

HOUSE BILL 1388

P6

5lr2149

By: **Delegate Barnes**

Introduced and read first time: February 7, 2025

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Employees' Pension System and Teachers' Pension System – Deferred**
3 **Retirement Option Program – Establishment**

4 FOR the purpose of establishing a Deferred Retirement Option Program for certain
5 members of the Employees' Pension System and the Teachers' Pension System;
6 requiring the State Retirement Agency to seek a certain determination letter; and
7 generally relating to establishing a Deferred Retirement Option Program for certain
8 members of the Employees' Pension System and the Teachers' Pension System.

9 BY repealing and reenacting, without amendments,
10 Article – State Personnel and Pensions
11 Section 23–401
12 Annotated Code of Maryland
13 (2024 Replacement Volume and 2024 Supplement)

14 BY adding to
15 Article – State Personnel and Pensions
16 Section 23–401.1
17 Annotated Code of Maryland
18 (2024 Replacement Volume and 2024 Supplement)

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

21 **Article – State Personnel and Pensions**

22 23–401.

23 (a) Except as provided in subsection (f) of this section, a member may retire with
24 a normal service retirement allowance if:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) the member completes and submits a written application to the Board
2 of Trustees stating the date when the member desires to retire; and

3 (2) on or before the date of retirement, the member:

4 (i) has at least 30 years of eligibility service;

5 (ii) has a combined total of at least 30 years of eligibility service from
6 the Employees' Pension System, the Teachers' Pension System, the Employees' Retirement
7 System, or the Teachers' Retirement System; or

8 (iii) has attained the age and the years of eligibility service as follows:

9 Age		Years of Eligibility
10		Service
11 62	with	5
12 63	with	4
13 64	with	3
14 65	or more with	2

15 (b) Except as provided in subsections (c), (d), (e), (f), and (g) of this section, on
16 retirement under this section, a member is entitled to receive a normal service retirement
17 allowance that equals the number of years of the member's creditable service multiplied
18 by:

19 (1) 0.8% of the member's average final compensation that is not in excess
20 of the Social Security integration level; and

21 (2) 1.5% of the member's average final compensation that exceeds the
22 Social Security integration level.

23 (c) Except as provided in subsections (e) and (g) of this section, on retirement
24 under this section, a member who is subject to the contributory pension benefit under
25 Subtitle 2, Part II of this title is entitled to receive a normal service retirement allowance
26 that equals the sum of:

27 (1) the number of years of the member's creditable service on or after July
28 1, 1998 multiplied by 1.4% of the member's average final compensation; and

29 (2) the greater of:

30 (i) the number of years of the member's creditable service on or
31 before June 30, 1998 multiplied by 1.2% of the member's average final compensation; or

32 (ii) the number of years of the member's creditable service on or
33 before June 30, 1998 multiplied by:

1 1. 0.8% of the member's average final compensation that is
2 not in excess of the Social Security integration level; and

3 2. 1.5% of the member's average final compensation that
4 exceeds the Social Security integration level.

5 (d) Except as provided in subsections (e) and (g) of this section, a member who is
6 subject to the Alternate Contributory Pension Selection under Subtitle 2, Part III of this
7 title is entitled to receive a normal service retirement allowance that equals the sum of:

8 (1) the greater of:

9 (i) the number of years of the member's creditable service on or
10 before June 30, 1998 multiplied by 1.2% of the member's average final compensation; or

11 (ii) the number of years of the member's creditable service on or
12 before June 30, 1998 multiplied by:

13 1. 0.8% of the member's average final compensation that is
14 not in excess of the Social Security integration level; and

15 2. 1.5% of the member's average final compensation that
16 exceeds the Social Security integration level; and

17 (2) the number of years of the member's creditable service on or after July
18 1, 1998 multiplied by 1.8% of the member's average final compensation.

19 (e) (1) This subsection applies only to a member who has a combined total of
20 30 years of eligibility service as provided in subsection (a)(2)(ii) of this section.

