section shall be subject to a cost–of–living rate cap of 3%.

§29–407.

(a) This section applies only to an allowance received by a former member, retiree, or surviving beneficiary of a deceased member, former member, or retiree of the Employees' Retirement System or the Teachers' Retirement System who elected Selection C (Combination formula).

(b) Except as provided in subsection (c) or (d) of this section, the Board of Trustees shall adjust an allowance subject to this section:

(1) for creditable service before the effective date of selection, the cost–of–living adjustment as provided by § 29–403 of this subtitle; and

(2) for creditable service on or after the effective date of selection, the cost–of–living adjustment as provided by § 29–406 of this subtitle.

(c) 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 subject to this section:

(1) for creditable service before the effective date of selection, the cost–of–living adjustment as provided by § 29–405 of this subtitle; and

(2) subject to subsection (d) of this section, for creditable service on or after the effective date of selection, the cost–of–living adjustment as provided by § 29–406 of this subtitle.

(d) If an allowance is received by a former member, retiree, or a 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 or the Alternate Contributory Pension Selection for its members in accordance with § 31–116 or § 31–116.1 of this article, or a former participating governmental unit, other than Frederick County, that has withdrawn before July 1, 1998, the Board of Trustees shall adjust the allowance for creditable service on or after the effective date of selection as provided in § 29–404 of this subtitle.

§29–408.

(a) This section applies only to an allowance based on creditable service earned on or after July 1, 2011, for a former member, retiree, or surviving beneficiary of a deceased member, former member, or retiree of:

(1) the Correctional Officers' Retirement System;

(2) the Employees' Pension System;

(3) the Law Enforcement Officers' Pension System;

(4) the State Police Retirement System; or

(5) the Teachers' Pension System.

(b) A cost–of–living adjustment payable under this section shall be a compound cost–of–living adjustment computed in accordance with § 29–402(d)(2) of this subtitle.

(c) A cost–of–living adjustment payable under this section shall be subject to a cost–of–living rate cap of:

(1) 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 and in effect as of December 31 of the preceding fiscal year; or

(2) 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 and in effect as of December 31 of the preceding fiscal year.

§29–409.

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

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

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

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

(b) (1) If a retiree is receiving a benefit that differs from the benefit the retiree is entitled to receive, the Board of Trustees shall, beginning July 1, 2010, and each subsequent July 1, suspend any annual cost–of–living adjustment the retiree may otherwise be entitled to receive under this subtitle.

(2) Beginning July 1, 2010, and each subsequent July 1, any adjustment to the retiree's annual retirement allowance described under paragraph (1) of this subsection shall be calculated using the current retirement allowance the retiree is entitled to receive and not the current retirement allowance the retiree is receiving.

(3) The Board of Trustees shall suspend any annual cost–of–living adjustment otherwise payable under this subsection until the total amount of retirement allowance the retiree is entitled to receive, including any suspended annual cost–of–living adjustment, equals or exceeds the total amount of retirement allowance the retiree is receiving on July 1, 2010.

(4) When the total amount of retirement allowance the retiree is entitled to receive, including any suspended annual cost–of–living adjustments, equals or exceeds 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, so that the amount of the allowance, including any cost–of–living adjustments, equals the total allowance the retiree is entitled to receive.

(c) If a retiree dies before the total amount of retirement allowance the retiree was entitled to receive, including any suspended annual cost–of–living 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.

§29–501.

This subtitle does not apply to the Judges' Retirement System.

§29–502.

The Board of Trustees shall pay a member or former member the amount of the member's or former member's accumulated contributions if:

(1) the member or former member separated from employment for a

reason other than death or retirement; and

(2) the member or former member requests the payment.

§30–101.

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

(b) (1) "Annuity contract" means a fixed or variable annuity contract or combination of fixed or variable annuity contracts authorized under § 403(a) or (b) of the Internal Revenue Code.

(2) "Annuity contract" includes a custodial account to be invested in regulated investment company stock as provided in § 401(f) or § 403(b)(7) of the Internal Revenue Code.

(c) "Designated company" means an entity that:

(1) on or before March 1, 1993, was designated by the governing board of an employing institution to offer annuity contracts under the program; or

(2) is designated by the Board of Trustees.

(d) "Eligible employee" means an individual eligible to participate in the program.

(e) "Employing institution" means:

(1) the University System of Maryland;

(2) Morgan State University;

(3) St. Mary's College;

(4) the Maryland Higher Education Commission with respect to eligible employees of the Commission; and

(5) any community college or regional community college established under Title 16 of the Education Article.

(f) "Participating employee" means an eligible employee who elects to participate in the program.

(g) "Pension system" means the Employees' Pension System or the Teachers' Pension System.

(h) "Program" means the optional retirement program established under § 30-201 of this title.

(i) "Retirement system" means the Employees' Retirement System or the Teachers' Retirement System.

(j) "Supplemental retirement plans" means plans established pursuant to § 30–401 of this title.

§30–201.

(a) There is an optional retirement program in which eligible employees may participate.

(b) Under the program, annuity contracts offered by a designated company that provide retirement and death benefits may be purchased for participating employees.

(c) (1) The Board of Trustees shall administer the program to the extent provided in this title.

(2) The State Retirement Agency shall carry out the administrative duties of the Board of Trustees.

(d) The program shall be offered by each employing institution.

§30–202.

(a) The Board of Trustees may designate not more than four companies, in addition to the company that was designated by a governing board of an employing institution on or before March 1, 1993, from which annuity contracts are to be purchased under the program.

(b) (1) The Board of Trustees shall approve the form and contents of annuity contracts to be offered by a company that is designated by the Board of Trustees under subsection (a) of this section.

(2) The Board of Trustees may also approve the form and contents of additional types of annuity contracts to be offered for the first time after October 1, 1993, by the company designated by the governing board of an employing institution on or before March 1, 1993.

(c) In making the designation and giving approval under this section, the Board of Trustees shall consider:

(1) the nature and extent of the rights and benefits to be provided by the annuity contracts for participating employees and their beneficiaries;

(2) the relation of those rights and benefits to the amount of contributions to be made;

(3) the suitability of the rights and benefits to the needs of the

participating employees and the interests of the employing institutions in the recruitment and retention of participating employees;

(4) the ability of the company to provide for suitable rights and benefits under the annuity contracts;

(5) the selection of annuity contracts offered by the company;

(6) the financial stability of the company and whether the company meets minimum financial criteria, if any, including a minimum net worth requirement, if any, established by the Board of Trustees; and

(7) the effect of any fees, commissions, or other charges imposed or collected in connection with an annuity contract.

§30–203.

The Board of Trustees shall adopt regulations that are necessary to carry out this title.

§30–204.

The Board of Trustees is not responsible for:

(1) retirement counseling with respect to the program;

(2) preparing or disseminating information with respect to an annuity contract offered by a designated company; or

(3) enrolling, terminating, or retiring a participating employee.

§30–205.

(a) Under the program, the State and the participating employees shall contribute, to the extent required, toward the purchase of annuity contracts.

(b) A participating employee may elect to make contributions to no more than two designated companies under the program for the same payroll period, if the Board of Trustees determines that the election of more than one designated company is administratively feasible.

(c) (1) On behalf of each participating employee, the State shall contribute 7.25% of the participating employee's annual earnable compensation.

(2) If a participating employee's compensation is paid from special or federal funds or both, the State's contribution to the program shall be paid from those funds.

(d) The Central Payroll Bureau shall pay contributions to the appropriate

designated company for the benefit of each participating employee.

§30–206.

Annuity contracts purchased under the program shall be issued to and become the property of the participating employees.

§30–207.

Benefits under the program:

(1) shall be payable to participating employees or their beneficiaries in accordance with the terms of the annuity contracts; and

(2) are not payable by the State or governing board of an employing institution.

§30–208.

(a) Every 3 years the Board of Trustees shall review the performance, form, and contents of the annuity contracts offered under the program.

(b) After a review under subsection (a) of this section, the Board of Trustees may:

(1) eliminate a designated company from participation in the program; or

(2) withdraw approval for a type of annuity contract offered by a designated company under the program.

(c) If a designated company is eliminated from the program or approval for a type of annuity contract is withdrawn:

(1) the Board of Trustees shall give the relevant participating employees an opportunity to select an annuity contract for future contributions under the program; and

(2) if a participating employee does not make a change within a period specified by the Board of Trustees, the participating employee shall be deemed to have elected for future contributions an annuity contract and a designated company specified by the Board of Trustees.

(d) All eligible employees shall have access to the information compiled for the purpose of conducting the review required under this section and shall be notified of the availability of the information by the Board of Trustees.

§30–209.

(a) There is an expense fund for the program to which shall be credited and from

which shall be paid all money provided in the State budget to pay the administrative and operational expenses of the program.

(b) (1) Each year, the Board of Trustees shall estimate the amount of money required to provide for the administrative and operational expenses of the program for the subsequent fiscal year.

(2) The amount determined in accordance with paragraph (1) of this subsection shall be collected from the designated companies on an equal basis and credited to the expense fund, as determined by the Board of Trustees.

(c) The costs incurred by the Board of Trustees in selecting companies and types of annuity contracts to be offered under the program shall be recovered by assessing on an equal basis the companies designated by the Board of Trustees under § 30-202(a) of this subtitle and crediting those amounts to the expense fund.

(d) Any unexpended funds remaining in the expense fund at the end of the fiscal year shall be held by the Board of Trustees for the exclusive purpose of defraying administrative costs of the program in subsequent years and may not revert to the General Fund of the State.

(e) The Board of Trustees may invest and reinvest the expense fund as the Board of Trustees determines.

§30–210.

With respect to a participating employee who is employed by an employing institution or an institution over which the employing institution has administrative authority, the employing institution shall administer the participating employee's enrollment, termination, or retirement under the program.

§30–210.1.

(a) In this section, "covered individual" means an employee of an employing institution with discretionary authority over the management or administration of any of the supplemental retirement plans or the management or disposition of the assets of any of the supplemental retirement plans.

(b) Subject to the provisions of this section, the State shall indemnify a covered individual who is, or is threatened to be made, a party to an action or proceeding, including an administrative or investigative proceeding, by reason of the covered individual's service as an employee of an employing institution with discretionary authority over the management or administration of any of the supplemental retirement plans or the management or disposition of the assets of any of the supplemental retirement plans.

(c) (1) In this subsection, "expenses" include:

(i) reasonable attorney's fees;

(ii) judgments;

(iii) fines; and

(iv) other expenses that were actually and reasonably incurred by the individual in connection with the action or proceeding.

(2) With respect to a civil, administrative, or investigative action or proceeding, the State shall indemnify a covered individual for the expenses of the action or proceeding if the covered individual acted:

(i) in good faith; and

(ii) in a manner the covered individual reasonably believed to be in or not opposed to the best interest of the supplemental retirement plans.

