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By: **Senator Kasemeyer (Chairman, Joint Committee on Pensions)**

Introduced and read first time: February 5, 1999

Assigned to: Budget and Taxation

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A BILL ENTITLED

1 AN ACT concerning

2 **Employees' and Teachers' Pension Systems - Technical Corrections**

3 FOR the purpose of providing for inclusion in the contributory benefits program of the  
4 Employees' Pension System and Teachers' Pension System of certain members of  
5 the Employees' and Teachers' Retirement System who are subject to Selection C  
6 (Combination formula); providing for inclusion in the Optional Defined  
7 Contribution System of certain members of the Employees' Retirement System  
8 who are subject to Selection C (Combination formula); authorizing certain  
9 members subject to Selection C to purchase certain service credit to avoid a  
10 certain actuarial deficiency adjustment in any allowance payable on behalf of  
11 the members; clarifying the apportionment of creditable service attributable to  
12 qualifying military service and unused sick leave; making stylistic and technical  
13 changes; providing for the application of this Act; and generally relating to the  
14 Employees' Pension System and the Teachers' Pension System.

15 BY repealing and reenacting, with amendments,  
16 Article - State Personnel and Pensions  
17 Section 22-214(c), 23-212, 23-302, 23-303, 23-309, 23-401, 29-422, and  
18 29-425  
19 Annotated Code of Maryland  
20 (1997 Replacement Volume and 1998 Supplement)

21 BY adding to  
22 Article - State Personnel and Pensions  
23 Section 23-217 and 23-218 to be under the new part "Part II. Contributory  
24 Pension Benefit"; and 23-308.1 and 23-310  
25 Annotated Code of Maryland  
26 (1997 Replacement Volume and 1998 Supplement)

27 BY repealing and reenacting, with amendments,  
28 Article - State Personnel and Pensions  
29 Section 32-101(b)  
30 Annotated Code of Maryland

1 (1997 Replacement Volume and 1998 Supplement)  
2 (As enacted by Chapter 530 of the Acts of the General Assembly of 1998)

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

5 **Article - State Personnel and Pensions**

6 22-214.

7 (c) (1) This subsection applies to a member who is subject to Selection C  
8 (Combination formula).

9 (2) A member's contribution rate is [5% of the part of the member's  
10 earnable compensation that exceeds the taxable wage base for each year] AS  
11 PROVIDED IN § 23-212 OF THIS ARTICLE.

12 23-212.

13 (a) Except as provided in subsection (b) of this section, a member's  
14 contribution rate is 5% of the part of the member's earnable compensation that  
15 exceeds the taxable wage base for each year.

16 (b) [(1) This subsection does not apply to:

17 (i) an employee of a participating governmental unit or a former  
18 participating governmental unit that has withdrawn; or

19 (ii) a member of the Employees' Pension System or Teachers'  
20 Pension System who transferred from the Employees' Retirement System or Teachers'  
21 Retirement System after April 1, 1998.

22 (2)] The contribution rate of a member WHO IS SUBJECT TO THE  
23 CONTRIBUTORY PENSION BENEFIT UNDER PART II OF THIS SUBTITLE is 2% of the  
24 member's earnable compensation.

25 23-215. RESERVED.

26 23-216. RESERVED.

27 **PART II. CONTRIBUTORY PENSION BENEFIT.**

28 23-217.

29 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS PART II  
30 OF THIS SUBTITLE APPLIES TO AN INDIVIDUAL WHO IS:

31 (1) A MEMBER OF THE EMPLOYEES' PENSION SYSTEM OR THE  
32 TEACHERS' PENSION SYSTEM; OR

1 (2) A MEMBER OF THE EMPLOYEES' RETIREMENT SYSTEM OR THE  
2 TEACHERS' RETIREMENT SYSTEM SUBJECT TO SELECTION C (COMBINATION  
3 FORMULA) AS PROVIDED IN § 22-221 OF THIS ARTICLE.

