

# SENATE BILL 710

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CF 9lr3172

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By: **Senator Miller**

Introduced and read first time: February 6, 2009

Assigned to: Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **State Retirement and Pension System – Local Employer Contributions –**  
3 **Educators and Educational Staff**

4 FOR the purpose of providing for the calculation of a payment of a certain portion of  
5 employer contributions for certain members of the Teachers' Retirement System  
6 or the Teachers' Pension System; requiring counties to pay a certain amount of  
7 employer contributions for certain members of the Teachers' Retirement System  
8 or the Teachers' Pension System; requiring the State to pay, under certain  
9 circumstances, a certain portion of certain employer contributions for certain  
10 members of the Teachers' Retirement System or the Teachers' Pension System;  
11 altering the amount of employer contributions the State is required to pay for  
12 certain members of the Teachers' Retirement System or the Teachers' Pension  
13 System; providing for the method of payment each county is required to make to  
14 the Board of Trustees for the State Retirement and Pension System regarding a  
15 certain portion of employer contributions for certain members of the Teachers'  
16 Retirement System or the Teachers' Pension System; defining certain terms;  
17 and generally relating to the payment of employer contributions for members in  
18 the State Retirement and Pension System who are educators or educational  
19 staff.

20 BY repealing and reenacting, with amendments,  
21 Article – State Personnel and Pensions  
22 Section 21–304  
23 Annotated Code of Maryland  
24 (2004 Replacement Volume and 2008 Supplement)

25 BY adding to  
26 Article – State Personnel and Pensions  
27 Section 21–309.1  
28 Annotated Code of Maryland  
29 (2004 Replacement Volume and 2008 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



## 1 Preamble

2 WHEREAS, The State of Maryland must resolve a deficit of almost \$2.4 billion  
3 in fiscal year 2010 and anticipated deficits of hundreds of millions in all 6 years shown  
4 in the forecast for the State budget; and

5 WHEREAS, State General Fund expenditures made on behalf of local  
6 governments to subsidize the cost of pension benefits for teachers employed by the  
7 local governments are increasing by 20% when overall General Fund expenditures for  
8 the entire State budget are actually decreasing by 1.3% in fiscal year 2010; and

9 WHEREAS, The State Retirement and Pension System lost \$7.4 billion between  
10 September 2007 and September 2008; and

11 WHEREAS, The situation has become so dire that the Governor is proposing to  
12 layoff 700 to 900 State employees in the fiscal 2010 budget; and

13 WHEREAS, All counties in the State of Maryland have collective bargaining for  
14 public school teachers; and

15 WHEREAS, The collective bargaining process is intended to apply to all terms  
16 and conditions of employment; and

17 WHEREAS, The State of Maryland currently funds all of teachers' pension  
18 benefits on behalf of local governments thereby removing a critical term and condition  
19 of employment from the collective bargaining process between public school teachers  
20 and their employers; and

21 WHEREAS, The State has no control over cost increases in pension benefit  
22 payments that are incurred by salary increases approved for public school employees  
23 at the local level; and

24 WHEREAS, State payment of pension benefits on behalf of employees not  
25 directly employed by the State has no clear policy justification; and

26 WHEREAS, Pension contribution payments made by the State on behalf of local  
27 governments are a subsidy to local government and do not constitute direct education  
28 aid; and

29 WHEREAS, State pension costs for the Teachers' Retirement and Pension  
30 systems have increased by approximately \$332 million in the last 3 fiscal years; and

31 WHEREAS, The long-term funding by the State of all costs associated with the  
32 Teachers' Retirement and Pension systems are not sustainable; now, therefore,

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

1                                   **Article – State Personnel and Pensions**

2   21–304.

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

4                   (2)   “Full funding rate” means the sum of:

5                           (i)   the aggregate normal rate that is based on the normal  
6 contribution rate calculated under subsection [(c)] (D) of this section and adjusted to  
7 incorporate legislative changes in benefits to reflect changes to the normal cost; and

8                           (ii)   the aggregate unfunded accrued liability contribution rate  
9 that is based on the unfunded accrued liability contribution rate under subsection  
10 [(d)(1)] (E)(1) and (2) of this section.

11                   (3)   “Funding ratio for the employees’ systems” means the actuarial  
12 value of assets for the employees’ systems divided by the actuarial accrued liability for  
13 the employees’ systems.