(3) With respect to a criminal action or proceeding, the State shall indemnify a covered individual for the expenses of the action or proceeding if the covered individual:

(i) acted in good faith;

(ii) acted in a manner the covered individual reasonably believed to be in or not opposed to the best interest of the supplemental retirement plans; and

(iii) did not have reasonable cause to believe that the covered individual's conduct was unlawful.

(d) Any termination of an action or proceeding does not, of itself, create a presumption that the covered individual did not meet the standards for indemnification described in subsection (b)(2) and (3) of this section.

(e) The State may not indemnify:

(1) a covered individual with respect to an action or proceeding as to which the covered individual was held liable for gross negligence or willful misconduct in the performance of the covered individual's duty to the supplemental retirement plans; or

(2) an independent contractor furnishing services to the supplemental retirement plans.

(f) (1) The State shall provide insurance for a covered individual eligible for indemnification under this section.

(2) For the purpose of paragraph (1) of this subsection, the State may provide self-insurance under terms and conditions satisfactory to the State Treasurer.

(3) A covered individual may not be required to pay amounts attributable to liability described in this section because the State does not provide adequate insurance coverage or otherwise fails to indemnify in accordance with this section.

§30–211.

(a) Before enrolling a participating employee, each designated company shall provide to eligible employees, the Board of Trustees, and the employing institutions any information requested, including a full disclosure of the entire compensation provided to the senior executives of the designated company, and any information requested regarding the designated company or the annuity contracts offered by the designated company.

(b) Each designated company shall provide and pay for all administrative, informational, and counseling services with respect to the annuity contracts offered by the designated company.

(c) Each designated company shall cooperate with the employing institution in connection with any concerns that relate to enrollment, termination, or retirement of a participating employee.

(d) Each designated company shall disclose to the Board of Trustees all fees, commissions, or other charges the designated company imposes or collects with respect to an annuity contract.

§30–212.

A designated company or a company authorized to provide supplemental retirement accounts under § 30–401 of this title shall hold harmless and indemnify the State, the Board of Trustees, employing institutions, and the officers, agents, and employees of the State, the Board of Trustees, and employing institutions from any claims or demands arising from any act or omission on the part of the designated company or a company authorized to provide supplemental retirement accounts under § 30–401 of this title or its officers, agents, or employees, including any claim or demand for payment of benefits or damages arising from the formation, execution, performance, or termination of an annuity contract.

§30–301.

(a) An individual is eligible to participate in the program if the individual is eligible for membership in a retirement system or a pension system and is:

(1) a member of the faculty of an employing institution;

(2) a professional employee at a community college or regional community college established under Title 16 of the Education Article;

(3) an employee of the University System of Maryland who is in a position

designated as exempt under a policy adopted by the University System of Maryland Board of Regents;

(4) an employee of Morgan State University who is in a position designated as professional or administrative by the Board of Regents of Morgan State University;

(5) an employee of St. Mary's College of Maryland who is in a position determined by the Board of Trustees of the College to be a professional or faculty position; or

(6) an employee of the Maryland Higher Education Commission who is in a position determined by the Secretary of Higher Education to be a professional position.

(b) (1) This subsection applies to an individual who:

(i) on August 22, 2004, was eligible to participate in the program; and

(ii) is in a position that, as of August 23, 2004, was reclassified by the University System of Maryland Board of Regents or the Board of Regents of Morgan State University and would no longer be eligible for participation in the program under subsection (a) of this section.

(2) An individual described under paragraph (1) of this subsection may continue to participate in the program if the individual:

(i) would otherwise be eligible for membership in a system under the State Retirement and Pension System; and

(ii) is employed by an employing institution.

§30–302.

(a) An election to participate in the program shall be made by an eligible employee within 1 year of first becoming an eligible employee of an employing institution.

(b) An eligible employee's election to participate in the program is a one–time irrevocable election.

§30–303.

(a) An eligible employee shall elect to:

(1) join a pension or retirement system in accordance with the provisions of this Division II applicable to that system; or

(2) participate in the program.

(b) An eligible employee shall:

(1) make an election under this section in writing; and

(2) file the election with the Board of Trustees and the employing institution within 1 year of first becoming an eligible employee of an employing institution.

(c) An eligible employee may not participate in the program if both the Board of Trustees and the employing institution have not received the eligible employee's written election required under subsection (b) of this section, within 1 year of first becoming an eligible employee with an employing institution.

(d) The effective date of the election shall be the first day of the month after the election.

§30–304.

Unless an eligible employee transferred to a pension system on or before July 1, 1981, the eligible employee may not elect to participate in the program after transferring to a pension system.

§30–305.

(a) This section applies only to a State employee who becomes eligible to elect participation in the program if the employee is appointed, promoted, transferred, or reclassified to a position as an eligible employee.

(b) A State employee described in subsection (a) of this section may elect to participate in the program.

(c) An eligible employee shall:

(1) make an election under this section in writing; and

(2) file the election with the Board of Trustees and the employing institution within 1 year of first becoming an eligible employee of an employing institution.

(d) An eligible employee may not participate in the program if both the Board of Trustees and the employing institution have not received the eligible employee's written election required under subsection (c) of this section, within 1 year of first becoming an eligible employee with an employing institution.

§30–306.

An election of the program by an eligible employee is only effective when the election is accompanied by an appropriate application, if required, for the issuance of

an annuity contract under the program.

§30–307.

(a) Except as otherwise provided in this section, an election to participate in the program is a waiver of all rights and benefits provided by the retirement or pension system in which the participating employee was a member on the effective date of the election.

(b) For the purpose of determining eligibility for immediate vested rights or benefits in a retirement system or pension system, an eligible employee who is a member of that State system when the employee elects to participate in the program is deemed to have separated from employment on the effective date of the election.

(c) The Board of Trustees may only compute retirement system or pension system benefits on the basis of years of creditable service as a member of that State system.

(d) (1) This section applies only to a participating employee whose last employer prior to joining the program was a participating employer that does not participate in the employer pick-up program as defined in § 414(h)(2) of the Internal Revenue Code.

(2) A participating employee may withdraw any accumulated contributions in the annuity savings fund on or after the effective date of the participating employee's election to join the program.

(3) If a participating employee withdraws the accumulated contributions, the participating employee forfeits any right to a benefit in the State system from which the accumulated contributions were withdrawn.

(e) A participating employee is ineligible for membership in a retirement system or pension system while the participating employee is employed in any eligible position by any employing institution.

§30–401.

(a) An employing institution may:

(1) establish supplemental retirement plans that provide supplemental retirement accounts offered by a designated company in accordance with § 401(a), § 403(b), or § 457 of the Internal Revenue Code, or any other provision of federal law that authorizes supplemental retirement accounts; and

(2) authorize its employees or the employees of an institution over which it has administrative authority to participate in one or more of the supplemental retirement plans.

(b) (1) Except as provided in paragraph (2) of this subsection, if an employing institution authorizes its employees or the employees of an institution over which it has administrative authority to participate in a supplemental retirement plan, the employing institution shall select one or more of the designated companies under § 30–202 of this title that may offer supplemental retirement accounts to those employees and shall administer the participation of those employees in the supplemental retirement plan.

(2) With respect to a community or regional college established under Title 16 of the Education Article, other than a community college established under Title 16, Subtitle 5 of the Education Article, if an employing institution authorizes its employees or the employees of an institution over which it has administrative authority to participate in a supplemental retirement plan, the employing institution shall select one or more companies that may offer supplemental retirement accounts to those employees and shall administer the participation of those employees in the supplemental retirement plan.

(c) Contributions authorized under this section to a supplemental retirement account on behalf of an employee may be made by payroll deduction, a reduction in salary, deferral in compensation in accordance with § 403(b), § 457, or § 414(h) of the Internal Revenue Code, or as otherwise permitted by the Internal Revenue Code and authorized by the employing institution.

(d) Assets of the supplemental retirement plans may be deposited and invested in accordance with the investment elections allowed under the supplemental retirement plans notwithstanding any other law limiting the types of investments that may be made with State funds or imposing conditions on the deposit of State funds.

(e) An employee of an employing institution with discretionary authority over the management or administration of any of the supplemental retirement plans or the management or disposition of the assets of any of the supplemental retirement plans is entitled to indemnification and insurance as provided under § 30–210.1 of this title.

§31–101.

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

(b) "Agency on aging" means:

(1) an area agency on aging;

(2) the Dorchester County Commission on Aging, Inc.;

(3) the Somerset County Commission on Aging, Inc.;

(4) the Washington County Commission on Aging, Inc.; and

(5) the Worcester County Commission on Aging, Inc.

(c) "Effective date" means the date that an eligible governmental unit commenced or commences participation in an employees' system.

(d) "Eligible governmental unit" means a governmental unit that is eligible to participate in the employees' systems under § 31-102 of this subtitle.

(e) (1) "Employee" means a regular employee of an eligible governmental unit.

(2) "Employee" includes an officer of an eligible governmental unit.

(3) "Employee" does not include a contractual, emergency, or temporary extra employee.

(f) "Employees' system" means the Employees' Retirement System or the Employees' Pension System.

(g) (1) "Legislative body" means the entity with legislative authority or control over an eligible governmental unit.

(2) "Legislative body" includes:

(i) a board of county commissioners;

(ii) a county council;

(iii) the legislative body of a municipal corporation;

(iv) for a community action agency, a governing body as defined in § 8-101 of the Housing and Community Development Article;

(v) for an agency on aging:

1. the legislative body of the county that the agency on aging represents; or

2. for an area agency on aging that represents more than one county, the legislative body of each of the counties included in the jurisdiction of the area agency on aging;

(vi) for the University of Maryland Medical System Corporation, the Board of Directors of the corporation; and

(vii) for the Garrett County Office for Children, Youth and Families, the Board of County Commissioners for Garrett County.

(h) "Local pension system" means a retirement or pension system established by the legislative body of an eligible governmental unit.

§31–102.

