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October 21, 2020

To: Edward P. Blades, Director
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The mission of the Office of the Inspector General (“the Office”) is to provide increased accountability and oversight in the operations of the Baltimore County government by identifying fraud, waste and misconduct while also striving to seek ways to promote efficiency, accountability and integrity.

On May 13, 2020, the Office received a complaint that retired Baltimore County employees were being rehired by the County, and being permitted to collect both a salary and pension benefits in violation of the Baltimore County Code. It is well established that the simultaneous receipt of a salary and a pension from the same jurisdiction is generally not permitted under the rules and regulations that govern defined benefit plans.

In response to the complaint, the Office initiated an investigation which included witness interviews and the review of various documents. These documents included Baltimore County policies and procedures, County Council bills and related records, the County Code, retirement files, human resource files, and payroll records.

The Office’s investigation revealed that there are at least twenty (20) employees, as detailed later in this report, who are presently collecting both a salary and pension benefits, who do not meet any of the exceptions that have been created by the County Council which are described below. The Office believes this is due in part to a lack of communication between the Retirement Office (“Retirement”) and the Office of Human Resources (“Human Resources”), as well as deficiencies during the County’s hiring process. Currently, there is no official procedure or system in place to notify Retirement when a former employee is re-hired, and therefore, to assess the implications from the hiring action on the employee’s retirement benefits. There are also no formal systems used by Retirement and Human Resources to interactively track employees and employment-related data. The existing systems are antiquated, and they do not communicate with each other.

1. Background on Legislation

A. Bill 30-10

On April 19, 2010, Bill 30-10 was introduced at the request of the County Executive. This 44-page bill called for a dramatic overhaul of the Employee Retirement System, and it led to the creation of Section 5-1-306 of the Baltimore County Code. Copies of Bill 30-10 and Section 5-1-306 are attached as **Exhibit 1**. In essence, Section 5-1-306 permitted a select number of former employees to retire and return to active service with the County while still collecting their pension. Section 5-1-306 required the County Administrative Officer (CAO) to approve each of these rehires, and it dictated that the rehire had to return to a previously existing position that was different than the one he/she held at the time of retirement. As part of the approval process, a form titled "Approval for Return to Service" was to be completed and signed by the employee and the CAO. Under this program, fifty-one (51) employees who had retired from County service, returned to work and received both a salary and pension benefits. Currently, thirty-three (33) of these individuals are still employed by the County.

Section 5-1-306 went on to state that "if approved, the member may defer the receipt of his accrued benefit and contribute that amount to a deferral account established for that purpose. Notwithstanding any other provision of this article, the member may also participate in the system on terms approved by the CAO. On subsequent retirement, the member shall receive the proceeds of the deferral account and any system benefits to which he is entitled." Under this added provision of the bill, four (4) individuals were given the option to defer their pension benefits into a separate deferral account, while also earning credit toward a second County pension. Three of those four individuals are no longer employed by the County and upon their separation, they received lump sum payouts of their pension deferrals which totaled \$1,539,035.60.

B. Bill 47-17

On August 7, 2017, Bill 47-17 was introduced with the intent to repeal, in its entirety, Section 5-1-306 of the Baltimore County Code. The bill called for the repeal to be applied retroactively so it would essentially eliminate the provision which allowed the aforementioned fifty-one (51) employees to return to service and simultaneously collect a salary and pension benefits. The bill was passed, however, two amendments were added. One of the amendments removed the language that would have made the bill retroactive. The other amendment (Section 3 of Bill 47-17) exempted any employee who had already been retired from County service for one year or more. As a result, five (5) employees are currently receiving both salary and pension benefits pursuant to this amended version of Section 5-1-306. This bill went into effect 45 days after it was enacted. A copy of Bill 47-17 is attached as **Exhibit 2**.¹

¹ The Office does not believe the County Council was trying to create a standard exception that would permit any County employee to return to service after a year and collect both a salary and pension benefits. Rather, the Office believes the intent of Section 3 of Bill 47-17 was to not penalize the aforementioned fifty-one (51) employees who had already retired and returned to service.

C. Bill 50-17

Also on August 7, 2017, Bill 50-17 was introduced to add subsection (f) to Section 5-1-236 to the Baltimore County Code. A copy of the bill is attached as **Exhibit 3**. This bill authorized retired County employees, who were “selected for active service by the Chief, Director, or Superintendent of the requesting agency,” to return to service with the County on a part-time basis for up to six months and collect both a salary and pension benefits. The bill required that the employee had to be separated from County service for at least six months prior to being rehired. This bill was drafted to help fill positions within the County which were historically difficult to fill, such as seasonal employment. The bill stated that the employment term could be extended beyond the six-month period for up to an additional year, if the employee entered into an agreement with the County outlining the terms of the continued employment. The bill required the employing agency to notify the County Council in writing if the “agency intends to continue the part-time employment [beyond six months], including any renewals of the initial one year term.” The written notification was to include the employee’s name, job title, hours worked per week and a description of the employee’s duties. Finally, the bill gave the County Council the authority to deny requests to continue an individual’s part-time employment with the County provided that the Council did so within 14 days of receiving the written notification.²

Except for limited circumstances³, there are essentially only two ways in which Baltimore County employees can retire, and then return to work for the County, collecting both a salary and pension benefits:

- Under the amended version of Section 5-1-306, an employee who retired prior to the effective date of Bill 47-17, waited at least one calendar year and returned to employment, is permitted to receive both a salary and his/her pension benefits.
- Under Section 5-1-236(f), an employee can retire, wait at least six months, and then return to employment as a part-time employee for up to six months. The employee can be extended for up to an additional year under an employment agreement which can be renewed. However, the County Council must be notified in writing of any employment agreements entered into under this provision of the Code, and the Council reserves the right to reject such agreements within 14 days of receiving notice.

² In a letter to the Office dated October 5, 2020 from Thomas H. Bostwick, Legislative Counsel/Secretary to the County Council, Mr. Bostwick advised that he was not aware of the Council receiving any such notifications. The letter is attached as **Exhibit 4**.

³ There are other subsections in Section 5-1-236 and in Section 5-1-237 which specifically address certain categories of employees (i.e. school bus drivers, uniformed security officers and former members of the County Council) who can collect both a salary and pension benefits.

2. Violations of the Exceptions to the Code

As of the date of this report, there are twenty (20) employees who are receiving both a salary and pension benefits in violation of the Baltimore County Code because they do not meet the criteria set forth above.⁴ One of the twenty employees was hired as recently as last month under Section 5-1-306, which as previously noted, is not applicable to any employee who retired after the passage of Bill 47-17.⁵ Another employee was hired as a part-time employee pursuant to Section 5-1-236(f), but has remained employed by the County well beyond the initial six-month employment term without the required employment agreement and notification of County Council.⁶ The remaining eighteen (18) employees were hired by the County without waiting either the mandatory one-year period under the amended version of Section 5-1-306 or the mandatory six-month period under Section 5-1-236(f).

As demonstrated in the redacted chart below, these twenty (20) employees have received salary payments totaling \$1,087,731.54 through approximately October 1, 2020 and pension benefits of \$2,343,125.25 through September 30, 2020. The Office recognizes that not all of the pension benefits listed in the following table were earned while the employees were simultaneously earning salaries. However, due to the current systems in place in Retirement, it is difficult to determine which portion of the pension benefits were earned while the employees were simultaneously collecting salaries. The Office considers the simultaneous payments of salaries and pension benefits to these employees as waste to the County as these individuals are not entitled to receive both payments under the existing version of the County Code. A copy of the un-redacted chart is attached as **Exhibit 5**.

	RETIREMENT DATE	REHIRE DATE	DAYS SEPARATED FROM SERVICE	PENSION BENEFITS PAID THROUGH 09/30/2020	SALARIES PAID THROUGH APPROX. 10/01/2020
1	08/01/2015	09/02/2016	398 days	\$110,404.14	\$51,874.38
2	04/01/2017	03/05/2018	338 days	\$192,161.87	\$96,025.00
3	11/18/2017	03/21/2018	123 days	\$202,705.80	\$76,475.00
4	12/16/2017	01/08/2018	23 days	\$190,966.08	\$89,300.00
5	01/01/2018	01/08/2018	7 days	\$282,346.35	\$75,668.75
6	08/01/2018	09/04/2018	34 days	\$183,592.75	\$64,168.75
7	12/01/2018	12/03/2018	2 days	\$155,600.60	\$152,706.99
8	12/29/2018	12/31/2018	2 days	\$238,731.00	\$140,700.25

⁴ Of these twenty (20) employees, nineteen (19) of them were rehired after October 1, 2017. Since October 1, 2017, there have only been forty-seven (47) retirees rehired by the County. Thus, approximately 40% of all retired rehires since October 1, 2017, have been in violation of the County code.

⁵ The Office notified the employing agency of this violation when it was discovered.

⁶ This individual's six-month employment with the County should have ended approximately March 2, 2017.

	RETIREMENT DATE	REHIRE DATE	DAYS SEPARATED FROM SERVICE	PENSION BENEFITS PAID THROUGH 09/30/2020	SALARIES PAID THROUGH APPROX. 10/01/2020
9	02/01/2019	03/04/2019	31 days	\$126,245.32	\$51,743.75
10	02/02/2019	02/19/2019	16 days	\$121,184.07	\$43,650.00
11	02/08/2019	03/05/2019	28 days	\$112,452.07	\$42,862.50
12	02/16/2019	05/28/2019	101 days	\$102,426.88	\$50,837.50
13	03/20/2019	05/13/2019	54 days	\$100,615.01	\$46,954.00
14	05/04/2019	04/06/2020	338 days	\$23,087.46	\$32,389.36
15	06/18/2019	01/27/2020	223 days	\$25,510.24	\$30,400.00
16	06/29/2019	8/25/2020	423 days	\$68,499.70	\$1,896.75
17	10/28/2019	01/06/2020	70 days	\$37,767.73	\$10,175.00
18	01/01/2020	02/18/2020	48 days	\$59,426.91	\$21,212.50
19	08/01/2020	08/31/2020	30 days	\$7,835.04	\$7,505.82
20	08/25/2020	09/28/2020	33 days	\$1,566.23	\$1,185.24
TOTAL PAYMENTS				\$2,343,125.25	\$1,087,731.54

3. Lack of Communication/Need for Process Improvement

The Office believes the payments to these twenty (20) employees as set forth above are indicative of a larger problem. Specifically, there is a lack of communication between Human Resources and Retirement when it comes to hiring retired County employees and making sure their employment complies with the County Code. This is likely because the two departments use independent computer systems that do not communicate with each other⁷. There are also still paper forms being utilized during the hiring process. Therefore, there is no automated way for Retirement to know that pension benefits should be terminated when a retired County employee, who does not meet one of the aforementioned exceptions, returns to County service through the Human Resources hiring process. This lack of communication is significant because such hiring actions can have implications on the benefits that these employees receive, and in a larger sense, on the compliance of the County's retirement system with applicable federal rules and regulations. It can also lead to the inconsistent application of the exceptions that allow employees to collect a salary and pension benefits. Such inconsistencies can give the appearance that certain employees are being given preferential treatment.

⁷ It is possible that there is additional waste occurring with the simultaneous payments of salaries and pension benefits. Currently, the only way to know the extent of the waste would be a manual search of every Retirement and Human Resources file. The Office does not believe such a search would be a good use of its limited resources.

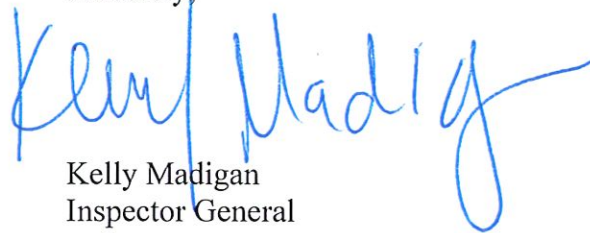
The Office believes there should be a process implemented to address the hiring of retired County employees. Specifically, Human Resources should notify Retirement of the pending hiring action, and any proposed or current employment agreements, to determine if the employee fits within the exceptions described within this report. In addition, the individual should be notified of any implications that his/her prospective employment could have on his/her retirement benefits. Finally, the Office recommends that Sections 5-1-306 and 5-1-236(f) of the County Code be applied uniformly to all retired employees who are currently employed by the County, or who may be employed by the County in the future.

The Office will defer to the Administration and the County Council as to whether the amended version of Section 5-1-306 is still even necessary considering Section 5-1-236(f) is a more comprehensive statute with less ambiguity. As noted earlier in this report, there are still retired County employees being rehired under Section 5-1-306 in violation of the County Code as recently as September of 2020.

4. Conclusion

The Office has identified waste in the form of twenty (20) employees receiving both a salary and pension benefits in violation of the Baltimore County Code. This matter is being referred to you for an official response. Please respond in writing by November 21, 2020, indicating what action has been taken or what action you intend to take regarding this matter. Should you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,



Kelly Madigan
Inspector General
Office of the Inspector General

cc: John A. Olszewski, Jr., County Executive
Stacy L. Rodgers, County Administrative Officer
Patrick H. Murray, Chief of Staff
James R. Benjamin, Jr., County Attorney

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2010, Legislative Day No. 8

Bill No. 30-10

Mr. John Olszewski, Sr., Chairman
By Request of County Executive

By the County Council, April 19, 2010

A BILL
ENTITLED

Employees Retirement System

FOR the purpose of lowering the age at which a person may choose not to join the Employees Retirement System; limiting the ability to purchase service credit under certain circumstances; increasing the rate of regular contributions for certain members; excluding time spent in “sick leave bank,” its equivalent or other extraordinary leave time from the creditable service calculation; clarifying benefits for certain Group 4 members; altering the mandatory retirement age for Group 4 members; requiring certain members to have 10 years of creditable service to be eligible for an ordinary disability retirement with corresponding change to the law on the benefit; providing for retirement for service in lieu of an ordinary disability retirement under certain circumstances; altering the benefit for an accidental disability under certain circumstances; clarifying certain accidental disability provisions; altering the ability to collect a death benefit under certain circumstances; clarifying the disposition of certain funds when a member dies intestate under certain circumstances; altering and clarifying the timing of certain post-retirement increases under certain circumstances; ~~altering~~ clarifying that certain sheriffs deputies and certain correctional officers on a certain Pay Schedule may participate in the DROP; clarifying the crediting of post-retirement increases with regard to the DROP under certain circumstances; lowering the maximum amount of a post-retirement increase; authorizing certain members to participate in a deferred retirement option program; clarifying

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter stricken from existing law.

