

Council Bill 07-0757

Baltimore City Code

Article 22 – Retirement Systems

Subtitle – Employees’ Retirement System

§ 9. Class C membership

(f) *Early retirement.*

(3) *RETIREMENT ON ACCOUNT OF JOB REMOVAL.*

(i) *SCOPE OF PARAGRAPH.*

(A) THIS PARAGRAPH WILL BE APPLIED EXCLUSIVELY UPON RECEIPT BY THE SYSTEM OF A WRITTEN DETERMINATION FROM THE AGENCY HEAD OF A MEMBER OF THIS SYSTEM, WHICH IS COUNTERSIGNED BY AN APPROPRIATE DESIGNEE OF: (1) THE OFFICE OF THE MAYOR, (2) THE DIRECTOR OF HUMAN RESOURCES, OR (3) THE DEPARTMENT OF LAW, CONFIRMING CONSULTATION BY THE AGENCY HEAD WITH EACH OF THE THREE DESIGNEES AND CERTIFYING ONE OF THE FOLLOWING CRITERIA FOR A JOB REMOVAL RETIREMENT BENEFIT:

1. ~~(A)~~ THE MEMBER IS BEING LAID OFF WITHOUT FAULT ON HIS OR HER PART DUE TO A REDUCTION IN FORCE OR DIMINISHED NEED FOR THE SERVICES PERFORMED BY THE HOLDER OF SUCH POSITION AND IS NOT BEING REMOVED FOR POOR PERFORMANCE IN THE JOB,

2. ~~(B)~~ IN THE CASE OF AN EXEMPT MEMBER WORKING IN AN “AT WILL” POSITION NOT COVERED BY CIVIL SERVICE, THE MEMBER IS BEING REMOVED FROM HIS OR HER POSITION WITHOUT FAULT ON HIS OR HER PART, AT THE INITIATION OF THE AGENCY AND PURSUANT TO ITS ABSOLUTE DISCRETION, AND IS NOT BEING REMOVED FOR POOR PERFORMANCE IN THE JOB,

3. ~~(C)~~ THE MEMBER IS BEING REMOVED FROM HIS OR HER POSITION WITHOUT FAULT ON HIS OR HER PART DUE TO PHYSICAL OR MENTAL INCAPACITY,

4. ~~(D)~~ THE MEMBER IS BEING REMOVED FROM HIS OR HER POSITION WITHOUT FAULT ON HIS OR HER PART AND THE MUTUAL BEST INTERESTS OF THE AGENCY AND THE MEMBER WOULD BE SERVED THROUGH THE REMOVAL INsofar AS THE REMOVAL WILL RESOLVE A PERSONNEL OR DISCIPLINARY DISPUTE BETWEEN THE AGENCY AND THE MEMBER, OR

5. ~~(E)~~ THE MEMBER IS BEING REMOVED FROM HIS OR HER POSITION WITHOUT FAULT ON HIS OR HER PART AND THE MUTUAL BEST INTERESTS OF THE AGENCY AND THE MEMBER WOULD BE SERVED THROUGH THE REMOVAL, THE AGENCY HEAD SO CERTIFIES IN GOOD

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1 FAITH, AND THE MEMBER REPRESENTS IN WRITING TO THE AGENCY AND
2 TO THE SYSTEM THAT, AS OF THE DATE OF THE CERTIFICATION, HE OR
3 SHE HAS NOT SECURED BEEN OFFERED, HAS NOT ACCEPTED, AND HAS
4 NO IMMEDIATE PROSPECT OF SECURING, OTHER EMPLOYMENT AS OF
5 THE EFFECTIVE OF HIS OR HER REMOVAL NOT BEEN GIVEN ASSURANCES
6 OF OTHER EMPLOYMENT.

7 (B) AN AGENCY HEAD'S DETERMINATION AND A MEMBER'S REPRESENTATIONS
8 UNDER THIS PARAGRAPH SHALL BE MAINTAINED AS PUBLIC RECORDS, OPEN TO
9 PUBLIC INSPECTION, AND ARE NOT CONFIDENTIAL PERSONNEL OR RETIREMENT
10 RECORDS.

