

# HOUSE BILL 768

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CF SB 508

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By: **Delegate Griffith (Chair, Joint Committee on Pensions) and Delegates  
Aumann, Bates, Branch, Haynes, Heller, James, and Levy**

Introduced and read first time: February 5, 2010

Assigned to: Appropriations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 23, 2010

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Employees' Retirement and Pension Systems – Maryland School for the Deaf**  
3 **Retirees – Overpayment of Benefits**

4 FOR the purpose of requiring the Board of Trustees of the State Retirement and  
5 Pension System to reduce the retirement allowance of certain retirees by a  
6 certain amount beginning on a certain date and continuing the reduction until  
7 the retirement allowance equals a certain amount; requiring the Board of  
8 Trustees of the State Retirement and Pension System to suspend the  
9 application of certain annual retirement allowance adjustments to certain  
10 retirees for a certain period of time until certain retirement allowances equal a  
11 certain amount; requiring the Board of Trustees to resume the application of  
12 certain annual retirement allowance adjustments to certain retirees under  
13 certain circumstances; requiring the Board of Trustees to calculate certain  
14 benefits for certain designated beneficiaries using a certain retirement  
15 allowance; providing that the Board of Trustees is not required to recover  
16 certain overpayments made prior to a certain date to certain retirees; and  
17 generally relating to the overpayment of retirement benefits to retirees of the  
18 Maryland School for the Deaf.

19 BY repealing and reenacting, with amendments,  
20 Article – State Personnel and Pensions  
21 Section 21–113(a)  
22 Annotated Code of Maryland  
23 (2009 Replacement Volume and 2009 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY adding to  
 2 Article – State Personnel and Pensions  
 3 Section ~~29-402~~ 21-113(c)  
 4 Annotated Code of Maryland  
 5 (2009 Replacement Volume and 2009 Supplement)

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

8 **Article – State Personnel and Pensions**

9 21-113.

10 (a) [If,] ~~EXCEPT AS PROVIDED IN § 29-402 OF THIS ARTICLE~~  
 11 ~~SUBSECTION (C) OF THIS SECTION~~, IF, because of an error in the records of the  
 12 several systems, a retiree or beneficiary receives a benefit that differs from the benefit  
 13 the retiree or beneficiary is entitled to receive, the Board of Trustees shall:

14 (1) correct the error; and

15 (2) to the extent practicable, adjust the payment to the retiree or  
 16 beneficiary to provide the actuarial equivalent to which the retiree or beneficiary is  
 17 correctly entitled.

18 ~~29-402.~~

19 ~~(A)~~ (C) (1) THIS SECTION APPLIES TO A RETIREE OF THE EMPLOYEES'  
 20 RETIREMENT SYSTEM OR EMPLOYEES' PENSION SYSTEM WHO:

21 ~~(1)~~ (I) RETIRED FROM THE EMPLOYEES' RETIREMENT SYSTEM  
 22 OR EMPLOYEES' PENSION SYSTEM ON OR BEFORE JUNE 30, 2009;

23 ~~(2)~~ (II) BEFORE RETIREMENT WAS AN EMPLOYEE OF THE  
 24 MARYLAND SCHOOL FOR THE DEAF; ~~AND~~

25 ~~(3)~~ (III) BEFORE RETIREMENT, AS AN EMPLOYEE FOR THE  
 26 MARYLAND SCHOOL FOR THE DEAF, WAS A 10-MONTH EMPLOYEE  
 27 INCORRECTLY CLASSIFIED AS A 12-MONTH EMPLOYEE; AND

28 (IV) ON JULY 1, 2010, IS RECEIVING A RETIREMENT  
 29 ALLOWANCE THAT IS GREATER THAN THE RETIREMENT ALLOWANCE THAT THE  
 30 RETIREE IS ENTITLED TO RECEIVE.

