

HOUSE BILL 852

K4

3lr1336
CF SB 801

By: **Delegate Griffith (Chair, Joint Committee on Pensions)**

Introduced and read first time: February 7, 2013

Assigned to: Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 5, 2013

CHAPTER _____

1 AN ACT concerning

2 **State Retirement and Pension Systems – Cost-of-Living Adjustments –**
3 **Simplification and Clarification**

4 FOR the purpose of clarifying the calculation of cost-of-living adjustments for certain
5 State retirement or pension systems; clarifying the applicability of certain
6 cost-of-living adjustments to certain State retirement or pension systems and
7 to certain participants in those systems; consolidating provisions relating to
8 cost-of-living adjustments that apply to all of the cost-of-living adjustments,
9 including the timing of the initial adjustment, types of benefits to which a
10 cost-of-living adjustment does not apply, the application of a zero rate under
11 certain circumstances, and a certain additional adjustment following a fiscal
12 year in which a zero rate adjustment is applied; clarifying the calculation of
13 cost-of-living adjustments for certain participants in certain Deferred
14 Retirement Option Programs; repealing a certain obsolete provision; making
15 technical and conforming changes; defining certain terms; declaring the intent
16 of the General Assembly that this Act be construed in a certain manner; and
17 generally relating to cost-of-living adjustments to certain allowances provided
18 by certain State retirement or pension systems.

19 BY repealing

20 Article – State Personnel and Pensions

21 Section 29–401 through 29–432 and the subtitle “Subtitle 4. Cost-of-Living
22 Adjustments”

23 Annotated Code of Maryland

24 (2009 Replacement Volume and 2012 Supplement)

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 repealing and reenacting, with amendments,
 2 Article – State Personnel and Pensions
 3 Section 21–113(a), 22–219(b)(2), 22–220(b)(2), 22–221(e), 23–218(2),
 4 23–226(a)(2), 24–401(e), 24–401.1(h)(2)(ii) and (j)(1) and (2), 26–210(a)(2),
 5 and 26–401.1(h)(2)(ii) and (j)(1) and (2)
 6 Annotated Code of Maryland
 7 (2009 Replacement Volume and 2012 Supplement)

8 BY adding to
 9 Article – State Personnel and Pensions
 10 Section 29–401 through 29–409 and the subtitle “Subtitle 4. Cost-of-Living
 11 Adjustments”
 12 Annotated Code of Maryland
 13 (2009 Replacement Volume and 2012 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 15 MARYLAND, That Section(s) 29–401 through 29–432 and the subtitle “Subtitle 4.
 16 Cost-of-Living Adjustments” of Article – State Personnel and Pensions of the
 17 Annotated Code of Maryland be repealed.

18 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 19 read as follows:

20 **Article – State Personnel and Pensions**

21 21–113.

22 (a) Except as provided in [§ 29–402] § **29–409** of this article, if, because of
 23 an error in the records of the several systems, a retiree or beneficiary receives a
 24 benefit that differs from the benefit the retiree or beneficiary is entitled to receive, the
 25 Board of Trustees shall:

26 (1) correct the error; and

27 (2) to the extent practicable, adjust the payment to the retiree or
 28 beneficiary to provide the actuarial equivalent to which the retiree or beneficiary is
 29 correctly entitled.

30 22–219.

31 (b) A member who is subject to Selection A (Additional member
 32 contributions) shall:

33 (2) have the allowance adjusted as provided [by Title 29, Subtitle 4,
 34 Part III] IN §§ **29–401 THROUGH 29–403** of this article; and

1 22-220.

2 (b) A member who is subject to Selection B (Limited cost-of-living
3 adjustment) shall:

4 (2) have the allowance adjusted as provided [by Title 29, Subtitle 4,
5 Part IV] IN §§ 29-401, 29-402, AND 29-405 of this article; and

6 22-221.

7 (e) A member who retires on or after the effective date for application of this
8 section shall have the allowance adjusted as provided in [Title 29, Subtitle 4, Part V]
9 §§ 29-401, 29-402, AND 29-407 of this article.

10 23-218.

11 A member who is subject to this Part II of this subtitle shall:

12 (2) have the allowance adjusted as provided in [Title 29, Subtitle 4,
13 Part VI] §§ 29-401, 29-402, 29-406, AND 29-408 of this article; and

14 23-226.

15 (a) Except as provided in subsection (b) of this section, a member who is
16 subject to this Part IV of this subtitle shall:

17 (2) have the allowance adjusted as provided in [Title 29, Subtitle 4,
18 Part VII] §§ 29-401, 29-402, AND 29-408 of this article; and

19 24-401.

20 (e) [(1)] Subject to [paragraph (2) of this subsection,] §§ 29-401, 29-402,
21 AND 29-403 OF THIS ARTICLE, a retiree, or a beneficiary of a retiree, who retires on
22 or before June 30, 1999 with a service retirement allowance, shall receive an annual
23 retirement allowance adjustment as of July 1, 1999, as follows:

24 [(i)] (1) for a retiree who has been retired not more than 5
25 years, \$1,200;

26 [(ii)] (2) for a retiree who has been retired more than 5 years
27 but not more than 10 years, \$1,500;

28 [(iii)] (3) for a retiree who has been retired more than 10 years
29 but not more than 15 years, \$1,800; and

1 [(iv)] (4) for a retiree who has been retired more than 15 years,
2 \$2,100.