11 (II) *JOB REMOVAL RETIREMENT BENEFIT.*

12 [Notwithstanding anything to the contrary in this subtitle, should] SHOULD any
13 member appointed for a fixed term set by law not be reappointed either
14 voluntarily or involuntarily, after acquiring 20 years of service, or should a Class
15 C member be removed from a regular permanent position of the City without fault
16 on his or her part after the acquisition of 20 years of service (30 years of service if
17 removed before July 1, 1987), [but has not attained] PRIOR TO ATTAINING the age
18 of 65, such member shall be entitled to receive a retirement benefit based on the
19 actual years of service credit and equal to the pension the member would receive
20 if he or she had already attained the age of 65, the normal retirement age. The
21 reduction contained in [§ 9(f)(2) of this subtitle] PARAGRAPH (2) shall not apply.
22 [In addition, for any member who terminates employment with the City on or
23 before June 28, 1993, the Primary Social Security Benefit will be calculated on
24 the assumption that the member would have no earnings after the calendar year
25 prior to the year of retirement under this § 9(f)(3), notwithstanding the provisions
26 of § 9(f)(1)(ii) or any other provisions of this subtitle which provides for the use
27 of level future earnings.]

28 (III) *PREEMPLOYMENT MILITARY SERVICE CREDIT.*

29 Effective June 24, 1990, any preemployment military service credit claim shall be
30 subject to the conditions contained in § 9(d)(2) of this subtitle, except the military
31 service credit claim shall not be subject to the age 65 requirement contained in
32 § 9(d)(2). However, any benefit for which the member could be eligible shall be
33 determined before the military service credit provided for herein is added to the
34 service credit acquired by the member.

35 (IV) *SPECIAL EFFECTIVE DATE.*

36 Effective December 2, 1991, the provisions of the above paragraph shall apply to
37 any member who retired under § 9(f)(3). Any increased benefits due to such a
38 retired member shall be paid prospectively from the effective date of this
39 ordinance. Furthermore, variable benefits, if any, paid to such a retired member
40 shall not be changed as a result of this ordinance.

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Subtitle – Fire and Police Employees’ Retirement System

§ 34. Benefits.

(k) *Optional allowances.*

[(2) Notwithstanding anything to the contrary in this subtitle, should a member be removed from a regular permanent position of the City without fault upon his part, or should a member appointed or elected for a fixed term not be reappointed or reelected after the completion of 15 years of service, such member may elect, in lieu of the withdrawal of his accumulated contributions, to have such contributions paid to him in an annuity of equivalent actuarial value, in which event he shall also be paid a pension equal to the ordinary disability pension that would have been payable at such time had he been retired on an ordinary disability retirement.

Effective December 2, 1991, in applying the preemployment military credit provision of § 32(f) to a member described in the above paragraph, the requirement that the member shall have attained age 50 shall be disregarded. However, any benefit for which the member could be eligible shall be determined before the military service credit provided for herein is added to the service credit acquired by the member. This Ordinance 91-829 shall also apply to any member who retired under the provision of the above paragraph. Any increased benefits due to such a retired member, shall be paid prospectively from the effective date of this Ordinance. Furthermore, variable benefits, if any, paid to such a retired member shall not be changed as a result of this Ordinance.

Should such a beneficiary be restored to active service, his retirement allowance shall cease, he shall again become a member of the Retirement System, and he shall contribute thereafter at the same rate he paid prior to his retirement; provided, however, that should such beneficiary be appointed or elected to any office, the salary or compensation of which is paid by the City, his retirement allowance shall cease, and he may again become a member of the Retirement System and shall contribute thereafter at the same rate he paid before his retirement. Any prior service certificate on the basis of which his service was computed at the time of his retirement shall be restored to full force and effect and, in addition, upon his subsequent retirement he shall be credited with all his service as a member.]

(J-1) *RETIREMENT ON ACCOUNT OF JOB REMOVAL.*

(1) *SCOPE OF PARAGRAPH.*

(1) THIS PARAGRAPH WILL BE APPLIED EXCLUSIVELY UPON RECEIPT BY THE SYSTEM OF A WRITTEN DETERMINATION FROM THE AGENCY HEAD OF A MEMBER OF THIS SYSTEM, WHICH IS COUNTERSIGNED BY AN APPROPRIATE DESIGNEE OF: (1) THE OFFICE OF THE MAYOR, (2) THE DIRECTOR OF HUMAN RESOURCES, OR (3) THE DEPARTMENT OF LAW, CONFIRMING CONSULTATION BY THE AGENCY HEAD WITH EACH OF THE THREE DESIGNEES AND CERTIFYING ONE OF THE FOLLOWING CRITERIA FOR A JOB REMOVAL RETIREMENT BENEFIT:

