

Chapter 57

(House Bill 775)

AN ACT concerning

State Retirement and Pension System – Retirees and Beneficiaries of Retirees – Annual Retirement Allowance Adjustments

FOR the purpose of providing that certain annual retirement allowance adjustments shall be a certain amount under certain circumstances; requiring that certain annual retirement allowances be reduced by a certain amount under certain circumstances; requiring the Board of Trustees for the State Retirement and Pension System to conduct a certain study regarding the effects of a certain Consumer Price Index on other public state pension plans; requiring the Board of Trustees to submit a report to the Senate Budget and Taxation Committee, the House Appropriations Committee, and the Joint Committee on Pensions by a certain date; defining certain terms; providing for the termination of certain provisions of this Act; making this Act an emergency measure; and generally relating to annual retirement allowance adjustments for retirees of the several systems of the State Retirement and Pension System.

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions

Section 24-401(e), 29-406, 29-407, 29-412, 29-418, and 29-427

Annotated Code of Maryland

(2009 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That, ~~notwithstanding any other provision of law~~ the Laws of Maryland read as follows:

- (a) ~~(1) In this section the following words have the meanings indicated:~~
- ~~(2) “Adjustment” means the dollar amount by which either the current allowance or initial allowance of an individual is adjusted on July 1 of each year under § 24-401(e) and Title 29, Subtitle 4 of the State Personnel and Pensions Article.~~
- ~~(3) “Current allowance” means the retirement allowance that an individual is receiving on June 30, 2010.~~
- ~~(4) “Individual” means a former member, retiree, or surviving beneficiary of a deceased member, former member, or retiree of the several systems of the State Retirement and Pension System.~~

~~(5) "Initial allowance" means:~~

~~(i) the retirement allowance computed at the time of a retirement of a former member or retiree of the several systems of the State Retirement and Pension System, including any modifications to the retirement allowance to reflect a retiree's election to receive an optional form of allowance as provided under § 21-403 of the State Personnel and Pensions Article; or~~

~~(ii) the retirement allowance for a surviving beneficiary of a deceased member, former member, or retiree of the several systems of the State Retirement and Pension System computed at the time of death of the member, former member, or retiree.~~

~~(b) (1) This subsection applies to any individual who is subject to an annual retirement allowance adjustment under § 24-401(e) of the State Personnel and Pensions Article.~~

~~(2) If the fraction described under § 24-401(e)(2) of the State Personnel and Pensions Article that is used in the calculation to adjust an individual's current allowance on July 1, 2010, is less than one, the adjustment to the current allowance shall equal \$0.00 on July 1, 2010.~~

~~(c) (1) This subsection applies to any individual who is subject to an annual retirement allowance adjustment under Title 29, Subtitle 4, Part II of the State Personnel and Pensions Article.~~

~~(2) If the fraction calculated under § 29-406 of the State Personnel and Pensions Article that is used in the calculation to adjust an individual's initial allowance on July 1, 2010, is determined to be a negative fraction, the adjustment under § 29-406 of the State Personnel and Pensions Article to the current allowance shall equal \$0.00 on July 1, 2010.~~

~~(d) (1) This subsection applies to any individual who is subject to an annual retirement allowance adjustment under Title 29, Subtitle 4, Part IV of the State Personnel and Pensions Article.~~

~~(2) If the fraction used to determine the rate under § 29-418 of the State Personnel and Pensions Article that is used in the calculation to adjust an individual's current allowance on July 1, 2010, is less than one, the adjustment to the current allowance shall equal \$0.00 on July 1, 2010.~~

~~(e) (1) This subsection applies to any individual who is subject to an annual retirement allowance adjustment under Title 29, Subtitle 4, Part V of the State Personnel and Pensions Article.~~

~~(2) (i) If the fraction calculated under § 29-422(b)(1) of the State Personnel and Pensions Article that is used to adjust an individual's initial allowance on July 1, 2010, is less than one, the adjustment to the current allowance for creditable service earned prior to the date that the retiree elected Selection C, as defined under § 22-221 of the State Personnel and Pensions Article, shall equal \$0.00 on July 1, 2010.~~