Subject to § 22–202(b) of this article, the governmental units that are eligible to participate in the employees' systems are:

(1) a political subdivision of the State, including:

(i) a county;

(ii) a municipal corporation; and

(iii) a special taxing area; and

(2) the following governmental units:

(i) an agency on aging, as designated by the legislative body of the agency on aging;

(ii) the Allegany County Transit Authority;

(iii) subject to § 31–104 of this subtitle, the Baltimore Metropolitan Council;

(iv) a board or commission created by an Act of the General Assembly for public purpose and not for the profit of a private person;

(v) subject to § 31–105 of this subtitle, the Canal Place Preservation and Development Authority;

(vi) the Chesapeake Bay Commission;

(vii) a cooperative library commission;

(viii) subject to § 31–103 of this subtitle, a community action agency, as designated by the legislative body of the community action agency;

(ix) a fire department that receives any of its funds from or through a county, municipal corporation, special taxing area, or other political subdivision of the State;

(x) the Health Planning Council of Appalachia;

(xi) the Howard County Economic Development Authority;

(xii) the Interstate Commission on the Potomac River Basin;

(xiii) the Lower Shore Private Industry Council, Inc.;

(xiv) the Maryland Environmental Service;

(xv) subject to § 31–106 of this subtitle, the Maryland Stadium Authority;

(xvi) a public library association or organization;

(xvii) subject to § 31–106.2 of this subtitle, the St. Mary's Nursing Center, Inc.;

(xviii) the Tri–County Council for Western Maryland, Inc.;

(xix) the Tri–County Council for Southern Maryland;

(xx) subject to § 31–107 of this subtitle, the University of Maryland Medical System Corporation;

(xxi) the Upper Potomac River Commission;

(xxii) subject to § 31–106.1 of this subtitle, the Maryland African American Museum Corporation;

(xxiii) the Garrett County Office for Children, Youth and Families; and

(xxiv) the Somerset County Economic Development Commission.

§31–103.

A legislative body may not designate more than one community action agency as an eligible governmental unit.

§31–104.

The only employees of the Baltimore Metropolitan Council who are eligible to participate in the employees' systems under this subtitle are those employees who were members of the Employees' Retirement System or the Employees' Pension System as employees of the Baltimore Regional Council of Governments on June 30, 1992.

§31–105.

The only employees of the Canal Place Preservation and Development Authority who are eligible to participate in the Employees' Pension System under this subtitle are the Executive Director and the regular full-time employees that are employed by the Canal Place Preservation and Development Authority under § 13-1008(6) of the Financial Institutions Article.

§31–106.

The only employees of the Maryland Stadium Authority who are eligible to participate in the Employees' Pension System under this subtitle are the Executive Director of the Stadium Authority and the regular full–time employees employed

by the Maryland Stadium Authority under § 10–610 of the Economic Development Article.

§31–106.1.

The only employees of the Maryland African American Museum Corporation who are eligible to participate in the Employees' Pension System under this subtitle are the Executive Director and the regular full-time employees employed by the Maryland African American Museum Corporation under § 9-2604 of the State Government Article.

§31–106.2.

The only employees of the St. Mary's Nursing Center, Inc. who are eligible to participate in the employees' systems under this subtitle are those employees who were members of the Employees' Retirement System or the Employees' Pension System as employees of the St. Mary's County Nursing Home on January 17, 1996.

§31–107.

The only employees of the University of Maryland Medical System Corporation who are eligible to participate in the employees' systems under this subtitle are employees who were:

(1) members of an employees' system; and

(2) (i) employees of the University of Maryland on June 30, 1988, who became Medical System Corporation employees on or before July 1, 1988;

(ii) employees of the University of Maryland System on June 30, 1990, who voluntarily became Medical System Corporation employees on or before July 1, 1991; or

(iii) Montebello University employees as defined in § 13-401(g) of the Education Article who were employees of the University of Maryland on June 30, 1992, and who became employees of the University of Maryland Medical System Corporation in accordance with § 13-404 of the Education Article.

§31–108.

An employee of Worcester County is not eligible to participate in the employees' systems under this subtitle if the employee:

(1) is employed by Worcester County on July 1, 1994;

(2) was an employee of the Worcester County Sanitary Commission on October 31, 1993; and

(3) is a member of the Worcester County Sanitary District Pension Plan or its successor.

§31–109.

Except as provided in § 31-110 of this subtitle, an employee of an eligible governmental unit is entitled to be a member of the Employees' Pension System if:

(1) (i) the employee is not a member of a local pension system; and

(ii) the legislative body of the eligible governmental unit approves participation of the eligible governmental unit in the Employees' Pension System; or

(2) (i) the employee is a member of a local pension system;

(ii) at least 60% of the members of the local pension system petition to become members of the Employees' Pension System; and

(iii) the legislative body of the eligible governmental unit approves participation of the eligible governmental unit in the Employees' Pension System as though the local pension system were not in operation.

§31–109.1.

(a) Except as provided in subsection (b) of this section, the effective date of participation for an eligible governmental unit is July 1 of the year following the fiscal year in which the eligible governmental unit elects to participate in the Employees' Pension System.

(b) If an eligible governmental unit does not provide the Board of Trustees with the necessary documentation to join the Employees' Pension System on or before the effective date for the eligible governmental unit, the effective date shall be postponed until July 1 of the second year following the fiscal year in which the eligible governmental unit elects to participate in the Employees' Pension System.

§31–110.

An employee who is a member of the Employees' Retirement System may:

(1) remain a member of the Employees' Retirement System; or

(2) transfer to the Employees' Pension System.

§31–111.

(a) Except as provided in subsection (b) of this section and §§ 31–111.1, 31–111.3, 31–111.4, 31–111.5, 31–111.6, 31–111.7, and 31–111.8 of this subtitle, if an employee of a participating governmental unit joins the Employees' Pension System on the effective date, the employee is entitled to service credit for employment with

the participating governmental unit before the effective date.

(b) If an employee of the Baltimore Metropolitan Council elects to become a member of the Employees' Retirement System or the Employees' Pension System, the employee may not receive credit for service from July 1, 1992, to the effective date unless the employee pays to the Board of Trustees the amount of the member contributions the employee would have made during that period, plus regular interest.

§31–111.1.

(a) A supportive service employee of the Board of Education of Kent County shall receive service credit for service prior to the effective date in the amount of the employee's credit, as certified by the Board of Education of Kent County as of the effective date.

(b) If a supportive service employee or former supportive service employee of the Board of Education of Kent County becomes a member of the Employees' Pension System at any time after the effective date, the employee may not receive service credit for employment with the Board of Education for Kent County before the effective date.

§31–111.2.

(a) An employee of the Town of Oakland who was an employee on June 30, 2000, and who remains an employee on June 30, 2003, shall receive additional service credit to equal the total eligibility service and creditable service accrued prior to the effective date that the Town of Oakland began participating in the Employees' Pension System, as certified by the Town of Oakland.

(b) If an employee or a former employee of the Town of Oakland becomes a member of the Employees' Pension System at any time after the effective date that the Town of Oakland began participating in the Employees' Pension System, the employee may not receive service credit for employment with the Town of Oakland before the effective date that the Town of Oakland began participating in the Employees' Pension System.

§31–111.3.

(a) An individual who is an employee of the City of Frostburg on the effective date shall receive eligibility service and creditable service in the Employees' Pension System equal to one-half of the individual's period of employment with the City of Frostburg before the effective date, as certified by the City of Frostburg as of the effective date.

(b) If an employee or former employee of the City of Frostburg becomes a member of the Employees' Pension System at any time after the effective date, the employee may not receive service credit for employment with the City of Frostburg before the effective date.

§31–111.4.

(a) An individual who elects membership in the Employees' Pension System under § 23–204(e) of this article and is an employee of the Town of Berwyn Heights on the effective date shall receive eligibility service and creditable service in the Employees' Pension System equal to one–third of the individual's period of employment with the Town of Berwyn Heights before the effective date, as certified by the Town of Berwyn Heights as of the effective date.

(b) If an employee or former employee of the Town of Berwyn Heights becomes a member of the Employees' Pension System at any time after the effective date, the employee may not receive service credit for employment with the Town of Berwyn Heights before the effective date.

§31–111.5.

(a) An individual who is an employee of the Town of Sykesville on the effective date shall receive eligibility service and creditable service in the Employees' Pension System equal to 75% of the individual's period of employment with the Town of Sykesville before the effective date as certified by the Town of Sykesville as of the effective date.

(b) If an employee or former employee of the Town of Sykesville becomes a member of the Employees' Pension System at any time after the effective date, the employee may not receive service credit for employment with the Town of Sykesville before the effective date.

§31–111.6.

(a) An individual who is an employee of the Town of University Park on the effective date shall receive eligibility service and creditable service in the Employees' Pension System equal to 70% of the individual's period of employment with the Town of University Park before the effective date as certified by the Town of University Park as of the effective date.

(b) If an employee or former employee of the Town of University Park becomes a member of the Employees' Pension System at any time after the effective date, the employee may not receive service credit for employment with the Town of University Park before the effective date.

§31–111.7.

(a) Subject to subsection (b) of this section, an employee of the Somerset County Economic Development Commission who was an employee on June 30, 2011, and who remains an employee through the effective date, shall receive additional service credit for eligibility service and creditable service accrued prior to the effective date that the Somerset County Economic Development Commission began participating in the Employees' Pension System, as certified by the Somerset County Economic

Development Commission.

(b) Additional service credit under subsection (a) of this section shall be awarded only for time for which employee contributions were made to the Board of Trustees prior to the effective date that the Somerset County Economic Development Commission began participating in the Employees' Pension System.

§31–111.8.

(a) An individual who elects membership in the Employees' Pension System under § 23–204(f) of this article and is an employee of the City of College Park on the effective date shall receive eligibility service and creditable service in the Employees' Pension System equal to 60% of the individual's period of employment with the City of College Park before the effective date as certified by the City of College Park as of the effective date.

(b) If an employee or a former employee of the City of College Park becomes a member of the Employees' Pension System at any time after the effective date, the employee may not receive service credit for employment with the City of College Park before the effective date.

§31–112.

(a) Subject to subsection (b) of this section, an employee of a participating governmental unit who is a member of one of the employees' systems is entitled to the benefits to which State employees are entitled under that system.

(b) (1) An employee of a participating governmental unit that has elected to participate in:

(i) the contributory pension benefit option under § 31-116 of this subtitle shall be subject to Title 23, Subtitle 2, Part II of this article; or

(ii) the Alternate Contributory Pension Selection under § 31-116.1 of this subtitle shall be subject to Title 23, Subtitle 2, Part III of this article.

(2) An employee of a participating governmental unit that has not elected to participate in:

(i) the contributory pension benefit option under § 31-116 of this subtitle is not subject to Title 23, Subtitle 2, Part II of this article; or

(ii) the Alternate Contributory Pension Selection under § 31-116.1 of this subtitle is not subject to Title 23, Subtitle 2, Part III of this article.

§31–113.

(a) Except as provided in subsection (b) of this section, the operation of the local

pension system of an eligible governmental unit terminates on the effective date.

(b) (1) An eligible governmental unit may elect to continue to operate a local pension system after the effective date of participation in the Employees' Pension System to provide benefits to a person who:

(i) is receiving benefits from the local pension system;

(ii) is eligible to receive benefits from the local pension system on account of the person's previous employment by the eligible governmental unit; or

(iii) did not elect to join the Employees' Pension System under § 23-204(b) of this article.

(2) A person may not be enrolled in the local pension system of a participating governmental unit electing to continue to operate its system under paragraph (1) of this subsection if the person becomes employed or is rehired by the participating governmental unit on or after the effective date of participation of the participating governmental unit in the Employees' Pension System.