(A) ~~(A)~~ THE MEMBER IS BEING LAID OFF WITHOUT FAULT ON HIS OR HER PART DUE TO A REDUCTION IN FORCE OR DIMINISHED NEED FOR THE SERVICES

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1 PERFORMED BY THE HOLDER OF SUCH POSITION AND IS NOT BEING
2 REMOVED FOR POOR PERFORMANCE IN THE JOB,

3 (B) ~~(H)~~ IN THE CASE OF AN EXEMPT MEMBER WORKING IN AN “AT WILL”
4 POSITION NOT COVERED BY CIVIL SERVICE, THE MEMBER IS BEING
5 REMOVED FROM HIS OR HER POSITION WITHOUT FAULT ON HIS OR HER
6 PART, AT THE INITIATION OF HIS OR HER AGENCY AND PURSUANT TO ITS
7 ABSOLUTE DISCRETION, AND IS NOT BEING REMOVED FOR POOR
8 PERFORMANCE IN THE JOB,

9 (C) ~~(H)~~ THE MEMBER IS BEING REMOVED FROM HIS OR HER POSITION WITHOUT
10 FAULT ON HIS OR HER PART DUE TO PHYSICAL OR MENTAL INCAPACITY, OR

11 (D) ~~(H)~~ THE MEMBER IS BEING REMOVED FROM HIS OR HER POSITION WITHOUT
12 FAULT ON HIS OR HER PART AND THE MUTUAL BEST INTERESTS OF THE
13 AGENCY AND THE MEMBER WOULD BE SERVED THROUGH THE REMOVAL
14 INsofar AS THE REMOVAL WILL RESOLVE A PERSONNEL OR DISCIPLINARY
15 DISPUTE BETWEEN THE AGENCY AND THE MEMBER, ~~OR~~.

16 (E) THE MEMBER IS BEING REMOVED FROM HIS OR HER POSITION WITHOUT
17 FAULT ON HIS OR HER PART AND THE MUTUAL BEST INTERESTS OF THE
18 AGENCY AND THE MEMBER WOULD BE SERVED THROUGH THE REMOVAL,
19 THE AGENCY HEAD SO CERTIFIES IN GOOD FAITH, AND THE MEMBER
20 REPRESENTS IN WRITING TO THE AGENCY AND TO THE SYSTEM THAT, AS OF
21 THE DATE OF THE CERTIFICATION, HE OR SHE HAS NOT SECURED BEEN
22 OFFERED, HAS NOT ACCEPTED, AND HAS NO IMMEDIATE PROSPECT OF
23 SECURING, OTHER EMPLOYMENT AS OF THE EFFECTIVE OF HIS OR HER
24 REMOVAL NOT BEEN GIVEN ASSURANCES OF OTHER EMPLOYMENT.

25 (II) AN AGENCY HEAD’S DETERMINATION AND A MEMBER’S REPRESENTATIONS UNDER
26 THIS PARAGRAPH SHALL BE MAINTAINED AS PUBLIC RECORDS, OPEN TO PUBLIC
27 INSPECTION, AND ARE NOT CONFIDENTIAL PERSONNEL OR RETIREMENT RECORDS.

28 *(2) JOB REMOVAL RETIREMENT BENEFIT.*

29 SHOULD A MEMBER BE REMOVED FROM A REGULAR PERMANENT POSITION OF THE
30 CITY WITHOUT FAULT UPON HIS OR HER PART, OR SHOULD A MEMBER APPOINTED OR
31 ELECTED FOR A FIXED TERM NOT BE REAPPOINTED OR REELECTED AFTER THE
32 COMPLETION OF 15 YEARS OF SERVICE, SUCH MEMBER MAY ELECT, IN LIEU OF THE
33 WITHDRAWAL OF HIS ACCUMULATED CONTRIBUTIONS, TO HAVE SUCH CONTRIBUTIONS
34 PAID TO HIM OR HER IN AN ANNUITY OF EQUIVALENT ACTUARIAL VALUE, IN WHICH
35 EVENT HE OR SHE SHALL ALSO BE PAID A PENSION EQUAL TO THE ORDINARY
36 DISABILITY PENSION THAT WOULD HAVE BEEN PAYABLE AT SUCH TIME HAD HE OR SHE
37 BEEN RETIRED ON AN ORDINARY DISABILITY RETIREMENT BE PAID A SERVICE
38 RETIREMENT ALLOWANCE CONSISTING OF:

