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

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Assigned to: Budget and Taxation

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 20, 2001

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2                                   **Retirement and Pensions - Withdrawing Participating Governmental**  
3                                   **Units - Return of Assets and Liabilities**

4 FOR the purpose of altering the calculation of the participating fund ratio of a  
5 participating governmental unit that provided certain benefits to its employees;  
6 establishing a "noncontributory system funding ratio" for a participating  
7 governmental unit that did not provide certain benefits to its employees;  
8 altering the calculation of certain reimbursements of certain participating  
9 governmental units; establishing a method of calculating certain  
10 reimbursements of certain participating governmental units that did not  
11 provide certain benefits to their employees; amending certain definitions;  
12 adding certain definitions; making technical changes; and generally relating to  
13 the return of assets and liabilities to participating governmental units  
14 withdrawing from employees' systems.

15 BY repealing and reenacting, with amendments,  
16 Article - State Personnel and Pensions  
17 Section 21-305.5  
18 Annotated Code of Maryland  
19 (1997 Replacement Volume and 2000 Supplement)

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

1 **Article - State Personnel and Pensions**

2 21-305.5.

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

4 (2) ["Active participant funding ratio" means the ratio determined by  
5 the actuary as provided under subsection (d) of this section.

6 (3) "Complement of the [active] participant funding ratio" is a ratio  
7 equal to  $\pm 100\%$  minus the [active] participant funding ratio, AND MAY NOT BE LESS  
8 THAN ZERO.

9 [(4)] (3) "Employees' systems" means the Employees' Pension System  
10 and the Employees' Retirement System.

11 (4) "NONCONTRIBUTORY PARTICIPATING GOVERNMENTAL UNIT"  
12 MEANS A PARTICIPATING GOVERNMENTAL UNIT THAT DID NOT ELECT TO PROVIDE  
13 ITS EMPLOYEES WITH THE CONTRIBUTORY PENSION BENEFIT UNDER TITLE 23 OF  
14 THIS ARTICLE AS PROVIDED IN § 31-116 OF THIS ARTICLE.

15 (5) "NONCONTRIBUTORY SYSTEM FUNDING RATIO" MEANS THE RATIO  
16 DETERMINED BY THE ACTUARY AS PROVIDED UNDER SUBSECTION (E) OF THIS  
17 SECTION.

18 (6) "PARTICIPANT FUNDING RATIO" MEANS THE RATIO DETERMINED  
19 UNDER SUBSECTION (D) OF THIS SECTION.

20 [(5)] (7) "Transition amount" means the amount determined by the  
21 actuary as provided under subsection [(g)] (I) of this section.

22 (b) This section applies only to a participating governmental unit that ON OR  
23 AFTER JULY 1, 2001, elects to withdraw from participation in the employees' systems  
24 and transfer to a local pension system all employees of the participating  
25 governmental unit who consent to the withdrawal.

26 (c) (1) On and after the date of a participating governmental unit's  
27 withdrawal from the employees' systems under § 31-302(a)(1) of this article, the  
28 participating governmental unit and its employees are not required to make any  
29 further contributions to the employees' systems for those employees who elect to  
30 withdraw from the employees' systems.

31 (2) As of the effective date of withdrawal, the participating governmental  
32 unit shall continue to make any contributions required under § 21-305(b)(1) and (2) of  
33 this subtitle on behalf of those employees who do not elect to withdraw from the  
34 employees' systems.

35 (3) As of the effective date of withdrawal of a participating governmental  
36 unit, the Board of Trustees shall transfer to the administrative board of the local  
37 pension system the assets that are allocable to the employees of the participating

1 governmental unit who elect to withdraw from the employees' systems as determined  
2 under EITHER subsection [(e)] (F) OR (G) of this section.

3 (d) (1) THIS SUBSECTION APPLIES TO A PARTICIPATING GOVERNMENTAL  
4 UNIT THAT ELECTED TO PROVIDE ITS EMPLOYEES WITH THE CONTRIBUTORY  
5 PENSION BENEFIT UNDER TITLE 23 OF THIS ARTICLE AS PROVIDED IN § 31-116 OF  
6 THIS ARTICLE.

7 [(1)] (2) As of June 30 of each fiscal year, the actuary shall determine  
8 the [active] participant funding ratio for the participating governmental units as  
9 provided in this [section] SUBSECTION.