3 [(2) Except as provided in paragraph (3) of this subsection, each fiscal
4 year, the Board of Trustees shall adjust the adjustment received by the retiree or the
5 beneficiary as of July 1, 1999, by multiplying the adjustment by a fraction that has:

6 (i) as its numerator, the Consumer Price Index for the calendar
7 year ending December 31 of the preceding fiscal year; and

8 (ii) as its denominator, the Consumer Price Index for the
9 calendar year ending December 31, 1998.

10 (3) (i) In this paragraph, “zero–adjustment fiscal year” means any
11 fiscal year when the allowance adjustment as provided in paragraph (2) of this
12 subsection is less than the allowance adjustment paid for the preceding fiscal year.

13 (ii) For any fiscal year, the allowance adjustment may not be
14 less than the allowance adjustment paid for the preceding fiscal year.

15 (iii) 1. This subparagraph applies only to a fiscal year that is
16 not a zero–adjustment fiscal year.

17 2. Subject to subparagraph 3 of this subparagraph:

18 A. for a fiscal year that follows immediately after a
19 zero–adjustment fiscal year, the allowance adjustment as provided in paragraph (2) of
20 this subsection shall be reduced by the difference between the allowance adjustment
21 paid in the preceding fiscal year and the allowance adjustment that would have been
22 payable for the preceding fiscal year if the allowance for that fiscal year had been
23 adjusted as provided under paragraph (2) of this subsection; and

24 B. for a fiscal year that follows immediately after 2 or
25 more consecutive zero–adjustment fiscal years, the allowance adjustment as provided
26 in paragraph (2) of this subsection shall be reduced by the difference between the total
27 of the allowance adjustments paid in each consecutive zero–adjustment fiscal year
28 preceding the fiscal year and the total allowances that would have been payable for
29 each of the zero–adjustment fiscal years if the allowance adjustment for each of those
30 fiscal years had been adjusted under paragraph (2) of this subsection.

31 3. If the amount of the reduction required for any fiscal
32 year under subparagraph 2 of this subparagraph exceeds the difference between
33 the allowance adjustment as provided in paragraph (2) of this subsection for the fiscal
34 year and the allowance adjustment paid in the preceding fiscal year, the excess shall
35 be deducted in future fiscal years, subject to subparagraph (ii) of this paragraph, until
36 the difference is fully recovered.]

1 24-401.1.

2 (h) (2) During the period that a DROP member participates in the DROP,
3 the Board of Trustees shall:

4 (ii) adjust the DROP member's normal service retirement
5 allowance each fiscal year as provided in [Title 29, Subtitle 4, Part III] §§ 29-401
6 THROUGH 29-403 AND 29-408 of this article; and

7 (j) (1) Except as provided in paragraph (2) of this subsection, as of the
8 first day of the month following termination of a DROP member's participation in the
9 DROP, the Board of Trustees shall commence and continue payment of the normal
10 service retirement allowance, including the [cost of living] COST-OF-LIVING
11 adjustments as provided in [Title 29, Subtitle 4, Part III] §§ 29-401 THROUGH
12 29-403 AND 29-408 of this article, to the member as provided in §§ 24-401 and
13 24-403 of this subtitle.

14 (2) If a DROP member dies before termination of the DROP member's
15 participation in the DROP, the Board of Trustees shall pay 50% of the normal service
16 retirement allowance, including the [cost of living] COST-OF-LIVING adjustments as
17 provided in [Title 29, Subtitle 4, Part III] §§ 29-401 THROUGH 29-403 AND 29-408
18 of this article, to the beneficiary as provided in § 24-403 of this subtitle.

19 26-210.

20 (a) A member who is subject to this Part II of this subtitle shall:

21 (2) have the allowance adjusted as provided in [Title 29, Subtitle 4,
22 Part VI] §§ 29-401, 29-402, 29-406, AND 29-408 of this article; and

23 26-401.1.

24 (h) (2) During the period that a DROP member participates in the DROP,
25 the Board of Trustees shall:

26 (ii) adjust the DROP member's normal service retirement
27 allowance each fiscal year as provided in [Title 29, Subtitle 4, Part VI] §§ 29-401,
28 29-402, 29-406, AND 29-408 of this article; and

29 (j) (1) Except as provided in paragraph (2) of this subsection, as of the
30 first day of the month following termination of a DROP member's participation in the
31 DROP, the Board of Trustees shall commence and continue payment of the normal
32 service retirement allowance, including the cost-of-living adjustments as provided in
33 [Title 29, Subtitle 4, Part VI] §§ 29-401, 29-402, 29-406, AND 29-408 of this
34 article, to the member as provided in §§ 26-401 and 26-402 of this subtitle.

1 (2) If a DROP member dies before termination of the DROP member's
2 participation in the DROP, the Board of Trustees shall pay 50% of the normal service
3 retirement allowance, including the cost-of-living adjustments as provided in [Title
4 29, Subtitle 4, Part VI] §§ 29-401, 29-402, 29-406, AND 29-408 of this article, to
5 the beneficiary as provided in § 26-402 of this subtitle.