~~Strike-out~~ indicates matter stricken from bill.

EXHIBIT 1

Underlining indicates amendments to bill.

a certain condition for a certain option; clarifying certain law regarding the Annuity Savings Fund; clarifying the calculation of reduction in the retirement allowance for a member who transferred from a noncontributory system to the Retirement system due to unpaid contributions; clarifying the method for determining applicable rates of interest; clarifying that interest shall be calculated on a monthly basis; clarifying that the reduction is based on a single life annuity; clarifying the fiduciary duties of the members of the Board of Trustees; clarifying the definition of regular interest; clarifying that all assets of the deferred compensation plan are held by a trustee designated by the county; clarifying that the county does not have the obligations of a debtor to employees with regard to the deferred compensation plan; clarifying certain law regarding “county agencies;”; conforming the retirement system with provisions of federal law concerning interest in assets of the plan, rollover and distribution rules, limitations on benefits, assignability of benefits, and forfeiture of benefits; making technical changes; defining a certain ~~term~~ terms; making portions of this act retroactive; and generally relating to the Employees Retirement System.

By repealing and reenacting, with amendments

Sections 5-1-201(s), 5-1-202, 5-1-203(1), (6)(i), (7)~~(ii) and (iii)~~, and (9), 5-1-212(a), 5-1-216(b), (c), ~~and (g)~~(g), and (h), 5-1-217(b) and (c), 5-1-221, 5-1-222(a)(2), 5-1-226(2)(ii) and (3), 5-1-228, 5-1-231(a)(7) and (d)(2)(iv), 5-1-235, 5-1-236, 5-1-251, 5-1-253(a), 5-1-254(g), 5-1-255, 5-1-257, 5-1-302(g), 5-1-303(g), 5-1-304(g), 5-1-305(a)(7)(i) and (g), and 5-2-106

Article 5. Pensions and Retirement

Baltimore County Code, 2003

By adding

~~Section~~ Sections 5-1-201(m), 5-1-203(10), 5-1-220.1, and 5-1-232

Subtitle 2. Retirement System

Title 1. Employees Retirement System

Article 5. Pensions and Retirement

Baltimore County Code, 2003

By repealing

~~Section Sections 5-1-203(5)(iv), 5-1-225, and 5-1-232~~

Subtitle 2. Retirement System

Title 1. Employees Retirement System

Article 5. Pensions and Retirement

Baltimore County Code, 2003

BY renumbering

Section 5-1-201(m) through (x)

Subtitle 2. Retirement System

Title 1. Employees Retirement System

Baltimore County Code, 2003

to be

Section 5-1-201(n) through (y)

BY renumbering

Section 5-1-203(5)(v) through (xi)

Subtitle 2. Retirement System

Title 1. Employees Retirement System

Baltimore County Code, 2003

to be

Section 5-1-203(5)(iv) through (x)

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND, that ~~Section Sections 5-1-203(5)(iv), 5-1-225, and 5-1-232~~ of Subtitle
3 2. Retirement System of Title 1. Employees Retirement System of Article 5. Pensions and
4 Retirement, of the Baltimore County Code, 2003, as amended, ~~is~~ are hereby repealed.

5 SECTION 2. AND BE IT FURTHER ENACTED, that Sections 5-1-201(s), 5-1-202, 5-1-
6 203(1), (6)(i), (7)(~~ii~~) ~~and (iii)~~, and (9), 5-1-212(a), 5-1-216(c) and (h), 5-1-217(b) and (c), 5-1-
7 222(a)(2), 5-1-226(2)(ii) and (3), 5-1-228, 5-1-235, 5-1-236, 5-1-251, 5-1-253(a), 5-1-254(g), 5-1-
8 255, 5-1-257, 5-1-302(g), 5-1-303(g), 5-1-304(g), 5-1-305(a)(7)(i) and (g), and 5-2-106 of Title 1.

1 Employees Retirement System of Article 5. Pensions and retirement, of the Baltimore County Code,
2 2003, as amended, are hereby repealed and reenacted, with amendments, to read as follows:

3 § 5-1-201.

4 (s) (1) "Regular interest" means interest at such rate or rates as may be set from time to
5 time by the Board of Trustees in accordance with § 5-1-248 of this subtitle.

6 (2) "REGULAR INTEREST" MAY INCLUDE, AS APPLICABLE, THE
7 VALUATION RATE, WHICH IS THE FORM OF REGULAR INTEREST THAT DEFINES THE
8 PROJECTED EARNINGS OF THE SYSTEM AS ADOPTED BY THE BOARD OF TRUSTEES.

9 § 5-1-203.

10 (1) Any person who shall become an employee after the date of establishment and prior
11 to July 1, 1971, shall become a member of the Retirement System as a condition of employment;
12 provided such person shall pass a physical examination satisfactory to the Board of Trustees. Any
13 person who shall become an employee after June 30, 1971, may become a member of the Retirement
14 System at any time within the first two (2) years of the person's employment, but if the employee
15 has not previously joined must become a member at the end of that period as a condition of
16 employment; provided such person shall pass a physical examination satisfactory to the Board of
17 Trustees. Any person who has attained the age of [fifty-nine (59)] FIFTY-FIVE (55) years at the
18 person's date of employment shall have the option of not joining the System. The rate of
19 contribution of the employee shall be determined by the employee's age at the time the employee
20 actually joins the system and will not be reduced by reason of service prior to joining; provided,
21 however, that any employee, EXCEPT FOR A GROUP 3 MEMBER WHO BEGINS SERVICE ON
22 OR AFTER JULY 1, 2010, may purchase credit for service before joining by paying the
23 contributions due plus Interest. Such purchase [may] SHALL be made [at any time prior to
24 retirement] BEFORE JUNE 30, 2012. Notwithstanding any contrary provisions of this subsection,

1 special provisions shall apply to county employees occupying certain nonmerit appointed positions
2 as described in paragraph (7) of this section.

3 (6) (i) Any person who enters the regular part-time employment of the employer
4 may elect to become a member of the retirement system at any time within the first two (2) years
5 of employment. Any part-time employee who elects to become a member of the Retirement System
6 shall remain a member as a condition of the member's part-time employment. If the part-time
7 employee chooses not to join the System, such employee shall have forfeited the right to become
8 a member as long as the employee continues to be a part-time employee. During the first two-year
9 election period and for any previous period in which a regular part-time employee was a member
10 of the Retirement System, a regular part-time employee, EXCEPT FOR A GROUP 3 MEMBER
11 WHO BEGINS SERVICE ON OR AFTER JULY 1, 2010, may purchase credit for service before
12 joining the Retirement System by paying the contributions due plus Interest. Such purchase [may]
13 SHALL be made [at any time prior to retirement] BEFORE JUNE 30, 2012.

14 (7)(i) The provisions set forth in this paragraph shall only apply to a special employment
15 category, namely, to appointed department heads, the Labor Commissioner of the county, all elected
16 officials of the county, OFFICERS AND EMPLOYEES OF A "COUNTY AGENCY" AS
17 DEFINED IN PARAGRAPH (5) OF THIS SECTION and those other employees of the county
18 occupying nonmerit appointed positions in either the Office of the County Executive, the Office of
19 the County Administrative Officer, the Office of the County Attorney, the Office of the State's
20 Attorney, the Office of the County Auditor, Secretary to the County Council, the Office of People's
21 Counsel, the Zoning and Deputy Zoning Commissioners, or certain employees of the Circuit Court;
22 and these special provisions shall be applicable notwithstanding anything to the contrary in this
23 subtitle.

24 (ii) Any person who falls within the aforementioned special employment category

1 may elect within two (2) years of the start of employment to join the System. Should an employee
2 elect to join the System within the two-year election period, as provided in paragraph (1) of this
3 section, the rate of contribution shall be determined by the employee's age at the time of joining the
4 System and will not be reduced by reason of service prior to joining; provided, however, that the
5 employee, EXCEPT FOR AN EMPLOYEE WHO BEGINS SERVICE ON OR AFTER JULY 1,
6 2010, may purchase credit for service rendered before joining and within the current period of
7 employment by paying the contribution due plus Interest. Such purchase [may] SHALL be made [at
8 any time prior to retirement] BEFORE JUNE 30, 2012. Any employee listed in this subsection who
9 elects to become a member of the Retirement System shall remain a member as a condition of the
10 member's employment.

11 (iii) The provisions of this paragraph apply to any person classified as a Council
12 employee or aide employed as a regular part-time employee; [and] AND, EXCEPT FOR A
13 COUNCIL EMPLOYEE WHO BEGINS SERVICE ON OR AFTER JULY 1, 2010, any such
14 employee who elects to join the System may purchase credit for service before joining the System
15 by paying the contributions due plus Interest BEFORE JUNE 30, 2012.

16 (9) (i) This paragraph applies to a member who begins service on or after July 1,
17 2007.

18 (ii) Notwithstanding any other provision of this subtitle, the rate of regular
19 contributions shall be:

- 20 1. Except as otherwise provided in this subparagraph[, six (6)]:
- 21 A. BEGINNING JULY 1, 2010, SIX AND ONE-HALF (6.5) percent
22 of [annual salary] EARNABLE COMPENSATION for all members; AND
- 23 B. BEGINNING JULY 1, 2011, SEVEN (7) PERCENT OF
24 EARNABLE COMPENSATION FOR ALL MEMBERS;

1 2. [Seven (7) percent of annual salary for] FOR Group 4 members[.]:

2 A. BEGINNING JULY 1, 2010, EIGHT (8) PERCENT OF
3 EARNABLE COMPENSATION; AND

4 B. BEGINNING JULY 1, 2011, EIGHT AND ONE-HALF (8.5)
5 PERCENT OF EARNABLE COMPENSATION;

6 3. FOR Deputy Sheriffs, and Correctional Officers[.]:

7 A. BEGINNING JULY 1, 2010, SEVEN AND ONE-HALF (7.5)
8 PERCENT OF EARNABLE COMPENSATION; AND

9 B. BEGINNING JULY 1, 2011, EIGHT (8) PERCENT OF
10 EARNABLE COMPENSATION; and

11 4. [3. Nine (9) percent of annual salary for] FOR an appointed department
12 [head] HEAD:

13 A. BEGINNING JULY 1, 2010, TEN (10) PERCENT OF
14 EARNABLE COMPENSATION; AND

15 B. BEGINNING JULY 1, 2011, TEN AND ONE-HALF (10.5)
16 PERCENT OF EARNABLE COMPENSATION.

17 (iii) Notwithstanding any other provision of this subtitle, membership benefits
18 shall be considered vested after the member has completed a minimum of ten (10) years of
19 membership service.

20 § 5-1-212.

21 (a) (1) Creditable service at retirement on which the retirement allowance of a member
22 shall be based shall consist of a membership service rendered by the member since the member last
23 became a member, military service credited under § 5-1-206 of this subtitle, and if the member has

1 a prior service certificate which is in full force and effect, the period of the service certified on the
2 member's prior service certificate.

3 (2)(I) CREDITABLE SERVICE MAY NOT INCLUDE:

4 1. EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
5 PARAGRAPH, ANY TIME SPENT NOT IN SERVICE IN ACCORDANCE WITH ANY
6 ARRANGEMENT KNOWN AS A "SICK LEAVE BANK" OR ANY FUNCTIONAL
7 EQUIVALENT OF A "SICK LEAVE BANK";

8 2. ANY TIME SPENT NOT IN SERVICE IN ACCORDANCE WITH
9 ANY TYPE OF LEAVE WITHOUT PAY OR LEAVE THAT IS NOT AUTHORIZED UNDER
10 ARTICLE 4, TITLE 8 OF THE CODE FOR MEMBERS SUBJECT TO ARTICLE 4, TITLE 8 OF
11 THE CODE; OR

12 3. ANY TIME SPENT NOT IN SERVICE IN ACCORDANCE
13 WITH ANY TYPE OF LEAVE WITHOUT PAY OR LEAVE THAT IS NOT SIMILAR TO A
14 LEAVE AUTHORIZED UNDER ARTICLE 4, TITLE 8 OF THE CODE FOR THOSE MEMBERS
15 NOT OTHERWISE SUBJECT TO ARTICLE 4, TITLE 8 OF THE CODE.

16 (II) CREDITABLE SERVICE MAY INCLUDE ANY TIME SPENT NOT IN
17 SERVICE IN ACCORDANCE WITH ANY ARRANGEMENT KNOWN AS A "SICK LEAVE
18 BANK" OR ANY FUNCTIONAL EQUIVALENT OF A "SICK LEAVE BANK" THAT IS
19 EQUAL TO THE NUMBER OF DAYS THAT THE EMPLOYEE HAS CONTRIBUTED TO THE
20 SICK LEAVE BANK.

21 § 5-1-216.