(c) The liability for the continuation of benefits under subsection (b) of this section shall be included in the computation of the special accrued liability as provided by § 21-305.3 of this article.

(d) (1) On the effective date:

(i) the assets to the credit of the local pension system of the participating governmental unit that are attributable to the employees of the participating governmental unit who elect to become members of the Employees' Pension System under § 23-204(b) of this article shall be transferred to the Employees' Pension System; and

(ii) the trustee or other administrative head of the local pension system shall certify the proportion of the funds of the local pension system that represents the accumulated contributions of the members as of that date.

(2) The accumulated contributions shall be credited to the respective annuity savings accounts of the members in the Employees' Pension System.

(3) Any balance of the funds transferred to the Employees' Pension System shall be offset against the special accrued liability to be funded by the participating governmental unit as provided by § 21-305.3 of this article.

§31–114.

The chief fiscal officer of each participating governmental unit shall:

(1) submit to the Board of Trustees the information that the Board of

Trustees requires; and

(2) with respect to each employee of the participating governmental unit, cause to be performed the duties that would be performed by the head of a State unit employing members of an employees' system.

§31–115.

(a) A participating governmental unit may establish, by law, a separate additional program of interim or supplemental allowances for a class of employees.

(b) A participating governmental unit shall fund any additional program of allowances separately from the funding for benefits provided under this Division II.

(c) (1) On the written request of a participating governmental unit that desires to establish an additional program authorized under this section, the State Retirement Agency may provide benefit-determination data or other technical assistance.

(2) The State Retirement Agency shall charge the participating governmental unit for the expenses of preparing the data or providing the technical assistance.

§31–116.

(a) On or before December 31, 2002, a participating governmental unit may elect to provide its employees with the contributory pension benefit under Title 23 of this article as provided in this section by submitting its election on a form provided by the State Retirement Agency.

(b) (1) If a participating governmental unit elects to provide its employees with the contributory pension benefit under Title 23 of this article, an employee of the participating governmental unit who is a member of the Employees' Pension System shall be entitled to the benefits as provided in § 23-218 of this article, effective on the later of July 1, 1998, or the date the employee became a member of the Employees' Pension System, unless the employee transferred to the Employees' Pension System after April 1, 1998.

(2) If an employee of a participating governmental unit transferred to the Employees' Pension System after April 1, 1998, the employee is not subject to Title 23, Subtitle 2, Part II of this article and is not entitled to the benefits as provided in § 23-218 of this article.

(c) An election by a participating governmental unit under this section is irrevocable.

§31–116.1.

(a) On or before June 30, 2007, a participating governmental unit may elect to provide its employees with the Alternate Contributory Pension Selection under Title 23, Subtitle 2, Part III of this article by submitting its election on a form provided by the State Retirement Agency.

(b) An election by a participating governmental unit under this section is irrevocable.

(c) (1) If a participating governmental unit elects to provide its employees with the Alternate Contributory Pension Selection under Title 23, Subtitle 2, Part III of this article, an employee of the participating governmental unit who is a member of the Employees' Pension System shall be entitled to the benefits as provided in § 23-222 of this article, effective on the later of July 1, 2006, or the date the employee became a member of the Employees' Pension System, unless the employee transferred to the Employees' Pension System from the Employees' Retirement System or Teachers' Retirement System after April 1, 1998.

(2) If an employee of a participating governmental unit transferred to the Employees' Pension System from the Employees' Retirement System or Teachers' Retirement System after April 1, 1998, the employee is not subject to Title 23, Subtitle 2, Part III of this article and is not entitled to the benefits as provided in § 23-222 of this article.

§31–116.2.

(a) (1) Except as provided in paragraph (2) of this subsection, this section applies to an individual who becomes an employee of a participating governmental unit on or after July 1, 2011.

(2) This section does not apply to an individual who becomes an employee of:

(i) a participating governmental unit that on July 1, 2011, is participating in the Employees' Pension System and has not elected to participate in the Alternate Contributory Pension Selection under § 31–116.1 of this article; or

(ii) a former participating governmental unit, other than Frederick County, that has withdrawn from the Employees' Pension System on or before June 30, 2011.

(b) An individual described in subsection (a) of this section is subject to the reformed contributory pension benefit under Title 23, Subtitle 2, Part IV of this article.

(c) (1) This subsection applies to an individual who was an employee of the Somerset County Economic Development Commission on June 30, 2011, and who remains an employee through the effective date of participation for the Somerset

County Economic Development Commission as a participating governmental unit.

(2) An individual described in paragraph (1) of this subsection shall be considered subject to the alternate contributory pension benefit under Title 23, Subtitle 2, Part III of this article in the same manner as an individual who was a member of the Employees' Pension System on June 30, 2011.

§31–2A–01.

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

(b) "Effective date" means the date that an eligible governmental unit commenced or commences participation in the Law Enforcement Officers' Pension System.

(c) "Eligible governmental unit" means a governmental unit that is eligible to participate in the Law Enforcement Officers' Pension System under § 31-2A-02 of this subtitle.

(d) (1) "Firefighter" means:

(i) a paid firefighter, as determined by the eligible governmental unit; or

(ii) a paid paramedic, as determined by the eligible governmental unit.

(2) "Firefighter" does not include:

(i) a volunteer firefighter; or

(ii) a volunteer paramedic.

(e) "Law enforcement officer" means an individual certified by the Maryland Police Training Commission as a law enforcement officer.

(f) "Local pension system" means a retirement or pension system established by the legislative body of an eligible governmental unit.

(g) "State system" has the meaning stated in § 20–101(pp) of this article.

§31–2A–02.

Subject to § 31-2A-03 of this subtitle, the governmental units that are eligible to participate in the Law Enforcement Officers' Pension System are:

(1) counties; and

(2) municipal corporations.

§31–2A–03.

(a) If at least 60% of the law enforcement officers of an eligible governmental unit who are members of a local pension system or State system petition to become members of the Law Enforcement Officers' Pension System, the legislative body of the eligible governmental unit may approve the participation of these law enforcement officers in the Law Enforcement Officers' Pension System as though the local pension system were not in operation.

(b) If at least 60% of the firefighters and paramedics employed by the Salisbury Fire Department petition to become members of the Law Enforcement Officers' Pension System, the legislative body of the City of Salisbury, as an eligible governmental unit, may approve the participation of these firefighters and paramedics in the Law Enforcement Officers' Pension System.

(c) If at least 60% of the firefighters of an eligible governmental unit who are members of a local pension system or State system petition to become members of the Law Enforcement Officers' Pension System, the legislative body of the eligible governmental unit may approve the participation of these firefighters in the Law Enforcement Officers' Pension System as though the local pension system were not in operation.

§31–2A–03.1.

(a) Except as provided in subsection (b) of this section, the effective date of participation for an eligible governmental unit is July 1 of the year following the fiscal year in which the eligible governmental unit elects to participate in the Law Enforcement Officers' Pension System.

(b) If an eligible governmental unit does not provide the Board of Trustees with the necessary documentation to join the Law Enforcement Officers' Pension System on or before the effective date for the eligible governmental unit, the effective date shall be postponed until July 1 of the second year following the fiscal year in which the eligible governmental unit elects to participate in the Law Enforcement Officers' Pension System.

§31–2A–04.

If a law enforcement officer, firefighter, or paramedic joins the Law Enforcement Officers' Pension System on the effective date, the member is entitled to credit for employment with the participating governmental unit before the effective date.

§31–2A–05.

(a) If an eligible governmental unit approves participation in the Law Enforcement Officers' Pension System, the operation of the local pension system or State system with respect to the law enforcement officers, firefighters, or paramedics terminates on the effective date.

(b) (1) On the effective date:

(i) the assets to the credit of the local pension system or State system that relate to the law enforcement officers, firefighters, or paramedics who elect to become members shall be transferred to the Law Enforcement Officers' Pension System; and

(ii) the trustee or other administrative head of the local pension system or State system shall certify the proportion of the funds of the local pension system or State system that represents the accumulated contributions of the members as of that date.

(2) The accumulated contributions shall be credited to the respective annuity savings accounts of the members in the Law Enforcement Officers' Pension System.

(3) The balance of the funds transferred to the Law Enforcement Officers' Pension System shall be offset against the special accrued liability to be funded by the participating governmental unit as provided by § 21–306.1(d) of this article.

§31–2B–01.

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

(b) "Effective date" means the date that an eligible governmental unit commenced or commences participation in the Correctional Officers' Retirement System.

(c) "Eligible governmental unit" means a governmental unit that is eligible to participate in the Correctional Officers' Retirement System under § 31-2B-02 of this subtitle.

(d) "Local detention center officer" means an individual who works as a detention center officer for an eligible governmental unit.

(e) "Local pension system" means a retirement or pension system established by the legislative body of an eligible governmental unit.

(f) "State system" has the meaning stated in § 20–101(pp) of this article.

§31–2B–02.

Subject to § 31-2B-03 of this subtitle, the governmental units that are eligible to participate in the Correctional Officers' Retirement System are:

(1) counties; and

(2) municipal corporations.

§31–2B–03.

If at least 60% of the local detention center officers of an eligible governmental unit who are members of a local pension system or State system petition to become members of the Correctional Officers' Retirement System, the legislative body of the eligible governmental unit may approve the participation of these local detention center officers in the Correctional Officers' Retirement System as though the local pension system were not in operation.

§31–2B–03.1.

(a) Except as provided in subsection (b) of this section, the effective date of participation for an eligible governmental unit is July 1 of the year following the fiscal year in which the eligible governmental unit elects to participate in the Correctional Officers' Retirement System.

(b) If an eligible governmental unit does not provide the Board of Trustees with the necessary documentation to join the Correctional Officers' Retirement System on or before the effective date for the eligible governmental unit, the effective date shall be postponed until July 1 of the second year following the fiscal year in which the eligible governmental unit elects to participate in the Correctional Officers' Retirement System.

§31–2B–04.

If a local detention center officer joins the Correctional Officers' Retirement System on the effective date, the member is entitled to credit for employment with the participating governmental unit before the effective date.

§31–2B–05.

(a) If an eligible governmental unit approves participation in the Correctional Officers' Retirement System, the operation of the local pension system or State system with respect to the local detention center officers terminates on the effective date.

(b) (1) On the effective date:

(i) the assets to the credit of the local pension system or State system that relate to the local detention center officers who elect to become members shall be transferred to the Correctional Officers' Retirement System; and

(ii) the trustee or other administrative head of the local pension system or State system shall certify the proportion of the funds of the local pension system that represents the accumulated contributions of the members as of that date.

(2) The accumulated contributions shall be credited to the respective annuity savings accounts of the members in the Correctional Officers' Retirement System.

(3) The balance of the funds transferred to the Correctional Officers' Retirement System shall be offset against the special accrued liability to be funded by the participating governmental unit as provided by § 21–306.1(d) of this article.

