



## Legislation Details (With Text)

**File #:** 19-0357      **Version:** 0      **Name:** Fire and Police Employees' Retirement System - Interest, Service Credits, Death Benefits, Direct Deposit, and Technical Corrections

**Type:** Ordinance      **Status:** Enacted

**File created:** 3/25/2019      **In control:** City Council

**On agenda:**      **Final action:** 5/31/2019

**Enactment date:**      **Enactment #:** 19-254

**Title:** Fire and Police Employees' Retirement System - Interest, Service Credits, Death Benefits, Direct Deposit, and Technical Corrections  
 For the purpose of repealing certain obsolete and obsolescent provisions; changing the definition of regular interest for valuation purposes; clarifying the crediting of military service under certain circumstances; modifying the calculation of the cost of purchasing and transferring prior system service, non-credited City service, former Maryland Police Corps service, and service earned for employment covered under a former non-City pension; expanding the definition of "minor child" for certain purposes; allowing certain spousal beneficiaries age 70 and over to remarry without penalty of losing benefits; allowing new beneficiary elections and survivorship option elections within certain time periods; requiring that, after a certain date and subject to certain exceptions, periodic benefit payments be made electronically; defining certain terms; providing for special effective dates; and generally relating to the Baltimore City Fire and Police Employees' Retirement System.

**Sponsors:** City Council President (Administration)

**Indexes:** Death Benefits, Fire & Police Retirement Systems, Interest

**Code sections:**

**Attachments:** 1. 19-0357~1st Reader, 2. Fire & Police Employees' Retirement System 19-0357, 3. Law 19-0357, 4. DHR 19-0357, 5. Finance 19-0357, 6. Labor Commission 19-0357, 7. 19-0357~3rd Reader, 8. Completed Bill File 19-0357

Date	Ver.	Action By	Action	Result
6/11/2019	0	Mayor	Signed by Mayor	
5/6/2019	0	City Council	Approved and Sent to the Mayor	
4/29/2019	0	City Council	3rd Reader, for final passage	
4/29/2019	0	Taxation, Finance and Economic Development Committee	Recommended Favorably	
4/25/2019	0	Taxation, Finance and Economic Development Committee	Recommended Favorably	Pass
4/15/2019	0	Taxation, Finance and Economic Development Committee	Scheduled for a Public Hearing	
3/28/2019	0	The City Council	Refer to Dept. of Finance	
3/28/2019	0	The City Council	Refer to Labor Commissioner	
3/28/2019	0	The City Council	Refer to Fire and Police Employees' Retirement System	
3/28/2019	0	The City Council	Refer to Dept. of Human Resources	
3/28/2019	0	The City Council	Refer to City Solicitor	
3/25/2019	0	City Council	Assigned	

3/25/2019

0

City Council

Introduced

## Introductory\*

**Explanation:** Capitals indicate matter added to existing law.  
[Brackets] indicate matter deleted from existing law.

\* **Warning:** This is an unofficial, introductory copy of the bill.  
The official copy considered by the City Council is the first reader copy.

## City of Baltimore Council Bill

Introduced by: The Council President

At the request of: The Administration (Fire & Police Employees' Retirement System)

A Bill Entitled

An Ordinance concerning

### **Fire and Police Employees' Retirement System - Interest, Service Credits, Death Benefits, Direct Deposit, and Technical Corrections**

For the purpose of repealing certain obsolete and obsolescent provisions; changing the definition of regular interest for valuation purposes; clarifying the crediting of military service under certain circumstances; modifying the calculation of the cost of purchasing and transferring prior system service, non-credited City service, former Maryland Police Corps service, and service earned for employment covered under a former non-City pension; expanding the definition of "minor child" for certain purposes; allowing certain spousal beneficiaries age 70 and over to remarry without penalty of losing benefits; allowing new beneficiary elections and survivorship option elections within certain time periods; requiring that, after a certain date and subject to certain exceptions, periodic benefit payments be made electronically; defining certain terms; providing for special effective dates; and generally relating to the Baltimore City Fire and Police Employees' Retirement System.

