

**CITY OF BALTIMORE
COUNCIL BILL 13-0223
(First Reader)**

Introduced by: The Council President
At the request of: The Administration (Department of Finance)
Introduced and read first time: April 29, 2013

Assigned to: Taxation, Finance and Economic Development Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Employees' Retirement System,
Department of Finance, Department of Human Resources, Labor Commissioner

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Change to Grow: 10-Year Plan – Employees' Retirement System – Benefits**

3 FOR the purpose of requiring that, effective with the first full payroll period after July 1, 2013,
4 members of the Employees' Retirement System make a contribution to the System each
5 payroll period equal to a percentage of their authorized salary; providing for the required
6 employee contributions to be treated, for federal income tax purposes, as pre-tax
7 contributions; providing that, for certain members who terminate City employment before
8 retirement, the required employee contributions, with interest, will be payable to those
9 members; discontinuing the variable post-retirement benefit increase; making the provisions
10 of this Ordinance severable; providing for a special effective date; and generally relating to
11 the Employees' Retirement System of the City of Baltimore.

12 BY repealing and reordaining, with amendments
13 Article 22 - Retirement Systems
14 Section(s) 1(9)(i) and (10), 9(c)(5), 9(d)(7), and 17.1(a)
15 Baltimore City Code
16 (Edition 2000)

17 BY adding
18 Article 22 - Retirement Systems
19 Section(s) 8(d), 9(d)(7), 9(m)(1)(D), 9(m)(7a), and 17.2
20 Baltimore City Code
21 (Edition 2000)

22 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
23 Laws of Baltimore City read as follows:

24 **Baltimore City Code**

25 **Article 22. Retirement Systems**

26 **Subtitle – Employees' Retirement System**

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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§ 1. Definitions.

(9) (i) “Regular interest” MEANS:

(A) for the accumulation of CLASS A OR CLASS B member contributions, [means] interest at 5.25% per year, compounded annually; AND

(B) FOR THE ACCUMULATION OF CLASS C MEMBER CONTRIBUTIONS, INTEREST AT 3% PER YEAR, COMPOUNDED ANNUALLY.

(10) “Accumulated contributions” [shall mean] MEANS the sum of all the amounts deducted from the EARNABLE compensation of a member, and any other additional amounts CONTRIBUTED BY THE MEMBER as provided [under] IN this subtitle, [credited to his individual account in the Annuity Savings Fund,] together with regular interest [thereon] as provided in paragraph (9) of this section and pursuant to the provisions [contained in] OF §§ 7, 8 and 9 of this subtitle.

§ 8. Method of financing.

(D) *MEMBER CONTRIBUTIONS.*

(1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, EFFECTIVE WITH THE 1ST FULL PAYROLL PERIOD THAT BEGINS AFTER THE APPLICABLE EFFECTIVE DATE SHOWN BELOW, EACH CLASS C MEMBER SHALL CONTRIBUTE THE PERCENTAGE OF HIS OR HER EARNABLE COMPENSATION (AS DEFINED IN § 1(11) OF THIS SUBTITLE) THAT CORRESPONDS TO THE EFFECTIVE DATE, THESE CONTRIBUTIONS TO CONTINUE THROUGHOUT THE MEMBER’S REMAINING PERIOD OF SERVICE:

<i>EFFECTIVE DATE</i>	<i>PERCENTAGE OF EARNABLE COMPENSATION</i>
JULY 1, 2013	1%
JULY 1, 2014	2%
JULY 1, 2015	3%
JULY 1, 2016	4%
JULY 1, 2017	5%

(2) (I) THE CONTRIBUTIONS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE TREATED AS BEING “PICKED UP” BY THE CITY OF BALTIMORE WITHIN THE MEANING OF INTERNAL REVENUE CODE (“IRC”) § 414(H)(2).

(II) THESE PICKED-UP CONTRIBUTIONS MAY NOT BE EXCLUDED FROM “AVERAGE FINAL COMPENSATION” IN COMPUTING THE AMOUNT OF ANY RETIREMENT ALLOWANCE UNDER THIS SYSTEM OR ANY OTHER BENEFIT PAID OR PAYABLE IN CONNECTION WITH THE MEMBER’S EMPLOYMENT. EACH MEMBER IS AT ALL TIMES FULLY VESTED IN THESE CONTRIBUTIONS.