4 (B) THIS PART II OF THIS SUBTITLE DOES NOT APPLY TO AN INDIVIDUAL WHO  
5 IS:

6 (1) AN EMPLOYEE OF A PARTICIPATING GOVERNMENTAL UNIT OR A  
7 FORMER PARTICIPATING GOVERNMENTAL UNIT THAT HAS WITHDRAWN; OR

8 (2) A MEMBER OF THE EMPLOYEES' PENSION SYSTEM OR TEACHERS'  
9 PENSION SYSTEM WHO TRANSFERRED FROM THE EMPLOYEES' RETIREMENT SYSTEM  
10 OR TEACHERS' RETIREMENT SYSTEM AFTER APRIL 1, 1998.

11 23-218.

12 (A) A MEMBER WHO IS SUBJECT TO THIS PART II OF THIS SUBTITLE SHALL:

13 (1) RECEIVE AN ALLOWANCE FOR ALL CREDITABLE SERVICE AS  
14 FOLLOWS:

15 (I) FOR NORMAL SERVICE RETIREMENT AS PROVIDED IN §  
16 23-401(C) OF THIS TITLE;

17 (II) FOR EARLY SERVICE RETIREMENT AS PROVIDED IN § 23-402 OF  
18 THIS TITLE;

19 (III) FOR ORDINARY DISABILITY RETIREMENT AS PROVIDED IN §  
20 29-108 OF THIS ARTICLE; AND

21 (IV) FOR ACCIDENTAL DISABILITY RETIREMENT AS PROVIDED IN §  
22 29-110 OF THIS ARTICLE;

23 (2) HAVE THE ALLOWANCE ADJUSTED AS PROVIDED IN TITLE 29,  
24 SUBTITLE 4, PART VI OF THIS ARTICLE; AND

25 (3) MAKE THE MEMBER CONTRIBUTIONS AT THE RATE SPECIFIED IN §  
26 23-212(B) OF THIS SUBTITLE.

27 23-302.

28 (a) Subject to [subsection (b)] SUBSECTIONS (B) AND (C) of this section, a  
29 member is entitled to eligibility service for periods of employment while a member of  
30 the Employees' Pension System or the Teachers' Pension System.

31 (b) (1) If a member completes at least 500 hours of employment while a  
32 member in any fiscal year, the member is entitled to 1 year of eligibility service.

33 (2) Except in the first and last fiscal years or except as provided in  
34 subsection (c) of this section, a member may not receive any eligibility service for a

1 fiscal year in which the member completes less than 500 hours of employment while  
2 a member.

3 (3) In the first and last fiscal years, if a member completes less than 500  
4 hours of employment while a member, the Board of Trustees shall prorate the  
5 eligibility service based on the number of hours worked.

6 (c) [(1) This subsection does not apply to:

7 (i) an employee of a participating governmental unit or a former  
8 participating governmental unit that has withdrawn; or

9 (ii) a member of the Employees' Pension System or Teachers'  
10 Pension System who transferred from the Employees' Retirement System or Teachers'  
11 Retirement System after April 1, 1998.

12 (2)] If a member who IS SUBJECT TO THE CONTRIBUTORY PENSION  
13 BENEFIT UNDER SUBTITLE 2, PART II OF THIS TITLE completes less than 500 hours of  
14 employment while a member, the Board of Trustees shall prorate the eligibility  
15 service based on the number of hours worked.

16 23-303.

17 (a) In this section, "break in service" means a period of separation from  
18 employment in a fiscal year after the one in which a member first becomes employed,  
19 if during that fiscal year the member does not complete more than 350 hours of  
20 employment while a member.

21 (b) (1) This section applies to a member of the Employees' Pension System  
22 or the Teachers' Pension System who was a member of one of those State systems.

23 (2) This section does not apply to:

24 (i) a retiree of the Employees' Pension System or the Teachers'  
25 Pension System; or

26 (ii) a member of the Employees' Pension System or Teachers'  
27 Pension System who is [not an employee of a participating governmental unit or a  
28 former participating governmental unit that has withdrawn or who transferred from  
29 the Employees' Retirement System or Teachers' Retirement System on or before April  
30 1, 1998] SUBJECT TO THE CONTRIBUTORY PENSION BENEFIT UNDER SUBTITLE 2,  
31 PART II OF THIS TITLE.