10 [(2)] (3) The [active] participant funding ratio shall be a fraction[, not  
11 to exceed 1,] that has:

12 (i) as its numerator, the assets to the credit of the participating  
13 governmental units in the accumulation fund and the annuity savings fund of the  
14 employees' systems as adjusted under paragraph [(3)](4) of this subsection[,  
15 decreased by the sum of the actuarial liabilities allocable to:

16 1. retirees of the employees' systems who retired from the  
17 service of the participating governmental units and the designated beneficiaries of  
18 those retirees;

19 2. former members of the employees' systems eligible for a  
20 vested allowance who separated from employment with the participating  
21 governmental units; and

22 3. members of the employees' systems who separated from  
23 employment with the participating governmental units but who may become eligible  
24 to receive prior eligibility service credit under § 23-303 of this article]; and

25 (ii) as its denominator, the actuarial liabilities [that are allocable to  
26 the employees] of the participating governmental units [who are members of the  
27 employees' systems].

28 [(3)] (4) The assets to the credit of the participating governmental  
29 [unit] UNITS as of the valuation date shall be:

30 (i) increased by the sum of the outstanding balances of:

31 1. the special accrued liability attributable to each  
32 participating governmental unit under § 21-305.3 of this subtitle;

33 2. the deficit allocated to each participating governmental  
34 unit under § 21-305.4(c) of this subtitle; and

35 3. the withdrawal liability contribution attributable to each  
36 participating governmental unit under [§ 21-305.5(f) of this subtitle] SUBSECTION  
37 (H) OF THIS SECTION; and

1 (ii) decreased by the sum of the outstanding balances of the surplus  
2 allocated to each participating governmental unit under § 21-305.4(b) of this subtitle.

3 (E) (1) THIS SUBSECTION APPLIES TO A NONCONTRIBUTORY  
4 PARTICIPATING GOVERNMENTAL UNIT.

5 (2) AS OF JUNE 30 OF EACH FISCAL YEAR, THE ACTUARY SHALL  
6 DETERMINE THE NONCONTRIBUTORY SYSTEM FUNDING RATIO FOR THE  
7 NONCONTRIBUTORY PARTICIPATING GOVERNMENTAL UNITS AS PROVIDED IN THIS  
8 SUBSECTION.

9 (3) THE NONCONTRIBUTORY SYSTEM FUNDING RATIO SHALL BE A  
10 FRACTION THAT HAS:

11 (I) AS ITS NUMERATOR, THE ASSETS TO THE CREDIT OF THE  
12 PARTICIPATING GOVERNMENTAL UNITS IN THE ACCUMULATION FUND AND THE  
13 ANNUITY SAVINGS FUND OF THE EMPLOYEES' SYSTEMS AS ADJUSTED UNDER  
14 PARAGRAPH (4) OF THIS SUBSECTION; AND

15 (II) AS ITS DENOMINATOR, THE ACTUARIAL LIABILITIES ~~THAT ARE~~  
16 ~~ALLOCABLE TO THE EMPLOYEES~~ OF THE PARTICIPATING GOVERNMENTAL UNITS  
17 CALCULATED AS IF ALL OF THE PARTICIPATING GOVERNMENTAL UNITS ARE  
18 NONCONTRIBUTORY PARTICIPATING GOVERNMENTAL UNITS.

19 (4) THE ASSETS TO THE CREDIT OF THE PARTICIPATING  
20 GOVERNMENTAL UNIT AS OF THE VALUATION DATE SHALL BE:

21 (I) INCREASED BY THE SUM OF THE OUTSTANDING BALANCES OF:

22 1. THE SPECIAL ACCRUED LIABILITY ATTRIBUTABLE TO  
23 EACH PARTICIPATING GOVERNMENTAL UNIT UNDER § 21-305.3 OF THIS SUBTITLE;

24 2. THE DEFICIT ALLOCATED TO EACH PARTICIPATING  
25 GOVERNMENTAL UNIT UNDER § 21-305.4(C) OF THIS SUBTITLE; AND

26 3. THE WITHDRAWAL LIABILITY CONTRIBUTION  
27 ATTRIBUTABLE TO EACH PARTICIPATING GOVERNMENTAL UNIT UNDER  
28 SUBSECTION (H) OF THIS SECTION; AND

29 (II) DECREASED BY THE SUM OF THE OUTSTANDING BALANCES OF  
30 THE SURPLUS ALLOCATED TO EACH ~~NONCONTRIBUTORY~~ PARTICIPATING  
31 GOVERNMENTAL UNIT UNDER § 21-305.4(B) OF THIS SUBTITLE.

