

Chapter 347

(House Bill 861)

AN ACT concerning

State Retirement and Pension System – Service Credit for Unused Sick Leave

FOR the purpose of making certain members of the State Retirement and Pension System eligible to receive creditable service at retirement for unused sick leave accrued by the member in certain systems in the State Retirement and Pension System under certain circumstances; providing for the calculation of the creditable service for unused sick leave accrued by certain members in certain systems; requiring a certain adjustment to a certain retirement benefit for certain retirees; and generally relating to creditable service for unused sick leave in the State Retirement and Pension System.

BY repealing and reenacting, with amendments,
Article – State Personnel and Pensions
Section 20–206
Annotated Code of Maryland
(2015 Replacement Volume and 2018 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

20–206.

- (a) In this section, “unused sick leave” means sick leave credit that:
 - (1) has not been used before retirement; and
 - (2) was available to the member to be used as sick leave during employment.
- (b) This section does not apply to:
 - (1) the Judges’ Retirement System; or
 - (2) the Legislative Pension Plan.
- (c) Except as provided in [subsection] **SUBSECTIONS (f) AND (G)** of this section, a member is entitled to receive creditable service for unused sick leave if the member retires on or before 30 days after the member is separated from employment with a participating employer or a participating governmental unit that has withdrawn from one of the several

systems under Title 31 of this article.

(d) (1) At retirement, a member is entitled to receive creditable service for unused sick leave, on verification of the unused sick leave to the Board of Trustees.

(2) (i) This subsection does not apply to the Local Fire and Police System or the Law Enforcement Officers' Pension System.

(ii) A member who separates from employment for reasons other than retirement on or before June 30, 1990, is entitled to receive creditable service for unused sick leave that is reported by the member's employer at the member's separation from employment if the member was entitled to a vested allowance at the time of separation.

(e) (1) Subject to paragraphs (2) and (3) of this subsection, for 22 days of unused sick leave a member is entitled to receive 1 month of creditable service.

(2) (i) If a member has at least 11 days but less than 22 days of unused sick leave, the member is entitled to receive 1 month of creditable service.

(ii) If a member has at least 22 days of unused sick leave, and if fractional days totaling 11 or more result from the application of the formula described in paragraph (1) of this subsection, a member is entitled to receive 1 additional month of creditable service.

(3) For the purposes of this section:

(i) a member may not accumulate more than 15 days of sick leave per year;

(ii) unless sick leave credit is accepted and credited by the current participating employer, a member may not receive credit for unused sick leave granted by a former employer; and

(iii) in determining the amount of unused sick leave a member is eligible to use as creditable service at retirement, the Board of Trustees shall use the lesser of:

1. the member's number of years of creditable service, not including credit for unused sick leave, multiplied by 15; or

2. the member's cumulative number of unused sick leave days reported by the participating employer.

(f) (1) This subsection applies to a member of the Employees' Pension System who:

(i) was a member of the Correctional Officers' Retirement System and was transferred from the Correctional Officers' Retirement System to the Employees' Pension System as a result of a change in position with the same employer that rendered the individual ineligible for membership in the Correctional Officers' Retirement System; and

(ii) did not transfer service credit from the Correctional Officers' Retirement System to the Employees' Pension System.

(2) Subject to paragraph (3) of this subsection, a member is entitled to receive creditable service for the total amount of unused sick leave accrued by the member at the time of retirement.

(3) The creditable service for unused sick leave shall be calculated for each of the two State systems by multiplying the total amount of unused sick leave, calculated in accordance with subsection (e) of this section, by a fraction:

(i) the numerator of which is the creditable service earned in the State system, not including the creditable service for unused sick leave; and

(ii) the denominator of which is the total creditable service earned in both State systems, not including the creditable service for unused sick leave.

(G) (1) THIS SUBSECTION APPLIES TO A MEMBER OF THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM WHO:

(I) WAS A MEMBER OF THE EMPLOYEES' PENSION SYSTEM OR EMPLOYEES' RETIREMENT SYSTEM AND WAS TRANSFERRED FROM THE EMPLOYEES' PENSION SYSTEM OR EMPLOYEES' RETIREMENT SYSTEM TO THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM AS A RESULT OF A CHANGE IN MEMBERSHIP WITHIN THE SEVERAL SYSTEMS THAT RENDERED THE INDIVIDUAL INELIGIBLE FOR MEMBERSHIP IN THE EMPLOYEES' PENSION SYSTEM OR THE EMPLOYEES' RETIREMENT SYSTEM;

(II) DID NOT TRANSFER SERVICE CREDIT FROM THE EMPLOYEES' PENSION SYSTEM OR THE EMPLOYEES' RETIREMENT SYSTEM TO THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM; AND

(III) 1. RETIRES UNDER § 25-401 OF THIS ARTICLE, AND RECEIVES A VESTED BENEFIT FROM THE EMPLOYEES' PENSION SYSTEM OR THE EMPLOYEES' RETIREMENT SYSTEM;

2. RETIRES UNDER §§ 22-401, 22-402, 23-401, OR 23-402 OF THIS ARTICLE, AND RECEIVES A VESTED BENEFIT FROM THE

CORRECTIONAL OFFICERS' RETIREMENT SYSTEM FOR SERVICE EARNED ON OR AFTER JULY 1, 2016; OR

3. RETIRES WITH A VESTED BENEFIT FROM THE EMPLOYEES' PENSION SYSTEM OR EMPLOYEES' RETIREMENT SYSTEM, AND EARNED SERVICE IN THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM ON OR AFTER JULY 1, 2016, FOR WHICH THE INDIVIDUAL IS NOT ELIGIBLE FOR A BENEFIT.