32 (c) A member is entitled to the eligibility service to which the member was  
33 entitled before the separation from employment if:

34 (1) the member has not incurred a break in service;

35 (2) the member was entitled to a vested allowance at the time of the  
36 separation from employment; or

1 (3) (i) the member has completed 1 year of eligibility service after a  
2 break in service; and

3 (ii) the number of consecutive years in which the member incurred  
4 a break in service is less than the years of eligibility service as a member before the  
5 break in service.

6 (d) To determine if a member is eligible for prior eligibility service under  
7 subsection (c)(3)(ii) of this section, the Board of Trustees shall determine the number  
8 of years of prior eligibility service:

9 (1) as of the day the member separated from employment; but

10 (2) excluding any eligibility service lost because of a prior break in  
11 service.

12 (e) When a member receives credit for eligibility service under subsection (c)  
13 of this section from the other system, the member has no further rights in the other  
14 system.

15 23-308.1.

16 (A) THIS SECTION APPLIES ONLY TO A FORMER MEMBER, MEMBER, RETIREE,  
17 OR SURVIVING BENEFICIARY OF THE EMPLOYEES' RETIREMENT SYSTEM OR THE  
18 TEACHERS' RETIREMENT SYSTEM WHO IS SUBJECT TO THE (COMBINATION  
19 FORMULA) SELECTION C AS PROVIDED IN § 22-221 OF THIS ARTICLE AND TO  
20 SUBTITLE 2, PART II OF THIS TITLE.

21 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A MEMBER  
22 WHO IS SUBJECT TO THE CONTRIBUTORY PENSION BENEFIT UNDER SUBTITLE 2,  
23 PART II OF THIS TITLE MAY PURCHASE CREDIT FOR ELIGIBILITY SERVICE FOR THE  
24 PERIOD OF EMPLOYMENT FROM JULY 1, 1998 THROUGH JUNE 30, 1999, BY PAYING TO  
25 THE BOARD OF TRUSTEES:

26 (1) ON OR BEFORE JUNE 30, 2000, THE AMOUNT THE MEMBER WOULD  
27 HAVE BEEN REQUIRED TO CONTRIBUTE FOR THAT PERIOD OF EMPLOYMENT; OR

28 (2) ON OR AFTER JULY 1, 2000, THE AMOUNT THE MEMBER WOULD HAVE  
29 BEEN REQUIRED TO CONTRIBUTE FOR THAT PERIOD OF EMPLOYMENT PLUS  
30 REGULAR INTEREST COMPOUNDED ANNUALLY.

31 (C) IF THE MEMBER FAILS TO MAKE THE PAYMENT REQUIRED UNDER  
32 SUBSECTION (B) OF THIS SECTION, THE BOARD OF TRUSTEES SHALL REDUCE  
33 ACTUARIALLY THE ALLOWANCE PAYABLE TO A FORMER MEMBER, RETIREE, OR  
34 SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR MEMBER.  
35 23-309.

36 (a) (1) For the purpose of computing benefits under this title, creditable  
37 service consists of:

1 (i) eligibility service as adjusted under subsection (b) of this  
2 section; and

3 (ii) credit for unused sick leave as provided in § 20-206 of this  
4 article AND § 23-310 OF THIS SUBTITLE.

5 (2) (i) This paragraph does not apply to an official of a participating  
6 governmental unit.

7 (ii) An official who was appointed on or after June 1, 1980, may not  
8 receive creditable service in the Employees' Pension System for any year in which the  
9 official works fewer than 130 days.

10 (b) (1) This subsection does not apply to eligibility service that consists of:

11 (i) service credit transferred from another retirement or pension  
12 system;

13 (ii) military service credit granted under Title 38 of this article; or

14 (iii) service credit purchased under this subtitle.

15 (2) The Board of Trustees shall adjust a member's eligibility service as  
16 provided in this subsection.

17 (3) (i) The Board of Trustees shall adopt regulations to determine for  
18 any fiscal year the amount of creditable service that equals the eligibility service for  
19 a member who has completed less than the normal hours of employment for the  
20 member's position.

21 (ii) The normal hours of employment for a position equals the  
22 minimum number of hours to be completed by a full-time employee serving in the  
23 member's position.

