

Chapter 435

(House Bill 768)

AN ACT concerning

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

FOR the purpose of requiring ~~the Board of Trustees of the State Retirement and Pension System to reduce the retirement allowance of certain retirees by a certain amount beginning on a certain date and continuing the reduction until the retirement allowance equals a certain amount; requiring~~ the Board of Trustees of the State Retirement and Pension System to suspend the application of certain annual retirement allowance adjustments to certain retirees for a certain period of time until certain retirement allowances equal a certain amount; requiring the Board of Trustees to resume the application of certain annual retirement allowance adjustments to certain retirees under certain circumstances; requiring the Board of Trustees to calculate certain benefits for certain designated beneficiaries using a certain retirement allowance; providing that the Board of Trustees is not required to recover certain overpayments made prior to a certain date to certain retirees; and generally relating to the overpayment of retirement benefits to retirees of the Maryland School for the Deaf.

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

BY adding to
Article – State Personnel and Pensions
Section ~~29–402~~ ~~21–113(e)~~ 29–402
Annotated Code of Maryland
(2009 Replacement Volume and 2009 Supplement)

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

Article – State Personnel and Pensions

21–113.

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

- (1) correct the error; and
- (2) to the extent practicable, adjust the payment to the retiree or beneficiary to provide the actuarial equivalent to which the retiree or beneficiary is correctly entitled.

29-402.

(A) THIS SECTION APPLIES TO A RETIREE OF THE EMPLOYEES' RETIREMENT SYSTEM OR EMPLOYEES' PENSION SYSTEM WHO:

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

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

(3) BEFORE RETIREMENT, AS AN EMPLOYEE FOR THE MARYLAND SCHOOL FOR THE DEAF, WAS A 10-MONTH EMPLOYEE INCORRECTLY CLASSIFIED AS A 12-MONTH EMPLOYEE.

(B) (1) IF A RETIREE IS RECEIVING A BENEFIT THAT DIFFERS FROM THE BENEFIT THE RETIREE IS ENTITLED TO RECEIVE, THE BOARD OF TRUSTEES SHALL, BEGINNING JULY 1, 2010, AND EACH SUBSEQUENT JULY 1, SUSPEND ANY ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT THE RETIREE MAY RECEIVE UNDER THIS SUBTITLE.

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

(1) FOR ANY ADJUSTMENT CALCULATED UNDER PART II OR PART III OF THIS SUBTITLE, THE INITIAL ALLOWANCE THE RETIREE WAS ENTITLED TO RECEIVE AND NOT THE INITIAL ALLOWANCE THE RETIREE DID RECEIVE;

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

(III) FOR ANY ADJUSTMENT CALCULATED UNDER PART V OF THIS SUBTITLE, BOTH THE INITIAL ALLOWANCE THE RETIREE WAS ENTITLED TO RECEIVE AND NOT THE INITIAL ALLOWANCE THE RETIREE DID RECEIVE AND THE CURRENT RETIREMENT ALLOWANCE THE RETIREE IS ENTITLED TO RECEIVE AND NOT THE CURRENT RETIREMENT ALLOWANCE THE RETIREE IS RECEIVING.

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

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

(C) IF A RETIREE DIES BEFORE THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE THE RETIREE WAS ENTITLED TO RECEIVE, INCLUDING ANY SUSPENDED ANNUAL RETIREMENT ALLOWANCE ADJUSTMENTS, EQUALS THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE THE RETIREE WAS RECEIVING ON JULY 1, 2010, AND THE RETIREE HAS SELECTED AN OPTIONAL FORM OF ALLOWANCE UNDER TITLE 21, SUBTITLE 4 OF THIS ARTICLE, THE DECEASED RETIREE'S BENEFICIARY SHALL RECEIVE A BENEFIT CALCULATED ON THE RETIREMENT ALLOWANCE THE DECEASED RETIREE WAS ENTITLED TO RECEIVE AT THE TIME OF THE RETIREE'S DEATH AND NOT WHAT THE RETIREE WAS RECEIVING AT THE TIME OF THE RETIREE'S DEATH.

~~29-402.~~

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

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

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

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

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

~~(B) (1) IF A RETIREE IS RECEIVING A BENEFIT THAT DIFFERS FROM THE BENEFIT THE RETIREE IS ENTITLED TO RECEIVE, THE BOARD OF TRUSTEES SHALL, BEGINNING JULY 1, 2010, AND EACH SUBSEQUENT JULY 1, SUSPEND ANY ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT THE RETIREE MAY RECEIVE UNDER THIS SUBTITLE.~~

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

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

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

~~(III) FOR ANY ADJUSTMENT CALCULATED UNDER PART V OF THIS SUBTITLE, BOTH THE INITIAL ALLOWANCE THE RETIREE WAS ENTITLED TO RECEIVE AND NOT THE INITIAL ALLOWANCE THE RETIREE DID RECEIVE AND THE CURRENT RETIREMENT ALLOWANCE THE RETIREE IS ENTITLED TO RECEIVE AND NOT THE CURRENT RETIREMENT ALLOWANCE THE RETIREE IS RECEIVING.~~

~~(3) THE BOARD OF TRUSTEES SHALL SUSPEND ANY ANNUAL RETIREMENT ADJUSTMENT UNDER THIS SUBSECTION UNTIL THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE THE RETIREE IS ENTITLED TO RECEIVE,~~

~~INCLUDING ANY SUSPENDED ANNUAL RETIREMENT ALLOWANCE ADJUSTMENTS, EQUALS THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE THE RETIREE IS RECEIVING ON JULY 1, 2010.~~

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

~~(2) (i) BEGINNING JULY 1, 2010, AND EVERY 6 MONTHS THEREAFTER, THE BOARD OF TRUSTEES SHALL REDUCE A RETIREE'S MONTHLY RETIREMENT ALLOWANCE BY 10% OF THE AMOUNT BY WHICH THE MONTHLY RETIREMENT ALLOWANCE THE RETIREE IS RECEIVING AS OF JUNE 30, 2010, EXCEEDS THE MONTHLY RETIREMENT ALLOWANCE THE RETIREE IS ENTITLED TO RECEIVE AS OF JUNE 30, 2010.~~

~~(ii) THE BOARD OF TRUSTEES SHALL REDUCE A RETIREE'S MONTHLY RETIREMENT ALLOWANCE UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH UNTIL THE MONTHLY RETIREMENT ALLOWANCE THAT THE RETIREE IS RECEIVING EQUALS THE MONTHLY RETIREMENT ALLOWANCE THE RETIREE IS ENTITLED TO RECEIVE AS OF JUNE 30, 2010.~~

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

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

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

~~2. ADJUST THE RETIREE'S ALLOWANCE TO INCLUDE ANY ACCUMULATED COST OF LIVING ADJUSTMENTS FROM THE DATE THE~~

~~COST OF LIVING ADJUSTMENTS WERE SUSPENDED UNDER SUBPARAGRAPH (1) OF THIS PARAGRAPH.~~

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

SECTION 2. AND BE IT FURTHER ENACTED, That, in accordance with § 21-113 of the State Personnel and Pensions Article, the Board of Trustees of the State Retirement and Pension System is not required to recover any improper overpayment received by a retiree on or before July 1, 2010, if the retiree:

- (1) retired from the Employees' Retirement System or Employees' Pension System on or before June 30, 2009;
- (2) before retirement was an employee of the Maryland School for the Deaf; and
- (3) before retirement, as an employee for the Maryland School for the Deaf, was a 10-month employee incorrectly classified with the State Retirement Agency as a 12-month employee.

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

Approved by the Governor, May 4, 2010.