

# HOUSE BILL 971

L6, E4

8lr0502

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By: **Delegates Lisanti, Brooks, Carey, Fennell, Jackson, K. Young, and P. Young**

Introduced and read first time: February 5, 2018

Assigned to: Appropriations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 25, 2018

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Local Pension Systems – Special Disability Retirement Allowance**

3 FOR the purpose of requiring that the appropriate authority of a local pension system ~~grant~~  
4 offer a special disability retirement allowance to certain members under certain  
5 circumstances; providing for the calculation of a special disability retirement  
6 allowance; exempting the appropriate authority of a local pension system from the  
7 requirements of this Act under certain circumstances; ~~providing for the application~~  
8 ~~of this Act; requiring a local pension system, on or before a certain date, to notify~~  
9 ~~certain participants affected by this Act of their right to an adjusted benefit;~~ defining  
10 certain terms; and generally relating to local pension systems and special disability  
11 retirement allowances.

12 BY adding to

13 Article – State Personnel and Pensions

14 Section 40–102

15 Annotated Code of Maryland

16 (2015 Replacement Volume and 2017 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

18 That the Laws of Maryland read as follows:

19 **Article – State Personnel and Pensions**

20 **40–102.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

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



1           (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
2 INDICATED.

3           (2) “ACCUMULATED CONTRIBUTIONS” MEANS THE AMOUNTS  
4 CREDITED TO A MEMBER’S INDIVIDUAL ACCOUNT IN A LOCAL PENSION SYSTEM,  
5 INCLUDING INTEREST.

6           (3) “ALLOWANCE” MEANS A BENEFIT THAT IS PAYABLE IN EQUAL  
7 MONTHLY INSTALLMENTS FOR THE LIFE OF THE RECIPIENT, EXCEPT AS OTHERWISE  
8 PROVIDED FOR UNDER A LOCAL PENSION SYSTEM.

9           (4) “ALTERNATIVE SUITABLE EMPLOYMENT” MEANS EMPLOYMENT  
10 THAT HAS SUBSTANTIALLY SIMILAR ~~PAY, BENEFITS, AND ADVANCEMENT~~  
11 ~~OPPORTUNITIES~~ BASE PAY, SALARY SCHEDULE, AND GRADE AS THE POSITION THAT  
12 THE MEMBER HELD WHEN THE APPROPRIATE AUTHORITY OF A LOCAL PENSION  
13 SYSTEM DETERMINED THAT THE MEMBER WAS ELIGIBLE FOR THE ~~GRANT~~ OFFER OF  
14 A SPECIAL DISABILITY RETIREMENT ALLOWANCE UNDER SUBSECTION (C) OF THIS  
15 SECTION.

16           (5) “ANNUITY” MEANS THE PART OF AN ALLOWANCE THAT IS  
17 DERIVED FROM THE ACCUMULATED CONTRIBUTIONS OF A MEMBER.

18           (6) “AVERAGE FINAL COMPENSATION” MEANS THE AVERAGE ANNUAL  
19 EARNABLE COMPENSATION THAT IS COMPUTED UNDER THE RULES OF A LOCAL  
20 PENSION SYSTEM.

21           (7) “EARNABLE COMPENSATION” MEANS ONE-TWELFTH OF THE  
22 MEMBER’S ANNUAL SALARY RATE PAYABLE FOR WORKING THE NORMAL TIME IN THE  
23 MEMBER’S POSITION, INCLUDING THE FOLLOWING, IF APPLICABLE:

24                   (I) THE EMPLOYER PICKUP CONTRIBUTION; OR

25                   (II) A CONTRIBUTION MADE UNDER A SALARY REDUCTION OR  
26 SUPPLEMENTAL RETIREMENT PLAN.

27           (8) “INTEREST” MEANS INTEREST AT THE RATE PAYABLE ON  
28 ACCUMULATED CONTRIBUTIONS AS PROVIDED UNDER THE RULES OF THE LOCAL  
29 PENSION SYSTEM.

30           (9) “LOCAL GOVERNMENT” MEANS ANY COUNTY OR MUNICIPAL  
31 CORPORATION OF THE STATE.

32           (10) (I) “LOCAL PENSION SYSTEM” MEANS A RETIREMENT OR  
33 PENSION PLAN OR SYSTEM ESTABLISHED BY THE LEGISLATIVE BODY OF A UNIT OF

1 LOCAL GOVERNMENT THAT MAY ESTABLISH A QUALIFIED PLAN UNDER § 401(A) OF  
2 THE INTERNAL REVENUE CODE AND PROVIDES A DEFINED BENEFIT TO ITS  
3 PARTICIPANTS.

