

Chapter 551

(House Bill 852)

AN ACT concerning

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

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

BY repealing

Article – State Personnel and Pensions

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

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions

Section 21–113(a), 22–219(b)(2), 22–220(b)(2), 22–221(e), 23–218(2), 23–226(a)(2), 24–401(e), 24–401.1(h)(2)(ii) and (j)(1) and (2), 26–210(a)(2), and 26–401.1(h)(2)(ii) and (j)(1) and (2)

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY adding to

Article – State Personnel and Pensions

Section 29–401 through 29–409 and the subtitle “Subtitle 4. Cost-of-Living Adjustments”

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

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 Cost-of-Living Adjustments” of Article – State Personnel and Pensions of the Annotated Code of Maryland be repealed.

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

Article – State Personnel and Pensions

21–113.

(a) Except as provided in [§ 29–402] **§ 29–409** 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.

22–219.

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

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

22–220.

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

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

22–221.

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

23-218.

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

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

23-226.

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

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

24-401.

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

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

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

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

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

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

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

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

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

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

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

2. Subject to subparagraph 3 of this subparagraph:

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

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

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

24–401.1.

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

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

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

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

26-210.

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

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

26-401.1.

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

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

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

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

SUBTITLE 4. COST-OF-LIVING ADJUSTMENTS.

29-401.

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

(B) (1) “ACCUMULATED COST-OF-LIVING ADJUSTMENT AMOUNT” MEANS THE SUM OF ALL PRIOR COST-OF-LIVING ADJUSTMENTS MADE TO AN ALLOWANCE.

(2) “ACCUMULATED COST-OF-LIVING ADJUSTMENT AMOUNT” DOES NOT INCLUDE THE COST-OF-LIVING ADJUSTMENT MADE AS OF JULY 1 OF THE CURRENT FISCAL YEAR.

(C) (1) “ALLOWANCE” HAS THE MEANING STATED IN § 20-101 OF THIS ARTICLE.

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

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

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

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

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

(H) “EFFECTIVE DATE” MEANS:

(1) FOR AN ALLOWANCE OF A FORMER MEMBER, A RETIREE, OR THE SURVIVING BENEFICIARY OF A DECEASED MEMBER, THE FIRST DAY OF THE

MONTH IN WHICH AN ALLOWANCE IS FIRST PAID TO THE FORMER MEMBER, RETIREE, OR SURVIVING BENEFICIARY; OR

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

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

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

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

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

29-402.

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

- (I) THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM;
- (II) THE EMPLOYEES' PENSION SYSTEM;
- (III) THE EMPLOYEES' RETIREMENT SYSTEM;
- (IV) THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM;
- (V) THE LOCAL FIRE AND POLICE SYSTEM;
- (VI) THE STATE POLICE RETIREMENT SYSTEM;
- (VII) THE TEACHERS' PENSION SYSTEM; AND
- (VIII) THE TEACHERS' RETIREMENT SYSTEM.

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

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

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

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

(I) BENEFITS PAID IN A SINGLE PAYMENT;

(II) THE RETURN OF ACCUMULATED CONTRIBUTIONS; OR

(III) BENEFITS ATTRIBUTABLE TO ADDITIONAL CONTRIBUTIONS.

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

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

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

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

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

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

(I) THE INITIAL ALLOWANCE; AND

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

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

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

(1) THE INITIAL ALLOWANCE;

(2) THE COST-OF-LIVING ADJUSTMENT;

(3) THE ACCUMULATED COST-OF-LIVING ADJUSTMENT AMOUNT;

AND

(4) ANY ADDITIONAL ANNUITY.

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

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

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

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

1. FOR A FISCAL YEAR THAT FOLLOWS IMMEDIATELY AFTER A ZERO RATE FISCAL YEAR, THE COST-OF-LIVING RATE DETERMINED UNDER SUBSECTION (C) OF THIS SECTION SHALL BE REDUCED BY THE

DIFFERENCE BETWEEN 0% AND THE COST-OF-LIVING RATE THAT WOULD HAVE BEEN DETERMINED UNDER SUBSECTION (C) OF THIS SECTION FOR THE PRECEDING FISCAL YEAR WITHOUT REGARD TO PARAGRAPH (2) OF THIS SUBSECTION; AND

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

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

29-403.

(A) THIS SECTION APPLIES ONLY TO:

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

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

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

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

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

(I) THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM;
OR

(II) THE STATE POLICE RETIREMENT SYSTEM; AND

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

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

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

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

29-404.

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

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

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

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

(II) THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM, ONLY IF THE DECEASED MEMBER, FORMER MEMBER, OR RETIREE TRANSFERRED TO THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM FROM

THE EMPLOYEES' RETIREMENT SYSTEM AND DID NOT ELECT TO PARTICIPATE IN THE LAW ENFORCEMENT OFFICERS' MODIFIED PENSION BENEFIT ON OR BEFORE DECEMBER 31, 2000, AS PROVIDED IN § 26-211 OF THIS ARTICLE; OR

(III) THE LOCAL FIRE AND POLICE SYSTEM.

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

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

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

29-405.

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

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

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

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

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

29-406.

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

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

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

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

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

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

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

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

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

29-407.

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

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

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

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

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

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

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

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

29-408.

(A) THIS SECTION APPLIES ONLY TO AN ALLOWANCE BASED ON CREDITABLE SERVICE EARNED ON OR AFTER JULY 1, 2011, FOR A FORMER

MEMBER, RETIREE, OR SURVIVING BENEFICIARY OF A DECEASED MEMBER, FORMER MEMBER, OR RETIREE OF:

- (1) THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM;**
- (2) THE EMPLOYEES' PENSION SYSTEM;**
- (3) THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM;**
- (4) THE STATE POLICE RETIREMENT SYSTEM; OR**
- (5) THE TEACHERS' PENSION SYSTEM.**

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

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

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

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

29-409.

(A) THIS SECTION APPLIES ONLY 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 OF 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 COST-OF-LIVING ADJUSTMENT THE RETIREE MAY OTHERWISE BE ENTITLED TO 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 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 COST-OF-LIVING ADJUSTMENT OTHERWISE PAYABLE UNDER THIS SUBSECTION UNTIL THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE THE RETIREE IS ENTITLED TO RECEIVE, INCLUDING ANY SUSPENDED ANNUAL COST-OF-LIVING ADJUSTMENT, EQUALS OR EXCEEDS 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 COST-OF-LIVING ADJUSTMENTS, EQUALS OR EXCEEDS 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, SO THAT THE AMOUNT OF THE ALLOWANCE, INCLUDING ANY COST-OF-LIVING ADJUSTMENTS, EQUALS THE TOTAL ALLOWANCE THE RETIREE IS ENTITLED TO RECEIVE.

(C) IF A RETIREE DIES BEFORE THE TOTAL AMOUNT OF RETIREMENT ALLOWANCE THE RETIREE WAS ENTITLED TO RECEIVE, INCLUDING ANY SUSPENDED ANNUAL COST-OF-LIVING 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.

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

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

Approved by the Governor, May 16, 2013.