32 [(e)] (F) (1) THIS SUBSECTION APPLIES TO A PARTICIPATING  
33 GOVERNMENTAL UNIT THAT ELECTED TO PROVIDE ITS EMPLOYEES WITH THE  
34 CONTRIBUTORY PENSION BENEFIT UNDER TITLE 23 OF THIS ARTICLE AS PROVIDED  
35 IN § 31-116 OF THIS ARTICLE.

1            [(1)]    (2)    The assets that are allocable to the employees of a participating  
2 governmental unit who elect to withdraw from the employees' systems shall be  
3 computed by the actuary as provided in this subsection.

4            [(2)]    (3)    [The] IF THE PARTICIPANT FUNDING RATIO FOR THE FISCAL  
5 YEAR PRECEDING THE EFFECTIVE DATE OF WITHDRAWAL OF THE PARTICIPATING  
6 GOVERNMENTAL UNIT IS LESS THAN 100%, THE actuary SHALL[:

7                    (i)]    multiply the [active] participant funding ratio for the fiscal  
8 year preceding the effective date of withdrawal of the participating governmental unit  
9 by the actuarial liability allocable to the employees of the participating governmental  
10 unit who elect to withdraw[: and

11                    (ii)    reduce the amount determined under subparagraph (i) of this  
12 paragraph by the sum of:

13                                    1.    the outstanding balance of the deficit allocable to the  
14 participating governmental unit as of the effective date of withdrawal;

15                                    2.    the outstanding balance of the special accrued liability  
16 contribution allocable to the participating governmental unit as of the effective date  
17 of withdrawal; and

18                                    3.    any transition amount as determined under subsection (g)  
19 of this section].

20            (4)    IF THE PARTICIPANT FUNDING RATIO FOR THE FISCAL YEAR  
21 PRECEDING THE EFFECTIVE DATE OF WITHDRAWAL OF THE PARTICIPATING  
22 GOVERNMENTAL UNIT IS 100% OR GREATER AND LESS THAN 110%, THE ACTUARY  
23 SHALL MULTIPLY THE ACTUARIAL LIABILITY ALLOCABLE TO THE EMPLOYEES OF  
24 THE PARTICIPATING GOVERNMENTAL UNIT WHO ELECT TO WITHDRAW BY 100%.

25            (5)    IF THE PARTICIPANT FUNDING RATIO FOR THE FISCAL YEAR  
26 PRECEDING THE EFFECTIVE DATE OF WITHDRAWAL OF THE PARTICIPATING  
27 GOVERNMENTAL UNIT IS 110% OR GREATER, THE ACTUARY SHALL MULTIPLY THE  
28 ACTUARIAL LIABILITY ALLOCABLE TO THE EMPLOYEES OF THE PARTICIPATING  
29 GOVERNMENTAL UNIT WHO ELECT TO WITHDRAW BY THE DIFFERENCE BETWEEN  
30 THE PARTICIPANT FUNDING RATIO AND 10%.

31            (6)    ANY ASSETS COMPUTED UNDER PARAGRAPHS (3), (4), OR (5) OF THIS  
32 SUBSECTION SHALL BE REDUCED BY THE SUM OF:

33                                    (I)    THE OUTSTANDING BALANCE OF THE DEFICIT ALLOCABLE TO  
34 THE PARTICIPATING GOVERNMENTAL UNIT AS OF THE EFFECTIVE DATE OF  
35 WITHDRAWAL;

36                                    (II)    THE OUTSTANDING BALANCE OF THE SPECIAL ACCRUED  
37 LIABILITY CONTRIBUTION ALLOCABLE TO THE PARTICIPATING GOVERNMENTAL  
38 UNIT AS OF THE EFFECTIVE DATE OF WITHDRAWAL; AND

1 (III) ANY TRANSITION AMOUNT AS DETERMINED UNDER  
2 SUBSECTION (I) OF THIS SECTION.

3 (G) (1) THIS SUBSECTION APPLIES TO A NONCONTRIBUTORY  
4 PARTICIPATING GOVERNMENTAL UNIT.