31 ~~(B) (1) IF A RETIREE IS RECEIVING A BENEFIT THAT DIFFERS FROM~~  
 32 ~~THE BENEFIT THE RETIREE IS ENTITLED TO RECEIVE, THE BOARD OF~~

~~1 TRUSTEES SHALL, BEGINNING JULY 1, 2010, AND EACH SUBSEQUENT JULY 1,~~  
~~2 SUSPEND ANY ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT THE RETIREE~~  
~~3 MAY RECEIVE UNDER THIS SUBTITLE.~~

~~4 (2) BEGINNING JULY 1, 2010, AND EACH SUBSEQUENT JULY 1,~~  
~~5 ANY ADJUSTMENT TO THE RETIREE'S ANNUAL RETIREMENT ALLOWANCE~~  
~~6 DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE~~  
~~7 CALCULATED USING:~~

~~8 (i) FOR ANY ADJUSTMENT CALCULATED UNDER PART II OR~~  
~~9 PART III OF THIS SUBTITLE, THE INITIAL ALLOWANCE THE RETIREE WAS~~  
~~10 ENTITLED TO RECEIVE AND NOT THE INITIAL ALLOWANCE THE RETIREE DID~~  
~~11 RECEIVE;~~

~~12 (ii) FOR ANY ADJUSTMENT CALCULATED UNDER PART IV~~  
~~13 AND PART VI OF THIS SUBTITLE, THE CURRENT RETIREMENT ALLOWANCE THE~~  
~~14 RETIREE IS ENTITLED TO RECEIVE AND NOT THE CURRENT RETIREMENT~~  
~~15 ALLOWANCE THE RETIREE IS RECEIVING; OR~~

~~16 (iii) FOR ANY ADJUSTMENT CALCULATED UNDER PART V OF~~  
~~17 THIS SUBTITLE, BOTH THE INITIAL ALLOWANCE THE RETIREE WAS ENTITLED TO~~  
~~18 RECEIVE AND NOT THE INITIAL ALLOWANCE THE RETIREE DID RECEIVE AND~~  
~~19 THE CURRENT RETIREMENT ALLOWANCE THE RETIREE IS ENTITLED TO~~  
~~20 RECEIVE AND NOT THE CURRENT RETIREMENT ALLOWANCE THE RETIREE IS~~  
~~21 RECEIVING.~~

~~22 (3) THE BOARD OF TRUSTEES SHALL SUSPEND ANY ANNUAL~~  
~~23 RETIREMENT ADJUSTMENT UNDER THIS SUBSECTION UNTIL THE TOTAL~~  
~~24 AMOUNT OF RETIREMENT ALLOWANCE THE RETIREE IS ENTITLED TO RECEIVE,~~  
~~25 INCLUDING ANY SUSPENDED ANNUAL RETIREMENT ALLOWANCE ADJUSTMENTS,~~  
~~26 EQUALS THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE THE RETIREE IS~~  
~~27 RECEIVING ON JULY 1, 2010.~~

~~28 (4) WHEN THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE THE~~  
~~29 RETIREE IS ENTITLED TO RECEIVE, INCLUDING ANY SUSPENDED ANNUAL~~  
~~30 RETIREMENT ALLOWANCE ADJUSTMENTS, EQUALS THE TOTAL AMOUNT OF~~  
~~31 RETIREMENT ALLOWANCE THE RETIREE IS RECEIVING ON JULY 1, 2010, THE~~  
~~32 BOARD OF TRUSTEES SHALL RESUME ADJUSTING THE RETIREE'S ANNUAL~~  
~~33 ALLOWANCE ON JULY 1 OF EACH YEAR IN ACCORDANCE WITH THIS SUBTITLE.~~

34 (2) (i) BEGINNING JULY 1, 2010, AND EVERY 6 MONTHS  
35 THEREAFTER, THE BOARD OF TRUSTEES SHALL REDUCE A RETIREE'S MONTHLY  
36 RETIREMENT ALLOWANCE BY 10% OF THE AMOUNT BY WHICH THE MONTHLY  
37 RETIREMENT ALLOWANCE THE RETIREE IS RECEIVING AS OF JUNE 30, 2010,

1 EXCEEDS THE MONTHLY RETIREMENT ALLOWANCE THE RETIREE IS ENTITLED  
 2 TO RECEIVE AS OF JUNE 30, 2010.

3 (II) THE BOARD OF TRUSTEES SHALL REDUCE A RETIREE'S  
 4 MONTHLY RETIREMENT ALLOWANCE UNDER SUBPARAGRAPH (I) OF THIS  
 5 PARAGRAPH UNTIL THE MONTHLY RETIREMENT ALLOWANCE THAT THE  
 6 RETIREE IS RECEIVING EQUALS THE MONTHLY RETIREMENT ALLOWANCE THE  
 7 RETIREE IS ENTITLED TO RECEIVE AS OF JUNE 30, 2010.