6 **SUBTITLE 4. COST-OF-LIVING ADJUSTMENTS.**

7 **29-401.**

8 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
9 **INDICATED.**

10 **(B) (1) "ACCUMULATED COST-OF-LIVING ADJUSTMENT AMOUNT"**
11 **MEANS THE SUM OF ALL PRIOR COST-OF-LIVING ADJUSTMENTS MADE TO AN**
12 **ALLOWANCE.**

13 **(2) "ACCUMULATED COST-OF-LIVING ADJUSTMENT AMOUNT"**
14 **DOES NOT INCLUDE THE COST-OF-LIVING ADJUSTMENT MADE AS OF JULY 1 OF**
15 **THE CURRENT FISCAL YEAR.**

16 **(C) (1) "ALLOWANCE" HAS THE MEANING STATED IN § 20-101 OF**
17 **THIS ARTICLE.**

18 **(2) "ALLOWANCE" INCLUDES AN ANNUAL RETIREMENT**
19 **ALLOWANCE ADJUSTMENT PAYABLE AS OF JULY 1, 1999 TO A RETIREE OF THE**
20 **STATE POLICE RETIREMENT SYSTEM WHO RETIRED ON OR BEFORE JUNE 30,**
21 **1999, UNDER § 24-401(E) OF THIS ARTICLE.**

22 **(D) "CONSUMER PRICE INDEX" MEANS THE ANNUAL AVERAGE**
23 **CONSUMER PRICE INDEX (ALL URBAN CONSUMERS, UNITED STATES CITY**
24 **AVERAGE, ALL ITEMS, NOT SEASONALLY ADJUSTED, 1967 = 100) FOR THE**
25 **CALENDAR YEAR ENDING DECEMBER 31 AS PUBLISHED BY THE UNITED STATES**
26 **DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS.**

27 **(E) "COST-OF-LIVING ADJUSTMENT" MEANS THE AMOUNT BY WHICH**
28 **AN ALLOWANCE IS ADJUSTED AS OF JULY 1 OF A FISCAL YEAR.**

29 **(F) "COST-OF-LIVING RATE" MEANS THE RATE COMPUTED IN**
30 **ACCORDANCE WITH § 29-402(C) OF THIS SUBTITLE THAT IS USED TO**
31 **DETERMINE A COST-OF-LIVING ADJUSTMENT.**

1 (G) “COST-OF-LIVING RATE CAP” MEANS THE MAXIMUM
2 COST-OF-LIVING RATE THAT MAY BE USED TO DETERMINE A COST-OF-LIVING
3 ADJUSTMENT IN A FISCAL YEAR.

4 (H) “EFFECTIVE DATE” MEANS:

5 (1) FOR AN ALLOWANCE OF A FORMER MEMBER, A RETIREE, OR
6 THE SURVIVING BENEFICIARY OF A DECEASED MEMBER, THE FIRST DAY OF THE
7 MONTH IN WHICH AN ALLOWANCE IS FIRST PAID TO THE FORMER MEMBER,
8 RETIREE, OR SURVIVING BENEFICIARY; OR

9 (2) FOR AN ALLOWANCE OF A SURVIVING BENEFICIARY OF A
10 FORMER MEMBER OR A RETIREE, THE FIRST DAY OF THE MONTH IN WHICH AN
11 ALLOWANCE WAS FIRST PAID TO THE FORMER MEMBER OR RETIREE.

12 (I) “INITIAL ALLOWANCE” MEANS A BASIC ALLOWANCE OR AN
13 OPTIONAL ALLOWANCE PAID IN ACCORDANCE WITH § 21-403 OF THIS ~~SUBTITLE~~
14 ARTICLE, NOT INCLUDING A COST-OF-LIVING ADJUSTMENT, ACCUMULATED
15 COST-OF-LIVING ADJUSTMENT, OR ANY ADDITIONAL ANNUITY.

16 (J) “SELECTION A (ADDITIONAL MEMBER CONTRIBUTIONS)” MEANS
17 THE RETIREMENT SELECTION DESCRIBED IN § 22-219 OF THIS ARTICLE.

18 (K) “SELECTION B (LIMITED COST-OF-LIVING ADJUSTMENT)” MEANS
19 THE RETIREMENT SELECTION DESCRIBED IN § 22-220 OF THIS ARTICLE.

20 (L) “SELECTION C (COMBINATION FORMULA)” MEANS THE
21 RETIREMENT SELECTION DESCRIBED IN § 22-221 OF THIS ARTICLE.

22 **29-402.**

23 (A) (1) THIS SUBTITLE APPLIES ONLY TO AN ALLOWANCE PAID TO A
24 FORMER MEMBER, A RETIREE, OR THE SURVIVING BENEFICIARY OF A
25 DECEASED MEMBER, FORMER MEMBER, OR RETIREE OF:

26 (I) THE CORRECTIONAL OFFICERS’ RETIREMENT SYSTEM;

27 (II) THE EMPLOYEES’ PENSION SYSTEM;

28 (III) THE EMPLOYEES’ RETIREMENT SYSTEM;

29 (IV) THE LAW ENFORCEMENT OFFICERS’ PENSION SYSTEM;

30 (V) THE LOCAL FIRE AND POLICE SYSTEM;

1 (VI) THE STATE POLICE RETIREMENT SYSTEM;

2 (VII) THE TEACHERS' PENSION SYSTEM; AND

3 (VIII) THE TEACHERS' RETIREMENT SYSTEM.