4 (II) “LOCAL PENSION SYSTEM” DOES NOT INCLUDE ANY OF THE  
5 STATE SYSTEMS SPECIFIED IN § 21-102 OF THIS ARTICLE.

6 (11) “MEMBER” MEANS AN INDIVIDUAL WHO:

7 (I) ~~IS EMPLOYED IN A LAW ENFORCEMENT, PUBLIC SAFETY, OR~~  
8 ~~EMERGENCY RESPONSE POSITION AS A SWORN LAW ENFORCEMENT OFFICER, A FIRE~~  
9 ~~FIGHTER, OR AN EMERGENCY MEDICAL TECHNICIAN; AND~~

10 (II) 1. IS A MEMBER OF A LOCAL PENSION SYSTEM AS A  
11 CONDITION OF EMPLOYMENT; OR

12 2. HAS ELECTED TO BECOME A MEMBER OF A LOCAL  
13 PENSION SYSTEM.

14 (12) “NORMAL RETIREMENT AGE” MEANS THE AGE AT WHICH A  
15 MEMBER IS ELIGIBLE TO RETIRE WITH A NORMAL SERVICE RETIREMENT  
16 ALLOWANCE AS PROVIDED UNDER THE RULES OF THE LOCAL PENSION SYSTEM.

17 (13) “PARTICIPANT” MEANS A BENEFICIARY, DESIGNATED  
18 BENEFICIARY, FORMER MEMBER, MEMBER, OR RETIREE WHO IS OR MAY BECOME  
19 ELIGIBLE TO RECEIVE A BENEFIT AT ANY TIME UNDER A LOCAL PENSION SYSTEM.

20 (14) “PENSION” MEANS THE PART OF AN ALLOWANCE THAT IS  
21 DERIVED FROM EMPLOYER CONTRIBUTIONS.

22 (B) THIS SECTION APPLIES TO A LOCAL PENSION SYSTEM.

23 (C) EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, THE  
24 APPROPRIATE AUTHORITY OF A LOCAL PENSION SYSTEM SHALL ~~GRANT OFFER, AT A~~  
25 MINIMUM, A SPECIAL DISABILITY RETIREMENT ALLOWANCE TO A MEMBER IF:

26 ~~(1)~~ THE MEMBER IS, AS DETERMINED BY THE APPROPRIATE  
27 AUTHORITY OF A LOCAL PENSION SYSTEM, TOTALLY AND PERMANENTLY  
28 INCAPACITATED FOR DUTY ARISING OUT OF OR IN THE COURSE OF THE ACTUAL  
29 PERFORMANCE OF DUTY WITHOUT WILLFUL NEGLIGENCE BY THE MEMBER; AND

30 ~~(2)~~ A PHYSICIAN OR 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.~~

(D) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, A SPECIAL DISABILITY RETIREMENT ALLOWANCE EQUALS THE ~~LESSER~~ GREATER OF:

(1) ~~THE MEMBER'S AVERAGE FINAL COMPENSATION~~ AN ALLOWANCE SET BY TERMS OF COLLECTIVE BARGAINING OR BY LOCAL PENSION DISABILITY LAW;  
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~~ 50% OF THE MEMBER'S AVERAGE FINAL COMPENSATION OFFSET BY ANY INCOME FROM WORKERS' COMPENSATION AND GOVERNMENT-SPONSORED DISABILITY BENEFITS.

(E) (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 (D) OF THIS SECTION.

(F) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE APPROPRIATE AUTHORITY OF A LOCAL PENSION SYSTEM IS EXEMPTED FROM THE REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION IF THE LOCAL GOVERNMENT:

~~(I) PROVIDES THE MEMBER WITH ALTERNATIVE SUITABLE EMPLOYMENT; AND~~

~~(II) PAYS FOR THE TRAINING OR RETRAINING OF THE MEMBER.~~

1           **(2) IN DETERMINING WHETHER A POSITION IS CONSIDERED**  
2 **ALTERNATIVE SUITABLE EMPLOYMENT, THE APPROPRIATE AUTHORITY OF A LOCAL**  
3 **PENSION SYSTEM AND THE LOCAL GOVERNMENT SHALL CONSIDER THE NATURE**  
4 **AND EXTENT OF THE INCAPACITY OF THE MEMBER.**

5           ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to~~  
6 ~~apply retroactively and shall be applied to and interpreted to affect a member or former~~  
7 ~~member of a local pension system who was injured in the line of duty on or after July 1,~~  
8 ~~2015.~~

9           ~~SECTION 3. AND BE IT FURTHER ENACTED, That, on or before October 1, 2018,~~  
10 ~~a local pension system shall notify the participants who are affected by this Act of their~~  
11 ~~right to an adjusted benefit in accordance with this Act.~~

12           SECTION ~~4.~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 July 1, 2018.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.