14                   (4)   “Funding ratio for the teachers’ systems” means the actuarial  
15 value of assets for the teachers’ systems divided by the actuarial accrued liability for  
16 the teachers’ systems.

17                   **(5)   “LOCAL EMPLOYEES” MEANS THOSE MEMBERS OF THE**  
18 **TEACHERS’ RETIREMENT SYSTEM OR THE TEACHERS’ PENSION SYSTEM WHO**  
19 **ARE:**

20                           **(I)   EMPLOYEES OF A DAY SCHOOL IN THE STATE UNDER**  
21 **THE AUTHORITY AND SUPERVISION OF A COUNTY BOARD OF EDUCATION OR THE**  
22 **BALTIMORE CITY BOARD OF SCHOOL COMMISSIONERS, EMPLOYED AS:**

23                                   **1.   A CLERK;**

24                                   **2.   A HELPING TEACHER;**

25                                   **3.   A PRINCIPAL;**

26                                   **4.   A SUPERINTENDENT;**

27                                   **5.   A SUPERVISOR; OR**

28                                   **6.   A TEACHER;**

1                   **(II) LIBRARIANS OR CLERICAL EMPLOYEES OF A LIBRARY**  
 2 **THAT IS ESTABLISHED OR OPERATES UNDER THE EDUCATION ARTICLE; OR**

3                   **(III) FACULTY, PROFESSIONAL, OR CLERICAL EMPLOYEES OF**  
 4 **A COMMUNITY COLLEGE THAT IS ESTABLISHED UNDER THE EDUCATION**  
 5 **ARTICLE.**

6                   **(6) “LOCAL SHARE” MEANS THAT PORTION OF THE TOTAL**  
 7 **EMPLOYER CONTRIBUTION FOR LOCAL EMPLOYEES THAT EXCEEDS THE TOTAL**  
 8 **EMPLOYER CONTRIBUTION FOR LOCAL EMPLOYEES THAT WAS CALCULATED**  
 9 **FOR FISCAL YEAR 2010.**

10                   **[(5)] (7) “State member” does not include a member on whose behalf**  
 11 **a participating governmental unit is required to make an employer contribution under**  
 12 **§ 21–305 or § 21–306 of this subtitle.**

13                   **(8) “TOTAL EMPLOYER CONTRIBUTION FOR LOCAL EMPLOYEES”**  
 14 **MEANS THAT PORTION OF THE EMPLOYER CONTRIBUTION CALCULATED UNDER**  
 15 **SUBSECTION (B) OF THIS SECTION THAT IS ATTRIBUTABLE TO THE LOCAL**  
 16 **EMPLOYEES OF EACH COUNTY.**

17                   (b) (1) **[Each] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS**  
 18 **SECTION, EACH** fiscal year, on behalf of the State members of each State system, the  
 19 State shall pay to the appropriate accumulation fund an amount equal to or greater  
 20 than the sum of the amount, if any, required to be included in the budget bill under §  
 21 3–501(c)(2)(ii) of this article and the product of multiplying:

22                                   (i) the aggregate annual earnable compensation of the State  
 23 members of that State system; and

24                                   (ii) 1. for State members of the Law Enforcement Officers’  
 25 Retirement System, State Police Retirement System, and the Judges’ Retirement  
 26 System, the sum of the normal contribution rate and the accrued liability contribution  
 27 rate, as determined under this section;

28   2. for State members of the Employees’ Pension System,  
 29 Employees’ Retirement System, Correctional Officers’ Retirement System, and  
 30 Legislative Pension Plan, the employees’ systems contribution rate determined under  
 31 subsection (e) of this section; or

32   3. for State members of the Teachers’ Pension System  
 33 and Teachers’ Retirement System, the teachers’ systems contribution rate determined  
 34 under subsection (f) of this section.

1           (2)    The amount determined under paragraph (1) of this subsection for  
2 each State system shall be based on an actuarial determination of the amounts that  
3 are required to preserve the integrity of the funds of the several systems using:

4                   (i)    the entry–age actuarial cost method; and

5                   (ii)   actuarial assumptions adopted by the Board of Trustees.

6           (3)    For the purpose of making the determinations required under this  
7 section:

8                   (i)    the Employees’ Retirement System, the Employees’ Pension  
9 System, the Correctional Officers’ Retirement System, and the Legislative Pension  
10 Plan shall be considered together as one State system; and

11                   (ii)   the Teachers’ Retirement System and the Teachers’ Pension  
12 System shall be considered together as one State system.