21 (2) A member is entitled to receive a normal service retirement allowance
22 that equals:

23 (i) an allowance based on the creditable service the member earned
24 in the Employees' Pension System;

25 (ii) an allowance based on the creditable service the member earned
26 in the Employees' Retirement System;

27 (iii) an allowance based on the creditable service the member earned
28 in the Teachers' Pension System; plus

29 (iv) an allowance based on the creditable service the member earned
30 in the Teachers' Retirement System.

31 (f) (1) A member who begins membership on or after July 1, 2011, may retire
32 with a normal service retirement allowance if:

1 (i) the member completes and submits a written application to the
2 Board of Trustees stating the date when the member desires to retire; and

3 (ii) on or before the date of retirement, the member:

4 1. has at least 90 years of combined age and years of
5 eligibility service; or

6 2. is at least 65 years old and has at least 10 years of
7 eligibility service.

8 (2) Except as provided in subsection (g) of this section, a member who is
9 subject to the reformed contributory pension benefit under Subtitle 2, Part IV of this title
10 is entitled to receive a normal service retirement that equals the number of years of the
11 member's creditable service multiplied by 1.5% of the member's average final
12 compensation.

13 (g) On retirement under this section, if a member's annuity is greater than the
14 member's normal service retirement allowance calculated under this section, the member's
15 normal service retirement allowance shall equal the member's annuity.

16 **23-401.1.**

17 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
18 INDICATED.

19 (2) "DROP" MEANS THE DEFERRED RETIREMENT OPTION
20 PROGRAM ESTABLISHED UNDER THIS SECTION.

21 (3) "DROP MEMBER" MEANS A MEMBER OF THE EMPLOYEES'
22 PENSION SYSTEM OR THE TEACHERS' PENSION SYSTEM WHO:

23 (I) IS ELIGIBLE TO PARTICIPATE IN THE DROP AS PROVIDED
24 IN SUBSECTION (C) OF THIS SECTION; AND

25 (II) ELECTS TO PARTICIPATE IN THE DROP AS PROVIDED IN
26 SUBSECTION (E) OF THIS SECTION.

27 (B) THERE IS A DROP FOR ELIGIBLE MEMBERS OF THE EMPLOYEES'
28 PENSION SYSTEM AND THE TEACHERS' PENSION SYSTEM.

29 (C) A MEMBER OF THE EMPLOYEES' PENSION SYSTEM OR THE TEACHERS'
30 PENSION SYSTEM IS ELIGIBLE TO PARTICIPATE IN THE DROP IF THE MEMBER IS

1 ELIGIBLE TO RECEIVE A NORMAL SERVICE RETIREMENT UNDER § 23-401 OF THIS
2 SUBTITLE.

3 (D) AN ELIGIBLE MEMBER MAY ELECT TO PARTICIPATE IN THE DROP FOR
4 A PERIOD NOT TO EXCEED THE LESSER OF:

5 (1) 7 YEARS;

6 (2) THE DIFFERENCE BETWEEN 32 YEARS AND THE MEMBER'S
7 ELIGIBILITY SERVICE AS OF THE DATE OF THE MEMBER'S ELECTION TO
8 PARTICIPATE IN THE DROP AND RETIRE FROM THE EMPLOYEES' PENSION SYSTEM
9 OR THE TEACHERS' PENSION SYSTEM; OR

10 (3) A TERM SELECTED BY THE MEMBER.