39 (I) AN ANNUITY THAT SHALL BE THE ACTUARIAL EQUIVALENT OF HIS OR
40 HER ACCUMULATED CONTRIBUTIONS AT THE TIME OF HIS OR HER
41 RETIREMENT; AND

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1 (II) A PENSION THAT, TOGETHER WITH HIS OR HER ANNUITY, SHALL BE
2 EQUAL TO:

3 (A) 2.5% OF HIS OR HER AVERAGE FINAL COMPENSATION FOR EACH
4 YEAR OF THE FIRST 20 YEARS OF SERVICE AT THE TIME OF HIS
5 OR HER RETIREMENT, PLUS

6 (B) 2% OF HIS OR HER AVERAGE FINAL COMPENSATION FOR EACH
7 SUBSEQUENT YEAR.

8 (3) ELIGIBILITY TO ELECT JOB REMOVAL RETIREMENT BENEFIT.

9 AN ELECTION TO RECEIVE A JOB REMOVAL BENEFIT MAY BE MADE BY A
10 MEMBER ONLY IF, AT THE TIME OF HIS OR HER REMOVAL, HE OR SHE HAS
11 COMPLETED 15 OR MORE YEARS OF SERVICE AS A CONTRIBUTING MEMBER OF
12 THIS SYSTEM, WITHOUT TAKING INTO ACCOUNT ANY TRANSFERRED-IN SERVICE
13 CREDIT FROM OTHER RETIREMENT SYSTEMS.

14
15 (4) ~~(3)~~ PREEMPLOYMENT MILITARY SERVICE CREDIT.

16 EFFECTIVE DECEMBER 2, 1991, IN APPLYING THE PREEMPLOYMENT MILITARY CREDIT
17 PROVISION OF §32(F) TO A MEMBER DESCRIBED IN SUBSECTION 2, THE REQUIREMENT
18 THAT THE MEMBER SHALL HAVE ATTAINED AGE 50 SHALL BE DISREGARDED.
19 HOWEVER, ANY BENEFIT FOR WHICH THE MEMBER COULD BE ELIGIBLE SHALL BE
20 DETERMINED BEFORE THE MILITARY SERVICE CREDIT PROVIDED FOR HEREIN IS ADDED
21 TO THE SERVICE CREDIT ACQUIRED BY THE MEMBER.

22 (5) ~~(4)~~ SPECIAL EFFECTIVE DATE.

23 ORDINANCE 91-829 SHALL ALSO APPLY TO ANY MEMBER WHO RETIRED UNDER THE
24 PROVISION OF THE ABOVE PARAGRAPH. ANY INCREASED BENEFITS DUE TO SUCH A
25 RETIRED MEMBER, SHALL BE PAID PROSPECTIVELY FROM THE EFFECTIVE DATE OF THIS
26 ORDINANCE. VARIABLE BENEFITS, IF ANY, PAID TO SUCH A RETIRED MEMBER SHALL
27 NOT BE CHANGED AS A RESULT OF THIS ORDINANCE.

28 (6) ~~(5)~~ RETURN TO WORK OF MEMBER RETIRED UNDER THIS SUBSECTION.

29 SHOULD A MEMBER RETIRED UNDER THIS SUBSECTION BE RESTORED TO ACTIVE
30 SERVICE, HIS OR HER RETIREMENT ALLOWANCE SHALL CEASE, HE OR SHE SHALL AGAIN
31 BECOME A MEMBER OF THE SYSTEM, AND HE OR SHE SHALL CONTRIBUTE THEREAFTER
32 AT THE ~~SAME RATE PAID PRIOR TO HIS OR HER RETIREMENT~~ RATE IN EFFECT AS OF THE
33 RETURN TO SERVICE. ANY PRIOR SERVICE CERTIFICATE ON THE BASIS OF WHICH A
34 MEMBER'S SERVICE WAS COMPUTED AT THE TIME OF HIS OR HER RETIREMENT SHALL
35 BE RESTORED TO FULL FORCE AND EFFECT AND, IN ADDITION, UPON HIS OR HER
36 SUBSEQUENT RETIREMENT HE OR SHE SHALL BE CREDITED WITH ALL MEMBERSHIP
37 SERVICE.

38 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
39 are not law and may not be considered to have been enacted as a part of this or any prior
40 Ordinance.

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1 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it is
2 enacted.

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Certified as duly passed this _____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,
this _____ day of _____, 20__

Chief Clerk

Approved this _____ day of _____, 20__

Mayor, Baltimore City