22 (c) (1) A member who retires on or after July 1, 1995 WITH A MINIMUM OF
23 TWENTY (20) YEARS OF CREDITABLE SERVICE shall be entitled to receive a service
24 retirement allowance, consisting of an annuity and a pension which together will provide a minimum

1 benefit of fifty (50) percent of average final compensation plus two (2) percent for each year of
2 creditable service in excess of twenty (20) and three (3) percent for each year of creditable service
3 in excess of twenty-five (25), provided such member shall:

4 (i) If the member was in service before July 1, 2007, have attained the
5 age of fifty-five (55) YEARS or a minimum of twenty (20) years of creditable service; or

6 (ii) If the member begins service on or after July 1, 2007, have attained
7 [the age of sixty (60) years with ten (10) years of creditable service or] a minimum of twenty-five
8 (25) years of creditable service.

9 (2) A MEMBER WHO RETIRES ON OR AFTER JULY 1, 1995 WITH LESS
10 THAN TWENTY (20) YEARS OF CREDITABLE SERVICE SHALL BE ENTITLED TO
11 RECEIVE A SERVICE RETIREMENT ALLOWANCE CONSISTING OF AN ANNUITY AND
12 A PENSION WHICH TOGETHER WILL PROVIDE A BENEFIT OF TWO (2) PERCENT OF
13 THE MEMBER'S AVERAGE FINAL COMPENSATION FOR EACH YEAR OF CREDITABLE
14 SERVICE PROVIDED SUCH MEMBER SHALL:

15 (I) IF THE MEMBER WAS IN SERVICE BEFORE JULY 1, 2007, HAVE
16 ATTAINED THE AGE OF FIFTY-FIVE (55) YEARS AND A MINIMUM OF FIVE (5) YEARS
17 OF CREDITABLE SERVICE; OR

18 (II) IF THE MEMBER BEGINS SERVICE ON OR AFTER JULY 1, 2007,
19 HAVE ATTAINED THE AGE OF SIXTY (60) YEARS AND A MINIMUM OF TEN (10) YEARS
20 OF CREDITABLE SERVICE.

21 [(2)] (3) The three (3) percent benefit accrual rate provided for in this
22 subsection does not apply to any years of creditable service over twenty-five (25) years served
23 before July 1, 2007.

24 [(3)] (4) The benefit provided for under this section may not be greater than

1 one hundred (100) percent of the member's average final compensation.

2 (h) Any member in the service who has attained the age of [sixty (60)] SIXTY-FIVE
3 (65), if a member of Group 4, shall be retired forthwith or on the first day of the next calendar
4 month. Notwithstanding the foregoing, on written request of the employer to the Board of Trustees
5 stating that such employee is mentally or physically capable of carrying out the member's duties and
6 request being approved by the Board of Trustees, the employee may be continued in service for a
7 period of one (1) year, and for successive periods of one (1) year each as the result of each such
8 request and approval.

9 § 5-1-217.

10 (b) (1) (i) Except as provided in [paragraph] PARAGRAPHS (2) AND (3) of
11 this subsection, a member who retires on or after January 1, 1999, shall be entitled to receive a
12 service retirement allowance calculated in accordance with subparagraph (ii) of this paragraph upon
13 the completion of:

14 1. Twenty-five (25) years of creditable service regardless of age;

15 OR

16 2. [Five (5) years of creditable service and the attainment of age
17 sixty (60); or

18 3]. A minimum of fifty (50) years of age and twenty (20) years
19 of creditable service.

20 (ii) Effective January 1, 1999, the normal service retirement allowance
21 shall consist of:

22 1. An annuity which shall be the actuarial equivalent of the
23 member's accumulated contributions.

1 2. A pension which, together with the member's annuity, shall
2 provide a total allowance equal to one fortieth (1/40) of the member's average final compensation
3 multiplied by the number of years of creditable service not to exceed twenty (20) years; plus, two
4 (2) percent of the member's average final compensation multiplied by the years of creditable service
5 in excess of twenty (20) and three (3) percent of the member's average final compensation
6 multiplied by the years of creditable service in excess of thirty (30).

7 (2) (i) [This] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS
8 SUBSECTION, THIS paragraph applies to a member who begins service on or after July 1, 2007.

9 (ii) A member is eligible for normal service retirement benefits upon the
10 completion of[:

11 1. Thirty] THIRTY (30) years of creditable service regardless of
12 age[; or

13 2. A minimum of sixty (60) years of age and ten (10) years of
14 creditable service].

15 (iii) The normal service retirement allowance shall consist of:

16 1. An annuity which shall be the actuarial equivalent of the
17 member's accumulated contributions.

18 2. A pension which, together with the member's annuity, shall
19 provide a total allowance equal to one fortieth (1/40) of the member's average final compensation
20 multiplied by the number of years of creditable service not to exceed twenty (20) years; plus, two
21 (2) percent of the member's average final compensation multiplied by the years of creditable service
22 in excess of twenty (20) and three (3) percent of the member's average final compensation
23 multiplied by the years of creditable service in excess of thirty (30).

1 (3) A MEMBER WHO RETIRES ON OR AFTER JANUARY 1, 1999 WITH
2 LESS THAN TWENTY YEARS OF CREDITABLE SERVICE SHALL BE ENTITLED TO
3 RECEIVE A SERVICE RETIREMENT ALLOWANCE CONSISTING OF AN ANNUITY AND
4 A PENSION WHICH TOGETHER WILL PROVIDE A BENEFIT OF TWO (2) PERCENT OF
5 THE MEMBER'S AVERAGE FINAL COMPENSATION FOR EACH YEAR OF CREDITABLE
6 SERVICE PROVIDED SUCH MEMBER SHALL:

7 (I) IF THE MEMBER WAS IN SERVICE BEFORE JULY 1, 2007, HAVE
8 ATTAINED THE AGE OF SIXTY (60) YEARS AND A MINIMUM OF FIVE (5) YEARS OF
9 CREDITABLE SERVICE; OR

10 (II) IF THE MEMBER BEGINS SERVICE ON OR AFTER JULY 1, 2007,
11 HAVE ATTAINED THE AGE OF SIXTY (60) YEARS AND A MINIMUM OF TEN (10) YEARS
12 OF CREDITABLE SERVICE.

13 [(3)] (4) The three (3) percent benefit accrual rate provided for in paragraphs
14 (1) and (2) of this subsection does not apply to any years of creditable service over thirty (30) years
15 served before July 1, 2007.

16 [(4)] (5) The benefit provided for under this section may not be greater than
17 one hundred (100) percent of the member's average final compensation.

18 [(5)] (6) Effective from July 1, 1994 through and including April 30, 1996, in
19 order to fund the improved benefit provided in this section, all members on pay schedule V shall pay
20 an additional contribution, based on actuarial studies, which may be periodically adjusted but may
21 not exceed two and ninety-five hundredths (2.95) percent of salary.

22 [(6)] (7) Effective May 1, 1996, the additional contribution of all members on
23 pay schedule V shall not exceed one and ninety-five hundredths (1.95) percent of salary.

24 [(7)] (8) In order to be eligible to receive the improved benefits provided under

1 subsection (b) of this section, a member on pay schedule VIII, from July 1, 1994 through and
2 including June 30, 1995, shall pay an additional contribution, based on actuarial studies, which may
3 be periodically adjusted but may not exceed four and seventy-five hundredths (4.75) percent of
4 salary.

5 [(8)] (9) Effective July 1, 1995, the additional contribution of all members on
6 pay schedule VIII shall not exceed two and ninety-five hundredths (2.95) percent of salary.

7 [(9)] (10) Effective May 1, 1996, the additional contribution of all members on
8 pay schedule VIII shall not exceed one and ninety-five hundredths (1.95) percent of salary.

9 (c) Any member in the service who has attained the age of [sixty (60)] SIXTY-FIVE (65)
10 shall be retired forthwith or on the first day of the next calendar month. Notwithstanding the
11 foregoing, on written request of the employer to the Board of Trustees stating that such employee
12 is mentally or physically capable of carrying out the member's duties and request being approved
13 by the Board of Trustees, the employee may be continued in service for a period of one (1) year, and
14 for successive periods of one (1) year each as the result of each such request and approval.

15 § 5-1-222.

16 (a)(2) A pension which, together with the member's annuity, shall provide a total allowance
17 equal to one fifty-fifth (1/55) of the member's average final compensation in the case of a Group 3
18 member who either was a member on December 31, 1960, and elected to make such increased
19 contributions or became a member on or after January 1, 1961, provided that the member joined the
20 system not more than two years after the member's date of employment as provided in § 5-1-203
21 of this subtitle, except that a Group 3 member whose allowance for service retirement is calculated
22 under § 5-1-214(a)(2) of this subtitle shall have the member's allowance under this section
23 calculated in accordance with § 5-1-214(a)(2) of this subtitle, and one-fortieth (1/40) of the
24 member's average final compensation in the case of a Group 3 member who at retirement is an

1 appointed department head and retires on or after July 1, 1971, multiplied by the number of years
2 of the member's creditable service; and in the case of a Group 4 member, equal to one-fortieth (1/40)
3 of the member's average final compensation multiplied by the number of years of the member's
4 creditable service not in excess of twenty (20) and one-fiftieth (1/50) of the member's average final
5 compensation multiplied by the number of years of the member's creditable service in excess of
6 twenty (20). The minimum retirement allowance shall be equal to one-quarter (1/4) of the member's
7 average final compensation, increased by one fifty-fifth (1/55) of the member's average final
8 compensation in the case of a Group 3 member, for each year of creditable service in excess of [five
9 (5)] TEN (10) years to a maximum of one-third of the member's average final compensation. In the
10 case of a Group 4 member retiring on or after July 1, 1979, the minimum retirement allowance shall
11 be equal to one-half (1/2) of the member's average final compensation. No ordinary disability
12 retirement allowance payable to any member shall exceed the allowance which would otherwise be
13 payable to the member were the member's service to continue until the attainment of the member's
14 normal service retirement age.

15 § 5-1-226.

16 Upon retirement for accidental disability, [a sworn member of the Fire Department on pay
17 schedule V and VIII, and for all accidental disability applications made on or after July 1, 1995 by
18 a sworn member of the Police Department on pay schedule IV and VII,] such member shall receive
19 an accidental disability retirement allowance which shall be as follows:

20 (2)(ii) *Schedule of impairments:* A seventy-five (75) percent anatomical loss of the
21 use of the impairments listed below or a fifty (50) percent or more anatomical loss of each of two
22 (2) or more of the impairments below; [or] OR, EXCEPT AS TO GROUP 3 MEMBERS, a one
23 hundred (100) percent or more anatomical loss of the use of any combination of the impairments
24 listed below, if the loss is caused by the same accident or incident, and, as a result of the loss, the

1 member's employment is involuntarily terminated:

- 2 1. Speech;
- 3 2. Sight;
- 4 3. Neck;
- 5 4. Back;
- 6 5. Vital bodily organ;
- 7 6. A part of the central nervous system;
- 8 7. Arm;
- 9 8. Hip, leg, or lower extremity;
- 10 9. Shoulder;
- 11 10. Hearing;
- 12 11. Mentally incapacitated whereby a member applies for and is granted
- 13 a disability benefit under the federal old-age survivor's and disability insurance act.

14 (3) *Accidental disability.* A member shall be eligible to receive an accidental disability
15 allowance, regardless of age, if the member has sustained an impairment as a direct result of the
16 actual performance of duties with the county and which has permanently incapacitated the member
17 for the further performance of the duties of the member's job classification but does not reach the
18 extent of incapacity as found in paragraphs (1) and (2) of this section. [For pay schedules V and VIII
19 the accidental disability allowance under this section shall be an amount equal to one-fortieth (1/40)
20 of the member's average final compensation multiplied by the number of years of creditable service
21 not in excess of twenty (20) and one fifty-fifth (1/55) of the member's average final compensation
22 multiplied by the number of years of creditable service in excess of twenty (20). The minimum
23 retirement allowance shall be equal to fifty (50) percent of the member's average final
24 compensation.] For pay schedules [IV and VII] IV, V, VII, AND VIII, the accidental disability
25 allowance under this section shall be an amount equal to one-fortieth (1/40) of the member's average

1 final compensation multiplied by the number of years of creditable service not in excess of twenty
2 (20) and one-fiftieth (1/50) of the member's average final compensation multiplied by the number
3 of years of creditable service in excess of twenty (20). The minimum retirement allowance shall be
4 equal to fifty (50) percent of the member's average final compensation. THE RETIREMENT
5 ALLOWANCE FOR A GROUP 3 MEMBER SHALL BE EQUAL TO FIFTY (50) PERCENT OF
6 THE MEMBER'S AVERAGE FINAL COMPENSATION BUT NOT LESS THAN THE
7 NORMAL SERVICE RETIREMENT BENEFIT THAT THE MEMBER WOULD HAVE BEEN
8 ENTITLED TO ON THE DATE OF RETIREMENT.

9 § 5-1-228.

10 (a) (1) SUBJECT TO SUBSECTION (C) OF THIS SECTION, [Upon] UPON receipt
11 of proper proofs of death of [a] AN EMPLOYEE member [in service], there shall be paid to such
12 person, if any, as the member shall have nominated by written designation, duly executed and filed
13 with the Board of Trustees, otherwise, to the member's estate:

14 [(1)] (I) The member's accumulated contributions; and

15 [(2)] (II) If the member has one (1) year or more of creditable service, OR FIVE
16 (5) OR MORE YEARS OF CREDITABLE SERVICE IN THE CASE OF A GROUP 3 MEMBER,
17 then an amount equal to one-hundred (100) percent of the annual earnable compensation of the
18 member at the date of the member's death.