11 (E) (1) AN ELIGIBLE MEMBER WHO ELECTS TO PARTICIPATE IN THE
12 DROP SHALL:

13 (I) COMPLETE AND SUBMIT A WRITTEN ELECTION FORM TO
14 THE BOARD OF TRUSTEES, ON THE FORM THAT THE BOARD OF TRUSTEES
15 PROVIDES, STATING:

16 1. THE MEMBER'S INTENTION TO PARTICIPATE IN THE
17 DROP;

18 2. THE DATE WHEN THE MEMBER DESIRES TO RETIRE;

19 3. THE PERIOD THAT THE MEMBER DESIRES TO
20 PARTICIPATE IN THE DROP, AS PROVIDED IN SUBSECTION (D) OF THIS SECTION;

21 4. THE DATE WHEN THE MEMBER INTENDS TO
22 TERMINATE EMPLOYMENT IN THE FORM OF A BINDING LETTER OF RESIGNATION
23 SUBMITTED WITH THE MEMBER'S ELECTION FORM; AND

24 5. ANY OTHER INFORMATION REQUIRED BY THE BOARD
25 OF TRUSTEES TO IMPLEMENT THE DROP; AND

26 (II) COMPLETE AND SUBMIT A WRITTEN RETIREMENT
27 APPLICATION FORM TO THE BOARD OF TRUSTEES, ON THE FORM THAT THE BOARD
28 OF TRUSTEES PROVIDES.

29 (2) AN ELIGIBLE MEMBER'S ELECTION TO PARTICIPATE IN THE
30 DROP IS IRREVOCABLE.

1 **(F) (1) A DROP MEMBER'S PARTICIPATION IN THE DROP SHALL**
2 **COMMENCE ON THE FIRST DAY OF THE MONTH FOLLOWING ACCEPTANCE BY THE**
3 **BOARD OF TRUSTEES OF THE DROP MEMBER'S COMPLETED ELECTION FORM,**
4 **RETIREMENT APPLICATION FORM, AND ANY OTHER INFORMATION REQUIRED BY**
5 **THE BOARD OF TRUSTEES.**

6 **(2) A DROP MEMBER IS A RETIREE OF THE EMPLOYEES' PENSION**
7 **SYSTEM OR THE TEACHERS' PENSION SYSTEM.**

8 **(G) PARTICIPATION IN THE DROP ENDS IF THE DROP PARTICIPANT:**

9 **(1) SEPARATES FROM EMPLOYMENT IN ACCORDANCE WITH THE**
10 **BINDING LETTER OF RESIGNATION SUBMITTED WITH THE MEMBER'S ELECTION**
11 **FORM;**

12 **(2) DIES;**

13 **(3) IS TERMINATED FROM EMPLOYMENT AT ANY TIME BEFORE THE**
14 **DATE SPECIFIED ON THE MEMBER'S ELECTION FORM; OR**

15 **(4) SHORTENS THE TIME PERIOD FOR PARTICIPATION IN THE DROP**
16 **BY DELIVERING TO THE BOARD OF TRUSTEES WRITTEN NOTICE OF THE INTENT OF**
17 **THE DROP MEMBER TO TERMINATE EMPLOYMENT.**

18 **(H) (1) AS OF THE EFFECTIVE DATE OF PARTICIPATION IN THE DROP,**
19 **THE BOARD OF TRUSTEES SHALL DETERMINE THE DROP MEMBER'S SERVICE**
20 **RETIREMENT ALLOWANCE UNDER § 23-401 OF THIS SUBTITLE, INCLUDING ANY**
21 **OPTIONAL ALLOWANCE ELECTED UNDER TITLE 21, SUBTITLE 4 OF THIS ARTICLE.**

22 **(2) DURING THE PERIOD THAT A DROP MEMBER PARTICIPATES IN**
23 **THE DROP, THE BOARD OF TRUSTEES SHALL:**

24 **(I) DEPOSIT THE DROP MEMBER'S SERVICE RETIREMENT**
25 **ALLOWANCE IN THE DROP FOR THE DROP MEMBER'S BENEFIT;**

26 **(II) ADJUST THE DROP MEMBER'S SERVICE RETIREMENT**
27 **ALLOWANCE EACH FISCAL YEAR AS PROVIDED IN §§ 29-401, 29-402, 29-406, AND**
28 **29-408 OF THIS ARTICLE; AND**