4 (2) THIS SUBTITLE DOES NOT APPLY TO AN ALLOWANCE THAT IS
5 PAYABLE UNDER THE JUDGES' RETIREMENT SYSTEM, UNDER THE
6 LEGISLATIVE PENSION PLAN, OR FOR A GOVERNOR UNDER § 22-405 OF THIS
7 ARTICLE.

8 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
9 SUBSECTION, EACH FISCAL YEAR, THE BOARD OF TRUSTEES SHALL ADJUST AN
10 ALLOWANCE AS PROVIDED IN THIS SUBTITLE.

11 (2) AN INITIAL COST-OF-LIVING ADJUSTMENT MAY NOT BE MADE
12 UNTIL THE SECOND JULY 1 AFTER THE DAY PRECEDING THE EFFECTIVE DATE
13 OF AN ALLOWANCE.

14 (3) A COST-OF-LIVING ADJUSTMENT DOES NOT APPLY TO:

15 (I) BENEFITS PAID IN A SINGLE PAYMENT;

16 (II) THE RETURN OF ACCUMULATED CONTRIBUTIONS; OR

17 (III) BENEFITS ATTRIBUTABLE TO ADDITIONAL
18 CONTRIBUTIONS.

19 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
20 SUBSECTION, AND SUBJECT TO SUBSECTION (F) OF THIS SECTION, TO
21 DETERMINE THE COST-OF-LIVING RATE USED TO ADJUST AN ALLOWANCE IN A
22 FISCAL YEAR, THE BOARD OF TRUSTEES SHALL:

23 (I) SUBTRACT THE CONSUMER PRICE INDEX FOR THE
24 CALENDAR YEAR ENDING DECEMBER 31 IN THE SECOND PRECEDING FISCAL
25 YEAR FROM THE CONSUMER PRICE INDEX FOR THE CALENDAR YEAR ENDING
26 DECEMBER 31 IN THE PRECEDING FISCAL YEAR; AND

27 (II) DIVIDE THE AMOUNT DETERMINED UNDER ITEM (I) OF
28 THIS PARAGRAPH BY THE CONSUMER PRICE INDEX FOR THE CALENDAR YEAR
29 ENDING DECEMBER 31 IN THE SECOND PRECEDING FISCAL YEAR.

1 **(2) THE COST-OF-LIVING RATE USED TO ADJUST AN ALLOWANCE**
2 **IN A FISCAL YEAR MAY NOT EXCEED ANY COST-OF-LIVING RATE CAP THAT IS**
3 **APPLICABLE TO THE ALLOWANCE UNDER § 29-404(C), § 29-405(C), § 29-406(C),**
4 **OR § 29-408(C) OF THIS SUBTITLE.**

5 **(D) (1) A COST-OF-LIVING ADJUSTMENT PAYABLE IN A FISCAL YEAR**
6 **SHALL BE DETERMINED AS PROVIDED IN THIS SUBSECTION.**

7 **(2) FOR A COMPOUND COST-OF-LIVING ADJUSTMENT, THE**
8 **COST-OF-LIVING ADJUSTMENT AS OF JULY 1 OF A FISCAL YEAR SHALL BE**
9 **DETERMINED BY MULTIPLYING THE COST-OF-LIVING RATE DETERMINED IN**
10 **SUBSECTION (C) OF THIS SECTION BY THE SUM OF:**

11 **(I) THE INITIAL ALLOWANCE; AND**

12 **(II) THE ACCUMULATED COST-OF-LIVING ADJUSTMENT**
13 **AMOUNT.**

14 **(3) FOR A SIMPLE COST-OF-LIVING ADJUSTMENT, THE**
15 **COST-OF-LIVING ADJUSTMENT AS OF JULY 1 OF A FISCAL YEAR SHALL BE**
16 **DETERMINED BY MULTIPLYING THE COST-OF-LIVING RATE DETERMINED IN**
17 **SUBSECTION (C) OF THIS SECTION BY THE INITIAL ALLOWANCE.**

18 **(E) THE TOTAL ALLOWANCE PAYABLE IN ANY FISCAL YEAR SHALL BE**
19 **THE SUM OF:**

20 **(1) THE INITIAL ALLOWANCE;**

21 **(2) THE COST-OF-LIVING ADJUSTMENT;**

22 **(3) THE ACCUMULATED COST-OF-LIVING ADJUSTMENT AMOUNT;**
23 **AND**

24 **(4) ANY ADDITIONAL ANNUITY.**

25 **(F) (1) IN THIS SUBSECTION, “ZERO RATE FISCAL YEAR” MEANS ANY**
26 **FISCAL YEAR WHEN THE COST-OF-LIVING RATE CALCULATED UNDER**
27 **SUBSECTION (C) OF THIS SECTION IS LESS THAN 0%.**