19 [(3)] (2) (i) Notwithstanding the foregoing provision, if the Board of
20 Trustees shall receive evidence of proof satisfactory to the Board that such death was the result of
21 injuries sustained in the line of duty or was directly attributable to the inherent hazards of the duties
22 performed by such employee, and the Board of Trustees shall decide that the death was not caused
23 by willful negligence on the part of the member, there shall be paid in lieu of such lump sum death
24 benefit a retirement allowance:

1 1. To the member's surviving spouse, to continue during
2 surviving spouse's widowhood; or

3 2. If there be no surviving spouse or the surviving spouse dies
4 or remarries before the youngest child of such deceased member shall have attained the age of
5 eighteen (18) years, then to the member's child or children under such age, divided in such manner
6 as the Board of Trustees in its discretion shall determine, to continue as a joint and survivorship
7 pension for the benefit of the child or children under such age until every child dies or attains such
8 age; or

9 3. If there be no surviving spouse or child under the age of
10 eighteen (18) years surviving such deceased member, then to the member's dependent father or
11 dependent mother, as the deceased member shall have nominated by written designation, duly
12 acknowledged and filed with the Board of Trustees, or if there be no such nomination then to the
13 member's dependent father or dependent mother as the Board of Trustees in its discretion shall
14 direct, to continue for life.

15 (ii) The retirement allowance shall consist of:

16 1. An annuity which shall be the actuarial equivalent of the
17 accumulated contributions of the member at the time of death; and

18 2. A pension of sixty-six and two-thirds ($66 \frac{2}{3}$) percent of the
19 average final compensation of the member, except that in the case of a Group 4 member, the pension
20 shall be one hundred (100) percent of the annual earnable compensation of such member at the date
21 of death; and

22 3. If there is a benefit payable on account of the death of the
23 member under the provisions of any worker's compensation or similar law, the Board of Trustees
24 may in its discretion accept the commuted value of each award and add to the retirement allowance

1 as determined above the annuity which is the actuarial equivalent of such commuted value.

2 [(4)] (3) Notwithstanding the foregoing provisions, if [a] AN EMPLOYEE
3 member dies [in service] either while eligible for service retirement under the provisions of §
4 5-1-213 of this subtitle, or after having completed 15 or more years of creditable service:

5 (i) Without having nominated by written designation a beneficiary other
6 than the member's spouse or surviving minor children (as defined below), and

7 (ii) Under circumstances where no benefit is payable in accordance with
8 paragraph [(3)] (2) of this subsection, there may be paid to the member's surviving spouse or
9 surviving minor children, as designated by the member, in lieu of such lump sum under [paragraphs]
10 PARAGRAPH (1)(I) and [(2)] (II) of this subsection, an allowance provided in this paragraph:

11 1. For a member who has attained the member's normal service
12 retirement age and who has named the member's surviving spouse as the member's designated
13 beneficiary, the allowance payable to the surviving spouse shall be equal to the allowance which
14 would have been payable had the member retired immediately prior to the member's death and
15 elected option 2 with the spouse the person designated thereunder; provided, however, if the
16 individual has completed 15 or more years of creditable service, in no event shall the allowance
17 payable to the surviving spouse be less than the sum of twenty-five (25) percent of the member's
18 average final compensation at the date of the member's death and an annuity for the life of the
19 surviving spouse which shall be the actuarial equivalent of the accumulated contributions of the
20 member at the time of death. Such allowance shall be paid to the surviving spouse until the first
21 month coincident or preceding the death of the surviving spouse.

22 2. For a member who has not attained the member's normal
23 service retirement age under the provisions of § 5-1-213 of this subtitle and who has named the
24 member's surviving spouse as the member's designated beneficiary, but who comes within the scope

1 of this paragraph, the allowance payable to the surviving spouse shall be equal to the service
2 retirement allowance which would be payable at the member's normal service retirement age based
3 on the member's creditable service and average final compensation at the date of the member's
4 death reduced by five-twelfths (5/12) of one (1) percent for each month by which the date of the
5 member's death precedes the date on which the member would have attained the member's normal
6 service retirement age with such reduced allowance equal to the allowance which would have been
7 payable had the member retired immediately prior to the member's death and elected option 2 with
8 the spouse the person designated thereunder; provided, however, in no event shall the allowance
9 payable to the surviving spouse be less than the sum of twenty-five (25) percent of the member's
10 average final compensation at the date of the member's death and an annuity for the life of the
11 surviving spouse which shall be the actuarial equivalent of the accumulated contributions of the
12 member at the time of death. Such allowance shall be paid to the surviving spouse until the first of
13 the month coincident with or preceding the earlier to occur of the death or remarriage of the
14 surviving spouse.

15 3. For a member who has designated the member's surviving
16 children as the member's beneficiary, or for a member who has designated the member's surviving
17 spouse as the member's beneficiary and the member's surviving spouse either dies or remarries
18 before the youngest child of the deceased member shall have attained the age of eighteen (18) years,
19 then upon the death of the member or the death or remarriage of the member's surviving spouse,
20 there shall be paid to the member's surviving child or children under the age of eighteen (18) years,
21 divided among the children in such a manner as the Board of Trustees in its discretion shall
22 determine, an allowance equal to the sum of twenty-five (25) percent of the member's average final
23 compensation at the date of the member's death and an annuity payable until the youngest child of
24 the deceased member shall have attained the age of eighteen (18) which shall be the actuarial
25 equivalent of the accumulated contributions of the member at the time of death reduced by the

1 payments made to the surviving spouse, if any, attributable to the account.

2 4. If a member dies without having designated a beneficiary
3 under this subsection and is survived by a spouse, minor children or both, benefits shall be payable
4 under this subsection as though the member prior to the member's death had designated both the
5 member's surviving spouse and surviving minor children in equal shares.

6 (b) (1) In lieu of all other benefits under this section, there may be paid on behalf of
7 a Group 4 member who died after December 1, 1968, after completing two (2) years of creditable
8 service a retirement allowance as provided in this subsection.

9 (2) (i) For a member who has designated the member's surviving spouse or
10 surviving minor children, or both; or

11 (ii) For a member who has designated the member's surviving spouse as
12 a beneficiary and there be no surviving spouse or if the surviving spouse dies or remarries before
13 the youngest child of such deceased member shall have attained the age of eighteen (18) years, then
14 to the member's surviving minor child or children under such age, divided in such manner as the
15 Board of Trustees in its discretion shall determine, to continue as a joint survivorship pension for
16 the benefit of the child or children under such age until every child dies or attains such age;

17 A retirement allowance consisting of an annuity which shall be the actuarial equivalent of
18 the accumulated contributions of the member at the time of death, and a pension of twenty-five (25)
19 percent of the average final compensation of the member. If a member dies without having
20 designated a beneficiary under this paragraph and is survived by a spouse, minor children or both,
21 benefits shall be payable under this paragraph as though the member prior to the member's death
22 had designated both the member's surviving spouse and surviving minor children in equal shares.

23 (3) For a member who dies having designated a beneficiary other than the
24 member's surviving spouse or surviving minor children, the lump sum death benefit shall be equal

1 to the benefit payable under subsection (a)(1)(I) plus [(2)] (II) of this section.

2 [(4)] (C) For a member who has failed to designate a beneficiary and who dies
3 intestate and without heirs, the amounts which would have been paid under the provisions of this
4 section shall remain part of the funds of the system and shall be credited to such accounts as the
5 Board of Trustees may direct.

6 § 5-1-235.

7 (a) THIS SECTION APPLIES ONLY TO:

8 (1) A BENEFICIARY WHO ~~RETIRED~~ RETIRES WITH AT LEAST TWENTY
9 (20) YEARS OF CREDITABLE SERVICE IF THE MEMBER BEGAN SERVICE BEFORE JULY
10 1, 2007;

11 (2) A BENEFICIARY WHO ~~RETIRED~~ RETIRES WITH AT LEAST TWENTY-
12 FIVE (25) YEARS OF CREDITABLE SERVICE IF THE MEMBER BEGAN SERVICE ON OR
13 AFTER JULY 1, 2007; AND

14 (3) A BENEFICIARY WHO RETIRED BEFORE JULY 1, 2010.

15 (B)(1) Commencing as of July 1, 1983, the retirement allowance, exclusive of any amount
16 computed under § 5-1-234 of this subtitle, of each beneficiary who ~~RETIRED BEFORE JULY 1,~~
17 2010 AND WHO has been retired for at least twelve (12) months shall be increased in accordance
18 with the procedures of this section.

19 (2) COMMENCING AS OF JULY 1, 2010, THE RETIREMENT ALLOWANCE,
20 EXCLUSIVE OF ANY AMOUNT COMPUTED UNDER § 5-1-234 OF THIS SUBTITLE, OF A
21 BENEFICIARY WHO HAS NOT SELECTED OR PARTICIPATED IN A DROP PROGRAM
22 UNDER SUBTITLE 3 OF THIS TITLE AND WHO HAS BEEN RETIRED FOR AT LEAST 60
23 MONTHS SHALL BE INCREASED IN ACCORDANCE WITH THE PROCEDURES OF THIS

1 SECTION.

2 (3) COMMENCING AS OF JULY 1, 2010, THE RETIREMENT ALLOWANCE,
3 EXCLUSIVE OF ANY AMOUNT COMPUTED UNDER § 5-1-234 OF THIS SUBTITLE, OF A
4 BENEFICIARY WHO HAS SELECTED OR PARTICIPATED IN A DROP PROGRAM UNDER
5 SUBTITLE 3 OF THIS TITLE AND WHO HAS BEEN RETIRED FOR AT LEAST 48 MONTHS
6 SHALL BE INCREASED IN ACCORDANCE WITH THE PROCEDURES OF THIS SECTION.

7 (4) In the case of a beneficiary who elected option 1, the factor of increase shall be
8 applied to the retirement allowance before optional modification, and in the case of a beneficiary
9 who elected option 2 or option 3, it shall be applied to the retirement allowance after optional
10 modification.

11 [(b)) (C) As of the end of each calendar year commencing with the year ending
12 December 31, 1989, the increase in the Consumer Price Index to such index as of December 31,
13 1988, or as of the latest year-end [on the basis of which an increase in retirement allowance was
14 granted] shall be determined, subject to the provisions of subsection [(c)] (D) of this section. The
15 retirement allowance shall be increased by an amount equal to the increase in the Consumer Price
16 Index, not to exceed [four (4)] THREE (3) percent. All increases calculated under this section shall
17 take effect July 1, 1990, and on July 1st each year thereafter.

18 [(c)] (D) If the funds accumulated from excess investment income in the postretirement
19 increase fund are insufficient to cover the actuarial reserves required to provide the full percentage
20 increase determined under subsection [(b)] (C) of this section, then the appropriate increase shall
21 be calculated to the nearest one-fourth (1/4) of one (1) percent as such funds will allow but not less
22 than one (1) percent. If the funds are insufficient to provide a one (1) percent increase, then no
23 increase shall be granted.

24 [(d)] (E) For purposes of this section, "Consumer Price Index" shall mean the

1 Consumer Price Index--All Urban Consumers--United States City Average--All Items (CPI-U), as
2 published by the United States Department of Labor, Bureau of Labor Statistics.

3 § 5-1-251.

4 (A) Except as otherwise provided, no trustee and no employee of the Board of Trustees shall
5 have any direct interest in the gains or profits of any investment made by the Board of Trustees. No
6 trustee or employee of the Board shall, directly or indirectly, for himself or as an agent, in any
7 manner use the same except to make such current and necessary payments as are authorized by the
8 Board of Trustees nor shall any trustee or employee of the Board of Trustees become an endorser
9 or surety or in any manner an obligor for moneys loaned to or borrowed from the Board of Trustees.

10 (B) A MEMBER OF THE BOARD OF TRUSTEES MUST DISCHARGE THE
11 MEMBER'S FIDUCIARY'S DUTIES REGARDING THE RETIREMENT SYSTEM:

12 (1) ONLY IN THE BEST INTEREST OF THE MEMBERS AND THEIR
13 BENEFICIARIES;

14 (2) ONLY TO PROVIDE BENEFITS TO THE MEMBERS AND THEIR
15 BENEFICIARIES, AND DEFRAID REASONABLE EXPENSES OF ADMINISTERING THE
16 RETIREMENT SYSTEM;

17 (3) WITH THE CARE, SKILL, PRUDENCE, AND DILIGENCE UNDER THE
18 CIRCUMSTANCES THAT A PRUDENT PERSON ACTING IN A SIMILAR CAPACITY AND
19 FAMILIAR WITH THE SAME MATTERS WOULD USE TO CONDUCT A SIMILAR
20 ENTERPRISE WITH SIMILAR PURPOSES;

21 (4) BY DIVERSIFYING THE INVESTMENTS OF THE RETIREMENT SYSTEM
22 TO MINIMIZE THE RISK OF LARGE LOSSES, UNLESS IT IS CLEARLY NOT PRUDENT TO
23 DIVERSIFY UNDER THE CIRCUMSTANCES;

1 (5) ACCORDING TO A GOOD FAITH INTERPRETATION OF THE LAW
2 GOVERNING THE RETIREMENT SYSTEM; AND

3 (6) ACCORDING TO A GOOD FAITH INTERPRETATION OF THE
4 DOCUMENTS AND INSTRUMENTS GOVERNING THE RETIREMENT SYSTEM, IF THEY
5 COMPLY WITH THIS ARTICLE.

6 § 5-1-253.