29 **(III) ACCRUE INTEREST ON THE AMOUNTS CALCULATED UNDER**
30 **ITEMS (I) AND (II) OF THIS PARAGRAPH FOR THE DROP MEMBER INTO THE DROP**
31 **AT THE RATE OF 4% A YEAR, COMPOUNDED ANNUALLY.**

1 **(3) A DROP MEMBER MAY NOT RECEIVE CREDITABLE SERVICE OR**
2 **ELIGIBILITY SERVICE DURING THE PERIOD THAT THE DROP MEMBER**
3 **PARTICIPATES IN THE DROP.**

4 **(4) A DROP MEMBER'S COMPENSATION DURING THE PERIOD THAT**
5 **THE DROP MEMBER PARTICIPATES IN THE DROP MAY NOT BE:**

6 **(I) SUBJECT TO THE EMPLOYER PICKUP PROVISIONS OF §**
7 **21-313 OF THIS ARTICLE OR ANY REDUCTION OR DEDUCTION AS A MEMBER**
8 **CONTRIBUTION FOR PENSION OR RETIREMENT PURPOSES; OR**

9 **(II) USED TO INCREASE THE DROP MEMBER'S AVERAGE FINAL**
10 **COMPENSATION.**

11 **(5) DURING THE PERIOD THAT A DROP MEMBER PARTICIPATES IN**
12 **THE DROP, THE DROP MEMBER SHALL:**

13 **(I) CONTINUE TO RECEIVE COMPENSATION, HEALTH**
14 **INSURANCE AND OTHER BENEFIT OPTIONS ESTABLISHED UNDER THE STATE**
15 **EMPLOYEE AND RETIREE HEALTH AND WELFARE BENEFIT PROGRAM**
16 **ADMINISTERED BY THE SECRETARY OF BUDGET AND MANAGEMENT, AND ANY**
17 **OTHER BENEFITS AS AN EMPLOYEE;**

18 **(II) BE SUBJECT TO THE PERSONNEL LAW, REGULATIONS, AND**
19 **POLICIES APPLICABLE TO AN EMPLOYEE; AND**

20 **(III) RECEIVE RETIREMENT BENEFITS ONLY TO THE EXTENT**
21 **PROVIDED IN THIS SECTION.**

22 **(6) THE BOARD OF TRUSTEES IS NOT REQUIRED TO ESTABLISH AN**
23 **INDIVIDUAL DROP ACCOUNT FOR EACH DROP MEMBER.**

24 **(7) EACH YEAR, THE BOARD OF TRUSTEES SHALL PROVIDE A DROP**
25 **MEMBER WITH A WRITTEN ACCOUNTING OF THE DROP MEMBER'S ACCOUNT**
26 **BALANCE IN THE DROP.**

27 **(I) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, ON**
28 **TERMINATION OF A DROP MEMBER'S PARTICIPATION IN THE DROP, THE BOARD**
29 **OF TRUSTEES SHALL PAY TO THE DROP MEMBER OR, IF THE DROP MEMBER HAS**
30 **DIED, THE DESIGNATED BENEFICIARY OF THE DROP MEMBER, THE AMOUNT**
31 **ACCRUED IN THE DROP FOR THE DROP MEMBER UNDER SUBSECTION (H)(2) OF**

1 THIS SECTION, REDUCED BY ANY WITHHOLDING TAXES REMITTED TO THE INTERNAL
2 REVENUE SERVICE OR OTHER TAXING AUTHORITY, IN A LUMP SUM.

3 (2) A DROP MEMBER OR DESIGNATED BENEFICIARY OF A DROP
4 MEMBER MAY DIRECT THE BOARD OF TRUSTEES TO PAY ALL OR A PORTION OF THE
5 AMOUNT ACCRUED FOR THE DROP MEMBER'S BENEFIT UNDER SUBSECTION (H)(2)
6 OF THIS SECTION DIRECTLY TO THE CUSTODIAN OF AN ELIGIBLE RETIREMENT PLAN
7 AS PROVIDED IN TITLE 21, SUBTITLE 6 OF THIS ARTICLE.

