

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 13-0223

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
Committee Report: Favorable with amendments
Council action: Adopted
Read second time: June 17, 2013

AN ORDINANCE CONCERNING

Change to Grow: 10-Year Plan – Employees’ Retirement System – Benefits

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

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

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

Recitals

As of July 1, 1979, all persons who became employees and all employees who entered or reentered the employment of the City of Baltimore became new Class C members of the Employees’ Retirement System (ERS). Prior to that date, members of the existing Class A and Class B of the ERS were required to make contributions to that retirement system. Members of the new Class C were not required to make contributions.

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

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1 Now, over 30 years later, a schedule of required contributions to the Employees
2 Retirement System has been proposed by the current Administration to shore up
3 this system’s economic health. While employees would now be required to
4 contribute over the next 5 years a percentage of earnable compensation, up to a
5 maximum of 5%, the Fiscal Year 2014 Executive Summary states that the Fiscal
6 2014 budget includes a 2% pay increase across all unions. The member
7 contributions schedule of a 1% increase for the next 5 fiscal years should be
8 contingent on the inclusion of a yearly minimum raise of 2% for each member in
9 the annual appropriations of the Ordinance of Estimates, through July 1, 2017.

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

12 **Baltimore City Code**

13 **Article 22. Retirement Systems**

14 **Subtitle – Employees’ Retirement System**

15 **§ 1. Definitions.**

16 (9) (i) “Regular interest” MEANS:

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

19 (B) FOR THE ACCUMULATION OF CLASS C MEMBER CONTRIBUTIONS, INTEREST AT
20 3% PER YEAR, COMPOUNDED ANNUALLY.

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

27 **§ 8. Method of financing.**

28 (D) *MEMBER CONTRIBUTIONS.*

29 (1) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (1), AND NOTWITHSTANDING
30 ~~NOTWITHSTANDING~~ ANY OTHER PROVISION OF THIS SUBTITLE, EFFECTIVE WITH THE
31 1ST FULL PAYROLL PERIOD THAT BEGINS AFTER THE APPLICABLE EFFECTIVE DATE
32 SHOWN BELOW, EACH CLASS C MEMBER SHALL CONTRIBUTE THE PERCENTAGE OF HIS
33 OR HER EARNABLE COMPENSATION (AS DEFINED IN § 1(11) OF THIS SUBTITLE) THAT
34 CORRESPONDS TO THE EFFECTIVE DATE, THESE CONTRIBUTIONS TO CONTINUE
35 THROUGHOUT THE MEMBER’S REMAINING PERIOD OF SERVICE:

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

7 (ii) (A) THE SCHEDULED INCREASES IN A MEMBER’S CONTRIBUTION, AS PROVIDED FOR
8 IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (1), APPLY ONLY FOR A FISCAL YEAR
9 IN WHICH A MINIMUM 2% RAISE (OR IN WHICH A SERIES OF PRIOR NON-
10 MINIMUM ANNUAL RAISES, FIRST EFFECTIVE AFTER THE IMMEDIATELY
11 PRECEDING CONTRIBUTION INCREASE, REACHES AN AGGREGATE OF 2% (THE
12 “AGGREGATE MINIMUM”)):

13 1. HAS BEEN SUBJECT TO NEGOTIATION OR MEET-AND-CONFER, AS THE
14 CASE MAY BE, WITH THE CERTIFIED EMPLOYEE ORGANIZATION OR
15 PROFESSIONAL ASSOCIATION REPRESENTING THAT EMPLOYEE; AND

16 2. HAS BECOME EFFECTIVE FOR THAT EMPLOYEE AND FOR ALL OTHER
17 EMPLOYEES REPRESENTED BY THAT ORGANIZATION OR ASSOCIATION.

18 (B) FOR ANY FISCAL YEAR IN WHICH A MEMBER DOES NOT RECEIVE THIS MINIMUM
19 RAISE (OR MINIMUM AGGREGATE), THE SCHEDULED INCREASE IN THAT
20 MEMBER’S CONTRIBUTION IS SUSPENDED AND THE SCHEDULE OF INCREASED
21 CONTRIBUTIONS WILL RESUME ONLY FOR THE NEXT FISCAL YEAR IN WHICH
22 THERE IS A MINIMUM RAISE (OR AGGREGATE MINIMUM).

23 (C) NOTWITHSTANDING CITY CODE ARTICLE 12, § 5-8 {“LABOR NEGOTIATIONS:
24 TIME TABLE”}, IF A MINIMUM RAISE (OR MINIMUM AGGREGATE) ONLY
25 BECOMES EFFECTIVE AFTER A FISCAL YEAR HAS BEGUN, THE CONTRIBUTION
26 INCREASE FOR THAT FISCAL YEAR IS SUSPENDED UNTIL THE DATE ON WHICH
27 THE MINIMUM RAISE (OR MINIMUM AGGREGATE) IS EFFECTIVE AND IS THEN
28 APPLIED PRO RATA FOR THE PERIOD FROM THE EFFECTIVE DATE OF THE RAISE
29 THROUGH THE REMAINDER OF THE FISCAL YEAR.

30 (D) FOR ANY FISCAL YEAR IN WHICH A RAISE (OR AGGREGATE OF RAISES) EXCEEDS
31 2%, THE EXCESS OVER 2% SHALL BE CALCULATED WITH ALL OTHER
32 SUBSEQUENT RAISES FOR PURPOSES OF DETERMINING THE NEXT MINIMUM
33 AGGREGATE REQUIRING THE NEXT CONTRIBUTION INCREASE.