7 (a) The Annuity Savings Fund shall be a Fund consisting of accumulated contributions
8 credited to individual accounts of members to provide for their annuities. Upon the basis of such
9 tables as the Board of Trustees shall adopt and regular interest, the actuary of the Retirement System
10 shall determine for each member the proportion of earnable compensation which, when deducted
11 from each payment of the member's prospective compensation earnable prior to the member's
12 attainment of THE MEMBER'S NORMAL SERVICE RETIREMENT age [sixty (60)] and
13 accumulated at regular interest until the member's attainment of such age, shall be computed to
14 provide at that time an annuity equal to and one one-hundred-twentieth of average final
15 compensation for each year of service as a member at THE MEMBER'S NORMAL SERVICE
16 RETIREMENT age [sixty (60)], and commencing as of July 1, 1971, with respect to each Group 3
17 member who is an appointed department head an additional rate of compensation computed to
18 provide an annuity at THE MEMBER'S NORMAL SERVICE RETIREMENT age [sixty (60)]
19 equal to the difference between one-eightieth and one one-hundred-tenth of average final
20 compensation for each year of service as a member on and after July 1, 1971, prior to the member's
21 attaining THE MEMBER'S NORMAL SERVICE RETIREMENT age [sixty (60)]. Such proportion
22 of compensation shall be computed to remain constant. Each member who was a Group 3 member
23 on December 31, 1960, shall either continue to make contributions at the rate applicable to the
24 member on that date or elect, by filing a form with the Board of Trustees, on or before sixty (60)

1 days from the date of approval and enactment, to continue at the rate applicable to the member on
2 January 1, 1961, plus an additional rate of compensation computed to provide an annuity at THE
3 MEMBER'S NORMAL SERVICE RETIREMENT age [sixty (60)] equal to the difference between
4 one one-hundred-twentieth and one one-hundred-thirtieth of the average annual earnable
5 compensation during the last ten (10) years of continuous, honorable and faithful service, multiplied
6 by the number of years of service after December 31, 1960.

7 § 5-1-254.

8 (g) The system shall maintain a special subfund within the pension accumulation fund
9 known as the Postretirement Increase Fund, in which shall be accumulated all investment income
10 in excess of valuation requirements, provided that the amount accumulated in such subfund shall in
11 no event exceed two (2) times the amount of the reserves necessary to provide a [four-percent]
12 THREE (3) PERCENT increase to all beneficiaries then covered under § 5-1-235 of this subtitle.
13 Upon the granting of increases in retirement allowances as provided under § 5-1-235 of this subtitle,
14 the necessary reserves to provide such increases shall be transferred from the special subfund to the
15 regular Pension Accumulation Fund.

16 § 5-1-302.

17 (g) ON THE DATE THAT A POST-RETIREMENT INCREASE IS GRANTED
18 UNDER § 5-1-235 OF THIS TITLE THAT IS AT LEAST TWELVE (12) MONTHS AFTER THE
19 BEGINNING DATE OF THE DROP PERIOD, DROP allowances credited to the DROP account
20 and paid on actual retirement shall be increased for retirement system cost of living adjustments as
21 if the member had retired at the beginning of the DROP period.

22 § 5-1-303.

23 (g) ON THE DATE THAT A POST-RETIREMENT INCREASE IS GRANTED
24 UNDER § 5-1-235 OF THIS TITLE THAT IS AT LEAST TWELVE (12) MONTHS AFTER THE

1 BEGINNING DATE OF THE DROP PERIOD, DROP allowances credited to the DROP account
2 and paid on actual retirement shall be increased for retirement system cost of living adjustments as
3 if the member had retired at the beginning of the DROP period.

4 § 5-1-304.

5 (g) ON THE DATE THAT A POST-RETIREMENT INCREASE IS GRANTED
6 UNDER § 5-1-235 OF THIS TITLE THAT IS AT LEAST TWELVE (12) MONTHS AFTER THE
7 BEGINNING DATE OF THE DROP PERIOD, Drop allowances credited to the DROP account and
8 paid on actual retirement shall be increased for retirement system cost of living adjustments.

9 § 5-1-305.

10 (a) (7) (i) “Qualifying service” means:

- 11 1. Membership service on pay schedule [I] I-C, VI, or XIII of the
12 classification and compensation plan;
- 13 2. Retirement system membership credit for accumulated unused
14 sick leave; and
- 15 3. Creditable military service.

16 (g) ON THE DATE THAT A POST-RETIREMENT INCREASE IS GRANTED
17 UNDER § 5-1-235 OF THIS TITLE THAT IS AT LEAST TWELVE (12) MONTHS AFTER THE
18 BEGINNING DATE OF THE DROP PERIOD, DROP allowances credited to the DROP account
19 and paid on actual retirement shall be increased for retirement system cost of living adjustments as
20 if the member had retired at the beginning of the DROP period.

21 § 5-2-106.

22 (a) [The provisions of Article 10 of the Code and any other law limiting the types of
23 investments which may be made of county funds or limiting or placing conditions upon the deposit

1 of county funds shall not be applicable to the deposit and investment of moneys deferred pursuant
2 to this title, to the end and intent that such moneys may be deposited and invested in accordance with
3 the investment elections permitted under the plan.

4 (b) All assets of the plan, including all deferred amounts, property and rights purchased
5 with deferred amounts and all income attributable to such deferred amounts, property, or rights,
6 [shall be the exclusive property of the county and shall be subject to all the claims of creditors of
7 the county without protection or preference] ARE HELD BY A TRUSTEE DESIGNATED BY THE
8 COUNTY IN SEPARATE CUSTODIAL ACCOUNTS FOR THE BENEFIT OF PLAN
9 PARTICIPANTS.

10 [(c)] (B) [The obligations of the county to the employees participating under the plan
11 shall only be those owed to a general creditor, and the employees] EMPLOYEES shall not have any
12 preferred, guaranteed, secured, or special interest in the deferred funds. The county shall not
13 contribute to the plan.

14 § 5-1-202.

15 (A) A retirement system is hereby established and placed under the management of the Board
16 of Trustees for the purpose of providing retirement allowances and other benefits under the
17 provisions of this title for employees. The Retirement System so created shall be established as of
18 January 1, 1945. It shall be known as the "Employees' Retirement System of Baltimore County,"
19 and by such name all of its business shall be transacted, all of its funds invested, and all of its cash
20 and securities and other property held in trust for the purpose for which received.

21 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, NO PART OF THE
22 CORPUS OR INCOME OF THE FUNDS OF THE RETIREMENT SYSTEM SHALL BE USED
23 FOR, OR DIVERTED TO, PURPOSES OTHER THAN FOR THE EXCLUSIVE BENEFIT OF
24 MEMBERS AND OTHER PERSONS ENTITLED TO BENEFITS UNDER THE RETIREMENT

1 SYSTEM AND PAYING EXPENSES OF THE RETIREMENT SYSTEM NOT OTHERWISE
2 PAID BY THE EMPLOYER, BEFORE THE SATISFACTION OF ALL LIABILITIES WITH
3 RESPECT TO THEM. NO PERSON SHALL HAVE ANY INTEREST IN OR RIGHT IN, OR TO,
4 ANY PART OF THE ASSETS HELD UNDER THE RETIREMENT SYSTEM, EXCEPT AS AND
5 TO THE EXTENT EXPRESSLY PROVIDED IN THIS TITLE.

6 § 5-1-236.

7 (A) Notwithstanding anything to the contrary in this subtitle, the [following] limitations on
8 benefits shall apply[:] AS PROVIDED IN THIS SECTION.

9 (B) For years beginning after 1988, the earnable compensation, for purposes of computing
10 benefits may not exceed the maximum dollar limitation specified in § 401(a)(17) of the Internal
11 Revenue Code AS ADJUSTED FROM TIME TO TIME BY THE SECRETARY OF THE
12 TREASURY IN ACCORDANCE WITH § 401(A)(17)(B) OF THE INTERNAL REVENUE
13 CODE; provided however for a member who first established membership before July 1, 1996, the
14 compensation for computing benefits shall be determined in accordance with § 13212(d)(3) of the
15 Omnibus BUDGET Reconciliation Act of 1993.

16 [(2)] (C)(1)(I)1. In addition to other limitations set forth in this subtitle, THE
17 AGGREGATE ANNUAL BENEFIT TO WHICH A MEMBER IS ENTITLED UNDER THIS
18 SUBTITLE AND SUBTITLE 3 OF THIS TITLE MAY NOT, IN ANY CALENDAR YEAR,
19 WHICH SHALL BE THE “LIMITATION YEAR,” EXCEED the [retirement system shall comply
20 with the] applicable [contribution and benefit] limitations [imposed by] OF § 415 of the Internal
21 Revenue Code AND THE REGULATIONS ADOPTED UNDER § 415 OF THE INTERNAL
22 REVENUE CODE.

23 2. AS APPLICABLE, THE BOARD OF TRUSTEES SHALL
24 DETERMINE AN AMORTIZATION SCHEDULE FOR THE BENEFIT PAID UNDER

1 SUBTITLE 3 OF THIS TITLE FOR THE PURPOSES OF THIS SUBSECTION.

2 (II) IF THE BENEFIT PAYABLE UNDER THIS SUBTITLE AND
3 SUBTITLE 3 OF THIS TITLE WOULD, BUT FOR SUBPARAGRAPH (I) OF THIS
4 PARAGRAPH, EXCEED THE LIMITATIONS OF § 415 OF THE INTERNAL REVENUE CODE
5 BY REASON OF A BENEFIT PAYABLE UNDER ANOTHER DEFINED BENEFIT PLAN
6 AGGREGATED WITH THE RETIREMENT PLAN UNDER § 414(F) OF THE INTERNAL
7 REVENUE CODE, THE BENEFIT UNDER THE RETIREMENT SYSTEM SHALL BE
8 REDUCED ONLY AFTER ALL REDUCTIONS HAVE BEEN MADE UNDER THE OTHER
9 PLAN.

10 (III) AS OF JANUARY 1 OF EACH CALENDAR YEAR
11 COMMENCING ON OR AFTER JANUARY 1, 2009, THE DOLLAR LIMITATION AS
12 DETERMINED BY THE COMMISSIONER OF INTERNAL REVENUE FOR THAT
13 CALENDAR YEAR SHALL BECOME EFFECTIVE AS THE MAXIMUM PERMISSIBLE
14 DOLLAR AMOUNT OF BENEFIT PAYABLE UNDER THE RETIREMENT SYSTEM DURING
15 THAT CALENDAR YEAR.

16 (2)(I) THE COMPENSATION TO BE USED FOR PURPOSES OF APPLYING
17 THE APPLICABLE LIMITATIONS UNDER § 415 OF THE INTERNAL REVENUE CODE
18 WITH RESPECT TO ANY MEMBER SHALL MEAN COMPENSATION FROM THE
19 EMPLOYER AND ALL AFFILIATED EMPLOYERS REQUIRED TO BE AGGREGATED WITH
20 THE EMPLOYER UNDER § 414(F) OF THE INTERNAL REVENUE CODE AS DEFINED IN
21 U.S. TREASURY DEPARTMENT REGULATION § 1.415(C)-2(D)(4) (I.E., INFORMATION
22 TO REQUIRED TO BE REPORTED UNDER §§ 6041, 6051 AND 6052 (“W-2 PAY”) OF THE
23 INTERNAL REVENUE CODE PLUS AMOUNTS THAT WOULD BE INCLUDED IN WAGES
24 BUT FOR AN ELECTION UNDER § 125(A), § 132(F)(4), § 402(E)(3), § 402(H)(1)(B), § 402(K),

1 § 403(B), OR § 457(B) OF THE INTERNAL REVENUE CODE).

2 (II) FOR LIMITATION YEARS BEGINNING ON OR AFTER JULY 1,
3 2007, THE PRECEDING DEFINITION OF COMPENSATION SHALL BE MODIFIED AS
4 REQUIRED UNDER THE PROVISIONS OF U.S. TREASURY DEPARTMENT REGULATION
5 § 1.415(C)-2(E) AND SHALL INCLUDE ALL AMOUNTS PERMITTED TO BE RECOGNIZED
6 UNDER THE PROVISIONS OF U.S. TREASURY DEPARTMENT REGULATION § 1.415(C)-
7 2(E)(3).

8 (III) COMPENSATION MAY NOT EXCEED THE LIMITATION ON
9 COMPENSATION UNDER § 401(A)(17) OF THE INTERNAL REVENUE CODE.

10 [(3)] (D) A beneficiary of a service retirement benefit under this subtitle who returns
11 to active service with the county may receive the service retirement benefit during the time in which
12 the beneficiary remains in the active service if the beneficiary is employed by the board of education
13 as a school bus driver.

14 [(4)] (E) [(i)] (1) Subject to [subparagraphs (ii) and (iii) of this paragraph]
15 PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, a retired county police officer who is a
16 beneficiary of a service retirement benefit under this subtitle who returns to active service with the
17 county as a uniformed security officer to provide security for county owned, rented, occupied or
18 leased buildings and properties may receive the service retirement benefit during the time in which
19 the beneficiary remains in the active service of the county.

20 [(ii)] (2) A beneficiary who returns to active service with the county under this
21 paragraph shall at all times be a special police officer in good standing as defined in Title 3, Subtitle
22 3 of the Public Safety Article of the Annotated Code of Maryland.

23 [(iii)] (3) A beneficiary who returns to active service with the county under this
24 paragraph may not credit any uniformed security officer active service time to an existing service

1 retirement benefit and may not claim an additional service retirement benefit for this active service
2 time.

3 § 5-1-255.

4 (A) EXCEPT AS PROVIDED IN THIS SECTION, [The] THE right of a person to a
5 pension, an annuity, or a retirement allowance, to the return of contributions, the pension, annuity,
6 or retirement allowance itself, any optional benefit or death benefit, or any other right accrued or
7 accruing to any person under the provisions of this subtitle, and the moneys in the various funds
8 created by this subtitle, shall not be subject to execution, garnishment, attachment, or any other
9 process whatsoever and shall be unassignable [except as in this subtitle specifically provided].