8 (3) A DROP MEMBER OR DESIGNATED BENEFICIARY OF A DROP
9 MEMBER IS ELIGIBLE TO RECEIVE THE AMOUNT DUE UNDER THIS SUBSECTION
10 WITHIN 90 DAYS AFTER THE:

11 (I) DATE OF TERMINATION OF THE DROP MEMBER'S
12 PARTICIPATION IN THE DROP;

13 (II) RECEIPT BY THE BOARD OF TRUSTEES OF A COMPLETED
14 APPLICATION TO RECEIVE THE DROP AMOUNT, ON THE FORM THAT THE BOARD OF
15 TRUSTEES PROVIDES; AND

16 (III) RECEIPT BY THE BOARD OF TRUSTEES OF ANY OTHER
17 INFORMATION THAT THE BOARD OF TRUSTEES REQUIRES TO PROCESS PAYMENT OF
18 THE DROP MEMBER'S ACCOUNT BALANCE TO THE DROP PARTICIPANT, THE
19 DESIGNATED BENEFICIARY OF THE DROP PARTICIPANT, OR THE CUSTODIAN OF AN
20 ELIGIBLE RETIREMENT PLAN.

21 (J) (1) AS OF THE FIRST DAY OF THE MONTH FOLLOWING TERMINATION
22 OF A DROP MEMBER'S PARTICIPATION IN THE DROP, THE BOARD OF TRUSTEES
23 SHALL COMMENCE AND CONTINUE PAYMENT OF THE SERVICE RETIREMENT
24 ALLOWANCE, INCLUDING THE COST-OF-LIVING ADJUSTMENTS AS PROVIDED IN
25 TITLE 29, SUBTITLE 4 OF THIS ARTICLE, TO THE MEMBER AS PROVIDED IN § 23-401
26 OF THIS SUBTITLE.

27 (2) IF A DROP MEMBER DIES BEFORE TERMINATION OF THE DROP
28 MEMBER'S PARTICIPATION IN THE DROP, THE BOARD OF TRUSTEES SHALL PAY
29 ANY OPTIONAL ALLOWANCE ELECTED UNDER TITLE 21, SUBTITLE 4 OF THIS
30 ARTICLE TO THE DESIGNATED BENEFICIARY OF THE DROP MEMBER.

31 (K) (1) A DROP MEMBER IS ELIGIBLE TO APPLY FOR AN ACCIDENTAL
32 DISABILITY RETIREMENT ALLOWANCE UNDER § 29-109 OF THIS ARTICLE IF AFTER
33 THE DROP MEMBER COMMENCES PARTICIPATION IN THE DROP:

1 **(I) THE MEMBER IS TOTALLY AND PERMANENTLY**
2 **INCAPACITATED FOR DUTY AS THE NATURAL AND PROXIMATE RESULT OF AN**
3 **ACCIDENT THAT OCCURRED IN THE ACTUAL PERFORMANCE OF DUTY, WHILE**
4 **PARTICIPATING IN DROP, AT A DEFINITE TIME AND PLACE, AND WITHOUT WILLFUL**
5 **NEGLIGENCE OF THE MEMBER; AND**

6 **(II) THE MEDICAL BOARD CERTIFIES THAT:**

7 **1. THE MEMBER IS TOTALLY INCAPACITATED, EITHER**
8 **MENTALLY OR PHYSICALLY, FOR THE FURTHER PERFORMANCE OF THE NORMAL**
9 **DUTIES OF THE DROP MEMBER'S POSITION BY THE OCCURRENCE DESCRIBED**
10 **UNDER ITEM (I) OF THIS PARAGRAPH;**