§31–301.

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

(b) "Employees' system" has the meaning stated in § 31–101 of this title.

(c) "Legislative body" has the meaning stated in § 31–101 of this title.

(d) "Local pension system" means a retirement or pension system established by the legislative body of an eligible governmental unit.

(e) "State system" has the meaning stated in § 20–101(pp) of this article.

(f) "Withdrawal date" means the date that a withdrawal by a participating governmental unit from a State system takes effect.

§31–302.

The legislative body of a participating governmental unit may withdraw from participation in a State system and transfer to a local pension system or another State system any of the following groups of employees of the governmental unit who consent to the withdrawal, and who qualify for membership in the State system or local pension system:

(1) all employees of the participating governmental unit;

(2) fire fighters;

(3) law enforcement personnel;

(4) detention center officers; or

(5) subject to the approval of the Board of Trustees, a homogeneous unit of at least 10 employees.

§31–303.

A withdrawal and transfer under § 31-302 of this subtitle takes effect at the end of the State's fiscal year.

§31–304.

If a participating governmental unit withdraws from a State system, the accumulated contributions of the withdrawn employees shall be transferred on the withdrawal date to the administrative board of the local pension system or new State

system and credited to the account of those employees.

§31–305.

(a) As of the effective date of withdrawal of a participating governmental unit, the Board of Trustees shall transfer to the administrative board of the local pension system or new State system the portion of the assets that are allocable to the withdrawn employees as determined under § 21–305.5, § 21–305.6, § 21–306, § 21–306.1, or § 26–306.2 of this article.

(b) The administrative board of the local pension system or new State system shall hold the transferred assets in trust to provide retirement benefits for the withdrawn employees.

§31–306.

A participating governmental unit shall pay all administrative costs involved in the withdrawal or reentry if the participating governmental unit:

(1) withdraws all or some of its employees from a State system; or

(2) elects to participate in a State system for employees who were previously withdrawn.

§32–101.

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

(b) (1) "Eligible employee" means a member of the Employees' Pension System or the Employees' Retirement System who is subject to Selection C (Combination Formula) as provided in § 22-221 of this article, other than:

(i) an employee of a participating governmental unit or a former participating governmental unit that has withdrawn; or

(ii) a member of the Employees' Pension System who transferred from the Employees' Retirement System after April 1, 1998.

(2) "Eligible employee" includes:

(i) a member of the Employees' Pension System who contributes to a State supplemental plan authorized by an employing institution as defined in § 30-101 of this article; or

(ii) a member of the Employees' Pension System who is an employee of the Northeast Maryland Waste Disposal Authority.

(c) "Optional Defined Contribution System" means the system established under § 32-201 of this title.

(d) "Participating employee" means an eligible employee who participates in the Optional Defined Contribution System.

(e) (1) "State supplemental plan" means a plan qualified under the Internal Revenue Code and:

(i) administered by the Supplemental Board; or

(ii) authorized for eligible employees by an employing institution as defined in § 30-101 of this article.

(2) "State supplemental plan" includes:

(i) a salary reduction plan qualified under § 401(k) of the Internal Revenue Code;

(ii) a tax sheltered annuity plan qualified under § 403(b) of the Internal Revenue Code;

(iii) a deferred compensation plan qualified under § 457 of the Internal Revenue Code; or

(iv) a plan qualified under § 401(a) of the Internal Revenue Code.

(f) "Supplemental Board" means the State Board of Trustees of the Maryland Teachers and State Employees Supplemental Retirement Plans established under § 35-201 of this article.

§32–201.

There is an Optional Defined Contribution System.

§32–202.

The Supplemental Board shall administer the Optional Defined Contribution System.

§32–203.

(a) Except for the State supplemental plans that are authorized by employing institutions as defined in § 30-101 of this article, the Supplemental Board shall adopt, implement, and maintain the specific qualified plans that are part of the Optional Defined Contribution System.

(b) (1) Except as provided in paragraph (2) of this subsection, the Supplemental Board shall adopt regulations to carry out this title.

(2) The Supplemental Board is not required to adopt regulations to adopt or amend the plans under the Optional Defined Contribution System.

(c) A participating employee's interest in the plans under the Optional Defined Contribution System:

(1) shall immediately be 100% vested;

(2) shall be held in trust for the exclusive benefit of the participating employee, except as otherwise required under § 403(b) of the Internal Revenue Code for investments held under a plan that qualifies under § 403(b) of the Internal Revenue Code; and

(3) may be distributed only at the times, in the manner, to the extent, and to the individuals that allow the plans to maintain their tax qualified status under the Internal Revenue Code.

§32–204.

The participating employee contributions shall be made as payrolls are paid by payroll deduction or by a reduction in salary in accordance with the Internal Revenue Code and as provided by the applicable State supplemental plan.

§32–205.

(a) For each participating employee who makes contributions under § 32–204 of this subtitle, to the extent funds are provided in the State budget, the State may contribute to the applicable State supplemental plan employer contributions an amount equal to the lesser of the participating employee's contributions or $600 per fiscal year.

(b) (1) This subsection applies to participating employees who are paid through the Central Payroll Bureau.

(2) As payrolls are paid, the Central Payroll Bureau shall pay the employer contributions to the applicable State supplemental plan as directed by the Supplemental Board.

(3) The payments shall be charged against the budgets of the units employing the participating employees.

(4) If a participating employee's salary is paid from special funds or federal funds, or both, the employer contribution for that employee shall be paid from those funds.

(c) (1) This subsection applies to participating employees who are not paid through the Central Payroll Bureau.

(2) The Supplemental Board shall provide by regulation how employer contributions and participating employee contributions are to be made.

(3) The payments shall be charged against the budgets of the units

employing the participating employees who are employed by the State.

(4) If a participating employee's salary is paid from special funds or federal funds, or both, the employer contribution shall be paid from those funds.

§32–205.1.

(a) Employees of the Northeast Maryland Waste Disposal Authority who are members of the Employees' Pension System shall be eligible for a matching contribution if:

(1) the Supplemental Board determines that employees of the Northeast Maryland Waste Disposal Authority are eligible to participate in and contribute to one or more of the State supplemental plans; and

(2) the Northeast Maryland Waste Disposal Authority makes an irrevocable election to participate in the Optional Defined Contribution System.

(b) If the Northeast Maryland Waste Disposal Authority makes an election under this section, the Northeast Maryland Waste Disposal Authority shall be required to pay for each employee who makes contributions under § 32–204 of this subtitle, a contribution in an amount equal to the lesser of the employee's contributions or $600 per fiscal year, in the manner directed by the Supplemental Board.

§32–206.

The Governor shall include in the annual State budget bill an appropriation that is sufficient to pay the employer contributions for participating employees required under § 32-205 of this subtitle.

§32–207.

(a) A State supplemental plan that is authorized for eligible employees by an employing institution as defined in § 30–101 of this article may be offered only on the same basis and to the same class of employees as authorized under Chapter 619, § 2 of the Acts of the General Assembly of 1996.

(b) The employing institution, in consultation with the State Retirement Agency, shall determine which employees of its institution are eligible employees.

§32–208.

(a) An eligible employee, as defined in § 32–101(b) of this title, of St. Mary's College of Maryland may not participate in the Optional Defined Contribution System, as provided in this title, if the employee is eligible to participate in a matching supplemental retirement defined contribution plan or a matching feature of a supplemental retirement plan adopted and administered by the Board of Trustees of St. Mary's College of Maryland.

(b) The Board of Trustees of St. Mary's College of Maryland may adopt and administer for employees of St. Mary's College of Maryland:

(1) a matching supplemental retirement defined contribution plan; or

(2) a matching feature to another supplemental retirement plan adopted and administered by the Board of Trustees.

(c) For any fiscal year, any plan established under subsection (b) of this section shall provide to employees described under subsection (a) of this section and who participate in the St. Mary's College of Maryland supplemental plan or feature, not less than the same level of employer contributions that are available to participating employees under § 32–205 of this subtitle.

§34–101.

(a) There is a Postretirement Health Benefits Trust Fund.

(b) The Postretirement Health Benefits Trust Fund shall be established as a tax–exempt trust, in accordance with § 115 of the Internal Revenue Code or other applicable federal statute.

(c) The purpose of the Postretirement Health Benefits Trust Fund is to assist the State in financing the postretirement health insurance subsidy, as specified in § 2–508 of this article.

(d) The Postretirement Health Benefits Trust Fund shall consist of any funds appropriated to the Postretirement Health Benefits Trust Fund, whether directly or through the budgets of any State agency.

(e) After June 1, 2008, any funds deposited into the Dedicated Purpose Account in fiscal year 2007 and fiscal year 2008 that were appropriated in Chapter 216 of the Acts of 2006 or Chapter 487 of the Acts of 2007 (H.B. 50) for the purpose of defraying the future costs associated with retirement benefits for State employees, may be deposited into the Postretirement Health Benefits Trust Fund.

(f) (1) The Board of Trustees are the trustees of the Postretirement Health Benefits Trust Fund.

(2) Notwithstanding any other provision of law:

(i) the Board of Trustees shall have full power to invest and manage the assets of the Postretirement Health Benefits Trust Fund to achieve the statutory purpose of the Fund; and

(ii) each member of the Board of Trustees shall discharge the member's duties with respect to the Postretirement Health Benefits Trust Fund as a fiduciary and be indemnified in accordance with the provisions of Title 21, Subtitle 2

of this article.

(3) The Board of Trustees may incur reasonable investment expenses payable from the assets of the Postretirement Health Benefits Trust Fund, and in accordance with § 21–315(d) of this article, for:

(i) services of managers to invest the assets of the Postretirement Health Benefits Trust Fund;

(ii) services of one or more duly qualified banks or trust companies for the safe custody of the investments and banking services; and

(iii) any other service that the Board of Trustees deems reasonable and necessary in connection with the investments of the Postretirement Health Benefits Trust Fund.

(4) (i) The Board of Trustees may incur reasonable administrative expenses payable from the assets of the Postretirement Health Benefits Trust Fund.

(ii) Administrative expenses paid under subparagraph (i) of this paragraph may not exceed $100,000 annually.

(5) The Board of Trustees is not subject to Division II of the State Finance and Procurement Article for:

(i) obtaining services of managers to invest the assets of the Postretirement Health Benefits Trust Fund; and

(ii) expenditures to manage, maintain, and enhance the value of the assets of the Postretirement Health Benefits Trust Fund.

(g) To the extent possible, the assets of the Postretirement Health Benefits Trust Fund shall be invested in the same manner as those of the several systems.

(h) Prior to fiscal year 2009, no payments may be made from the Postretirement Health Benefits Trust Fund.

