

Chapter 353

(House Bill 744)

AN ACT concerning

State Retirement and Pension System – Administration – Clarifications and Corrections

FOR the purpose of clarifying that certain elected trustees be active members of certain systems; clarifying that certain State Retirement and Pension System trustee elections limit voting to individuals who are active members of certain systems; clarifying the survivor benefit for certain beneficiaries of certain retirees of the State Police Retirement System; clarifying that certain individuals who are retirees of the Correctional Officers' Retirement System are exempt from a certain earnings offset under certain circumstances if the individuals are reemployed as parole and probation employees; repealing certain obsolete provisions of law that authorize the purchase of certain service credit in the Judges' Retirement System; *providing for immediate vesting for certain individuals appointed by the Governor who are serving in certain positions on or after a certain date*; requiring the Board of Trustees for the State Retirement and Pension System to accept certain applications for retirement; requiring service credit for certain members of the Employees' Pension System to be transferred to the Correctional Officers' Retirement System; and generally relating to the administration of the State Retirement and Pension System.

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions

Section 21–104(a)(4)(i), (iii), and (v) and (b)(1), 24–401.1(j)(2), 25–403(b), ~~and~~
27–301, *and 29–304*

Annotated Code of Maryland

(2015 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,

Article – State Personnel and Pensions

Section 24–403

Annotated Code of Maryland

(2015 Replacement Volume and 2021 Supplement)

BY repealing

Article – State Personnel and Pensions

Section 27–304

Annotated Code of Maryland

(2015 Replacement Volume and 2021 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

21–104.

(a) The Board of Trustees consists of the following 15 trustees:

(4) 12 trustees elected or appointed as follows:

(i) one trustee who is **[a] AN ACTIVE** member of the Correctional Officers' Retirement System, the Employees' Pension System, the Employees' Retirement System, the Judges' Retirement System, the Legislative Pension Plan, the Local Fire and Police System, or the Law Enforcement Officers' Pension Plan, who shall be elected as provided in subsection (b) of this section and may not be an employee of the State Retirement Agency;

(iii) one trustee who is **[a] AN ACTIVE** member of the Teachers' Pension System or the Teachers' Retirement System, who shall be elected as provided in subsection (b) of this section and may not be an employee of the State Retirement Agency;

(v) one trustee who is either **[a] AN ACTIVE** member or retiree of the State Police Retirement System, who shall be elected as provided in subsection (b) of this section and may not be an employee of the State Retirement Agency;

(b) (1) (i) The trustees who are members or retirees of the Correctional Officers' Retirement System, the Employees' Pension System, the Employees' Retirement System, the Judges' Retirement System, the Legislative Pension Plan, the Local Fire and Police System, or the Law Enforcement Officers' Pension Plan shall be elected by the **ACTIVE** members and the retirees of those State systems.

(ii) The trustees who are members or retirees of the Teachers' Pension System or the Teachers' Retirement System shall be elected by the **ACTIVE** members and the retirees of those State systems.

(iii) The trustee who is a member or retiree of the State Police Retirement System shall be elected by the **ACTIVE** members and the retirees of that State system.

(iv) The elections shall be conducted under regulations that the Board of Trustees adopts.

24–401.1.

(j) (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 §§ 29–401

through 29–403 and 29–408 of this article,] **THE SURVIVOR BENEFIT** to the beneficiary as provided in § 24–403 of this subtitle.

24–403.

(a) This section applies only to a retiree who has retired with a service retirement allowance or a disability retirement allowance or a former member who has retired with a deferred vested allowance.

(b) On the death of a retiree or former member, the Board of Trustees shall pay 80% of the retiree's retirement allowance:

(1) to the surviving spouse; or

(2) if there is no surviving spouse or if the surviving spouse dies, to any children of the deceased retiree who are under 18 years of age or disabled, as defined under § 72(m)(7) of the Internal Revenue Code, in accordance with subsection (c) of this section.

(c) (1) Except as provided in paragraphs (2) and (3) of this subsection, if the Board of Trustees pays an allowance to more than one child, the Board of Trustees shall divide the allowance among the children in a manner that provides for payments to continue until:

(i) each child has died; or

(ii) each child becomes 18 years old.

(2) Notwithstanding paragraph (1)(ii) of this subsection, a surviving child who is disabled shall continue to receive an allowance under paragraph (1) of this subsection past the age of 18 years, if the child continues to be disabled.