11 **2. THE INCAPACITY IS LIKELY TO BE PERMANENT; AND**

12 **3. THE MEMBER SHOULD BE RETIRED.**

13 **(2) (I) IF A DROP MEMBER IS GRANTED AN ACCIDENTAL**
14 **DISABILITY RETIREMENT ALLOWANCE, THE DROP MEMBER SHALL:**

15 **1. SUBMIT AN APPLICATION TO THE BOARD OF**
16 **TRUSTEES, ON THE FORM THE BOARD OF TRUSTEES PROVIDES, TO RECEIVE**
17 **PAYMENT OF THE AMOUNT ACCRUED IN THE DROP IN ACCORDANCE WITH**
18 **SUBSECTION (I) OF THIS SECTION;**

19 **2. EXECUTE A WRITTEN WAIVER OF ANY BENEFITS TO**
20 **WHICH THE DROP MEMBER MAY BE ENTITLED UNDER THE DROP; AND**

21 **3. SUBMIT AN APPLICATION TO RETIRE WITH AN**
22 **ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE, ON THE FORM THE BOARD OF**
23 **TRUSTEES PROVIDES, STATING THE EFFECTIVE DATE OF THE DROP MEMBER'S**
24 **RETIREMENT AS AN ACCIDENTAL DISABILITY RETIREE.**

25 **(II) ON ACCEPTANCE OF THE APPLICATION FOR PAYMENT AND**
26 **APPLICATION TO RETIRE, THE BOARD OF TRUSTEES SHALL COMMENCE PAYMENT**
27 **OF AN ACCIDENTAL DISABILITY ALLOWANCE TO THE DROP MEMBER AS PROVIDED**
28 **IN § 29-110 OF THIS ARTICLE, EXCEPT THAT THE DROP MEMBER'S AVERAGE FINAL**
29 **COMPENSATION SHALL BE COMPUTED AS OF THE EFFECTIVE DATE OF THE DROP**
30 **MEMBER'S APPLICATION FOR A SPECIAL DISABILITY RETIREMENT ALLOWANCE.**

31 **(III) IF AN ACCIDENTAL DISABILITY IS PAID UNDER**
32 **SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE BOARD OF TRUSTEES MAY NOT PAY**

1 **ANY OTHER BENEFITS TO THE DROP MEMBER OR BENEFICIARY OF THE DROP**
2 **MEMBER.**

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

4 (a) On or before July 1, 2025, the State Retirement Agency shall request a
5 determination letter from the Internal Revenue Service that confirms the continued
6 qualification under § 401 of the Internal Revenue Code of the Employees' Pension System
7 and the Teachers' Pension System, as amended under Section 1 of this Act.

8 (b) Within 5 days after receiving the determination letter requested under
9 subsection (a) of this section from the Internal Revenue Service, the State Retirement
10 Agency shall forward a copy of the letter to the Department of Legislative Services, 90 State
11 Circle, Annapolis, Maryland 21401.

12 SECTION 3. AND BE IT FURTHER ENACTED, That:

13 (a) Section 1 of this Act shall take effect contingent on the receipt by the State
14 Retirement Agency of a favorable determination letter requested under Section 2 of this
15 Act from the Internal Revenue Service confirming that the Employees' Pension System and
16 the Teachers' Pension System, as amended under Section 1 of this Act, are qualified plans
17 under § 401 of the Internal Revenue Code.

18 (b) If a favorable determination letter requested under Section 2 of this Act is
19 received on or before July 1, 2027, Section 1 of this Act shall take effect on the later of:

20 (1) the first day of the month after the State Retirement Agency receives
21 the determination letter; or

22 (2) July 1, 2026.

23 (c) If the State Retirement Agency does not receive a favorable determination
24 letter requested under Section 2 of this Act on or before July 1, 2027, Section 1 of this Act,
25 with no further action required by the General Assembly, shall be null and void and of no
26 further force and effect.

27 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 3 of this
28 Act, this Act shall take effect June 1, 2025.