(III) AS SOON AS ADMINISTRATIVELY PRACTICABLE, THE CITY SHALL REQUEST A PRIVATE LETTER RULING FROM THE INTERNAL REVENUE SERVICE TO THE EFFECT THAT THE CONTRIBUTIONS SO PICKED UP BY THE CITY ON BEHALF OF MEMBERS OF THIS SYSTEM WILL BE TREATED AS EMPLOYER CONTRIBUTIONS DESCRIBED IN IRC

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1 § 414(H)(2) AND WILL NOT BE INCLUDIBLE IN THE MEMBER’S GROSS INCOME FOR
2 FEDERAL INCOME TAX PURPOSES FOR THE YEAR IN WHICH THEY ARE
3 CONTRIBUTED. IF THE INTERNAL REVENUE SERVICE RULES THAT THE CITY’S
4 PICKED-UP CONTRIBUTIONS DO NOT SATISFY THE REQUIREMENTS OF IRC
5 § 414(H)(2), OR IF § 414(H)(2) IS REPEALED, THE CONTRIBUTION RATES SET FORTH
6 IN PARAGRAPH (1) OF THIS SUBSECTION WILL REMAIN IN EFFECT, BUT THE
7 CONTRIBUTIONS MAY NO LONGER BE TREATED AS PICKED UP BY THE CITY AND
8 SHALL BE PAID INSTEAD DIRECTLY BY THE MEMBER.

9 (IV) FOR EACH PAYROLL PERIOD, THE DEPARTMENT OF FINANCE SHALL CAUSE TO BE
10 DEDUCTED FROM THE EARNABLE COMPENSATION OF EACH CLASS C MEMBER THE
11 PERCENTAGE OF CONTRIBUTIONS DESCRIBED IN PARAGRAPH (1) OF THIS
12 SUBSECTION. THESE DEDUCTIONS SHALL BE PAID INTO THE RETIREMENT SYSTEM
13 FUND AND CREDITED, WITH REGULAR INTEREST (AS DEFINED IN § 1(9)(I)(B) OF THIS
14 SUBTITLE), ON BEHALF OF THE MEMBER FROM WHOSE EARNABLE COMPENSATION
15 THE DEDUCTIONS WERE MADE.

16 (V) A MEMBER’S ACCUMULATED CONTRIBUTIONS THAT ARE WITHDRAWN BY THE
17 MEMBER, OR PAID TO THE MEMBER’S ESTATE OR DESIGNATED BENEFICIARY IN
18 EVENT OF DEATH AS PROVIDED IN THIS SUBTITLE, SHALL BE PAID FROM THE
19 RETIREMENT SYSTEM FUND.

20 **§ 9. Class C membership.**

21 (c) *Class C service credit.*

22 (5) *Additional opportunity to purchase credit for service for Baltimore City employment.*

23 (I) [Any] A Class C member [shall be] IS entitled to purchase service credit for any
24 employment or membership service earned by regular and permanent employment
25 with the City of Baltimore, regardless of retirement or pension system
26 membership, [provided] AS LONG AS:

27 (A) [(i)] the employment or service did not result in the member’s being
28 entitled to any current or future benefits for [such] THAT employment or
29 service in [such] ANY other retirement or pension system; and

30 (B) [(ii) The] THE Class C member pays to the Employees’ Retirement
31 System, by a single payment, an amount equal to the current salary of the
32 employee in the year of purchase, multiplied by THE SUM OF the employer
33 rate for the normal cost AND THE EMPLOYEE CONTRIBUTION RATE UNDER
34 § 8(D)(1) FOR THE YEAR OF PURCHASE, multiplied by the number of years
35 or part of a year being purchased.

36 (II) [(iii)] In addition, any Class C member [shall be] IS entitled to purchase service
37 credit for the member’s 1st year of service with the City of Baltimore under the
38 same conditions as [(5)(ii)] SUBPARAGRAPH (I)(B) [above] OF THIS PARAGRAPH
39 (5).

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1 (III) If a member purchases service credit [as described above,] UNDER THIS
2 PARAGRAPH (5) and [thereafter] LATER dies or leaves City employment for any
3 reason, with or without any vested benefit due to the member [of] OR the
4 member's beneficiary under [the provisions of] this subtitle, the member or the
5 beneficiary [shall be] IS entitled to receive, in lieu of any other benefit under [the
6 provisions of the Employees' Retirement] THIS System [of Baltimore City], a
7 lump sum equal to the total amount paid by the member for [such] THE purchase,
8 plus interest at the rate of 5½% per year THROUGH JUNE 30, 2013 AND, EFFECTIVE
9 JULY 1, 2013, AT A RATE EQUAL TO REGULAR INTEREST (AS DEFINED IN § 1(9)(I)(B)
10 OF THIS SUBTITLE).

11 (d) *Military personnel – Benefits, membership, and service credit during employment.*

12 (7) *MEMBER CONTRIBUTIONS.*

13 (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A
14 MEMBER OF THIS SYSTEM WHO IS REEMPLOYED UNDER PARAGRAPH (1)(II) OF THIS
15 SUBSECTION SHALL BE CREDITED WITH, AT THE CITY'S SOLE EXPENSE, THE
16 CONTRIBUTIONS THAT THE MEMBER OTHERWISE WOULD HAVE MADE UNDER
17 § 8(D)(1) HAD THE MEMBER NOT BEEN ABSENT, PLUS REGULAR INTEREST (AS
18 DEFINED IN § 1(9)(I)(B) OF THIS SUBTITLE) ON THOSE CONTRIBUTIONS.