28 **(2) FOR ANY FISCAL YEAR IN WHICH THE COST-OF-LIVING RATE**
29 **DETERMINED UNDER SUBSECTION (C) OF THIS SECTION IS LESS THAN 0%, THE**
30 **COST-OF-LIVING RATE FOR THAT FISCAL YEAR SHALL BE 0%.**

1 **(3) (I) THIS PARAGRAPH APPLIES ONLY TO A FISCAL YEAR**
2 **THAT IS NOT A ZERO RATE FISCAL YEAR.**

3 **(II) SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH:**

4 **1. FOR A FISCAL YEAR THAT FOLLOWS IMMEDIATELY**
5 **AFTER A ZERO RATE FISCAL YEAR, THE COST-OF-LIVING RATE DETERMINED**
6 **UNDER SUBSECTION (C) OF THIS SECTION SHALL BE REDUCED BY THE**
7 **DIFFERENCE BETWEEN 0% AND THE COST-OF-LIVING RATE THAT WOULD HAVE**
8 **BEEN DETERMINED UNDER SUBSECTION (C) OF THIS SECTION FOR THE**
9 **PRECEDING FISCAL YEAR WITHOUT REGARD TO PARAGRAPH (2) OF THIS**
10 **SUBSECTION; AND**

11 **2. FOR A FISCAL YEAR THAT FOLLOWS IMMEDIATELY**
12 **AFTER 2 OR MORE CONSECUTIVE ZERO RATE FISCAL YEARS, THE**
13 **COST-OF-LIVING RATE DETERMINED UNDER SUBSECTION (C) OF THIS SECTION**
14 **SHALL BE REDUCED BY THE DIFFERENCE BETWEEN 0% AND THE TOTAL**
15 **COST-OF-LIVING RATE THAT WOULD HAVE BEEN DETERMINED UNDER**
16 **SUBSECTION (C) OF THIS SECTION FOR EACH OF THOSE FISCAL YEARS WITHOUT**
17 **REGARD TO PARAGRAPH (2) OF THIS SUBSECTION.**

18 **(III) IF THE RATE REDUCTION REQUIRED FOR ANY FISCAL**
19 **YEAR UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH WOULD REDUCE THE**
20 **COST-OF-LIVING RATE FOR THE FISCAL YEAR TO BE LESS THAN 0%, THE**
21 **DIFFERENCE BETWEEN 0% AND THE EXCESS RATE REDUCTION SHALL BE**
22 **DEDUCTED FROM THE COST-OF-LIVING RATE IN FUTURE YEARS, SUBJECT TO**
23 **PARAGRAPH (2) OF THIS SUBSECTION, UNTIL THE TOTAL REQUIRED RATE**
24 **REDUCTION HAS BEEN FULLY APPLIED.**

25 **29-403.**

26 **(A) THIS SECTION APPLIES ONLY TO:**

27 **(1) AN ALLOWANCE OF A FORMER MEMBER, RETIREE, OR**
28 **SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR**
29 **RETIREE:**

30 **(I) OF THE EMPLOYEES' RETIREMENT SYSTEM OR THE**
31 **TEACHERS' RETIREMENT SYSTEM WHO ELECTED SELECTION A (ADDITIONAL**
32 **MEMBER CONTRIBUTIONS);**

33 **(II) WHO TRANSFERRED TO THE LOCAL FIRE AND POLICE**
34 **SYSTEM FROM THE EMPLOYEES' RETIREMENT SYSTEM; OR**

1 (III) WHO TRANSFERRED TO THE LAW ENFORCEMENT
2 OFFICERS' PENSION SYSTEM FROM THE EMPLOYEES' RETIREMENT SYSTEM
3 AND HAD ELECTED SELECTION A (ADDITIONAL MEMBER CONTRIBUTIONS);

4 (2) AN ALLOWANCE BASED ON CREDITABLE SERVICE EARNED
5 BEFORE JULY 1, 2011, FOR A FORMER MEMBER, RETIREE, OR SURVIVING
6 BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR RETIREE OF:

7 (I) THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM;
8 OR

9 (II) THE STATE POLICE RETIREMENT SYSTEM; AND

10 (3) AN ADDITIONAL ANNUAL ALLOWANCE ADJUSTMENT PAYABLE
11 TO A RETIREE OR THE BENEFICIARY OF A RETIREE OF THE STATE POLICE
12 RETIREMENT SYSTEM UNDER § 24-401(E) OF THIS ARTICLE.

13 (B) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION
14 SHALL BE A COMPOUND COST-OF-LIVING ADJUSTMENT COMPUTED IN
15 ACCORDANCE WITH § 29-402(D)(2) OF THIS SUBTITLE.

16 (C) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION IS
17 NOT SUBJECT TO ANY COST-OF-LIVING RATE CAP.

18 (D) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION
19 MAY NOT REDUCE AN ALLOWANCE TO AN AMOUNT THAT IS LESS THAN THE
20 INITIAL ALLOWANCE.