~~(ii) If the fraction used to determine the rate under § 29-422(b)(2) of the State Personnel and Pensions Article that is used in the calculation to adjust an individual's current allowance on July 1, 2010, is less than one, the adjustment to the current allowance for creditable service earned on or after the date that the retiree elected Selection C, as defined under § 22-221 of the State Personnel and Pensions Article, shall equal \$0.00 on July 1, 2010.~~

~~(3) (i) If the fraction used to determine the rate under § 29-422(c)(1) of the State Personnel and Pensions Article that is used in the calculation to adjust an individual's current allowance on July 1, 2010, is less than one, the adjustment to the current allowance for creditable service earned prior to the date that the retiree elected Selection C, as defined under § 22-221 of the State Personnel and Pensions Article, shall equal \$0.00 on July 1, 2010.~~

~~(ii) If the fraction used to determine the rate under § 29-422(c)(2) of the State Personnel and Pensions Article that is used in the calculation to adjust an individual's current allowance on July 1, 2010, is less than one, the adjustment to the current allowance for creditable service earned on or after the date that the retiree elected Selection C, as defined under § 22-221 of the State Personnel and Pensions Article, shall equal \$0.00 on July 1, 2010.~~

~~(f) (1) This subsection applies to any individual who is subject to an annual retirement allowance adjustment under Title 29, Subtitle 4, Part VI of the State Personnel and Pensions Article.~~

~~(2) If the fraction used to determine the rate under § 29-427 of the State Personnel and Pensions Article that is used in the calculation to adjust an individual's current allowance on July 1, 2010, is less than one, the adjustment to the current allowance shall equal \$0.00 on July 1, 2010.~~

Article – State Personnel and Pensions

24-401.

(e) (1) Subject to paragraph (2) of this subsection, 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) for a retiree who has been retired not more than 5 years, \$1,200;

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

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

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

(2) [Each] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, EACH fiscal year, the Board of Trustees shall increase 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) FOR FISCAL YEAR 2011, IF THE ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT THAT IS ADJUSTED AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION IS LESS THAN THE ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT PAYABLE FOR FISCAL YEAR 2010, THE ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT PAYABLE FOR FISCAL YEAR 2011 SHALL EQUAL THE ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT PAYABLE FOR FISCAL YEAR 2010.

(II) FOR FISCAL YEAR 2012, THE ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT THAT IS ADJUSTED AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION SHALL BE REDUCED BY THE DIFFERENCE BETWEEN THE ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT PAYABLE FOR FISCAL YEAR 2010 AND THE ANNUAL RETIREMENT ALLOWANCE ADJUSTMENT THAT WOULD HAVE BEEN PAYABLE FOR FISCAL YEAR 2011 IF IT HAD BEEN ADJUSTED UNDER PARAGRAPH (2) OF THIS SUBSECTION.

29-406.

(a) **(1) [Subject] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND SUBJECT to subsection (c) of this section, the cost-of-living adjustment made under this Part II equals the initial allowance multiplied by a fraction that has:**

[(1)] (I) as its numerator, the amount obtained by subtracting the Consumer Price Index for the calendar year ending December 31 of the preceding fiscal year from the base year Consumer Price Index described in subsection (b) of this section; and

[(2)] (II) as its denominator, the base year Consumer Price Index described in subsection (b) of this section.

(2) IF THE COST-OF-LIVING ADJUSTMENT DETERMINED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR FISCAL YEAR 2011 WOULD RESULT IN AN ALLOWANCE PAYABLE FOR FISCAL YEAR 2011 THAT IS LESS THAN THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2010, THE ANNUAL COST-OF-LIVING ADJUSTMENT FOR FISCAL YEAR 2011 SHALL EQUAL \$0.00.