5 (2) THE ASSETS THAT ARE ALLOCABLE TO THE EMPLOYEES OF A  
6 NONCONTRIBUTORY PARTICIPATING GOVERNMENTAL UNIT WHO ELECT TO  
7 WITHDRAW FROM THE EMPLOYEES' SYSTEMS SHALL BE COMPUTED BY THE  
8 ACTUARY AS PROVIDED IN THIS SUBSECTION.

9 (3) IF THE NONCONTRIBUTORY SYSTEM FUNDING RATIO FOR THE  
10 FISCAL YEAR PRECEDING THE EFFECTIVE DATE OF WITHDRAWAL OF THE  
11 NONCONTRIBUTORY PARTICIPATING GOVERNMENTAL UNIT IS ~~NOT~~ LESS THAN 100%,  
12 THE ACTUARY SHALL MULTIPLY THE NONCONTRIBUTORY SYSTEM FUNDING RATIO  
13 FOR THE FISCAL YEAR PRECEDING THE EFFECTIVE DATE OF WITHDRAWAL OF THE  
14 NONCONTRIBUTORY PARTICIPATING GOVERNMENTAL UNIT BY THE ACTUARIAL  
15 LIABILITY ALLOCABLE TO THE EMPLOYEES OF THE NONCONTRIBUTORY  
16 PARTICIPATING GOVERNMENTAL UNIT WHO ELECT TO WITHDRAW.

17 (4) IF THE NONCONTRIBUTORY SYSTEM FUNDING RATIO FOR THE  
18 FISCAL YEAR PRECEDING THE EFFECTIVE DATE OF WITHDRAWAL OF THE  
19 NONCONTRIBUTORY PARTICIPATING GOVERNMENTAL UNIT IS 100% OR GREATER  
20 AND LESS THAN 110%, THE ACTUARY SHALL MULTIPLY THE ACTUARIAL LIABILITY  
21 ALLOCABLE TO THE EMPLOYEES OF THE NONCONTRIBUTORY PARTICIPATING  
22 GOVERNMENTAL UNIT WHO ELECT TO WITHDRAW BY 100%.

23 (5) IF THE NONCONTRIBUTORY SYSTEM FUNDING RATIO FOR THE  
24 FISCAL YEAR PRECEDING THE EFFECTIVE DATE OF WITHDRAWAL OF THE  
25 NONCONTRIBUTORY PARTICIPATING GOVERNMENTAL UNIT IS 110% OR GREATER,  
26 THE ACTUARY SHALL MULTIPLY THE ACTUARIAL LIABILITY ALLOCABLE TO THE  
27 EMPLOYEES OF THE NONCONTRIBUTORY PARTICIPATING GOVERNMENTAL UNIT  
28 WHO ELECT TO WITHDRAW BY THE DIFFERENCE BETWEEN THE NONCONTRIBUTORY  
29 SYSTEM FUNDING RATIO AND 10%.

30 (6) ANY ASSETS COMPUTED UNDER PARAGRAPHS (3), (4), OR (5) OF THIS  
31 SUBSECTION SHALL BE REDUCED BY THE SUM OF:

32 (I) THE OUTSTANDING BALANCE OF THE DEFICIT ALLOCABLE TO  
33 THE NONCONTRIBUTORY PARTICIPATING GOVERNMENTAL UNIT AS OF THE  
34 EFFECTIVE DATE OF WITHDRAWAL;

35 (II) THE OUTSTANDING BALANCE OF THE SPECIAL ACCRUED  
36 LIABILITY CONTRIBUTION ALLOCABLE TO THE NONCONTRIBUTORY PARTICIPATING  
37 GOVERNMENTAL UNIT AS OF THE EFFECTIVE DATE OF WITHDRAWAL; AND

38 (III) ANY TRANSITION AMOUNT AS DETERMINED UNDER  
39 SUBSECTION (I) OF THIS SECTION.

1       [(f)]   (H)   (1)    The withdrawal liability contribution of a participating  
2 governmental unit shall be computed by the actuary as provided in this subsection.