(i) Beginning in fiscal year 2009, the Board of Trustees may transfer an amount from the Postretirement Health Benefits Trust Fund to the Department of Budget and Management, subject to appropriation in the State budget, for the sole purpose of assisting in the payment of the State's postretirement health insurance subsidy.

(j) On or before October 1, 2009, and on or before October 1 thereafter, the Board of Trustees shall publish an annual consolidated report that includes:

(1) the fiscal transactions of the Postretirement Health Benefits Trust Fund for the preceding fiscal year; and

(2) the amount of the accumulated cash, securities, and other assets of the Postretirement Health Benefits Trust Fund.

(k) The Board of Trustees may adopt a trust document and regulations to carry out this title.

§35–101.

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

(b) "Board" means the State Board of Trustees of the Maryland Teachers and State Employees Supplemental Retirement Plans.

(c) "Supplemental retirement plans" means the deferred compensation, tax sheltered annuity, salary reduction savings plans, and any other plans authorized by this title.

§35–102.

(a) The supplemental retirement plans are in addition to any other retirement, pension, or benefit system established by the State.

(b) A deferral of compensation under any of the supplemental retirement plans does not reduce the amount of any retirement, pension, or other benefit provided by law.

§35–201.

There is a Board of Trustees of the Maryland Teachers and State Employees Supplemental Retirement Plans.

§35–202.

(a) (1) The Board consists of nine members appointed by the Governor.

(2) Of the nine members:

(i) three shall be from any of the following units:

1. the Department of Budget and Management;

2. the Department of Education;

3. the Office of the State Comptroller;

4. the Office of the State Treasurer;

5. the State Retirement Agency; or

6. the Maryland Higher Education Commission;

(ii) three shall be individuals who are eligible to participate in one of the supplemental retirement plans, at least one of whom shall be an employee described in § 403(b)(1)(A)(ii) of the Internal Revenue Code; and

(iii) three shall be members of the public who are not eligible to participate in any of the supplemental retirement plans, at least one of whom shall have experience with deferred compensation and salary reduction plans.

(b) (1) The term of a member is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on October 1, 1994.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(c) The Governor may remove a member for incompetence or misconduct.

§35–203.

The Governor shall appoint a chairman from among the members of the Board appointed under § 35-202(a)(2)(i) or (ii) of this subtitle.

§35–204.

(a) The Board shall meet at least quarterly at the times and places it determines.

(b) Each member of the Board is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(c) (1) The Board may employ a staff in accordance with the State budget.

(2) The Board may hire consultants, administrators, and other professionals as necessary to help implement, maintain, and administer the supplemental retirement plans.

(3) (i) Except as provided in subparagraph (ii) of this paragraph or otherwise by law, employees of the Board are subject to the provisions of Division I of this article that govern nontemporary employees.

(ii) Employees of the Board whose labor is predominately intellectual and who hold positions that the Board designates as professional or technical positions involving specialized skill, education, and knowledge are in the executive service,

management service, or are special appointments of the skilled service or the professional service in the State Personnel Management System.

(4) (i) Except as provided in paragraph (5) of this subsection, all expenses, including employee costs, incurred to implement, maintain, and administer the supplemental retirement plans shall be paid from the contributions to or the income or assets of the supplemental retirement plans.

(ii) Each supplemental retirement plan shall pay a proportionate share of the expenses specified in subparagraph (i) of this paragraph.

(iii) Administrative expenses to implement, maintain, and administer the supplemental retirement plans shall be as provided in the State budget.

(5) At the request of the Board, and subject to an agreement governing the payment of costs, a unit of State government shall help to implement, maintain, and administer the supplemental retirement plans.

§35–205.

(a) The Board shall:

(1) implement, maintain, and administer the supplemental retirement plans;

(2) submit progress and status reports to participants in the supplemental retirement plans; and

(3) submit an annual report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly.

(b) In case of doubt as to whether an individual is eligible to participate in any of the supplemental retirement plans, the Board shall determine the individual's eligibility.

§35–301.

(a) In this section, "fiduciary" means a person with discretionary authority or control over:

(1) the management or administration of any of the supplemental retirement plans; or

(2) the management or disposition of the assets of any of the supplemental retirement plans.

(b) A fiduciary is subject to the duties and responsibilities imposed on

fiduciaries by Title 21, Subtitle 2 of this article.

(c) A fiduciary is entitled to indemnification and insurance as provided under § 21-207 of this article.

§35–302.

(a) Assets of the supplemental retirement plans may be deposited and invested in accordance with the investment elections allowed under the supplemental retirement plans notwithstanding any other law limiting the types of investments that may be made with State funds or imposing conditions on the deposit of State funds.

(b) (1) (i) The Board shall attempt to use to the greatest extent feasible minority business enterprises to provide brokerage and investment management services to the Board consistent with minority business purchasing standards applicable to units of State government under the State Finance and Procurement Article and consistent with the fiduciary duties of the Board.

(ii) For purposes of this subsection, brokerage and investment management services shall include services relating to all allocated asset classes.

(2) (i) To assist it in achieving the goal described under paragraph (1) of this subsection, the Board shall undertake measures to remove any barriers that limit full participation by minority business enterprises in brokerage and investment management services opportunities afforded under this title.

(ii) The measures undertaken by the Board shall include the use of a wide variety of media, including the Maryland Teachers and State Employees Supplemental Retirement Plans' Web site, to provide notice to a broad and varied range of potential providers about the brokerage and investment management services opportunities afforded by the Maryland Teachers and State Employees Supplemental Retirement Plans.

(3) In consultation with the Governor's Office of Minority Affairs, the Board shall develop guidelines to assist the Board in identifying and evaluating qualified minority business enterprises in order to help the Maryland Teachers and State Employees Supplemental Retirement Plans achieve the objective for greater use of minority business enterprises for brokerage and investment management services.

(4) On or before September 1 each year, the Board shall submit a report to the Governor's Office of Minority Affairs and, subject to § 2–1246 of the State Government Article, the General Assembly on:

(i) the identity of the minority business enterprise brokerage and investment management services firms used by the Board in the immediately preceding fiscal year;

(ii) the percentage and dollar value of the assets that are under

the control of the Board that are under the investment control of minority business enterprise brokerage and investment management services firms for each allocated asset class; and

(iii) the measures the Board undertook in the immediately preceding fiscal year in accordance with paragraph (2)(ii) of this subsection.

§35–401.

There is a tax sheltered annuity plan for eligible participants as allowed by § 403(b) of the Internal Revenue Code.

§35–402.

An individual is eligible to participate in the tax sheltered annuity plan if the individual:

(1) is eligible for coverage under § 403(b) of the Internal Revenue Code; and

(2) is an officer or employee of:

(i) this State; or

(ii) any other governmental entity in this State, including a county board of education.

§35–403.

Subject to the conditions that the Board may set and in accordance with a contract between the participant and the employer, a participant may have contributions made to the tax sheltered annuity plan on the participant's behalf by a salary reduction or in place of a salary increase.

§35–404.

This section does not prohibit a county board of education from adopting a plan for its employees that qualifies under § 403(b) of the Internal Revenue Code.

§35–501.

(a) There is a salary reduction savings plan for eligible participants as allowed by § 401(k) of the Internal Revenue Code.

(b) The Board shall obtain approval from the Internal Revenue Service for the salary reduction savings plan.

§35–502.

An individual is eligible to participate in the salary reduction savings plan if the individual is:

(1) an officer of this State; or

(2) an employee of this State, including a contractual employee.

§35–601.

There is a deferred compensation plan for eligible participants as allowed by § 457 of the Internal Revenue Code.

§35–602.

An individual is eligible to participate in the deferred compensation plan if the individual is:

(1) an officer of this State;

(2) an employee of this State, including a contractual employee;

(3) an employee of the Northeast Maryland Waste Disposal Authority; or

(4) an independent contractor who performs service under § 21-304(c) of the Education Article.

§35–701.

There is a Defined Contribution Plan for eligible participants as allowed by § 401(a) of the Internal Revenue Code.

§35–702.

An individual is eligible to participate in the Defined Contribution Plan if the individual is an eligible employee as defined in § 32-101 of this article.

§36–101.

It is the policy of this State that the benefits available under the federal Social Security Act shall be provided to the employees and officers of this State and its political subdivisions and to their dependents and survivors.

§36–102.

As authorized by former Article 89, §§ 30 through 40 of the Code and subject to applicable federal law, the Secretary of Budget and Management, acting on behalf of this State, may enter into, carry out, modify, or terminate an agreement with the

Secretary of the United States Department of Health and Human Services to extend the benefits available under the federal Social Security Act to the employees and officers of this State and its political subdivisions and to the dependents and survivors of those employees and officers.

§37–101.

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

(b) "Accumulated contributions":

(1) when used in relation to a State system, has the meaning stated in § 20–101 of this article; and

(2) when used in relation to a local retirement or pension system, has the meaning most closely analogous to the meaning stated in § 20–101 of this article within the context of the local retirement or pension system.

(c) "Annuity":

(1) when used in relation to a State system, has the meaning stated in § 20–101 of this article; and

(2) when used in relation to a local retirement or pension system, has the meaning most closely analogous to the meaning stated in § 20–101 of this article within the context of the local retirement or pension system.

(d) "Contributory system" means a State or local retirement or pension system under which member contributions are deducted from all compensation.

(e) "County" means a county of the State and, unless expressly provided otherwise, Baltimore City.

(f) "Former member":

(1) when used in relation to a State system, has the meaning stated in § 20–101 of this article; and

(2) when used in relation to a local retirement or pension system, has the meaning most closely analogous to the meaning stated in § 20–101 of this article within the context of the local retirement or pension system.

(g) "Member":

(1) when used in relation to a State system, has the meaning stated in § 20–101 of this article; and

(2) when used in relation to a local retirement or pension system, has the meaning most closely analogous to the meaning stated in § 20–101 of this article within

the context of the local retirement or pension system.

(h) "Member contribution":

(1) when used in relation to a State system, has the meaning stated in § 20–101 of this article; and

(2) when used in relation to a local retirement or pension system, has the meaning most closely analogous to the meaning stated in § 20–101 of this article within the context of the local retirement or pension system.

(i) "New system" means the retirement or pension system into which an individual transfers.

(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 or the reformed contributory pension benefit under Title 23, Subtitle 2, Part IV of this article.

(k) "Pension":

(1) when used in relation to a State system, has the meaning stated in § 20–101 of this article; and

(2) when used in relation to a local retirement or pension system, has the meaning most closely analogous to the meaning stated in § 20–101 of this article within the context of the local retirement or pension system.

(l) "Previous system" means the retirement or pension system from which an individual transfers.

(m) "Retirement":

(1) when used in relation to a State system, has the meaning stated in § 20–101 of this article; and

(2) when used in relation to a local retirement or pension system, has the meaning most closely analogous to the meaning stated in § 20–101 of this article within the context of the local retirement or pension system.