24 (iii) The creditable service recognized for a fiscal year may not be  
25 less than the eligibility service for the member multiplied by a fraction not to exceed  
26 1 that has:

27 1. as its numerator, the number of hours of employment as a  
28 member that the member has completed during that year; and

29 2. as its denominator, the normal number of hours of  
30 employment for the member's position.

31 (D) (1) THIS SUBSECTION APPLIES ONLY TO A MEMBER WHO IS:

32 (I) SUBJECT TO THE CONTRIBUTORY PENSION BENEFIT UNDER  
33 SUBTITLE 2, PART II OF THIS TITLE; AND

34 (II) ENTITLED TO ELIGIBILITY SERVICE FOR MILITARY SERVICE  
35 CREDIT GRANTED UNDER TITLE 38 OF THIS ARTICLE.

1 (2) THE BOARD OF TRUSTEES SHALL ADJUST A MEMBER'S ELIGIBILITY  
 2 SERVICE FOR MILITARY SERVICE CREDIT GRANTED UNDER TITLE 38 OF THIS  
 3 ARTICLE AS PROVIDED IN THIS SUBSECTION.

4 (3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
 5 PARAGRAPH, A MEMBER'S ELIGIBILITY SERVICE FOR MILITARY SERVICE CREDIT  
 6 SHALL BE TREATED AS CREDITABLE SERVICE ON OR AFTER JULY 1, 1998.

7 (II) THE BOARD OF TRUSTEES SHALL TREAT A MEMBER'S MILITARY  
 8 SERVICE CREDIT AS CREDITABLE SERVICE ON OR BEFORE JUNE 30, 1998, IF THE  
 9 MEMBER:

10 1. IS ENTITLED TO CREDIT FOR THE MILITARY SERVICE  
 11 UNDER § 38-103 OF THIS ARTICLE ON ACCOUNT OF THE MEMBER'S ABSENCE FROM  
 12 EMPLOYMENT WHILE IN MILITARY SERVICE ON OR BEFORE JUNE 30, 1998; OR

13 2. RECEIVED CREDIT FOR THE MILITARY SERVICE UNDER §  
 14 38-104 OF THIS ARTICLE ON OR BEFORE JUNE 30, 1998, AS REFLECTED IN THE  
 15 RECORDS OF THE STATE RETIREMENT AGENCY.

16 23-310.

17 THE BOARD OF TRUSTEES SHALL TREAT A MEMBER'S CREDIT FOR UNUSED  
 18 SICK LEAVE AS CREDITABLE SERVICE ON OR AFTER JULY 1, 1998, IF AT THE TIME OF  
 19 RETIREMENT, THE MEMBER IS:

20 (1) SUBJECT TO THE CONTRIBUTORY PENSION BENEFIT UNDER  
 21 SUBTITLE 2, PART II OF THIS TITLE; AND

22 (2) ENTITLED TO SERVICE CREDIT FOR UNUSED SICK LEAVE UNDER §  
 23 20-206 OF THIS ARTICLE.

24 23-401.

25 (a) A member may retire with a normal service retirement allowance if:

26 (1) the member completes and submits a written application to the  
 27 Board of Trustees stating the date when the member desires to retire; and

28 (2) on or before the date of retirement, the member:

29 (i) has at least 30 years of eligibility service; or

30 (ii) has attained the age and the years of eligibility service as

31 follows:

32 Age	Years of Eligibility Service:
33 62 with	5
34 63 with	4

1 64 with 3  
2 65 or more with 2

3 (b) Except as provided in subsection (c) of this section, on retirement under  
4 this section, a member is entitled to receive a normal service retirement allowance  
5 that equals the number of years of the member's creditable service multiplied by:

6 (1) 0.8% of the member's average final compensation that is not in excess  
7 of the Social Security integration level; and

8 (2) 1.5% of the member's average final compensation that exceeds the  
9 Social Security integration level.

10 (c) [(1) This subsection does not apply to:

11 (i) an employee of a participating governmental unit or a former  
12 participating governmental unit that has withdrawn; or

13 (ii) a member of the Employees' Pension System or Teachers'  
14 Pension System who transferred from the Employees' Retirement System or Teachers'  
15 Retirement System after April 1, 1998.