21 **29-404.**

22 (A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
23 SUBSECTION, THIS SECTION APPLIES ONLY TO AN ALLOWANCE BASED ON
24 CREDITABLE SERVICE EARNED BEFORE JULY 1, 2011, FOR A FORMER MEMBER,
25 RETIREE, OR SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER
26 MEMBER, OR RETIREE OF:

27 (I) THE EMPLOYEES' PENSION SYSTEM, IF THE DECEASED
28 MEMBER, FORMER MEMBER, OR RETIREE WAS AN EMPLOYEE OF:

29 1. A PARTICIPATING GOVERNMENTAL UNIT THAT
30 HAS NOT ELECTED THE CONTRIBUTORY PENSION BENEFIT OR THE ALTERNATE
31 CONTRIBUTORY PENSION SELECTION FOR ITS MEMBER IN ACCORDANCE WITH
32 § 31-116 OR § 31-116.1 OF THIS ARTICLE; OR

1 **2. A FORMER PARTICIPATING GOVERNMENTAL UNIT,**
2 **OTHER THAN FREDERICK COUNTY, THAT HAS WITHDRAWN BEFORE JULY 1,**
3 **1998, WHILE A MEMBER;**

4 **(II) THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM,**
5 **ONLY IF THE DECEASED MEMBER, FORMER MEMBER, OR RETIREE**
6 **TRANSFERRED TO THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM FROM**
7 **THE EMPLOYEES' RETIREMENT SYSTEM AND DID NOT ELECT TO PARTICIPATE**
8 **IN THE LAW ENFORCEMENT OFFICERS' MODIFIED PENSION BENEFIT ON OR**
9 **BEFORE DECEMBER 31, 2000, AS PROVIDED IN § 26-211 OF THIS ARTICLE; OR**

10 **(III) THE LOCAL FIRE AND POLICE SYSTEM.**

11 **(2) THIS SECTION DOES NOT APPLY TO AN ALLOWANCE THAT IS**
12 **SUBJECT TO ADJUSTMENT UNDER § 29-403, § 29-405, § 29-406, § 29-407, OR §**
13 **29-408 OF THIS SUBTITLE.**

14 **(B) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION**
15 **SHALL BE A SIMPLE COST-OF-LIVING ADJUSTMENT COMPUTED IN**
16 **ACCORDANCE WITH § 29-402(D)(3) OF THIS SUBTITLE.**

17 **(C) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION**
18 **SHALL BE SUBJECT TO A COST-OF-LIVING RATE CAP OF 3%.**

19 **29-405.**

20 **(A) THIS SECTION APPLIES ONLY TO AN ALLOWANCE RECEIVED BY A**
21 **FORMER MEMBER, RETIREE, OR SURVIVING BENEFICIARY OF A DECEASED**
22 **MEMBER, FORMER MEMBER, OR RETIREE:**

23 **(1) OF THE EMPLOYEES' RETIREMENT SYSTEM OR THE**
24 **TEACHERS' RETIREMENT SYSTEM WHO ELECTED SELECTION B (LIMITED**
25 **COST-OF-LIVING ADJUSTMENT); OR**

26 **(2) WHO TRANSFERRED TO THE LAW ENFORCEMENT OFFICERS'**
27 **PENSION SYSTEM FROM THE EMPLOYEES' RETIREMENT SYSTEM AND HAD**
28 **ELECTED SELECTION B (LIMITED COST-OF-LIVING ADJUSTMENT).**

29 **(B) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION**
30 **SHALL BE A COMPOUND COST-OF-LIVING ADJUSTMENT COMPUTED IN**
31 **ACCORDANCE WITH § 29-402(D)(2) OF THIS SUBTITLE.**

32 **(C) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION**
33 **SHALL BE SUBJECT TO A COST-OF-LIVING RATE CAP OF 5%.**

1 **29-406.**

2 (A) (1) EXCEPT AS PROVIDED IN SUBSECTION (A)(2) OF THIS
3 SECTION, THIS SECTION APPLIES:

4 (I) ON OR AFTER JULY 1, 1998, ONLY TO AN ALLOWANCE
5 BASED ON CREDITABLE SERVICE EARNED BEFORE JULY 1, 2011, AND RECEIVED
6 BY A FORMER MEMBER, RETIREE, OR SURVIVING BENEFICIARY OF A DECEASED
7 MEMBER, FORMER MEMBER, OR RETIREE OF THE EMPLOYEES' PENSION
8 SYSTEM OR THE TEACHERS' PENSION SYSTEM; AND

9 (II) ON OR AFTER DECEMBER 31, 2000, ONLY TO AN
10 ALLOWANCE BASED ON CREDITABLE SERVICE EARNED BEFORE JULY 1, 2011,
11 AND RECEIVED BY A FORMER MEMBER, RETIREE, OR SURVIVING BENEFICIARY
12 OF A DECEASED MEMBER, FORMER MEMBER, OR RETIREE OF THE LAW
13 ENFORCEMENT OFFICERS' PENSION SYSTEM.