(n) "Retirement allowance":

(1) when used in relation to a State system, has the meaning stated in §

20–101 of this article; and

(2) when used in relation to a local retirement or pension system, has the meaning most closely analogous to the meaning stated in § 20–101 of this article within the context of the local retirement or pension system.

(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.

(o) "State Contributory Employees' Pension System" means the part of the Employees' Pension System of the State of Maryland that provides a contributory pension benefit under Title 23, Subtitle 2, Part II of this article.

(p) "State Contributory Law Enforcement Officers' Pension System" means the part of the Law Enforcement Officers' Pension System of the State of Maryland that provides a contributory pension benefit under Title 26, Subtitle 2, Part II of this article.

(q) "State Contributory Teachers' Pension System" means the part of the Teachers' Pension System of the State of Maryland that provides a contributory pension benefit under Title 23, Subtitle 2, Part II of this article.

(r) "State or local retirement or pension system" means any retirement or pension system operated under the laws of the State or any political subdivision of the State.

(r–1) "State Reformed Contributory Employees' Pension System" means the part of the Employees' Pension System of the State of Maryland that provides the reformed contributory pension benefit under Title 23, Subtitle 2, Part IV of this article.

(r–2) "State Reformed Contributory Teachers' Pension System" means the part of the Teachers' Pension System of the State of Maryland that provides the reformed contributory pension benefit under Title 23, Subtitle 2, Part IV of this article.

(s) "State system" means a retirement or pension system that is included in the Maryland State Retirement and Pension Systems under § 21–102 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:

(i) is subject to the noncontributory pension benefit in both the previous and current system;

(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; or

(7) a transfer between the Correctional Officers' Retirement System or the Employees' Pension System to the Law Enforcement Officers' Pension System under §§ 26–203.1(e) and 26–203.3 of this article.

§37–202.

(a) A member of a State or local retirement or pension system may transfer service credit attained as a result of that membership to another State or local retirement or pension system if the member, without incurring a break in employment, accepts employment or an office that:

(1) requires or allows the member to participate in the new system; and

(2) does not allow the member to continue to accrue benefits in the previous system.

(b) A former member of a State or local retirement or pension system may transfer service credit attained as a result of the former membership to another State or local retirement or pension system if:

(1) the former member served as an elected or appointed official while a member of the previous system;

(2) the former member is serving as an elected or appointed official of the State when the former member requests the transfer of service credit;

(3) a break in employment occurred that prevents the former member from transferring service credit under subsection (a) of this section; and

(4) the former member's current office:

(i) requires or allows the member to participate in the new system; and

(ii) does not allow the member to continue to accrue benefits in the previous 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, the State Contributory Employees' Pension System, the State Contributory Law Enforcement Officers' Pension System, the State Contributory Teachers' Pension System, the State Reformed Contributory Employees' Pension System, or the State Reformed Contributory Teachers' Pension System.

(b) (1) An individual may not transfer service credit under this title unless the individual makes a claim for the service credit within 1 year after becoming a member of the new system.

(2) An individual may not transfer service credit from one contributory system to another contributory system unless within 1 year after becoming a member of the new system the individual deposits in the annuity savings fund or other corresponding fund of the new system the total accumulated contributions to the individual's credit in the annuity savings fund or other corresponding fund of the previous system.

(c) 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.

(d) 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.

(e) (1) Except as provided in paragraph (2) of this subsection, if an individual transfers service credit under this title, the previous system shall refund the individual's accumulated contributions on request.

(2) Accumulated contributions applicable to the receipt of service credit or benefits in the new system may not be refunded if:

(i) an individual transfers from one noncontributory system to another noncontributory system; or

(ii) a former member transfers under § 37–202(b) of this subtitle.

(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 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, the State Contributory Teachers' Pension System, the State Reformed Contributory Employees' Pension System, or the State Reformed 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 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) 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, the State Contributory Teachers' Pension System, the State Reformed Contributory Employees' Pension System, or the State Reformed 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, the State Contributory Teachers' Pension System, the State Reformed Contributory Employees' Pension System, or the State Reformed 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 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 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 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, the State Contributory Teachers' Pension System, the State Reformed Contributory Employees' Pension System, or the State Reformed 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) 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, the State Contributory Teachers' Pension System, the State Reformed Contributory Employees' Pension System, or the State Reformed 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 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 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.

§37–203.2.

(a) This subsection applies to an individual who:

(1) has accrued service credit in a State or local retirement or pension system;

(2) has accepted new employment in a position requiring membership in

one of the several systems; and

(3) did not make a claim under § 37–203 or § 37–203.1 of this subtitle to transfer the previous service credit within 1 year of transferring into one of the several systems.

(b) (1) An individual described under subsection (a) of this section may request the Executive Director to accept the individual's claim to transfer service credit accrued in the previous system.

(2) If the Executive Director denies a request for a waiver, the denial shall be presented to the Board of Trustees for review.

(3) The Board of Trustees may overturn the Executive Director's decision under paragraph (1) of this subsection.

(c) On or before October 1 of each year, the Board of Trustees shall submit a report to the Joint Committee on Pensions in accordance with § 2–1246 of the State Government Article, that provides:

(1) the number of requests made by individuals to the Executive Director requesting a waiver of the 1–year requirement to claim transferred service credit;

(2) the number of requests granted and denied by the Executive Director; and

(3) the number of requests granted by the Board of Trustees following a denial by the Executive Director.

(d) The Board of Trustees shall adopt regulations to carry out this section.

§37–204.

(a) If a member of a State or local retirement or pension system transfers on or after July 1, 1990, to a State or local retirement or pension system for a police department or fire department, the plans, rules, regulations, guidelines, and policies of the new system govern to determine:

(1) the years of service necessary to qualify the member for retirement from the new system; and

(2) the years of service and amount of retirement benefits to be credited by the new system for the years of service and retirement benefits earned under the previous system.

(b) The determinations made under subsection (a)(2) of this section shall be made by actuarial computations of the new system.

§37–205.

(a) If a member of a State or local retirement or pension system transfers to another State or local retirement or pension system because of an involuntary transfer of the member's unit to another employer, all the employer contributions on behalf of the member and interest on those contributions shall be transferred to the new system.

(b) (1) The amount to be transferred to the new system under subsection (a) of this section shall be determined by actuarial valuation.

(2) The cost of the valuation shall be shared equally by the previous system and the new system.

§37–206.

(a) (1) If a member of a State or local retirement or pension system who is employed by the Maryland-National Capital Park and Planning Commission transfers to another retirement or pension system of Prince George's County as a result of the transfer of a unit of the Maryland-National Capital Park and Planning Commission police force to the Prince George's County police department:

(i) the member's accumulated contributions, if not previously withdrawn, shall be transferred to the new system; and

(ii) all the employer contributions on behalf of the member and interest on those contributions shall be transferred to the new system.

(2) Unless the administrative board of the previous system or of the new system requests an actuarial valuation, the employer contributions transferred under this subsection shall be equal to the member's accumulated contributions.

(3) If the administrative board of either system requests an actuarial valuation, the cost of that valuation shall be shared equally by the previous system and the new system.

(b) If the rate of contribution for an individual who transfers on or after July 1, 1994, to a new system under this section is altered because of the transfer:

(1) the previous system shall refund to the individual any excess member contributions; and

(2) the individual shall pay to the new system any shortage of member contributions.

§38–101.

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

(b) "Accumulated contributions":

(1) when used in relation to a State system, has the meaning stated in § 20-101 of this article; and

(2) when used in relation to a local retirement or pension system, has the meaning most closely analogous to the meaning stated in § 20-101 of this article within the context of the local retirement or pension system.

(c) "Member":

(1) when used in relation to a State system, has the meaning stated in § 20-101 of this article; and

(2) when used in relation to a local retirement or pension system, has the meaning most closely analogous to the meaning stated in § 20-101 of this article within the context of the local retirement or pension system.

(d) "Military service" means:

(1) induction into the armed forces of the United States for training and service under the Selective Training and Service Act of 1940 or a subsequent act of a similar nature;

(2) membership in a reserve component of the armed forces of the United States:

(i) on active duty or ordered or assigned to active duty; or

(ii) on active duty for training or inactive duty for training that interrupts a member's service;

(3) enlistment into the armed forces of the United States;

(4) membership in the Maryland National Guard; or

(5) with respect to a person separated from employment on or after July 1, 1991, active duty with the commissioned corps of the Public Health Service, the National Oceanic and Atmospheric Administration, or the Coast and Geodetic Survey from:

(i) December 7, 1941, to December 31, 1946, both inclusive;

(ii) June 25, 1950, to January 31, 1955, both inclusive; or

(iii) December 22, 1961, to May 7, 1975, both inclusive.

(e) "Regular interest":

(1) when used in relation to a State system, has the meaning stated in § 20-101 of this article; and

(2) when used in relation to a local retirement or pension system, has the meaning most closely analogous to the meaning stated in § 20-101 of this article within the context of the local retirement or pension system.

(f) "State or local retirement or pension system" means a retirement or pension system operated under the laws of the State or a political subdivision of the State.

(g) "State system" means a retirement or pension system that is included in the State Retirement and Pension System under § 21-102 of this article other than the Legislative Pension Plan 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.

§38–102.

(a) Except as provided in subsections (b) and (c) of this section, during a period that a member of a State or local retirement or pension system is absent from employment for military service, the member or the member's estate, under a State or local retirement or pension system, is not entitled to:

(1) ordinary disability benefits;

(2) accidental disability benefits;

(3) death benefits;

(4) optional allowances; or

(5) other disability or death benefits.

(b) (1) This subsection applies to an individual who:

(i) is a member of a State or local retirement or pension system as defined in § 37–101(r) of this article; and

(ii) dies on or after January 1, 2007, while performing qualified military service as defined in Chapter 43, Title 38 of the United States Code.

(2) To the extent required by § 401(a)(37) of the Internal Revenue Code, an individual described under paragraph (1) of this subsection shall receive any additional benefits that the system provides for any member who resumes employment after completing military service and then dies, including any death benefits that are contingent on a member's death while employed.

(c) (1) This subsection applies to an individual who:

(i) is a member of a State or local retirement or pension system as defined in § 37–101(r) of this article; and

(ii) becomes disabled or dies on or after January 1, 2007, while performing qualified military service as defined in Chapter 43, Title 38 of the United States Code.

(2) (i) To the extent permitted by § 414(u)(8) of the Internal Revenue Code, a State or local retirement or pension system may provide that, for benefit accrual purposes, an individual described under paragraph (1) of this subsection shall be treated as having returned to employment on the day before the death or disability and then terminated on the date of death or disability.

(ii) If a State or local retirement or pension system provides benefits under subparagraph (i) of this paragraph, the system may choose to provide either partial or full benefits, but whichever option is chosen, it shall be applied to all similarly situated members in a reasonably equivalent manner.