10 (B) A BENEFIT UNDER THIS TITLE SHALL BE PAYABLE:

11 (1) IN ACCORDANCE WITH THE PROVISIONS OF ANY JUDGMENT,
12 DECREE, OR ORDER THAT:

13 (I) CREATES FOR, OR ASSIGNS TO, A SPOUSE, FORMER SPOUSE,
14 CHILD, OR OTHER DEPENDANT OF A MEMBER THE RIGHT TO RECEIVE ALL OR A
15 PORTION OF THE MEMBER'S BENEFITS UNDER THE RETIREMENT SYSTEM FOR THE
16 PURPOSE OF PROVIDING CHILD SUPPORT, ALIMONY PAYMENTS, OR MARITAL
17 PROPERTY RIGHTS TO THAT SPOUSE, FORMER SPOUSE, CHILD, OR DEPENDANT;

18 (II) IS ISSUED IN ACCORDANCE WITH A STATE DOMESTIC
19 RELATIONS LAW;

20 (III) DOES NOT REQUIRE THE RETIREMENT SYSTEM TO PROVIDE
21 ANY TYPE OF BENEFIT OR ANY OPTION NOT OTHERWISE PROVIDED UNDER THE
22 RETIREMENT SYSTEM; AND

23 (IV) OTHERWISE MEETS THE REQUIREMENTS OF § 206(D) OF

1 ERISA, AS AMENDED, AS A “QUALIFIED DOMESTIC RELATIONS ORDER” AS
2 DETERMINED BY THE BOARD OF TRUSTEES;

3 (2) AS REQUIRED BECAUSE OF ENFORCEMENT OF A FEDERAL TAX LEVY
4 MADE IN ACCORDANCE WITH § 6331 OF THE INTERNAL REVENUE CODE OR THE
5 COLLECTION BY THE UNITED STATES ON A JUDGMENT RESULTING FROM AN
6 UNPAID TAX ASSESSMENT; OR

7 (3) AS OTHERWISE PROVIDED IN THIS SUBTITLE.

8 § 5-1-257.

9 Not less than one hundred twenty (120) days prior to the end of each fiscal year, the Board
10 of Trustees shall certify to the county the amounts which will become due and payable during the
11 year next following to the Retirement System. The amounts thus ascertained shall be included in the
12 budget and when appropriated shall be immediately transferred to the Retirement System by the
13 Director of Budget and Finance. ANY AMOUNTS FORFEITED BY A MEMBER WHO
14 TERMINATES EMPLOYMENT BEFORE EARNING A RIGHT TO A BENEFIT UNDER THE
15 RETIREMENT SYSTEM SHALL BE USED TO REDUCE THE CONTRIBUTIONS
16 OTHERWISE PAYABLE BY THE COUNTY TO RETIREMENT SYSTEM AND MAY NOT BE
17 USED TO INCREASE BENEFITS PAYABLE UNDER THE RETIREMENT SYSTEM.

18 SECTION 3 AND BE IT ENACTED, that Section 5-1-221 of Title 1. Employees Retirement
19 System of Article 5. Pensions and retirement, of the Baltimore County Code, 2003, as amended, is
20 hereby repealed and reenacted with amendments, to read as follows:

21 § 5-1-221.

22 (A)(1) THIS SUBSECTION APPLIES TO A SWORN MEMBER OF THE FIRE

1 DEPARTMENT OR POLICE DEPARTMENT.

2 (2) Upon the application of a member in service or of the employer, any member
3 who has had five (5) or more years of creditable service, or ten (10) or more years of creditable
4 service if the member begins service on or after July 1, 2007, may be retired by the Board of
5 Trustees not less than thirty (30) and not more than ninety (90) days next following the date of filing
6 such application for an ordinary disability retirement allowance; provided that the Medical Board,
7 after a medical examination of such member, shall certify that such member is mentally or
8 physically incapacitated for the further performance of duty, that such incapacity is likely to be
9 permanent, and that such member should be retired.

10 (B)(1) THIS SUBSECTION APPLIES TO GROUP 3 MEMBERS.

11 (2) UPON THE APPLICATION OF A MEMBER IN SERVICE OR OF THE
12 EMPLOYER, ANY MEMBER WHO HAS HAD TEN (10) OR MORE YEARS OF CREDITABLE
13 SERVICE MAY BE RETIRED BY THE BOARD OF TRUSTEES NOT LESS THAN THIRTY
14 (30) AND NOT MORE THAN NINETY (90) DAYS NEXT FOLLOWING THE DATE OF
15 FILING SUCH APPLICATION FOR AN ORDINARY DISABILITY RETIREMENT
16 ALLOWANCE; PROVIDED THAT THE MEDICAL BOARD, AFTER A MEDICAL
17 EXAMINATION OF SUCH MEMBER, SHALL CERTIFY THAT SUCH MEMBER IS
18 MENTALLY OR PHYSICALLY INCAPACITATED FOR THE FURTHER PERFORMANCE OF
19 DUTY, THAT SUCH INCAPACITY IS LIKELY TO BE PERMANENT, AND THAT SUCH
20 MEMBER SHOULD BE RETIRED.

21 (3) UPON THE APPLICATION FOR DISABILITY RETIREMENT OF A
22 MEMBER IN SERVICE OR OF THE EMPLOYER UNDER THIS SUBSECTION, IF THE
23 BOARD OF TRUSTEES DETERMINES THAT THE MEMBER IS ELIGIBLE TO RETIRE FOR
24 SERVICE, THE BOARD OF TRUSTEES MAY RETIRE THE MEMBER FOR SERVICE UNDER

1 THE APPLICABLE SECTION OF THIS TITLE IN LIEU OF A DISABILITY RETIREMENT.

2 SECTION 4 AND BE IT ENACTED, that Section 5-1-231(a)(7) and (d)(2)(iv) of Title 1.
3 Employees Retirement System of Article 5. Pensions and retirement, of the Baltimore County Code,
4 2003, as amended is hereby repealed and reenacted with, amendments, to read as follows:

5 § 5-1-231.

6 (7) *Option 7.* Subject to subsection (d) of this section, an employee who has
7 completed at least 25 years of actual service as a sworn Baltimore County police [officer or]
8 OFFICER, at least 25 years of actual service as a sworn Baltimore County [firefighter]
9 FIREFIGHTER, OR ANY COMBINATION OF ACTUAL SERVICE AS A SWORN
10 BALTIMORE COUNTY POLICE OFFICER AND BALTIMORE COUNTY FIREFIGHTER
11 EQUALING 25 YEARS OF ACTUAL SERVICE may retire with the option of having 50% of the
12 retired member’s retirement allowance continued throughout the life of and paid to the original
13 beneficiary upon the retired member’s death. This option shall be provided at no cost to the
14 employee.

15 (d)(2)(iv) “Employee” means a:

16 1. Sworn Baltimore County Police Officer in active service on
17 pay schedule IV or VII who has completed at least 25 years of actual service as a sworn member of
18 the Baltimore County Police Department; [or]

19 2. Sworn Baltimore County Firefighter in active service on pay
20 schedule V or VIII who has completed at least 25 years of actual service as a sworn member of the
21 Baltimore County Fire [Department] DEPARTMENT; OR

22 3. ANY COMBINATION OF ITEMS 1 AND 2 OF THIS

1 SUBPARAGRAPH EQUALING 25 YEARS OF ACTUAL SERVICE.

2 SECTION 5. AND BE IT FURTHER ENACTED that ~~Section~~ Sections 5-1-201(m), 5-1-
3 203(10) , 5-1-306, 5-1-220.1, and 5-1-232 ~~is~~ are added to Subtitle 2. Retirement System, Title 1.
4 Employees Retirement System, Article 5. Pensions and retirement, of the Baltimore County Code,
5 2003, as amended, to read as follows:

6 § 5-1-201

7 (M) “EXEMPT MEMBER” MEANS A MEMBER AS DEFINED IN §5-1-203(7) OF THIS
8 SUBTITLE.

9 §5-1-203.

10 (10) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE RATE OF
11 CONTRIBUTION OF EMPLOYEES WHO BEGAN SERVICE BEFORE JULY 1, 2007 SHALL
12 INCREASE AS FOLLOWS:

13 (I) BEGINNING JULY 1, 2010, THE RATE OF CONTRIBUTION SHALL
14 INCREASE OVER THE RATE THAT THE EMPLOYEE WOULD PAY UNDER THE EXISTING
15 LAW BY THE FOLLOWING AMOUNTS:

16 1. GROUP 3 MEMBERS (OTHER THAN APPOINTED DEPARTMENT
17 HEADS), BY 0.5%; AND

18 2. GROUP 4 MEMBERS AND APPOINTED DEPARTMENT HEADS, BY
19 1%; AND

20 (II) BEGINNING JULY 1, 2011, THE RATE OF CONTRIBUTION SHALL
21 INCREASE OVER THE RATE THAT THE EMPLOYEE WOULD PAY UNDER THE EXISTING
22 LAW BY THE FOLLOWING AMOUNTS:

1 1. GROUP 3 MEMBERS (OTHER THAN APPOINTED DEPARTMENT
2 HEADS), BY AN ADDITIONAL 0.5%; AND

3 2. GROUP 4 MEMBERS AND APPOINTED DEPARTMENT HEADS, BY
4 AN ADDITIONAL 0.5%.

5 §5-1-306.

6 A GROUP 3 OR GROUP 4 MEMBER WHO BEGAN SERVICE BEFORE JULY 1, 2007
7 MAY RETIRE AND RETURN TO ACTIVE SERVICE WITH THE COUNTY, IF APPROVED
8 BY THE COUNTY ADMINISTRATIVE OFFICER, PROVIDED THAT HE RETURNS TO A
9 PREVIOUSLY EXISTING POSITION THAT IS DIFFERENT THAN THAT HELD AT THE
10 TIME OF RETIREMENT. IF APPROVED, THE MEMBER MAY DEFER THE RECEIPT OF
11 HIS ACCRUED BENEFIT AND CONTRIBUTE THAT AMOUNT TO A DEFERRAL
12 ACCOUNT ESTABLISHED FOR THAT PURPOSE. NOTWITHSTANDING ANY OTHER
13 PROVISION OF THIS ARTICLE, THE MEMBER MAY ALSO PARTICIPATE IN THE
14 SYSTEM ON TERMS APPROVED BY THE COUNTY ADMINISTRATIVE OFFICER. ON
15 SUBSEQUENT RETIREMENT, THE MEMBER SHALL RECEIVE THE PROCEEDS OF THE
16 DEFERRAL ACCOUNT AND ANY SYSTEM BENEFITS TO WHICH HE IS ENTITLED.

17 § 5-1-220.1

18 (A) IN THIS SECTION, “NONCONTRIBUTORY SYSTEM” HAS THE MEANING
19 STATED IN § 37-101 OF THE STATE PERSONNEL AND PENSIONS ARTICLE OF THE
20 ANNOTATED CODE OF MARYLAND.

21 (B) THE RETIREMENT ALLOWANCE OF A MEMBER WHO TRANSFERRED FROM
22 A NONCONTRIBUTORY SYSTEM TO THE RETIREMENT SYSTEM SHALL BE
23 CALCULATED AS PROVIDED IN THIS SECTION.

24 (C) EXCEPT AS PROVIDED IN THIS SECTION, THE RETIREMENT SYSTEM SHALL

1 DETERMINE THE RETIREMENT ALLOWANCE PAYABLE AS PROVIDED IN THIS TITLE.

2 (D) THE RETIREMENT SYSTEM SHALL REDUCE THE AMOUNT DETERMINED
3 UNDER SUBSECTION (C) OF THIS SECTION IN AN AMOUNT EQUAL TO THE SINGLE
4 LIFE ANNUITY BENEFIT THAT WOULD BE PROVIDED BY THE SUM OF THE MEMBER'S
5 UNPAID ACCUMULATED CONTRIBUTIONS WITH INTEREST AS DETERMINED IN
6 SUBSECTION (E) OF THIS SECTION.

7 (E) THE MEMBER'S UNPAID CONTRIBUTIONS, INTEREST AND THE VALUE OF
8 THE SUM OF THESE TWO AMOUNTS AS A SINGLE LIFE ANNUITY SHALL BE
9 DETERMINED AS FOLLOWS:

10 (1) THE AMOUNT OF THE MEMBER'S UNPAID CONTRIBUTIONS WILL BE
11 DETERMINED USING THE CONTRIBUTION RATE SCHEDULE IN EFFECT WHEN THE
12 MEMBER ENTERED THE RETIREMENT SYSTEM AND THE MEMBER'S AGE AT THE
13 TIME THE MEMBER'S PAST SERVICE COMMENCED (THE PERIOD FOR WHICH THE
14 MEMBER EARNED CREDITABLE SERVICE UNDER THE NONCONTRIBUTORY SYSTEM).

15 (2)(I) FOR THE PERIOD PRIOR TO MEMBERSHIP IN THE RETIREMENT
16 SYSTEM BUT BEFORE JULY 1, 2007, THE INTEREST ON UNPAID CONTRIBUTIONS
17 SHALL BE BASED ON THE VALUATION RATES OF INTEREST IN EFFECT DURING THAT
18 PERIOD.

19 (II) FOR THE PERIOD PRIOR TO MEMBERSHIP IN THE RETIREMENT
20 SYSTEM BUT ON OR AFTER JULY 1, 2007, THE INTEREST ON UNPAID CONTRIBUTIONS
21 SHALL BE BASED ON "REGULAR INTEREST" AS DEFINED IN § 37-203(F)(2) OF THE
22 STATE PERSONNEL AND PENSIONS ARTICLE OF THE ANNOTATED CODE OF
23 MARYLAND.