14 (2) THIS SECTION DOES NOT APPLY IF THE MEMBER, FORMER
15 MEMBER, OR RETIREE:

16 (I) WAS AN EMPLOYEE OF A PARTICIPATING
17 GOVERNMENTAL UNIT THAT DID NOT ELECT THE CONTRIBUTORY PENSION
18 BENEFIT OR THE ALTERNATE CONTRIBUTORY PENSION SELECTION FOR ITS
19 EMPLOYEES IN ACCORDANCE WITH § 31-116 OR § 31-116.1 OF THIS ARTICLE;

20 (II) WAS AN EMPLOYEE OF A FORMER PARTICIPATING
21 GOVERNMENTAL UNIT, OTHER THAN FREDERICK COUNTY, THAT HAS
22 WITHDRAWN BEFORE JULY 1, 1998, WHILE A MEMBER; OR

23 (III) TRANSFERRED TO THE LAW ENFORCEMENT OFFICERS'
24 PENSION SYSTEM FROM THE EMPLOYEES' RETIREMENT SYSTEM AND DID NOT
25 ELECT TO PARTICIPATE IN THE LAW ENFORCEMENT OFFICERS' MODIFIED
26 PENSION BENEFIT ON OR BEFORE DECEMBER 31, 2000, AS PROVIDED IN §
27 26-211 OF THIS ARTICLE.

28 (B) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION
29 SHALL BE A COMPOUND COST-OF-LIVING ADJUSTMENT COMPUTED IN
30 ACCORDANCE WITH § 29-402(D)(2) OF THIS SUBTITLE.

31 (C) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION
32 SHALL BE SUBJECT TO A COST-OF-LIVING RATE CAP OF 3%.

33 **29-407.**

1 **(A) THIS SECTION APPLIES ONLY TO AN ALLOWANCE RECEIVED BY A**
2 **FORMER MEMBER, RETIREE, OR SURVIVING BENEFICIARY OF A DECEASED**
3 **MEMBER, FORMER MEMBER, OR RETIREE OF THE EMPLOYEES' RETIREMENT**
4 **SYSTEM OR THE TEACHERS' RETIREMENT SYSTEM WHO ELECTED SELECTION**
5 **C (COMBINATION FORMULA).**

6 **(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OR (D) OF THIS SECTION,**
7 **THE BOARD OF TRUSTEES SHALL ADJUST AN ALLOWANCE SUBJECT TO THIS**
8 **SECTION:**

9 **(1) FOR CREDITABLE SERVICE BEFORE THE EFFECTIVE DATE OF**
10 **SELECTION, THE COST-OF-LIVING ADJUSTMENT AS PROVIDED BY § 29-403 OF**
11 **THIS SUBTITLE; AND**

12 **(2) FOR CREDITABLE SERVICE ON OR AFTER THE EFFECTIVE**
13 **DATE OF SELECTION, THE COST-OF-LIVING ADJUSTMENT AS PROVIDED BY §**
14 **29-406 OF THIS SUBTITLE.**

15 **(C) FOR A MEMBER, FORMER MEMBER, OR RETIREE WHO WAS SUBJECT**
16 **TO SELECTION B (LIMITED COST-OF-LIVING ADJUSTMENT) BEFORE ELECTING**
17 **SELECTION C (COMBINATION FORMULA), THE BOARD OF TRUSTEES SHALL**
18 **ADJUST AN ALLOWANCE SUBJECT TO THIS SECTION:**

19 **(1) FOR CREDITABLE SERVICE BEFORE THE EFFECTIVE DATE OF**
20 **SELECTION, THE COST-OF-LIVING ADJUSTMENT AS PROVIDED BY § 29-405 OF**
21 **THIS SUBTITLE; AND**

22 **(2) SUBJECT TO SUBSECTION (D) OF THIS SECTION, FOR**
23 **CREDITABLE SERVICE ON OR AFTER THE EFFECTIVE DATE OF SELECTION, THE**
24 **COST-OF-LIVING ADJUSTMENT AS PROVIDED BY § 29-406 OF THIS SUBTITLE.**

25 **(D) IF AN ALLOWANCE IS RECEIVED BY A FORMER MEMBER, RETIREE,**
26 **OR A SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR**
27 **RETIREE WHO, WHILE A MEMBER, WAS AN EMPLOYEE OF A PARTICIPATING**
28 **GOVERNMENTAL UNIT THAT HAS NOT ELECTED THE CONTRIBUTORY PENSION**
29 **BENEFIT OR THE ALTERNATE CONTRIBUTORY PENSION SELECTION FOR ITS**
30 **MEMBERS IN ACCORDANCE WITH § 31-116 OR § 31-116.1 OF THIS ARTICLE, OR**
31 **A FORMER PARTICIPATING GOVERNMENTAL UNIT, OTHER THAN FREDERICK**
32 **COUNTY, THAT HAS WITHDRAWN BEFORE JULY 1, 1998, THE BOARD OF**
33 **TRUSTEES SHALL ADJUST THE ALLOWANCE FOR CREDITABLE SERVICE ON OR**
34 **AFTER THE EFFECTIVE DATE OF SELECTION AS PROVIDED IN § 29-404 OF THIS**
35 **SUBTITLE.**

1 **29-408.**

2 (A) THIS SECTION APPLIES ONLY TO AN ALLOWANCE BASED ON
3 CREDITABLE SERVICE EARNED ON OR AFTER JULY 1, 2011, FOR A FORMER
4 MEMBER, RETIREE, OR SURVIVING BENEFICIARY OF A DECEASED MEMBER,
5 FORMER MEMBER, OR RETIREE OF:

6 (1) THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM;

7 (2) THE EMPLOYEES' PENSION SYSTEM;

8 (3) THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM;

9 (4) THE STATE POLICE RETIREMENT SYSTEM; OR

10 (5) THE TEACHERS' PENSION SYSTEM.