(d) (1) This subsection applies to an individual who:

(i) is a member of a State or local retirement or pension system as defined in § 37–101(r) of this article; and

(ii) on or after January 1, 2009, receives differential wage payments from an employer while performing qualified military service as defined in Chapter 43, Title 38 of the United States Code.

(2) (i) To the extent permitted by § 3401(h) of the Internal Revenue Code, an individual described under paragraph (1) of this subsection shall be treated as employed by the employer described in paragraph (1)(ii) of this subsection while performing qualified military service and the differential wage payments shall be treated as compensation.

(ii) To the extent permitted by § 414(u)(12) of the Internal Revenue Code, a State or local retirement or pension system may provide benefits to the individual based on the differential wage payments.

(iii) If a State or local retirement or pension system provides benefits under subparagraph (ii) of this paragraph, the benefits shall be provided to all similarly situated members in a reasonably equivalent manner.

§38–103.

(a) This section applies only to a member of a State or local retirement or pension system who:

(1) does not withdraw any of the member's accumulated contributions, unless the member redeposits the sum withdrawn as provided under subsection (b)

of this section;

(2) within 1 year after the member leaves military service, is employed by the State or a political subdivision of the State;

(3) does not take any employment other than the employment described in item (2) of this subsection, except for temporary employment after the member:

(i) applied for reemployment in the member's former classification or position in the State service; and

(ii) was refused immediate reemployment for causes beyond the member's control; and

(4) applies for service credit with the State or local retirement or pension system in which the member held membership before the member's military service began.

(b) If a member of a State or local retirement or pension system who is absent from employment for military service withdraws any of the member's accumulated contributions and redeposits the sum withdrawn with regular interest into the State or local retirement or pension system, the member, if otherwise qualified, is entitled to the benefits of this section as if the withdrawal had not been made.

(c) Except as otherwise provided in this subtitle, a member of a State or local retirement or pension system who is actively reemployed under subsection (a)(2) of this section retains the status and rights as a member during a period of absence from employment for military service.

(d) (1) Subject to paragraph (2)(i) of this subsection, a member of a State or local retirement or pension system shall receive service credit for a period of absence from employment while in military service if:

(i) the employment of the member under subsection (a)(2) of this section is active or the employee is reinstated as a regular employee on a leave of absence; and

(ii) membership in a State or local retirement or pension system is a requirement of employment.

(2) (i) For an absence for military service, service credit for the military service may not exceed 5 years.

(ii) 1. This subparagraph applies only to a member of a State system.

2. Subject to subparagraph (i) of this paragraph and in addition to any service credit received under paragraph (1) of this subsection, a

member of the Maryland National Guard or of a reserve component of the armed forces of the United States who has been activated under Title 10 of the United States Code and who is on active or inactive duty for training that interrupts the member's service shall receive service credit at the rate of 4 months for each full year for military service, not to exceed a total of 36 months.

(e) A member of a State or local retirement or pension system who receives service credit for military service under this section may transfer the credit to another State or local retirement or pension system.

(f) The service credit for military service that a member of a State system receives under this section shall be applied to the individual's retirement allowance using the accrual rate at the time the individual retires from a State system.

§38–104.

(a) (1) This section applies to an individual who is:

(i) a member of a State system; or

(ii) a former member of a State system who is eligible to receive a benefit under § 29–302 or § 29–303 of this article.

(2) This section does not apply to a retiree of a State system.

(b) Except as provided in subsection (c) of this section, an individual described in subsection (a) of this section, who has not met the conditions set forth in § 38–103(a)(2) through (4) of this subtitle, is entitled to receive service credit for military service only on the attainment of 10 years of service credit earned through employment as a member of a State system.

(c) (1) An individual described in subsection (a) of this section may not receive credit for that military service if the individual receives credit for military service from another retirement system for which retirement benefits have been or will be received by the individual.

(2) Paragraph (1) of this subsection does not apply to:

(i) credit for military service provided under:

1. the Social Security Act;

2. the National Railroad Retirement Act; or

3. Title 3 or Title 10, Chapter 1223, §§ 12731 through 12737 of the United States Code; or

(ii) disability payments from a pension or retirement system.

(3) (i) Military service credit under this section may not exceed 5 years.

(ii) Subject to subparagraph (i) of this paragraph, a member of the Maryland National Guard or of a reserve component of the armed forces of the United States who has not been activated under Title 10 of the United States Code, shall receive service credit at the rate of 4 months for each full year of service with the Maryland National Guard or with a reserve component of the armed forces of the United States, not to exceed a total of 36 months.

(d) (1) Except as provided in paragraph (2) of this subsection, the service credit for military service that an individual receives under this section shall be applied to the individual's retirement allowance using the accrual rate in effect at the time the individual retires from a State system.

(2) If an individual applies for military service credit on or after July 1, 2011, the service credit for military service that the individual receives under this section shall be applied to the individual's retirement allowance using the accrual rate in effect at the time the individual submits an application for military service credit to the State Retirement Agency.

§38–105.

A governmental unit authorized to administer a State or local retirement or pension system may adopt regulations to carry out this subtitle.

§38–201.

(a) This section applies only to individuals who are members of the General Assembly from and after January 15, 1963.

(b) Notwithstanding any provisions of general or local law to the contrary, any member of a local retirement system that is operated on an actuarial basis, as described in Title 37 of this article, who is on leave of absence without pay from employment with a political subdivision of the State to serve as a member of the General Assembly shall, on application, receive service credit in the local retirement system for the period of the absence required for service in the General Assembly.

(c) To receive the benefit of the service credit provided under this section, the member of the General Assembly shall contribute into the local retirement system, at the member's usual rate of contribution based upon the salary of the position from which the member is on leave without pay to serve as a member of the General Assembly.

(d) The Comptroller of the State shall make appropriate certifications as to the service credit to which the members of the General Assembly are entitled under this section.

§39–101.

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

(b) "County" means a county of the State and, unless expressly provided otherwise, Baltimore City.

(c) (1) "Special retirement or pension system" means a retirement or pension system that:

(i) provides retirement or pension benefits; and

(ii) allows a county executive, county council member, county commissioner, or appointed official to participate.

(2) "Special retirement or pension system" does not include:

(i) a defined contribution plan with benefits determined by an actuarial computation based on employee contributions and the accrued return on those contributions; or

(ii) a retirement or pension plan that determines benefit amounts using computations or other specific methods enacted as an ordinance by the governing body.

§39–102.

(a) A county may not create a special retirement or pension system that allows the system's benefits to be set or amended by a means other than by ordinance enacted by the governing body of the county.

(b) On or after February 1, 1996, a county may create a special retirement or pension system if the system meets the requirements stated in this section.

(c) (1) A county that creates a special retirement or pension system shall create the system by an ordinance enacted by the governing body of the county.

(2) The ordinance creating the special retirement or pension system shall set forth:

(i) the benefits to be provided under the system;

(ii) a method of funding the system that complies with subsection (d) of this section; and

(iii) a method of selecting trustees for the system.

(3) The benefits under the system may not be amended except by an ordinance enacted by the governing body of the county.

(d) (1) A county that creates a special retirement or pension system shall:

(i) operate the system on an actuarial basis;

(ii) make employer contributions and collect employee contributions during the employment of the members that are computed by the system's actuary to be sufficient to provide the reserves needed to cover the benefits payable on account of the system's members, former members, retirees, and beneficiaries; and

(iii) demonstrate a present capacity to fund the system according to the funding method provided by ordinance for the system.

(2) The contributions made under paragraph (1) of this subsection shall:

(i) be based on an actuarial determination of the amounts that are required to preserve the integrity of the funds of the system; and

(ii) include a contribution computed to amortize any unfunded liability over a period of not more than 30 years.

(3) On or before December 1 of each year, the trustees of a special retirement or pension system shall certify to the governing body of the county the rates to be used to determine the amounts to be paid into the funds of the system during the next fiscal year.

(4) The governing body of the county shall include in its budget for the next fiscal year the total amount of the contribution necessary based on the rates certified by the trustees under paragraph (3) of this subsection.

(5) The contributions required under this subsection shall be paid by the county and the employees participating in the system at least once per calendar quarter.

(e) (1) Except as provided in paragraph (2) of this subsection, a special retirement or pension system may provide benefits to be paid immediately after separation from service for members who are involuntarily separated after a specified period of service and who would not otherwise be eligible to receive the benefits at that time.

(2) A special retirement or pension system may not provide for benefits to be paid after a separation from service prior to the time they would otherwise be paid if not for the separation from service if the separation from service is caused by:

(i) a request by an appointing authority of an employee or appointed official for the resignation of the employee or appointed official at the expiration of a term of the appointing authority; or

(ii) the expiration of a term of an elected official who is ineligible to

be elected for an additional term because of term limits.

(f) A special retirement or pension system:

(1) may allow unused sick leave to be used as creditable service for purposes of computing retirement benefits at the rate of 22 days of unused sick leave for 1 month of creditable service; and

(2) may not allow for cash payments for more than 50% of unused sick leave credit.

(g) No more than one appointed official of a county who is a member of the special retirement or pension system may manage or serve as a trustee of the special retirement or pension system.

§39–103.

If a county has created a special retirement or pension system that allows or has allowed the system's benefits to be set or amended by a means other than by ordinance enacted by the governing body of the county, on or before January 31, 1996, the governing body of the county shall:

(1) (i) modify the system so that it complies with § 39-102 of this title; or

(ii) terminate the system as provided under § 39-104 of this title; and

(2) terminate any benefits that are not allowed under § 39-102(e)(2) or (f) of this title, that an individual who was an elected or appointed official while a member of the special retirement or pension system is eligible to receive or modify those benefits so they comply with § 39-102(e)(2) or (f) of this title.

§39–104.

(a) If a special retirement or pension system is terminated, the governing body of the county shall provide, by ordinance, for a distribution of the assets of the system in an equitable and nondiscriminatory manner to the system's members, former members, retirees, and beneficiaries to the extent they would be eligible to receive a benefit under a system created or operated in accordance with this title.

(b) If a special retirement or pension system is terminated, the governing body of the county may not provide for benefits to be paid in accordance with a provision of the system if the benefits are not allowed under § 39-102(e) or (f) of this title.

(c) If the assets of the system exceed the amount required to fully fund the benefits under the system that have accrued to the date of the termination and that are payable under this section, the excess shall be returned to the county.

§40–101.

(a) In this section, "local jurisdiction" means any county or municipal corporation in the State.

(b) Subject to any other provision of State or federal law, a local jurisdiction that establishes a public pension system on or after July 1, 2005, is required to adhere to the principles incorporated in the Uniform Management of Public Employee Retirement Systems Act that address the investment and management of funds for a public pension system.

(c) This section may not be construed to affect the authority of the legislative governing body of a local jurisdiction over the budget for a public pension system established on or after July 1, 2005.