(3) (i) If a surviving child receiving an allowance under paragraph (1) of this subsection is disabled, as defined under § 72(m)(7) of the Internal Revenue Code, the Board of Trustees shall pay to the disabled surviving child an allowance equal to the total of the allowances paid under paragraph (1) of this subsection after:

1. all other nondisabled surviving children have died; or

2. the youngest nondisabled surviving child becomes 18 years old.

(ii) If more than one surviving child is disabled, as defined under § 72(m)(7) of the Internal Revenue Code, the allowance payable under this paragraph shall be divided equally among the disabled children.

25–403.

(b) (1) The Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (a) of this section if:

(i) the individual's current employer is a participating employer other than the State and is the same participating employer that employed the individual at the time of the individual's last separation from employment with a participating employer before the individual commenced receiving a service retirement allowance or vested allowance; or

(ii) the individual's current employer is any unit of State government and the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance or vested allowance was also a unit of State government.

(2) (i) Subject to subparagraphs (ii) and (iii) of this paragraph, the reduction under paragraph (1) of this subsection shall equal the amount by which the sum of the individual's initial annual basic allowance and the individual's annual compensation exceeds the average final compensation used to compute the basic allowance.

(ii) Any reduction taken under this subsection may not reduce the retiree's allowance to an amount less than the required deduction for:

1. if the retiree retired from any unit of State government, the retiree's monthly State-approved medical insurance premiums; or

2. if the retiree retired from a participating employer other than the State, the approved monthly medical insurance premiums required by the participating employer that employed the retiree at the time of the retiree's retirement.

(iii) The Board of Trustees shall recover from the retiree any difference between the reduction required under subparagraph (i) of this paragraph and the reduction taken under subparagraph (ii) of this paragraph.

(3) The reduction under this subsection does not apply to:

(i) an individual who has been retired for 5 years, beginning on January 1, after the date the individual retires;

(ii) an individual whose average final compensation was less than \$25,000 and who is reemployed on a permanent, temporary, or contractual basis;

(iii) an individual who is serving in an elected position as an official of a participating governmental unit or as a constitutional officer for a county that is a participating governmental unit; [or]

(iv) a retiree of the Correctional Officers' Retirement System who is reemployed on a contractual basis for not more than 4 years by the Division of Corrections, the Division of Pretrial Detention and Services, or the Patuxent Institution in the Department of Public Safety and Correctional Services as a correctional officer in a correctional facility defined in § 1–101 of the Correctional Services Article; **OR**

(V) A RETIREE OF THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM WHO IS REEMPLOYED ON A CONTRACTUAL BASIS FOR NOT MORE THAN 4 YEARS AS A PAROLE AND PROBATION EMPLOYEE IN A POSITION AUTHORIZED UNDER TITLE 6, SUBTITLE 1 OF THE CORRECTIONAL SERVICES ARTICLE.

27–301.

A member is entitled to service credit:

- (1) for service as a member;
- (2) regained under § 27–302 of this subtitle by a member who redeposits accumulated contributions previously withdrawn;
- (3) for prior service as provided in § 27–303 of this subtitle; **OR**
- (4) for military service as provided in Title 38 of this article]; or
- (5) purchased under § 27–304 of this subtitle].

[27–304.

(a) A member may purchase service credit as provided in subsection (b) of this section for periods of service described in subsection (c) of this section for which the member is not otherwise entitled to service credit.

(b) (1) To purchase service credit under this section, a member must:

(i) complete a claim for the service credit and file it with the Board of Trustees on the form that the Board of Trustees provides; and

(ii) pay to the Board of Trustees in a single payment 6% of the amount received in compensation for that full–time service plus regular interest to the date of payment.

(2) A member may pay for service credit purchased under this section at any time before retirement.

(c) A member may purchase service credit for prior service as:

- (1) a full-time magistrate in chancery or magistrate in juvenile causes on or before June 30, 1975; or
- (2) a member of the State Workers' Compensation Commission on or before June 30, 1977.
- (d) Service credit that is purchased under this section may not be used as service credit in another retirement or pension system of the State or a political subdivision of the State.]

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

Article – State Personnel and Pensions

29-304.

(a) An individual [who is a secretary of a principal department or a head of a department, office, or other unit of the State government serving at the Governor's pleasure has] SHALL HAVE immediate vesting rights on taking office in the State system in which the individual is a member IF THE INDIVIDUAL IS:

(1) A SECRETARY OF A PRINCIPAL DEPARTMENT OF THE STATE GOVERNMENT; OR

(2) A HEAD OF A DEPARTMENT, AN OFFICE, OR ANY OTHER UNIT OF STATE GOVERNMENT:

(I) SERVING AT THE GOVERNOR'S PLEASURE; OR

(II) APPOINTED BY THE GOVERNOR FOR A FIXED TERM AND IS IN THE POSITION ON OR AFTER JUNE 1, 2022.