11 (B) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION
12 SHALL BE A COMPOUND COST-OF-LIVING ADJUSTMENT COMPUTED IN
13 ACCORDANCE WITH § 29-402(D)(2) OF THIS SUBTITLE.

14 (C) A COST-OF-LIVING ADJUSTMENT PAYABLE UNDER THIS SECTION
15 SHALL BE SUBJECT TO A COST-OF-LIVING RATE CAP OF:

16 (1) 2.5% IF, FOR THE CALENDAR YEAR ENDING DECEMBER 31 IN
17 THE PRECEDING FISCAL YEAR, THE TOTAL INVESTMENT PERFORMANCE OF THE
18 SEVERAL SYSTEMS EQUALS OR EXCEEDS THE ASSUMED RATE OF INVESTMENT
19 RETURN ESTABLISHED BY THE BOARD OF TRUSTEES IN ACCORDANCE WITH §
20 21-125(C) OF THIS ARTICLE AND IN EFFECT AS OF DECEMBER 31 OF THE
21 PRECEDING FISCAL YEAR; OR

22 (2) 1% IF, FOR THE CALENDAR YEAR ENDING DECEMBER 31 IN
23 THE PRECEDING FISCAL YEAR, THE TOTAL INVESTMENT PERFORMANCE OF THE
24 SEVERAL SYSTEMS DOES NOT EQUAL OR EXCEED THE ASSUMED RATE OF
25 INVESTMENT RETURN ESTABLISHED BY THE BOARD OF TRUSTEES IN
26 ACCORDANCE WITH § 21-125(C) OF THIS ARTICLE AND IN EFFECT AS OF
27 DECEMBER 31 OF THE PRECEDING FISCAL YEAR.

28 **29-409.**

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

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

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

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

8 **(B) (1) IF A RETIREE IS RECEIVING A BENEFIT THAT DIFFERS FROM**
9 **THE BENEFIT THE RETIREE IS ENTITLED TO RECEIVE, THE BOARD OF**
10 **TRUSTEES SHALL, BEGINNING JULY 1, 2010, AND EACH SUBSEQUENT JULY 1,**
11 **SUSPEND ANY ANNUAL COST-OF-LIVING ADJUSTMENT THE RETIREE MAY**
12 **OTHERWISE BE ENTITLED TO RECEIVE UNDER THIS SUBTITLE.**

13 **(2) BEGINNING JULY 1, 2010, AND EACH SUBSEQUENT JULY 1,**
14 **ANY ADJUSTMENT TO THE RETIREE'S ANNUAL RETIREMENT ALLOWANCE**
15 **DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE**
16 **CALCULATED USING THE CURRENT RETIREMENT ALLOWANCE THE RETIREE IS**
17 **ENTITLED TO RECEIVE AND NOT THE CURRENT RETIREMENT ALLOWANCE THE**
18 **RETIREE IS RECEIVING.**

19 **(3) THE BOARD OF TRUSTEES SHALL SUSPEND ANY ANNUAL**
20 **COST-OF-LIVING ADJUSTMENT OTHERWISE PAYABLE UNDER THIS SUBSECTION**
21 **UNTIL THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE THE RETIREE IS**
22 **ENTITLED TO RECEIVE, INCLUDING ANY SUSPENDED ANNUAL COST-OF-LIVING**
23 **ADJUSTMENT, EQUALS OR EXCEEDS THE TOTAL AMOUNT OF RETIREMENT**
24 **ALLOWANCE THE RETIREE IS RECEIVING ON JULY 1, 2010.**

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

34 **(C) IF A RETIREE DIES BEFORE THE TOTAL AMOUNT OF RETIREMENT**
35 **ALLOWANCE THE RETIREE WAS ENTITLED TO RECEIVE, INCLUDING ANY**
36 **SUSPENDED ANNUAL COST-OF-LIVING ADJUSTMENTS, EQUALS THE TOTAL**
37 **AMOUNT OF RETIREMENT ALLOWANCE THE RETIREE WAS RECEIVING ON JULY**

1 **1, 2010, AND THE RETIREE HAS SELECTED AN OPTIONAL FORM OF ALLOWANCE**
 2 **UNDER TITLE 21, SUBTITLE 4 OF THIS ARTICLE, THE DECEASED RETIREE’S**
 3 **BENEFICIARY SHALL RECEIVE A BENEFIT CALCULATED ON THE RETIREMENT**
 4 **ALLOWANCE THE DECEASED RETIREE WAS ENTITLED TO RECEIVE AT THE TIME**
 5 **OF THE RETIREE’S DEATH AND NOT WHAT THE RETIREE WAS RECEIVING AT THE**
 6 **TIME OF THE RETIREE’S DEATH.**

7 SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the
 8 General Assembly that this Act shall be construed as clarifying the provisions
 9 providing for the calculations of cost-of-living adjustments for recipients of benefits
 10 from the State Retirement and Pension System and may not be construed to
 11 substantively alter the benefits an individual is receiving or is entitled to receive.

12 SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
 13 effect July 1, 2013.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.