34 (E) AT ALL TIMES, NOTWITHSTANDING ANY SUSPENSION OF A SCHEDULED
35 INCREASE, A MEMBER’S THEN REQUIRED CONTRIBUTION, AS ESTABLISHED IN
36 PRIOR FISCAL YEARS, REMAINS INTACT.

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

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

6 (III) AS SOON AS ADMINISTRATIVELY PRACTICABLE, THE CITY SHALL REQUEST A
7 PRIVATE LETTER RULING FROM THE INTERNAL REVENUE SERVICE TO THE EFFECT
8 THAT THE CONTRIBUTIONS SO PICKED UP BY THE CITY ON BEHALF OF MEMBERS OF
9 THIS SYSTEM WILL BE TREATED AS EMPLOYER CONTRIBUTIONS DESCRIBED IN IRC
10 § 414(H)(2) AND WILL NOT BE INCLUDIBLE IN THE MEMBER’S GROSS INCOME FOR
11 FEDERAL INCOME TAX PURPOSES FOR THE YEAR IN WHICH THEY ARE
12 CONTRIBUTED. IF THE INTERNAL REVENUE SERVICE RULES THAT THE CITY’S
13 PICKED-UP CONTRIBUTIONS DO NOT SATISFY THE REQUIREMENTS OF IRC
14 § 414(H)(2), OR IF § 414(H)(2) IS REPEALED, THE CONTRIBUTION RATES SET FORTH
15 IN PARAGRAPH (1) OF THIS SUBSECTION WILL REMAIN IN EFFECT, BUT THE
16 CONTRIBUTIONS MAY NO LONGER BE TREATED AS PICKED UP BY THE CITY AND
17 SHALL BE PAID INSTEAD DIRECTLY BY THE MEMBER.

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

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

29 **§ 9. Class C membership.**

30 (c) *Class C service credit.*

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

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

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

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1 (B) [(ii) The] THE Class C member pays to the Employees' Retirement
2 System, by a single payment, an amount equal to the current salary of the
3 employee in the year of purchase, multiplied by THE SUM OF the employer
4 rate for the normal cost AND THE EMPLOYEE CONTRIBUTION RATE UNDER
5 § 8(D)(1) FOR THE YEAR OF PURCHASE, multiplied by the number of years
6 or part of a year being purchased.

7 (II) [(iii)] In addition, any Class C member [shall be] IS entitled to purchase service
8 credit for the member's 1st year of service with the City of Baltimore under the
9 same conditions as [(5)(ii)] SUBPARAGRAPH (I)(B) [above] OF THIS PARAGRAPH
10 (5).

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

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

22 (7) *MEMBER CONTRIBUTIONS.*

23 (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A
24 MEMBER OF THIS SYSTEM WHO IS REEMPLOYED UNDER PARAGRAPH (1)(II) OF THIS
25 SUBSECTION SHALL BE CREDITED WITH, AT THE CITY'S SOLE EXPENSE, THE
26 CONTRIBUTIONS THAT THE MEMBER OTHERWISE WOULD HAVE MADE UNDER
27 § 8(D)(1) HAD THE MEMBER NOT BEEN ABSENT, PLUS REGULAR INTEREST (AS
28 DEFINED IN § 1(9)(I)(B) OF THIS SUBTITLE) ON THOSE CONTRIBUTIONS.

29 (II) IF A MEMBER TERMINATES CITY EMPLOYMENT, OTHER THAN BY REASON OF
30 DEATH, BEFORE BECOMING ELIGIBLE FOR A RETIREMENT BENEFIT OR A DEFERRED
31 VESTED PENSION BENEFIT UNDER THIS § 9, THE MEMBER IS NOT ENTITLED TO
32 RECEIVE ANY PART OF THE CONTRIBUTIONS MADE ON HIS OR HER BEHALF UNDER
33 SUBPARAGRAPH (I) OF THIS PARAGRAPH (7). HOWEVER, THE CONTRIBUTIONS
34 MADE ON BEHALF OF A MEMBER WILL BE USED TO FUND A RETIREMENT BENEFIT
35 OR A DEFERRED VESTED PENSION BENEFIT PAYABLE TO THE MEMBER UNDER THIS
36 § 9. IN ADDITION, THE CONTRIBUTIONS MADE ON BEHALF OF A MEMBER WILL BE
37 USED TO FUND A PERIODIC DEATH BENEFIT PAYABLE TO THE MEMBER'S
38 BENEFICIARY UNDER THIS § 9 OR, IF THE MEMBER'S BENEFICIARY IS ENTITLED TO
39 RECEIVE A LUMP SUM DEATH BENEFIT UNDER THIS § 9, WILL BE PAID TO THE
40 BENEFICIARY.

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

5 (8) [(7)] *Rules and regulations.*

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

8 (m) *Method of payment.*

9 (1) *Maximum retirement allowance.*

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

20 (7-A) *RETURN OF ACCUMULATED CONTRIBUTIONS.*

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

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

33 **§ 17.1 Post-retirement benefit increases on or after July 1, 2007, AND BEFORE JUNE 30,**
34 **2013.**

35 (a) *Scope.*

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

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

(A) *SCOPE.*

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

(B) *IN GENERAL.*

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

(1) 1.5%; OR

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

(C) *ELIGIBILITY.*

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

(D) *WHEN INCREASE BEGINS.*

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

(E) *ADMINISTRATION OF BENEFIT INCREASES.*

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

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

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

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

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

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

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

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

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