13           **(C) (1) (I) THIS PARAGRAPH DOES NOT APPLY TO BALTIMORE**  
14 **CITY COMMUNITY COLLEGE.**

15                   **(II) BEGINNING JULY 1, 2010, ON BEHALF OF THE LOCAL**  
16 **EMPLOYEES OF EACH COUNTY, EACH COUNTY SHALL PAY EACH FISCAL YEAR TO**  
17 **THE APPROPRIATE ACCUMULATION FUND AN AMOUNT EQUAL TO OR GREATER**  
18 **THAN THE LOCAL SHARE OF THE TOTAL EMPLOYER CONTRIBUTION FOR LOCAL**  
19 **EMPLOYEES.**

20                   **(III) 1. FOR A REGIONAL COMMUNITY COLLEGE, AS**  
21 **DEFINED UNDER § 16–202 OF THE EDUCATION ARTICLE THE OBLIGATION OF**  
22 **THE LOCAL SHARE OF THE TOTAL EMPLOYER CONTRIBUTION FOR LOCAL**  
23 **EMPLOYEES SHALL BE SHARED BY EACH COUNTY SUPPORTING THE REGIONAL**  
24 **COMMUNITY COLLEGE.**

25                   **2. EACH COUNTY’S SHARE SHALL BE PRORATED BY**  
26 **DIVIDING THE NUMBER OF FULL–TIME EQUIVALENT STUDENTS AS CALCULATED**  
27 **UNDER § 16–305(B)(7) OF THE EDUCATION ARTICLE FOR THE SECOND PRIOR**  
28 **FISCAL YEAR, WHO ARE ENROLLED AT THE REGIONAL COMMUNITY COLLEGE**  
29 **AND ARE RESIDENTS OF THE COUNTY, BY THE TOTAL NUMBER OF FULL–TIME**  
30 **EQUIVALENT STUDENTS AS CALCULATED UNDER § 16–305(B)(7) OF THE**  
31 **EDUCATION ARTICLE FOR THE SECOND PRIOR FISCAL YEAR WHO ARE**  
32 **RESIDENTS OF THE REGION.**

33           **(2) (I) THE DIFFERENCE BETWEEN THE TOTAL EMPLOYER**  
34 **CONTRIBUTION FOR LOCAL EMPLOYEES AND THE LOCAL SHARE OF THE TOTAL**

1 **EMPLOYER CONTRIBUTION FOR LOCAL EMPLOYEES FOR EACH COUNTY SHALL**  
2 **BE THE OBLIGATION OF THE STATE.**

3 **(II) IN ADDITION TO ANY PAYMENTS MADE BY THE STATE**  
4 **UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE STATE SHALL PAY 100%**  
5 **OF THE AMOUNT DETERMINED UNDER SUBSECTION (B) OF THIS SECTION FOR**  
6 **THOSE MEMBERS OF THE TEACHERS' RETIREMENT SYSTEM OR TEACHERS'**  
7 **PENSION SYSTEM WHO ARE:**

8 **1. FACULTY, PROFESSIONAL, OR CLERICAL**  
9 **EMPLOYEES OF BALTIMORE CITY COMMUNITY COLLEGE;**

10 **2. FACULTY EMPLOYEES OF AN EDUCATIONAL**  
11 **INSTITUTION, OTHER THAN A COMMUNITY COLLEGE, SUPPORTED BY AND**  
12 **UNDER THE CONTROL OF THE STATE; OR**

13 **3. STAFF EMPLOYEES OF THE UNIVERSITY SYSTEM**  
14 **OF MARYLAND, MORGAN STATE UNIVERSITY, OR ST. MARY'S COLLEGE OF**  
15 **MARYLAND WHO WERE MEMBERS OF THE TEACHERS' PENSION SYSTEM AS OF**  
16 **JANUARY 1, 1998, OR WHO TRANSFERRED FROM THE TEACHERS' RETIREMENT**  
17 **SYSTEM ON OR AFTER JANUARY 1, 1998.**

18 **[(c)] (D)** (1) As part of each actuarial valuation, the actuary shall  
19 determine the normal contributions, net of member contributions, on account of the  
20 State members of each State system.