(b) An individual who commences employment as the Executive Director of the State Retirement Agency on or after January 1, 2021, shall have immediate vesting rights in the Employees' Pension System.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That:

(a) This section applies to an Application for Retirement submitted to the State Retirement and Pension System by an individual who:

(1) on or after October 1, 1979, enrolled as a member of the Employees' Retirement System;

(2) on or after August 1, 1984, transferred from the Employees' Retirement System to the Non-Contributory Pension System tier of the Employees' Pension System of the State Retirement and Pension System;

(3) on or after April 27, 2021, submitted an Application for Service or Disability Retirement to the State Retirement and Pension System that the System determined was not properly notarized;

(4) died on or after May 1, 2021, but before May 31, 2021; and

(5) as a result of the timing of the individual's death, did not have an opportunity to submit a retirement application that was properly notarized.

(b) An application described in subsection (a) of this section shall be accepted by the Board of Trustees for the State Retirement and Pension System.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That:

(a) This section applies to an individual who:

(1) (i) is at least 64 years old on or before July 1, 2022;

(ii) enrolled in the Employees' Pension System of the State Retirement and Pension System on or after December 1, 1992;

(iii) accrued at least 34 years of eligibility service as a member of the Employees' Pension System;

(iv) was transferred to the Correctional Officers' Retirement System of the State Retirement and Pension System on July 1, 2016, in accordance with the provisions of Chapters 218 and 219 of the Acts of the General Assembly of 2016;

(v) after transferring to the Correctional Officers' Retirement System on July 1, 2016, did not transfer the service credit accrued in the Employees' Pension System to the Correctional Officers' Retirement System; and

(vi) 1. applied for a disability retirement from the Correctional Officers' Retirement System by submitting a Statement of Disability and Preliminary Application for Disability Retirement on or after May 1, 2019; and

2. at the time the individual applied for disability did not have 5 years of eligibility service in the Correctional Officers' Retirement System; or

(2) (i) is at least 50 years old on or before July 1, 2022;

(ii) enrolled in the Employees' Pension System of the State Retirement and Pension System on or after October 1, 2000;

(iii) accrued at least 17 years of eligibility service as a member of the Employees' Pension System;

(iv) was transferred to the Correctional Officers' Retirement System of the State Retirement and Pension System on July 1, 2017, in accordance with the provisions of Chapters 688 and 689 of the Acts of the General Assembly of 2017;

(v) after transferring to the Correctional Officers' Retirement System on July 1, 2017, did not transfer the service credit accrued in the Employees' Pension System to the Correctional Officers' Retirement System; and

(vi) 1. applied for a disability retirement from the Correctional Officers' Retirement System by submitting a Statement of Disability and Preliminary Application for Disability Retirement on or after March 1, 2021; and

2. at the time the individual applied for disability did not have 5 years of eligibility service in the Correctional Officers' Retirement System.

(b) On or after June 1, 2022, for an individual described in subsection (a) of this section, the Board of Trustees for the State Retirement and Pension System shall transfer all service credit accrued by the individual in the Employees' Pension System to the Correctional Officers' Retirement System.

(c) (1) Except as provided in paragraph (2) of this subsection, after the Board of Trustees transfers the individual's service credit under subsection (b) of this section, the individual shall deposit in the annuity savings fund of the Correctional Officers' Retirement System the sum of:

(i) the total accumulated contributions to the individual's credit in the annuity savings fund of the Employees' Pension System; and

(ii) the difference, if any, between the member contributions at the rate provided for in the Correctional Officers' Retirement System, including interest on those contributions, and the total accumulated contributions to the individual's credit in the annuity savings fund of the Employees' Pension System.

(2) On retirement from the Correctional Officers' Retirement System, the individual's retirement allowance shall be reduced, in accordance with § 21-312 of the State Personnel and Pensions Article, by the actuarial equivalent of the amounts determined under paragraph (1)(ii) of this subsection if the member elects not to deposit those amounts in the annuity savings fund of the Correctional Officers' Retirement System.

SECTION ~~3~~ 4 5. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2022.

Approved by the Governor, May 16, 2022.