24 (3)(I) FOR THE PERIOD FOLLOWING THE COMMENCEMENT OF

1 MEMBERSHIP IN THE RETIREMENT SYSTEM BUT BEFORE JULY 1, 2007, THE INTEREST
2 ON UNPAID CONTRIBUTIONS WILL BE BASED ON THE VALUATION RATE OF
3 INTEREST IN EFFECT AT THE TIME THE EMPLOYEE BECOMES A MEMBER OF THE
4 RETIREMENT SYSTEM.

5 (II) FOR THE PERIOD FOLLOWING THE COMMENCEMENT OF
6 MEMBERSHIP IN THE RETIREMENT SYSTEM BUT AFTER JULY 1, 2007, THE INTEREST
7 ON UNPAID CONTRIBUTIONS WILL BE BASED ON "REGULAR INTEREST" AS DEFINED
8 IN § 37-203(F)(2) OF THE STATE PERSONNEL AND PENSIONS ARTICLE OF THE
9 ANNOTATED CODE OF MARYLAND.

10 (4) INTEREST SHALL BE CALCULATED ON A MONTHLY BASIS.

11 (F)(1) THE MEMBER'S RETIREMENT ALLOWANCE SHALL BE REDUCED BY AN
12 AMOUNT EQUAL TO THE MONTHLY BENEFIT THAT THE SUM OF THE UNPAID
13 CONTRIBUTIONS AND INTEREST WOULD PROVIDE THE MEMBER IF PAID IN THE
14 FORM OF A SINGLE LIFE ANNUITY COMMENCING AT AGE 60 OR AGE 67, AS
15 APPLICABLE.

16 (2)(I) THE VALUE OF THE UNPAID CONTRIBUTIONS, THAT WOULD HAVE
17 BEEN PAID BEFORE JULY 1, 2007, IF THE MEMBER HAD JOINED THE SYSTEM BEFORE
18 THAT DATE, AND INTEREST IN THE FORM OF A SINGLE LIFE ANNUITY SHALL BE
19 DETERMINED USING THE VALUATION RATE OF INTEREST IN EFFECT AT THE TIME
20 OF THE MEMBERSHIP IN THE RETIREMENT SYSTEM AND MORTALITY TABLES
21 PROVIDED BY THE ACTUARY.

22 (II) THE VALUE OF THE UNPAID CONTRIBUTIONS, THAT WOULD
23 HAVE BEEN PAID AFTER JULY 1, 2007, IF THE MEMBER JOINED THE SYSTEM AFTER
24 THAT DATE, AND INTEREST IN THE FORM OF A SINGLE LIFE ANNUITY SHALL BE

1 DETERMINED USING THE RATE OF “REGULAR INTEREST” AS DEFINED IN § 37-
2 203(F)(2) OF THE STATE PERSONNEL AND PENSIONS ARTICLE OF THE ANNOTATED
3 CODE OF MARYLAND AND MORTALITY TABLES PROVIDED BY THE ACTUARY.

4 § 5-1-232.

5 (A)(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

7 (2) “DIRECT ROLLOVER” MEANS A PAYMENT BY THE RETIREMENT
8 SYSTEM TO THE ELIGIBLE RETIREMENT PLAN SPECIFIED BY THE DISTRIBUTE.

9 (3) “DISTRIBUTE” MEANS A MEMBER OR FORMER MEMBER, THE
10 SURVIVING SPOUSE OF A MEMBER OR FORMER MEMBER, OR THE FORMER SPOUSE
11 OF A MEMBER OR FORMER MEMBER, WHICH FORMER SPOUSE IS AN ALTERNATE
12 PAYEE UNDER A QUALIFIED DOMESTIC RELATIONS ORDER AS DEFINED IN § 414(P)
13 OF THE INTERNAL REVENUE CODE WITH RESPECT TO THE INTEREST OF THE PAYEE.

14 (4) “ELIGIBLE RETIREMENT PLAN” MEANS ANY OF THE FOLLOWING
15 TYPES OF PLANS THAT ACCEPT THE DISTRIBUTE’S ELIGIBLE ROLLOVER
16 DISTRIBUTION:

17 (I) A QUALIFIED PLAN DESCRIBED IN § 401(A) OF THE INTERNAL
18 REVENUE CODE;

19 (II) AN ANNUITY PLAN DESCRIBED IN § 403(A) OF THE INTERNAL
20 REVENUE CODE; AND

21 (III) AN INDIVIDUAL RETIREMENT ACCOUNT OR INDIVIDUAL
22 RETIREMENT ANNUITY DESCRIBED IN § 408(A) OR § 408(B) OF THE INTERNAL
23 REVENUE CODE;

1 (IV) EFFECTIVE JANUARY 1, 2002, AN ANNUITY CONTRACT
2 DESCRIBED IN § 403(B) OF THE INTERNAL REVENUE CODE;

3 (V) EFFECTIVE JANUARY 1, 2002, AN ELIGIBLE PLAN UNDER §
4 457(B) OF THE INTERNAL REVENUE CODE THAT IS MAINTAINED BY A STATE,
5 POLITICAL SUBDIVISION OF A STATE, OR ANY AGENCY OR INSTRUMENTALITY OF
6 A STATE OR POLITICAL SUBDIVISION OF A STATE AND THAT AGREES TO
7 SEPARATELY ACCOUNT FOR AMOUNTS TRANSFERRED INTO SUCH PLAN FROM THE
8 RETIREMENT SYSTEM; AND

9 (VI) EFFECTIVE JANUARY 1, 2008, A ROTH IRA DESCRIBED IN §
10 408A OF THE INTERNAL REVENUE CODE.

11 (5)(I) “ELIGIBLE ROLLOVER DISTRIBUTION” MEANS ANY DISTRIBUTION
12 OF ALL OR ANY PORTION OF THE BALANCE TO THE CREDIT OF THE DISTRIBUTE.

13 (II) “ELIGIBLE ROLLOVER DISTRIBUTION” DOES NOT INCLUDE:

14 1. ANY DISTRIBUTION THAT IS ONE OF A SERIES OF
15 SUBSTANTIALLY EQUAL PERIODIC PAYMENTS (NOT LESS FREQUENTLY THAN
16 ANNUALLY) MADE FOR THE LIFE OF LIFE EXPECTANCY OF THE DISTRIBUTE OR
17 THE JOINT LIVES OR JOINT LIFE EXPECTANCIES OF THE DISTRIBUTE AND THE
18 DISTRIBUTE’S DESIGNATED BENEFICIARY, OR FOR A SPECIFIED PERIOD OF TEN (10)
19 YEARS OR MORE;

20 2. ANY DISTRIBUTION TO THE EXTENT THAT SUCH
21 DISTRIBUTION IS REQUIRED UNDER § 401(A)(9) OF THE INTERNAL REVENUE CODE;

22 3. AFTER TAX AMOUNTS UNLESS SUCH AMOUNT IS
23 ROLLED OVER OR TRANSFERRED (I.E., DIRECTLY ROLLED) TO AN INDIVIDUAL
24 RETIREMENT ACCOUNT OR INDIVIDUAL RETIREMENT ANNUITY DESCRIBED IN §

1 408(A) OR § 408(B) OF THE INTERNAL REVENUE CODE, TRANSFERRED TO A DEFINED
2 CONTRIBUTION PLAN QUALIFIED UNDER § 401(A) OF THE INTERNAL REVENUE CODE
3 OR, EFFECTIVE FOR DISTRIBUTIONS MADE ON OR AFTER JANUARY 1, 2007, TO ANY
4 QUALIFIED PLAN DESCRIBED IN § 401(A) OF THE INTERNAL REVENUE CODE OR TO
5 AN ANNUITY PLAN DESCRIBED IN § 403(B) OF THE INTERNAL REVENUE CODE,
6 PROVIDED ANY SUCH PLAN DESCRIBED IN THIS ITEM AGREES TO SEPARATELY
7 ACCOUNT FOR SUCH AFTER-TAX AMOUNT AND EARNINGS THEREON; AND

8 4. EFFECTIVE ON AND AFTER JANUARY 1, 2002, ANY IN-
9 SERVICE WITHDRAWAL THAT IS MADE ON ACCOUNT OF HARDSHIP.

10 (B) EFFECTIVE FOR DISTRIBUTIONS MADE ON OR AFTER JANUARY 1, 1993,
11 AND NOTWITHSTANDING ANY PROVISION OF THIS TITLE TO THE CONTRARY THAT
12 WOULD OTHERWISE LIMIT A DISTRIBUTEES ELECTION UNDER THIS TITLE, A
13 DISTRIBUTEES MAY ELECT, AT THE TIME AND IN THE MANNER PRESCRIBED BY THE
14 BOARD OF TRUSTEES, TO HAVE ANY PORTION OF AN ELIGIBLE ROLLOVER
15 DISTRIBUTION PAID DIRECTLY TO AN ELIGIBLE RETIREMENT PLAN SPECIFIED BY
16 THE DISTRIBUTEES IN A DIRECT ROLLOVER.

17 (C) NOTWITHSTANDING ANY PROVISION OF THIS TITLE TO THE CONTRARY,
18 EFFECTIVE JANUARY 1, 2010, A NON-SPOUSE BENEFICIARY OF A DECEASED MEMBER
19 MAY ELECT, AT THE TIME AND IN THE MANNER PRESCRIBED BY THE BOARD OF
20 TRUSTEES, TO DIRECTLY ROLL OVER ANY PORTION OF A DISTRIBUTION THAT
21 WOULD CONSTITUTE AN ELIGIBLE ROLLOVER DISTRIBUTION IF IT WERE MADE TO
22 A MEMBER, SURVIVING SPOUSE, OR ALTERNATE PAYEE, PROVIDED SUCH DIRECT
23 ROLLOVER IS MADE TO AN INDIVIDUAL RETIREMENT ACCOUNT DESCRIBED IN §
24 408(A) OF THE INTERNAL REVENUE CODE, AN INDIVIDUAL RETIREMENT ANNUITY

1 DESCRIBED IN § 408(B) OF THE INTERNAL REVENUE CODE, OR A ROTH IRA
2 DESCRIBED IN § 408A OF THE INTERNAL REVENUE CODE THAT IS ESTABLISHED ON
3 BEHALF OF THE NON-SPOUSE BENEFICIARY AND THAT WILL BE TREATED AS AN
4 INHERITED IRA IN ACCORDANCE WITH THE PROVISIONS OF § 408(D)(3)(C) OF THE
5 INTERNAL REVENUE CODE.

6 (D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, ALL
7 DISTRIBUTIONS FROM THE RETIREMENT SYSTEM SHALL BE MADE IN ACCORDANCE
8 WITH BOARD OF TRUSTEES' GOOD FAITH INTERPRETATION OF THE PROVISIONS OF
9 § 409(A) OF THE INTERNAL REVENUE CODE AND SUCH GOOD FAITH
10 INTERPRETATION SHALL OVERRIDE ANY PROVISION OF THIS TITLE THAT IS
11 INCONSISTENT WITH SUCH INTERPRETATION.

12 SECTION 6. AND BE IT FURTHER ENACTED, that Section 5-1-216(b) and (g) of Title
13 1. Employees Retirement System, of Article 5. Pensions and Retirement, of the Baltimore County
14 Code, 2003, as amended, is hereby repealed and reenacted, with amendments, to read as follows:
15 § 5-1-216.

16 (b) A sworn member of the grade of lieutenant or below who retires prior to January 1,
17 1988, a sworn member of the grade of captain or above who retires prior to July 1, 1988, or a
18 member meeting the requirements of subsection(e) of this section shall be entitled to receive a
19 service retirement allowance irrespective of age calculated in accordance with § 5-1-214[(c)(1) and
20 (2)] (B) of this subtitle upon completion of twenty (20) years of creditable service. Such a member
21 who has completed twenty (20) years of creditable service and attained normal service retirement
22 age shall be entitled to receive a minimum benefit of forty-two and one-half (42.5) percent.

23 (g) A member who was employed by the county on or after July 1, 1987, shall be eligible

1 to receive only the retirement allowance provided for in § 5-1-214[(c)] (B) of this subtitle or
2 subsection (c) of this section.

3 SECTION 7. AND BE IT FURTHER ENACTED, that the change made in § 5-1-222(a)(2)
4 of the Baltimore County Code, 2003 in Section 2 of this Act and Section 3 of this Act shall apply
5 to any Group 3 member who has not filed an application for a disability retirement before April 19,
6 2010.

7 SECTION 8. AND BE IT FURTHER ENACTED, that the changes made in Section 2 of this
8 Act in § 5-1-228 of the Code regarding changing the references to “member” to “an employee
9 member” and repealing the references to “in service” and the change made in Section 4 of this Act
10 shall take effect retroactive to January 1, 2010.

11 SECTION 9. AND BE IT FURTHER ENACTED, that the change made in Section 6 of this
12 Act corrects an error made in Bill 32-03, a code revision bill, and shall take effect retroactive to July
13 1, 2004.

14 SECTION 10. AND BE IT FURTHER ENACTED, that Section 5-1-201(m) through (x), of
15 Subtitle 2. Retirement System, of Title 1. Employees Retirement System, of the Baltimore County
16 Code, 2003, as amended, is hereby renumbered to be Section 5-1-201(n) through (y).

17 SECTION 11. AND BE IT FURTHER ENACTED, that Section 5-1-203(5)(v) through (xi),
18 of Subtitle 2. Retirement System, of Title 1. Employees Retirement System, of the Baltimore County

1 Code, 2003, as amended, is hereby renumbered to be Section 5-1-203(5)(iv) through (x).

2 SECTION ~~10~~12. AND BE IT FURTHER ENACTED, that this Act, having passed by the
3 affirmative vote of five members of the County Council, shall take effect July 1, 2010.

b03010.wpd

§ 5-1-306. - RETURN TO ACTIVE SERVICE.