3               (2)    The actuary shall:

4                       (i)       multiply the complement of the [active] participant funding  
5 ratio for the fiscal year preceding the effective date of withdrawal of the participating  
6 governmental unit by the actuarial liability allocable to the employees of the  
7 participating governmental unit who elect to remain members of the employees'  
8 systems; and

9                       (ii)       reduce the amount determined under subparagraph (i) of this  
10 paragraph by the outstanding balance of the surplus allocable to the participating  
11 governmental unit as of the effective date of withdrawal.

12               (3)    The amount determined under paragraph (2) may not be less than  
13 zero.

14               (4)    (i)       Except as provided in subparagraph (ii) of this paragraph, the  
15 annual withdrawal liability contribution of a participating governmental unit shall be  
16 the annual payment that is sufficient to liquidate, over not more than 25 years, the  
17 withdrawal liability contribution by means of annual payments that increase each  
18 year based on the actuarial assumptions adopted by the Board of Trustees on the  
19 recommendation of the actuary.

20                       (ii)       Subject to the approval of the Board of Trustees and the  
21 actuary's concurrence, a participating governmental unit:

22                               1.       may liquidate the withdrawal liability contribution by  
23 means of level annual payments or over a term of less than 25 years; or

24                               2.       prepay all or a portion of the withdrawal liability  
25 contribution.

26       [(g)]   (I)    (1)    This section applies only to a participating governmental unit  
27 with a deficit as determined under § 21-305.4(c) of this subtitle.

28               (2)    The transition amount of a participating governmental unit shall be  
29 computed by the actuary as provided in this subsection.

30               (3)    The actuary shall determine the pre-June 30, 1995 status and the  
31 post-June 30, 1995 status of a participating governmental unit using the  
32 assumptions that:

33                       (i)       the participating governmental unit elects to withdraw from the  
34 employees' systems as of June 30, 1995;

35                       (ii)       the employees of the withdrawing participating governmental  
36 unit who are members of the Employees' Retirement System elect to remain in the  
37 employees' systems; and

1 (iii) the employees of the withdrawing participating governmental  
2 unit who are members of the Employees' Pension System elect to withdraw from the  
3 employees' systems.

4 (4) The pre-June 30, 1995 status of a participating governmental unit is  
5 an amount equal to the difference between:

6 (i) the assets transferable to a participating governmental unit  
7 that are allocable to the employees of the participating governmental unit who elect to  
8 withdraw from the employees' systems as determined by the actuary applying the  
9 provisions of former § 21-305(f) of the State Personnel and Pensions Article as of June  
10 30, 1995; and

11 (ii) the withdrawal liability of a participating governmental unit  
12 that is attributable to the employees of the participating governmental unit who elect  
13 to remain members of the employees' systems as determined by the actuary applying  
14 the provisions of former State Personnel and Pensions Article § 21-305(f) of the Code  
15 as of June 30, 1995.

16 (5) The post-June 30, 1995 status of a participating governmental unit  
17 is an amount equal to the difference between:

18 (i) the assets transferable to a participating governmental unit  
19 that are allocable to the employees who elect to withdraw from the employees'  
20 systems as determined under subsection (d) of this section AS OF JUNE 30, 1995; and

21 (ii) the withdrawal liability of a participating governmental unit  
22 that is attributable to the employees of the participating governmental unit who elect  
23 to remain in the employees' systems as determined under subsection [(e)] (F) of this  
24 section AS OF JUNE 30, 1995.

25 (6) (i) Subject to subparagraph (ii) of this paragraph, the transition  
26 amount of a participating governmental unit is the amount determined by the  
27 actuary as of June 30, 1995, equal to the difference between:

28 1. the post-June 30, 1995 status of the participating  
29 governmental unit as determined under paragraph (4) of this subsection; and

30 2. the pre-June 30, 1995 status of the participating  
31 governmental unit as determined under paragraph (3) of this subsection.

32 (ii) The transition amount of a participating governmental unit  
33 may not be less than zero.

34 (7) As of June 30 of each fiscal year, the transition amount of a  
35 participating governmental unit shall decrease by writing down the transition  
36 amount in equal annual installments over the 25-year term beginning on July 1,  
37 1995.

1                   (8)       On the recommendation of the actuary, the Board of Trustees shall  
2 adopt regulations that are necessary to carry out this section, and that set forth a  
3 schedule reflecting:

4                   (i)       any transition amount allocable to a participating  
5 governmental unit; and

6                   (ii)       the outstanding balance of the transition amount each year.

7       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 July 1, 2001.