(b) The base year Consumer Price Index referred to in subsection (a) of this section equals the later of:

(1) the Consumer Price Index for the calendar year ending December 31 of the fiscal year that preceded the last adjustment; or

(2) (i) for a retiree, the Consumer Price Index for the calendar year ending December 31 of the fiscal year in which the retiree was last employed as a member; or

(ii) for a former member who elected a vested allowance in accordance with § 29-303 of this title, the Consumer Price Index for the calendar year ending December 31 of the fiscal year in which the former member became 62 years old.

(c) The cost-of-living adjustment under this section may not exceed 3% of the initial allowance.

29-407.

(A) [The] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE total allowance payable in any fiscal year shall be the sum of:

(1) the initial allowance;

(2) all prior cost-of-living adjustments;

(3) the cost-of-living adjustment provided for under § 29-406 of this subtitle; and

(4) any additional annuity.

(B) FOR FISCAL YEAR 2012, THE ALLOWANCE PAYABLE AS PROVIDED IN SUBSECTION (A) OF THIS SECTION SHALL BE REDUCED BY THE DIFFERENCE BETWEEN THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2010 AND THE ALLOWANCE THAT WOULD HAVE BEEN PAID FOR FISCAL YEAR 2011 IF THE COST-OF-LIVING ADJUSTMENT HAD BEEN CALCULATED AS PROVIDED UNDER § 29-406(A) OF THIS SUBTITLE.

29-412.

(A) [Subject] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION AND SUBJECT to § 29-413 of this subtitle, each fiscal year, the Board of Trustees shall adjust an initial allowance by multiplying the initial allowance by the fraction that has:

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

(2) as its denominator:

(i) for a retiree, the beneficiary of a retiree, or the surviving spouse of a member, the Consumer Price Index for the calendar year ending December 31 of the fiscal year in which the retiree or member was last employed; or

(ii) for a former member or the beneficiary of a former member, the Consumer Price Index for the calendar year ending December 31 of the fiscal year in which the former member reaches normal retirement age.

(B) FOR FISCAL YEAR 2011, IF THE ALLOWANCE ADJUSTED AS PROVIDED IN SUBSECTION (A) OF THIS SECTION IS LESS THAN THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2010, THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2011 SHALL EQUAL THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2010.

(C) FOR FISCAL YEAR 2012, THE ALLOWANCE ADJUSTED AS PROVIDED IN SUBSECTION (A) OF THIS SECTION SHALL BE REDUCED BY THE DIFFERENCE BETWEEN THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2010 AND THE ALLOWANCE THAT WOULD HAVE BEEN PAYABLE FOR FISCAL YEAR 2011 IF IT HAD BEEN ADJUSTED UNDER SUBSECTION (A) OF THIS SECTION.

29-418.

(a) (1) [Each] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH fiscal year, the Board of Trustees shall adjust an allowance by multiplying the allowance for the preceding fiscal year, exclusive of any additional

voluntary annuity, by a rate not exceeding 5%, that is obtained by dividing the Consumer Price Index for the calendar year ending December 31, in the preceding fiscal year by the Consumer Price Index for the calendar year ending December 31 in the second preceding fiscal year.

(2) IF THE ADJUSTMENT DETERMINED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR FISCAL YEAR 2011 WOULD RESULT IN AN ALLOWANCE PAYABLE FOR FISCAL YEAR 2011 THAT IS LESS THAN THE ALLOWANCE FOR FISCAL YEAR 2010, THE ADJUSTMENT FOR FISCAL YEAR 2011 SHALL EQUAL \$0.00.

(b) The adjustment under subsection (a) of this section shall begin the second July 1 after the day preceding the retiree's date of retirement or the former member's effective date for receipt of a vested allowance.

(c) (1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE total allowance payable in each fiscal year shall be the sum of:

[(1)] (I) the annual rate of allowance paid during the preceding fiscal year;

[(2)] (II) the adjustment in allowance provided for under this section;
and

[(3)] (III) any additional annuity.

