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

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Assigned to: Budget and Taxation

Committee Report: Favorable

Senate action: Adopted

Read second time: February 28, 2001

CHAPTER _____

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

1 (4) the Teachers' Pension System.

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

4 (I) DEDUCT THE MEMBER CONTRIBUTIONS FROM THE
5 COMPENSATION OF THE MEMBER; OR

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

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

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

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

17 2. IN ORDER TO GENERATE THE HIGHEST AVERAGE
18 EARNABLE COMPENSATION FOR THE MEMBER, SHALL EXTEND THE 3 YEAR PERIOD
19 BY AN EQUAL NUMBER OF MONTHS IMMEDIATELY PRECEDING OR FOLLOWING THAT
20 PERIOD.

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

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

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

30 (ii) shall substitute an equal number of months immediately
31 preceding that period.

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

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

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

5 22-221.

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

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

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

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

17 (iii) the date of election of Selection C (Combination formula) under
18 § 22-219 or § 22-220 of this subtitle.

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

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

23 (2) military service credit, received by a member in accordance with Title
24 38 of this article, shall be determined as of the date the Board of Trustees verifies the
25 military service credit.

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

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

29 (i) for creditable service before the effective date, as provided by §
30 22-401 of this title; and

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

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

34 (i) for creditable service before the effective date, as provided by §
35 22-402 of this title; and

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

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

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

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

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

12 (6) FOR DETERMINING THE AVERAGE FINAL COMPENSATION OF A
13 MEMBER WHO WAS EMPLOYED ON A PART TIME BASIS, THE AVERAGE FINAL
14 COMPENSATION IS COMPUTED:

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

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

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

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

27 (f) For creditable service received on and after the effective date for
28 application of this section, the rate of member contributions is that provided by §
29 23-212 of this article.

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

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