16 (2)] On retirement under this section, a member WHO IS SUBJECT TO THE  
17 CONTRIBUTORY PENSION BENEFIT UNDER SUBTITLE 2, PART II OF THIS TITLE is  
18 entitled to receive a normal service retirement allowance that equals the sum of:

19 [(i)] (1) the number of years of the member's creditable service on  
20 or after July 1, 1998 multiplied by 1.4% of the member's average final compensation;  
21 and

22 [(ii)] (2) the greater of:

23 [1.] (I) the number of years of the member's creditable  
24 service on or before June 30, 1998 multiplied by 1.2% of the member's average final  
25 compensation; or

26 [2.] (II) the number of years of the member's creditable  
27 service on or before June 30, 1998 multiplied by:

28 [A.] 1. 0.8% of the member's average final compensation  
29 that is not in excess of the Social Security integration level; and

30 [B.] 2. 1.5% of the member's average final compensation  
31 that exceeds the Social Security integration level.



1 29-422.

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

5 (b) Except as provided in [subsection (c)] SUBSECTIONS (C) AND (D) of this  
6 section, the Board of Trustees shall adjust an allowance described in § 29-421 of this  
7 subtitle:

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

10 (2) for creditable service on or after the effective date of selection, as  
11 provided by [Part II] PART VI of this subtitle.

12 (c) [For] SUBJECT TO SUBSECTION (D) OF THIS SECTION, FOR a member,  
13 former member, or retiree who was subject to Selection B (Limited cost-of-living  
14 adjustment) before electing Selection C (Combination formula), the Board of Trustees  
15 shall adjust an allowance described in § 29-421 of this subtitle:

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

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

20 (D) IF AN ALLOWANCE IS RECEIVED BY A FORMER MEMBER, RETIREE, OR  
21 SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR RETIREE  
22 WHO, WHILE A MEMBER, WAS AN EMPLOYEE OF A PARTICIPATING GOVERNMENTAL  
23 UNIT OR A FORMER PARTICIPATING GOVERNMENTAL UNIT THAT HAS WITHDRAWN,  
24 THE BOARD OF TRUSTEES SHALL ADJUST THE ALLOWANCE FOR CREDITABLE  
25 SERVICE ON OR AFTER THE EFFECTIVE DATE OF SELECTION AS PROVIDED IN PART II  
26 OF THIS SUBTITLE.

27 29-425.

28 (a) [Except as provided in subsection (b) of this section, this] THIS Part VI of  
29 this subtitle applies on or after July 1, 1998 only to an allowance received by a former  
30 member, retiree, or surviving beneficiary of a deceased member, former member, or  
31 retiree of the Employees' Pension System or the Teachers' Pension System WHO:

32 (1) IS SUBJECT TO THE CONTRIBUTORY PENSION BENEFIT UNDER  
33 TITLE 23, SUBTITLE 2, PART II OF THIS ARTICLE; OR

34 (2) TRANSFERRED FROM THE EMPLOYEES' RETIREMENT SYSTEM OR  
35 THE TEACHERS' RETIREMENT SYSTEM TO THE EMPLOYEES' PENSION SYSTEM OR THE  
36 TEACHERS' PENSION SYSTEM AFTER APRIL 1, 1998.

1 (b) This Part VI of this subtitle does not apply if the member, former member,  
2 or retiree was an employee of a participating governmental unit or a former  
3 participating governmental unit that has withdrawn while a member.

4 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
5 read as follows:

6 **Article - State Personnel and Pensions**

7 32-101.

8 (b) "Eligible employee" means a member of the Employees' Pension System OR  
9 THE EMPLOYEES' RETIREMENT SYSTEM WHO IS SUBJECT TO SELECTION C  
10 (COMBINATION FORMULA) AS PROVIDED IN § 22-221 OF THIS ARTICLE, other than:

11 (1) an employee of a participating governmental unit or a former  
12 participating governmental unit that has withdrawn; or

13 (2) a member of the Employees' Pension System who transferred from  
14 the Employees' Retirement System after April 1, 1998.

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 July 1, 1999. Section 1 of this Act shall be construed retroactively and shall be applied  
17 to and interpreted to affect the participants of the Employees' Pension System and  
18 Teachers' Pension System who are affected by this Act beginning July 1, 1998.