19 (II) IF A MEMBER TERMINATES CITY EMPLOYMENT, OTHER THAN BY REASON OF
20 DEATH, BEFORE BECOMING ELIGIBLE FOR A RETIREMENT BENEFIT OR A DEFERRED
21 VESTED PENSION BENEFIT UNDER THIS § 9, THE MEMBER IS NOT ENTITLED TO
22 RECEIVE ANY PART OF THE CONTRIBUTIONS MADE ON HIS OR HER BEHALF UNDER
23 SUBPARAGRAPH (I) OF THIS PARAGRAPH (7). HOWEVER, THE CONTRIBUTIONS
24 MADE ON BEHALF OF A MEMBER WILL BE USED TO FUND A RETIREMENT BENEFIT
25 OR A DEFERRED VESTED PENSION BENEFIT PAYABLE TO THE MEMBER UNDER THIS
26 § 9. IN ADDITION, THE CONTRIBUTIONS MADE ON BEHALF OF A MEMBER WILL BE
27 USED TO FUND A PERIODIC DEATH BENEFIT PAYABLE TO THE MEMBER'S
28 BENEFICIARY UNDER THIS § 9 OR, IF THE MEMBER'S BENEFICIARY IS ENTITLED TO
29 RECEIVE A LUMP SUM DEATH BENEFIT UNDER THIS § 9, WILL BE PAID TO THE
30 BENEFICIARY.

31 (III) THE BOARD OF TRUSTEES SHALL REFUND TO A MEMBER ANY CONTRIBUTIONS
32 MADE TO THIS SYSTEM DURING A PERIOD OF ABSENCE FROM EMPLOYMENT FOR
33 MILITARY SERVICE WHILE THE MEMBER IS OTHERWISE EXEMPTED UNDER THIS
34 PARAGRAPH (7) FROM PAYING CONTRIBUTIONS INTO THE SYSTEM.

35 (8) [(7)] *Rules and regulations.*

36 The Board of Trustees may adopt rules[, resolutions,] and regulations to carry out this
37 subsection.

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1 (m) *Method of payment.*

2 (1) *Maximum retirement allowance.*

3 (D) IF A RETIRED MEMBER WHO HAS ELECTED THE MAXIMUM RETIREMENT
4 ALLOWANCE UNDER THIS PARAGRAPH (1) DIES BEFORE THE MEMBER HAS
5 RECEIVED BENEFIT PAYMENTS IN A SUM EQUAL TO THE AMOUNT OF HIS OR
6 HER ACCUMULATED CONTRIBUTIONS AT THE TIME OF RETIREMENT, AND IF THERE
7 IS NO SURVIVING SPOUSE OR MINOR CHILD ENTITLED TO RECEIVE BENEFITS ON THE
8 MEMBER'S DEATH, THE DIFFERENCE BETWEEN THE AMOUNT OF THE DECEASED
9 MEMBER'S ACCUMULATED CONTRIBUTIONS AND THE SUM OF THE BENEFIT
10 PAYMENTS SHALL BE PAID AS A LUMP SUM TO THE DECEASED MEMBER'S
11 DESIGNATED BENEFICIARY OR, IF NO BENEFICIARY HAS BEEN DESIGNATED, TO THE
12 DECEASED MEMBER'S ESTATE.

13 (7-A) *RETURN OF ACCUMULATED CONTRIBUTIONS.*

14 (I) IF A CLASS C MEMBER TERMINATES EMPLOYMENT WITH THE CITY, OTHER THAN
15 BY REASON OF DEATH, BEFORE BECOMING ELIGIBLE FOR A RETIREMENT BENEFIT
16 OR A DEFERRED VESTED PENSION BENEFIT UNDER THIS § 9, THE MEMBER IS
17 ENTITLED TO RECEIVE THE VALUE OF HIS OR HER ACCUMULATED CONTRIBUTIONS,
18 PAYABLE IN A LUMP SUM DISTRIBUTION AS SOON AS ADMINISTRATIVELY
19 PRACTICABLE FOLLOWING THE TERMINATION OF EMPLOYMENT.