(2) SUBJECT TO PARAGRAPHS (3) AND (4) OF THIS SUBSECTION, A MEMBER IS ENTITLED TO RECEIVE CREDITABLE SERVICE FOR THE TOTAL AMOUNT OF UNUSED SICK LEAVE ACCRUED BY THE MEMBER AT THE TIME OF RETIREMENT.

(3) (I) THIS PARAGRAPH APPLIES TO AN INDIVIDUAL DESCRIBED UNDER ITEM (1)(III)1 OR 2 OF THIS SUBSECTION.

(II) THE CREDITABLE SERVICE FOR UNUSED SICK LEAVE SHALL BE CALCULATED FOR EACH OF THE TWO STATE SYSTEMS BY MULTIPLYING THE TOTAL AMOUNT OF UNUSED SICK LEAVE, CALCULATED IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION, BY A FRACTION:

1. THE NUMERATOR OF WHICH IS THE CREDITABLE SERVICE EARNED IN THE STATE SYSTEM, NOT INCLUDING THE CREDITABLE SERVICE FOR UNUSED SICK LEAVE; AND

2. THE DENOMINATOR OF WHICH IS THE TOTAL CREDITABLE SERVICE EARNED IN BOTH STATE SYSTEMS, NOT INCLUDING THE CREDITABLE SERVICE FOR UNUSED SICK LEAVE.

(4) (I) THIS PARAGRAPH APPLIES TO AN INDIVIDUAL DESCRIBED UNDER ITEM (1)(III)3 OF THIS SUBSECTION.

(II) AN INDIVIDUAL'S RETIREMENT BENEFIT FROM THE EMPLOYEES' PENSION SYSTEM OR EMPLOYEES' RETIREMENT SYSTEM SHALL BE ADJUSTED TO INCLUDE ANY CREDIT FOR UNUSED SICK LEAVE THAT THE INDIVIDUAL ACCRUED IN THE EMPLOYEES' PENSION SYSTEM OR EMPLOYEES' RETIREMENT SYSTEM PRIOR TO BECOMING A MEMBER OF THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM:

1. ON OR AFTER JULY 1, 2016, IN A POSITION INCLUDED UNDER § 25-201(A)(7) OF THIS ARTICLE;

2. ON OR AFTER JULY 1, 2017, IN A POSITION INCLUDED

UNDER § 25–201(A)(8) OR (9) OF THIS ARTICLE; OR**3. ON OR AFTER JULY 1, 2018, IN A POSITION INCLUDED UNDER § 25–201(A)(10) OR (11) OF THIS ARTICLE.**

[(g)] (H) Credit for unused sick leave may not be used under this section:

(1) to determine years of eligibility service required for a benefit under this Division II; or

(2) to compute average final compensation.

[(h)] (I) A State employee who came into the State system while retaining sick leave and annual leave benefits under a county system and who came under the provisions of Chapter 423 of the Acts of 1971 shall be entitled to the same full credit toward retirement as provided by this section.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) This section applies to an individual who:

(1) retired from a position:

(i) affected by Chapter 218 or 219 of the Acts of the General Assembly of 2016 and did not transfer service credit from the Employees' Pension System or Employees' Retirement System to the Correctional Officers' Retirement System prior to retirement;

(ii) affected by Chapter 688, 689, or 690 of the Acts of the General Assembly of 2017 and did not transfer service credit from the Employees' Pension System or Employees' Retirement System to the Correctional Officers' Retirement System prior to retirement; or

(iii) affected by Chapter 579 or 580 of the Acts of the General Assembly of 2018 and did not transfer service credit from the Employees' Pension System or Employees' Retirement System to the Correctional Officers' Retirement System prior to retirement; and

(2) retired from the Employees' Pension System before July 1, 2019, and was not eligible for a vested benefit from the Correctional Officers' Retirement System at the time of retirement.

(b) An individual described under subsection (a) of this section shall have the individual's retirement benefit from the Employees' Pension System or Employees' Retirement System adjusted to include any credit for unused sick leave that the individual accrued in the Employees' Pension System or Employees' Retirement System prior to

becoming a member of the Correctional Officers' Retirement System, subject to the restrictions of § 20-206(e) of the State Personnel and Pensions Article.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

Approved by the Governor, April 30, 2019.