21 (2) For each State system, the normal contribution rate equals the  
22 fraction that has:

23 (i) as its numerator, the sum of the normal contributions  
24 determined under this subsection; and

25 (ii) as its denominator, the aggregate annual earnable  
26 compensation of the State members of the State system.

27 **[(d)] (E)** (1) Beginning July 1, 2001, each year the Board of Trustees  
28 shall set contribution rates for each State system that shall amortize:

29 (i) all unfunded liabilities or surpluses accrued as of June 30,  
30 2000, over 20 years; and

31 (ii) any new unfunded liabilities or surpluses that have accrued  
32 from July 1 of the preceding fiscal year over 25 years to reflect:

33 1. experience gains and losses;



1            [(f)] (G)        (1)    When the funding ratio for the teachers' systems is between  
2 90% and 110%, the teachers' system contribution rate is the rate for the previous fiscal  
3 year, adjusted to reflect legislative changes that result in changes in normal cost and  
4 to amortize over 25 years any actuarial liabilities of the teachers' systems.

5                            (2)    When the funding ratio for the teachers' systems is below 90%, the  
6 teachers' system contribution rate shall be the sum of:

7                            (i)    the teachers' system contribution rate for the previous fiscal  
8 year; and

9                            (ii)   20% of the difference between the full funding rate for the  
10 current fiscal year and the teachers' system contribution rate for the previous fiscal  
11 year.

12                          (3)    When the funding ratio for the teachers' systems is above 110%,  
13 the teachers' system contribution rate shall be the difference between:

14                          (i)    the teachers' system contribution rate for the previous fiscal  
15 year; and

16                          (ii)   20% of the difference between the teachers' system  
17 contribution rate for the previous fiscal year and the full funding rate for the current  
18 fiscal year.

19    **21-309.1.**

20            (A)    **EACH YEAR, THE BOARD OF TRUSTEES SHALL CERTIFY TO EACH**  
21 **COUNTY THE STATE'S NORMAL CONTRIBUTION RATE AND THE STATE'S**  
22 **ACCRUED LIABILITY CONTRIBUTION RATE AND THE AMOUNTS PAYABLE UNDER**  
23 **§ 21-304(C) OF THIS SUBTITLE.**

24            (B)    (1)    **EACH COUNTY SHALL PAY TO THE BOARD OF TRUSTEES THE**  
25 **AMOUNT OF THE CHARGES CERTIFIED TO THE COUNTY BY THE BOARD OF**  
26 **TRUSTEES UNDER SUBSECTION (A) OF THIS SECTION.**

27                          (2)    **WITHIN 30 DAYS AFTER RECEIVING THE CERTIFICATION BY**  
28 **THE BOARD OF TRUSTEES, THE COUNTY SHALL PAY THAT AMOUNT TO THE**  
29 **BOARD OF TRUSTEES.**

30                          (3)    **IF A COUNTY DOES NOT PAY THE AMOUNTS CERTIFIED UNDER**  
31 **THIS SECTION WITHIN THE TIME REQUIRED, IT IS LIABLE FOR:**

32                            (I)    **A PENALTY OF 10% OF THE AMOUNT DUE; AND**



1                   (II)    **INTEREST ON DELINQUENT AMOUNTS AT 10% A YEAR**  
2 **UNTIL PAYMENT.**

3                   (4)    **THE SECRETARY OF THE BOARD OF TRUSTEES MAY ALLOW A**  
4 **GRACE PERIOD FOR PAYMENT OF THE AMOUNTS CERTIFIED UNDER THIS**  
5 **SECTION NOT TO EXCEED 10 CALENDAR DAYS.**

6                   (5)    **ON NOTIFICATION BY THE SECRETARY OF THE BOARD OF**  
7 **TRUSTEES THAT A DELINQUENCY EXISTS, THE COMPTROLLER IMMEDIATELY**  
8 **SHALL EXERCISE THE RIGHT OF SETOFF AGAINST ANY MONEY DUE OR COMING**  
9 **DUE TO THAT COUNTY FROM THE STATE.**

10                  (C)    **ON RECEIPT OF THE PAYMENTS FROM EACH COUNTY, THE BOARD**  
11 **OF TRUSTEES SHALL CREDIT THESE AMOUNTS TO THE ACCUMULATION FUND**  
12 **OF THE APPROPRIATE STATE SYSTEM.**

13                  SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 July 1, 2009.