A Group 3 or Group 4 member who began service before July 1, 2007 may retire and return to active service with the county, if approved by the County Administrative Officer, provided that he returns to a previously existing position that is different than that held at the time of retirement. If approved, the member may defer the receipt of his accrued benefit and contribute that amount to a deferral account established for that purpose. Notwithstanding any other provision of this article, the member may also participate in the system on terms approved by the County Administrative Officer. On subsequent retirement, the member shall receive the proceeds of the deferral account and any system benefits to which he is entitled.

(Bill No. 30-10, § 5, 7-1-2010)

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2017, Legislative Day No. 13

Bill No. 47-17

Mrs. Vicki Almond, Councilwoman

By the County Council, August 7, 2017

A BILL
ENTITLED

AN ACT concerning

Employees Retirement System

FOR the purpose of repealing a provision that allows certain members of the retirement system under certain conditions to return to active County service after having retired and to defer the member's accrued benefit and also participate in the retirement system; providing for the application of the Act; and generally relating to the employees retirement system.

BY repealing

Section 5-1-306
Article 5 – Pensions and Retirement
Title 1 – Employees Retirement System
Baltimore County Code 2015

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND, that the Laws of Baltimore County read as follows:

3 [§ 5-1-306. - RETURN TO ACTIVE SERVICE.

4 A Group 3 or Group 4 member who began service before July 1, 2007 may retire and
5 return to active service with the county, if approved by the County Administrative Officer,
6 provided that he returns to a previously existing position that is different than that held at the
7 time of retirement. If approved, the member may defer the receipt of his accrued benefit and
8 contribute that amount to a deferral account established for that purpose. Notwithstanding any
9 other provision of this article, the member may also participate in the system on terms
10 approved by the County Administrative Officer. On subsequent retirement, the member shall
11 receive the proceeds of the deferral account and any system benefits to which he is entitled.]

12
13 SECTION 2. AND BE IT FURTHER ENACTED, that this Act, ~~having been passed~~
14 ~~by the affirmative vote of five members of the County Council, shall take effect on September~~
15 ~~18, 2017 and shall apply retroactively to July 1, 2010.~~ shall take effect forty-five (45) days
16 after its enactment.

17
18 SECTION 3. AND BE IT FURTHER ENACTED, that, the repeal of Section 5-1-306
19 of the Code shall not apply, and shall be of no effect, to benefits conferred to a member under
20 that section who was retired from county service for one year or more prior to returning to
21 active service.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2017, Legislative Day No. 13

Bill No. 50-17

Councilmembers Quirk & Jones

By the County Council, August 7, 2017

A BILL
ENTITLED

AN ACT concerning

Employees Retirement System – Part-time Employees

FOR the purpose of authorizing certain beneficiaries of a service retirement benefit in the Employees Retirement System to receive a service retirement benefit under certain circumstances if the beneficiary is employed by the County as a seasonal or part-time employee ~~with a public safety agency or in a public safety role~~; and generally relating to the Employees Retirement System.

BY adding
Section 5-1-236(f)
Article 5 – Pensions and Retirement
Title 1 – Employees Retirement System
Subtitle 2 – Retirement System
Baltimore County Code, 2015

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND, that the Laws of Baltimore County read as follows:

3
4 ARTICLE 5 – PENSIONS AND RETIREMENT

5 TITLE 1 – EMPLOYEES RETIREMENT SYSTEM

6 SUBTITLE 2 – RETIREMENT SYSTEM

7
8 § 5-1-236. Limitations on benefits.

9 (f) (1) SUBJECT TO PARAGRAPHS (2), (3), ~~AND (4)~~, AND (5) OF THIS SUBSECTION,
10 A BENEFICIARY OF A SERVICE RETIREMENT BENEFIT UNDER THIS SUBTITLE WHO
11 RETURNS TO ACTIVE SERVICE WITH THE COUNTY MAY RECEIVE THE SERVICE
12 RETIREMENT BENEFIT DURING THE TIME IN WHICH THE BENEFICIARY REMAINS
13 IN ACTIVE SERVICE IF THE BENEFICIARY IS EMPLOYED BY THE COUNTY OR
14 REVENUE AUTHORITY AS A SEASONAL OR PART-TIME EMPLOYEE ~~WITH A PUBLIC~~
15 ~~SAFETY AGENCY OR IN A PUBLIC SAFETY ROLE.~~

16 (2) AN ELIGIBLE BENFICIARY MAY BE SELECTED FOR ACTIVE SERVICE BY
17 THE CHIEF, DIRECTOR, OR SUPERINTENDENT OF THE REQUESTING AGENCY, AND
18 MAY INITIALLY BE EMPLOYED AS A PART-TIME EMPLOYEE FOR UP TO SIX
19 MONTHS PURSUANT TO SECTION 4-8-101, RULE 8.01 OF THE CODE.

20 (3) AT THE CONCLUSION OF THE SIX MONTH PERIOD, IF THE AGENCY AND
21 THE BENEFICIARY DESIRE TO CONTINUE THE PART-TIME EMPLOYMENT, THE
22 BENEFICIARY MAY ENTER INTO AN AGREEMENT WITH THE COUNTY NOT TO
23 EXCEED ONE YEAR OUTLINING THE TERMS OF CONTINUED PART-TIME
24 EMPLOYMENT.

1 (4) THE MEMBERS OF THE COUNTY COUNCIL SHALL BE NOTIFIED IN
2 WRITING THAT AN AGENCY INTENDS TO CONTINUE THE PART-TIME
3 EMPLOYMENT, INCLUDING ANY RENEWALS OF THE INITIAL ONE YEAR TERM.
4 THE NOTIFICATION SHALL INCLUDE A LIST OF THE NAMES OF THE PART-TIME
5 EMPLOYEES, THE JOB TITLE, THE NUMBER OF HOURS TO BE WORKED PER WEEK,
6 AND A DESCRIPTION OF THE JOB DUTIES. THE EMPLOYMENT AGREEMENT MAY
7 BE APPROVED UNLESS WITHIN 14 DAYS AFTER RECEIPT OF THE NOTIFICATION,
8 THE COUNTY COUNCIL REQUESTS IN WRITING THAT THE AGREEMENT, AND ANY
9 RENEWALS THEREOF, BE FORWARDED TO THE COUNTY COUNCIL FOR APPROVAL
10 OR DISAPPROVAL AT A LEGISLATIVE SESSION.

11 ~~(4)~~ ~~(5)~~ (1) A BENEFICIARY WHO RETURNS TO ACTIVE SERVICE WITH THE
12 COUNTY UNDER THIS ~~PARAGRAPH~~ SUBSECTION IS NOT ELIGIBLE FOR BENEFITS
13 AFFORDED CLASSIFIED AND EXEMPT EMPLOYEES, AND MAY NOT CREDIT ANY
14 PART-TIME ACTIVE SERVICE TIME TO AN EXISTING SERVICE RETIREMENT
15 BENEFIT AND MAY NOT CLAIM AN ADDITIONAL SERVICE RETIREMENT BENEFIT
16 FOR THIS ACTIVE SERVICE TIME.

17 (II) EXCEPT FOR A PERSON SELECTED UNDER THIS SUBSECTION
18 PRIOR TO THE EFFECTIVE DATE OF THIS ACT, A BENEFICIARY WHO RETURNS TO
19 ACTIVE SERVICE MUST HAVE BEEN RETIRED FROM THE COUNTY FOR A PERIOD
20 OF NOT LESS THAN SIX MONTHS.

21
22 SECTION 2. AND BE IT FURTHER ENACTED, that this Act, having been passed by
23 the affirmative vote of five members of the County Council, shall take effect on September 18,
24 2017.



**County Council
of
Baltimore County**

Court House
Towson, Maryland 21204

410-887-3196
Fax: 410-887-5791

Tom Quirk
FIRST DISTRICT

Izzy Patoka
SECOND DISTRICT

Wade Kach
THIRD DISTRICT

Julian E. Jones, Jr.
FOURTH DISTRICT

David Marks
FIFTH DISTRICT

Cathy Bevins
SIXTH DISTRICT

Todd K. Crandell
SEVENTH DISTRICT

Thomas H. Bostwick
LEGISLATIVE COUNSEL
SECRETARY

October 5, 2020

Kelly Madigan, Inspector General
Office of the Inspector General
Baltimore County Government
400 Washington Avenue
Towson, Maryland 21204

RE: Official Request #20-020

Dear Ms. Madigan:

I am in receipt of your email dated September 25, 2020 in which you request documents “for any and all persons that the Council were notified of being a part-time employee under 5-1-236(e) or 5-1-236(f) since 9/18/17. The statute states that if the County wants to bring back a retiree and pay them both their retirement benefits as well as a new salary, the Council needs to be notified in writing.”

As you may be aware, Bill 50-17 was passed by the County Council on September 5, 2017 and took effect on September 18, 2017. The premise of the bill was that, with the introduction of Bill 47-17 repealing § 5-1-306 - Return to Active Service, the Administration was concerned that other retirees that were brought back under that section to do part time work in various agencies would not be able to continue their work, and the Administration indicated that these part time or seasonal employees were very helpful; for example in the police department, they could bring back retirees to do some more administrative/ministerial tasks, which would free up more officers to be “out on the street,” or retirees could work part time at the Revenue Authority golf courses.

As a result, along with Bill 47-17 the Council introduced Bill 50-17 on the same date (August 7, 2017), which amended § 5-1-236 by adding subsection (f) to allow retirees to come back to active service if employed with the County or Revenue Authority as a seasonal or part time employee, subject to certain requirements. As part of the requirements of the bill, if after an initial six month period, the agency and the seasonal or part time employee wanted to continue the employment, they would need to enter into an agreement and would be required to notify the County Council that an agency intends to continue the part-time employment, including any renewals of the initial one year term. The notification shall include a list of the names of the part-time employees, the job title, the number of hours to be worked per week, and a description of the job duties. The employment agreement may be approved unless within 14 days after receipt of the notification, the County Council requested in writing that the agreement, and any renewals thereof, be forwarded to the County Council for approval or disapproval at a Legislative Session.

Please be advised that since I have been Legislative Counsel/Secretary to the County Council as of December 1, 2018, we have not received any 14-day notifications related to Bill 50-17 or § 5-1-236(f) To my knowledge, subsection (e) of that section does not require Council notification.

Please let me know if you have any questions or wish to discuss this further.

Sincerely,

Thomas H. Bostwick
Legislative Counsel/Secretary

THB:clb

EXHIBIT 4

Department	Employee ID	Employee Full Name	Title Short Description	Retired	Rehire Date	Amount of time separated	ERS Benefits Paid Through 09/30/2020	General Pay Salary paid by payroll thru 10/09/20	Public Safety Salary paid by payroll thru 10/02/20
015	[REDACTED]	[REDACTED]	[REDACTED]	02/16/2019	05/28/2019	101 days	\$102,426.88		\$50,837.50
015	[REDACTED]	[REDACTED]	[REDACTED]	10/28/2019	01/06/2020	70 days	\$37,767.73		\$10,175.00
017	[REDACTED]	[REDACTED]	[REDACTED]	06/29/2019	8/25/2020	423 days	\$68,499.70	\$1,896.75	
015	[REDACTED]	[REDACTED]	[REDACTED]	11/18/2017	03/21/2018	123 days	\$202,705.80		\$76,475.00
008	[REDACTED]	[REDACTED]	[REDACTED]	06/18/2019	01/27/2020	223 days	\$25,510.24	\$30,400.00	
030	[REDACTED]	[REDACTED]	[REDACTED]	08/25/2020	9/28/2020	33 days	\$1,566.23	\$1,185.24	
030	[REDACTED]	[REDACTED]	[REDACTED]	05/04/2019	04/06/2020	338 days	\$23,087.46	\$32,389.36	
015	[REDACTED]	[REDACTED]	[REDACTED]	12/29/2018	12/31/2018	2 days	\$238,731.00		\$140,700.25
015	[REDACTED]	[REDACTED]	[REDACTED]	01/01/2020	02/18/2020	47 days	\$59,426.91		\$21,212.50
015	[REDACTED]	[REDACTED]	[REDACTED]	02/08/2019	03/05/2019	29 days	\$112,452.07		\$42,862.50
015	[REDACTED]	[REDACTED]	[REDACTED]	08/01/2018	09/04/2018	34 days	\$183,592.75		\$64,168.75
015	[REDACTED]	[REDACTED]	[REDACTED]	03/20/2019	05/13/2019	45 days	\$100,615.01		\$46,954.00
015	[REDACTED]	[REDACTED]	[REDACTED]	12/16/2017	01/08/2018	45 days	\$190,966.08		\$89,300.00
015	[REDACTED]	[REDACTED]	[REDACTED]	12/01/2018	12/03/2018	2 days	\$155,600.60		\$152,706.99
015	[REDACTED]	[REDACTED]	[REDACTED]	04/01/2017	03/05/2018	338 days	\$192,161.87		\$96,025.00
030	[REDACTED]	[REDACTED]	[REDACTED]	08/01/2020	08/31/2020	30 days	\$7,835.04	\$7,505.82	
015	[REDACTED]	[REDACTED]	[REDACTED]	02/02/2019	02/19/2019	16 days	\$121,184.07		\$43,650.00
015	[REDACTED]	[REDACTED]	[REDACTED]	02/01/2019	03/04/2019	33 days	\$126,245.32		\$51,743.75
015	[REDACTED]	[REDACTED]	[REDACTED]	01/01/2018	01/08/2018	7 days	\$282,346.35		\$75,668.75
020	[REDACTED]	[REDACTED]	[REDACTED]	08/01/2015	09/02/2016	398 days	\$110,404.14	\$51,874.38	

EXHIBIT 5