8 (3) (I) BEGINNING JULY 1, 2010, AND EACH SUBSEQUENT  
 9 JULY 1, THE BOARD OF TRUSTEES SHALL SUSPEND ANY ANNUAL RETIREMENT  
 10 ALLOWANCE ADJUSTMENT THE RETIREE IS ENTITLED TO RECEIVE UNDER  
 11 TITLE 29, SUBTITLE 4 OF THIS ARTICLE UNTIL THE RETIREMENT ALLOWANCE  
 12 THE RETIREE IS RECEIVING EQUALS THE AMOUNT THE RETIREE IS ENTITLED TO  
 13 RECEIVE AS OF JUNE 30, 2010.

14 (II) BEGINNING ON THE JULY 1 IMMEDIATELY FOLLOWING  
 15 THE LAST REDUCTION MADE TO A RETIREE'S MONTHLY RETIREMENT  
 16 ALLOWANCE BY THE BOARD OF TRUSTEES UNDER PARAGRAPH (2) OF THIS  
 17 SUBSECTION, THE BOARD OF TRUSTEES SHALL:

18 1. REINSTATE THE APPLICATION OF ANY ANNUAL  
 19 RETIREMENT ALLOWANCE ADJUSTMENT THAT THE RETIREE IS ENTITLED TO  
 20 RECEIVE UNDER TITLE 29, SUBTITLE 4 OF THIS ARTICLE; AND

21 2. ADJUST THE RETIREE'S ALLOWANCE TO INCLUDE  
 22 ANY ACCUMULATED COST-OF-LIVING ADJUSTMENTS FROM THE DATE THE  
 23 COST-OF-LIVING ADJUSTMENTS WERE SUSPENDED UNDER SUBPARAGRAPH (I)  
 24 OF THIS PARAGRAPH.

25 ~~(c) (4) IF A RETIREE DIES BEFORE THE TOTAL AMOUNT OF MONTHLY~~  
 26 ~~RETIREMENT ALLOWANCE THE RETIREE WAS ENTITLED TO RECEIVE,~~  
 27 ~~INCLUDING ANY SUSPENDED ANNUAL RETIREMENT ALLOWANCE ADJUSTMENTS,~~  
 28 ~~EQUALS THE TOTAL AMOUNT OF MONTHLY RETIREMENT ALLOWANCE THE~~  
 29 ~~RETIREE WAS RECEIVING ON JULY 1, 2010 IS RECEIVING AT THE TIME OF THE~~  
 30 ~~RETIREE'S DEATH, AND THE RETIREE HAS SELECTED AN OPTIONAL FORM OF~~  
 31 ~~ALLOWANCE UNDER TITLE 21, SUBTITLE 4 OF THIS ARTICLE, THE DECEASED~~  
 32 ~~RETIREE'S BENEFICIARY SHALL RECEIVE A BENEFIT CALCULATED ON THE~~  
 33 ~~RETIREMENT ALLOWANCE THE DECEASED RETIREE WAS ENTITLED TO RECEIVE~~  
 34 ~~AT THE TIME OF THE RETIREE'S DEATH AND NOT WHAT THE RETIREE WAS~~  
 35 ~~RECEIVING AT THE TIME OF THE RETIREE'S DEATH.~~

36 SECTION 2. AND BE IT FURTHER ENACTED, That, in accordance with §  
 37 21-113 of the State Personnel and Pensions Article, the Board of Trustees of the State

1 Retirement and Pension System is not required to recover any improper overpayment  
2 received by a retiree on or before July 1, 2010, if the retiree:

3 (1) retired from the Employees' Retirement System or Employees'  
4 Pension System on or before June 30, 2009;

5 (2) before retirement was an employee of the Maryland School for the  
6 Deaf; and

7 (3) before retirement, as an employee for the Maryland School for the  
8 Deaf, was a 10-month employee incorrectly classified with the State Retirement  
9 Agency as a 12-month employee.

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
11 July 1, 2010.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.