20 (II) IF A CLASS C MEMBER DIES WHILE ACTIVELY EMPLOYED, HIS OR HER
21 ACCUMULATED CONTRIBUTIONS WILL BE USED TO FUND A PERIODIC DEATH
22 BENEFIT PAYABLE TO THE MEMBER'S BENEFICIARY UNDER SUBSECTIONS (O-1)
23 OR (O-2) OF THIS § 9 OR WILL BE PAID TO THE MEMBER'S BENEFICIARY IF THE
24 BENEFICIARY IS ENTITLED TO RECEIVE A LUMP SUM DEATH BENEFIT UNDER
25 SUBSECTIONS (O-1) OR (O-2) OF THIS § 9.

26 **§ 17.1 Post-retirement benefit increases on or after July 1, 2007, AND BEFORE JUNE 30,**
27 **2013.**

28 (a) *Scope.*

29 This section applies to retirement benefit increases determined on or after July 1, 2007,
30 AND BEFORE JUNE 30, 2013.

31 **§ 17.2. POST-RETIREMENT BENEFIT INCREASES ON OR AFTER JUNE 30, 2013.**

32 (A) *SCOPE.*

33 THIS SECTION APPLIES TO RETIREMENT BENEFIT INCREASES DETERMINED ON OR AFTER
34 JUNE 30, 2013.

35 (B) *IN GENERAL.*

36 AN ELIGIBLE RETIREE OR BENEFICIARY IS ENTITLED TO RECEIVE A GUARANTEED INCREASE
37 IN PERIODIC BENEFITS EQUAL TO THE GREATER OF:

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1 (1) 1.5%; OR

2 (2) THE AMOUNT OF ANY CORRESPONDING GUARANTEED POST-RETIREMENT BENEFIT
3 INCREASE PROVIDED BY THE FIRE AND POLICE EMPLOYEES' RETIREMENT SYSTEM
4 TO ITS MEMBERS.

5 (C) *ELIGIBILITY.*

6 A RETIREE OR BENEFICIARY IS ELIGIBLE FOR THE BENEFIT INCREASE PROVIDED BY THIS
7 SECTION IF, AS OF JUNE 30, 2013, AND EACH SUCCEEDING JUNE 30, THE RETIREE AND THE
8 BENEFICIARY, WHETHER INDIVIDUALLY OR IN COMBINATION WITH THE OTHER, HAVE BEEN
9 RECEIVING PERIODIC BENEFIT PAYMENTS FOR AT LEAST 12 CONSECUTIVE MONTHS.

10 (D) *WHEN INCREASE BEGINS.*

11 AN ELIGIBLE RETIREE OR BENEFICIARY WILL RECEIVE THE BENEFIT INCREASE BEGINNING
12 IN JANUARY OF THE YEAR FOLLOWING THE JUNE 30 ON WHICH HE OR SHE BECAME
13 ELIGIBLE.

14 (E) *ADMINISTRATION OF BENEFIT INCREASES.*

15 (1) THE BENEFIT INCREASE PROVIDED BY THIS SECTION SHALL BE FUNDED BY THIS
16 SYSTEM AS A SINGLE-PREMIUM PAID-UP ANNUITY, REPRESENTING THE ACTUARIALLY
17 DETERMINED VALUE OF A PAYMENT STREAM FOR THE LIFE OF A RETIREE.

18 (2) IT IS INTENDED THAT ANY BENEFIT INCREASE CONTINUE FOR THE LIFETIME OF THE
19 RETIREE AND ANY BENEFICIARY, CONSISTENT WITH THE OPTION ELECTED UNDER § 6
20 OR § 9 OF THIS SUBTITLE.

21 (3) THE GUARANTEED BENEFIT INCREASE PROVIDED BY THIS SECTION IS EFFECTIVE AS OF
22 EACH JANUARY 1, REGARDLESS OF THE INVESTMENT PERFORMANCE OF THE
23 RETIREMENT SYSTEM'S INVESTMENT FUNDS.

24 (4) THE BENEFIT INCREASE PROVIDED BY THIS SECTION IS PAYABLE IN THE SAME FORM AS
25 THE POST-RETIREMENT BENEFIT PAYMENTS BEING RECEIVED BY THE ELIGIBLE RETIREE
26 OR BENEFICIARY.

27 (5) EXCEPT AS REQUIRED BY SUBSECTION (B)(2) OF THIS SECTION, EACH ELIGIBLE RETIREE
28 AND BENEFICIARY SHALL RECEIVE AN EQUAL PERCENTAGE BENEFIT INCREASE.

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

32 **SECTION 3. AND BE IT FURTHER ORDAINED,** That the provisions of this Ordinance are
33 severable. If a court of competent jurisdiction determines that a provision or a word, phrase,
34 clause, sentence, paragraph, subsection, section, or other part of a provision is invalid or that the
35 application of a provision or part of a provision to any person or circumstances is invalid, the
36 remaining provisions and the application of those provisions to other persons or circumstances
37 are not affected by that decision.

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1 **SECTION 4. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it is
2 enacted.