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

Introduced and read first time: February 2, 2001

Assigned to: Budget and Taxation

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A BILL ENTITLED

1 AN ACT concerning

2 **Employees' and Teachers' Retirement System - Average Final Compensation**

3 FOR the purpose of altering the method of calculating a member's average final  
4 compensation; establishing a method of calculating the average final  
5 compensation of certain part-time employees; defining certain terms; and  
6 generally relating to the average final compensation of members of the  
7 Employees' and Teachers' Retirement System.

8 BY repealing and reenacting, with amendments,  
9 Article - State Personnel and Pensions  
10 Section 20-205 and 22-221  
11 Annotated Code of Maryland  
12 (1997 Replacement Volume and 2000 Supplement)

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

15 **Article - State Personnel and Pensions**

16 20-205.

17 (a) This section applies only to:

- 18 (1) the Employees' Pension System;
- 19 (2) the Local Fire and Police System;
- 20 (3) the Law Enforcement Officers' Pension System; and
- 21 (4) the Teachers' Pension System.

22 (b) (1) IN THIS SUBSECTION, "BREAK IN SERVICE" MEANS A PERIOD OF  
23 EMPLOYMENT IN WHICH THE MEMBER'S EMPLOYER DID NOT:

24 (I) DEDUCT THE MEMBER CONTRIBUTIONS FROM THE  
25 COMPENSATION OF THE MEMBER; OR

1 (II) REPORT THE HOURS WORKED BY THE MEMBER.

2 (2) (I) For the purpose of computing benefits under this Division II,  
3 the average final compensation of a member equals the average annual earnable  
4 compensation of the member, adjusted as provided in this section, during the 3  
5 consecutive years that provide the highest average earnable compensation.

6 (II) IF THE MEMBER EXPERIENCED ANY BREAK IN SERVICE  
7 DURING THE 3 CONSECUTIVE YEARS THAT PROVIDE THE MEMBER'S HIGHEST  
8 AVERAGE EARNABLE COMPENSATION, THE BOARD OF TRUSTEES:

9 1. MAY NOT INCLUDE IN THE COMPUTATION OF AVERAGE  
10 FINAL COMPENSATION THE PERIOD OF MONTHS OF THE BREAKS IN SERVICE, THAT  
11 OTHERWISE WOULD BE INCLUDED IN THE COMPUTATION; AND

12 2. IN ORDER TO GENERATE THE HIGHEST AVERAGE  
13 EARNABLE COMPENSATION FOR THE MEMBER, SHALL EXTEND THE 3 YEAR PERIOD  
14 BY AN EQUAL NUMBER OF MONTHS IMMEDIATELY PRECEDING OR FOLLOWING THAT  
15 PERIOD.

16 (c) (1) This subsection applies to a member who was on authorized leave of  
17 absence at partial pay or without pay during the last 3 years of employment as a  
18 member.

19 (2) If the period used to determine average final compensation is the  
20 period that immediately precedes the date of retirement or other separation from  
21 employment, the Board of Trustees:

22 (i) may not include in the computation of average final  
23 compensation the period of months of the leave of absence, not exceeding 12, that  
24 otherwise would be included in the computation; and

25 (ii) shall substitute an equal number of months immediately  
26 preceding that period.

27 (d) (1) This subsection applies to a member whose eligibility service has  
28 been adjusted under this Division II to compute creditable service, on the basis of the  
29 member having completed less than the normal hours of service for the member's  
30 position.

31 (2) A member's earnable compensation shall be adjusted to a full-time  
32 basis for any period included in the computation of average final compensation.

33 (e) Except for a salary increase because of a member's promotion, the  
34 member's average final compensation does not include a salary increase in the last 3  
35 years of employment if it is an extraordinary salary increase according to regulations  
36 that the Board of Trustees adopts.

1 22-221.

2 (a) (1) This section applies only to a member who is not subject to Selection  
3 A (Additional member contributions) or Selection B (Limited cost-of-living  
4 adjustment).

5 (2) The effective date for application of this section is:

6 (i) July 1, 1984, for a member employed by a participating  
7 employer on that day who had not elected Selection A (Additional member  
8 contributions) or Selection B (Limited cost-of-living adjustment);

9 (ii) the date of return to employment by a participating employer  
10 for a member who returned to active employment and had not elected Selection A  
11 (Additional member contributions) or Selection B (Limited cost-of-living  
12 adjustment); or

13 (iii) the date of election of Selection C (Combination formula) under  
14 § 22-219 or § 22-220 of this subtitle.

15 (b) For purposes of computing a member's allowance under this section:

16 (1) service credit, other than military service credit, received by an  
17 individual before the individual last became a member shall be treated as service  
18 credit as of the date the service was rendered; and

19 (2) military service credit, received by a member in accordance with Title  
20 38 of this article, shall be determined as of the date the Board of Trustees verifies the  
21 military service credit.

22 (c) (1) From the effective date for application of this section, a member shall  
23 receive an allowance as provided in this subsection.

24 (2) For normal service retirement, the allowance is computed:

25 (i) for creditable service before the effective date, as provided by §  
26 22-401 of this title; and

27 (ii) for creditable service on and after the effective date, as provided  
28 by § 23-401 of this article.

29 (3) For early service retirement, the allowance is computed:

30 (i) for creditable service before the effective date, as provided by §  
31 22-402 of this title; and

32 (ii) for creditable service on and after the effective date, as provided  
33 by § 23-402 of this article, except that the reduction under that section may not  
34 exceed 42% of the normal service retirement allowance based on the creditable service  
35 on or after the effective date.

1 (4) For ordinary disability retirement, the allowance is computed on the  
2 greater of:

3 (i) the allowance computed as provided by § 29-106 of this article;  
4 or

5 (ii) the allowance computed as provided by § 29-108 of this article.

6 (5) For accidental disability retirement the allowance is computed as  
7 provided by § 29-110 of this article.

8 (6) FOR DETERMINING THE AVERAGE FINAL COMPENSATION OF A  
9 MEMBER WHO WAS EMPLOYED ON A PART TIME BASIS, THE AVERAGE FINAL  
10 COMPENSATION IS COMPUTED:

11 (I) FOR EMPLOYMENT BEFORE THE EFFECTIVE DATE, AS  
12 PROVIDED IN § 20-204 OF THIS ARTICLE; AND

13 (II) FOR EMPLOYMENT ON AND AFTER THE EFFECTIVE DATE, AS  
14 PROVIDED IN § 20-205 OF THIS ARTICLE.

15 (d) A member who is subject to this section and who at the time of retirement  
16 is entitled to service credit for unused sick leave under § 20-206 of this article shall  
17 have the total amount of unused sick leave credit apportioned in the same ratio that  
18 the member's creditable service is apportioned for computation of the allowance  
19 under subsection (c) of this section.

20 (e) A member who retires on or after the effective date for application of this  
21 section shall have the allowance adjusted as provided in Title 29, Subtitle 4, Part V of  
22 this article.

23 (f) For creditable service received on and after the effective date for  
24 application of this section, the rate of member contributions is that provided by §  
25 23-212 of this article.

26 (g) A member who is subject to this section may transfer to the Employees'  
27 Pension System or the Teachers' Pension System, as provided in § 22-212 of this  
28 subtitle.

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