(2) FOR FISCAL YEAR 2012, THE ALLOWANCE PAYABLE AS PROVIDED IN SUBSECTION (A) OF THIS SECTION SHALL BE REDUCED BY THE DIFFERENCE BETWEEN THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2010 AND THE ALLOWANCE THAT WOULD HAVE BEEN PAID FOR FISCAL YEAR 2011 IF THE ADJUSTMENT HAD BEEN CALCULATED AS PROVIDED UNDER SUBSECTION (A) OF THIS SECTION.

29-427.

(a) (1) [Each] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, EACH fiscal year, the Board of Trustees shall adjust an allowance by multiplying the allowance for the preceding fiscal year, exclusive of any additional voluntary annuity, by a rate not exceeding 3%, that is obtained by dividing the Consumer Price Index for the calendar year ending December 31 in the preceding fiscal year by the Consumer Price Index for the calendar year ending December 31 in the second preceding fiscal year.

(2) IF THE ADJUSTMENT DETERMINED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR FISCAL YEAR 2011 WOULD RESULT IN AN ALLOWANCE

PAYABLE FOR FISCAL YEAR 2011 THAT IS LESS THAN THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2010, THE ADJUSTMENT FOR FISCAL YEAR 2011 SHALL EQUAL \$0.00.

(b) The adjustment under subsection (a) of this section shall begin the second July 1 after the day preceding the retiree's date of retirement or the former member's effective date for receipt of a vested allowance.

(c) **(1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE** total allowance payable in each fiscal year shall be the sum of:

[(1)] (I) the annual rate of allowance paid during the preceding fiscal year;

[(2)] (II) the adjustment in allowance provided for under this section;
and

[(3)] (III) any additional annuity.

(2) FOR FISCAL YEAR 2012, THE ALLOWANCE PAYABLE AS PROVIDED IN SUBSECTION (A) OF THIS SECTION SHALL BE REDUCED BY THE DIFFERENCE BETWEEN THE ALLOWANCE PAYABLE FOR FISCAL YEAR 2010 AND THE ALLOWANCE THAT WOULD HAVE BEEN PAID FOR FISCAL YEAR 2011 IF THE ADJUSTMENT HAD BEEN CALCULATED AS PROVIDED UNDER SUBSECTION (A) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That:

~~(e)~~ ~~(1)~~ (a) The Board of Trustees for the State Retirement and Pension System shall study:

~~(1)~~ (1) the effects that the Consumer Price Index (All Urban Consumers – United States City Average – All Items) as of December 31, 2009, as published by the United States Department of Labor Bureau of Labor Statistics, had on the annual retirement allowance adjustments applied to retirees of other public state pension plans; and

~~(2)~~ (2) the actions other public state pension plans have taken in response to the effects that the Consumer Price Index (All Urban Consumers – United States City Average – All Items) as of December 31, 2009, as published by the United States Department of Labor Bureau of Labor Statistics, has had on the retirees and beneficiaries of deceased retirees of these plans.

~~(b)~~ (b) On or before October 1, 2010, the Board of Trustees shall submit a report in accordance with § 2-1246 of the State Government Article to the Senate

Budget and Taxation Committee, the House Appropriations Committee, and the Joint Committee on Pensions that provides:

~~(i)~~ (1) a summary of its findings under paragraph (1) of this subsection; and

~~(ii)~~ (2) recommendations to avoid benefit reductions to retirees of the several systems when the annual Consumer Price Index results in a decrease in annual retirement allowances for retirees and beneficiaries of deceased retirees of the several systems of the State Retirement and Pension System.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall remain effective through December 31, 2010, and, at the end of December 31, 2010, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall remain effective through December 31, 2014, and, at the end of December 31, 2014, with no further action required by the General Assembly, Section 1 of this Act shall be abrogated and of no further force and effect.

SECTION ~~2~~ 5. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 13, 2010.