By repealing

Article 22 - Retirement Systems

Sections 30(7), 32(g), (h-1), (h-2), (h-3), (i), (j), (l), and (m) and 34(i)(2)(F) and (6)

Baltimore City Code

(Edition 2000)

By repealing and reordaining, with amendments

Article 22 - Retirement Systems

Sections 30(6) and (9), 32(e), (f)(1), and (k), 34(h)(4)(B) and (C), (i)(2)(C) and (4)(A) and (C), and (k), and 47(h)

Baltimore City Code

(Edition 2000)

By adding

Article 22 - Retirement Systems

Section 30(7) and (21) and 34.1(d)

Baltimore City Code

(Edition 2000)

**Section 1. Be it ordained by the Mayor and City Council of Baltimore,** That § 30(7), § 32(g), (h-1), (h-2), (h-3), (i), (j), (l), and (m) and § 34(i)(2)(F) and (6) of Baltimore City Code Article 22 {"Retirement Systems"} are repealed, in their respective entireties.

**Section 2. And be it further ordained,** That the Laws of Baltimore City read as follows:

**Baltimore City Code**

**Article 22. Retirement Systems**

**Subtitle - Fire and Police Employees' Retirement System**

**§ 30. Definitions.**

In this subtitle, unless a different meaning is plainly required by the context, the following words and phrases have the meanings indicated:

(6) "Service" [shall mean] means:

- (i) any service for service-covered employment [as an employee as described in paragraph (2) of this subsection, and paid for by the City of Baltimore, while a member of the Fire and Police Employees' Retirement System]; [and]
- (ii) any service purchased, repurchased, or transferred, by appropriate deposit or redeposit of funds plus interest[, to cover such periods, or]; and
- (iii) any service credited under [any other section of] this subtitle [and under Maryland State Law].

(7) "Service-covered employment" means employment as an employee, as described in paragraph (2) of this section, and paid for by the City of Baltimore, while a member of this system.

(9) "Regular interest" means interest compounded annually for the reserves and items listed at the following rates:

(i) *the Annuity Savings Reserve:*  
*3.0%.*

(ii) *for valuation purposes:*  
*[7.5%]*  
*7.25%*

(iii) *for determining actuarial equivalents:* *5.0%.*

(21) "System entry date" means the date a member most recently begins service -covered employment.

**§ 32. Service creditable.**

(e) *[Military personnel - rights to benefits, membership, and service credit during employment.] Credit for military service during employment.*

(1) *Scope of subsection.*

This subsection applies only to a member of this system who:

- (i) on account of military service, as defined in paragraph [(9)] (7) of this subsection, is on [unpaid] leave of absence from [paid] City employment;
- (ii) [does not withdraw any of his or her accumulated contributions, unless he or she redeposits the sum withdrawn as provided in paragraph (2) of this subsection] is eligible for reemployment with the City under the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended, 38 U.S.C. §§4301-4334 (“USERRA”); and
- [(iii) within 1 year after he or she leaves military service, or any longer period during which his or her employment rights are protected by federal law, is employed by the City of Baltimore as a regular and permanent employee;]
- [(iv) does not take any employment, other than employment described in item (iii) of this paragraph or temporary employment, after the member:
  - (A) applied for reemployment in his or her former classification or position in the City service; and
  - (B) was refused immediate reemployment for causes beyond his or her control; and]
- (iii) [(v)] applies for service credit with the system.

[(2) *Redeposit of accumulated contributions; payment methods, deadline; pro rata credit.*]

[(i) *If a member of this system who is absent from employment for military service withdraws any of his or her accumulated contributions and redeposits into the system the sum withdrawn, with regular interest at the annuity savings fund rate from the date of withdrawal to the date that the redeposit is completed, the member, if otherwise qualified, is entitled to the benefits of this section as if the withdrawal had not been made.*]

[(ii) *The redeposit of accumulated contributions:*

(A) *may be made by a single payment or an increased rate of contribution; but*

(B) *must be completed before the member’s retirement date.*]

[(iii) *The redeposit of accumulated contributions shall be credited pro rata at the time each payment is made.*]

[(3) *Retention of status and rights as a member.*]

[Except as otherwise provided in this subsection, a member of this system who is reemployed under paragraph (1)(iii) of this subsection retains the status and rights as a member during a period of absence from employment for military service.]

(2) [(4)] *Service credit.*

[A member of this system shall receive service credit for a period of absence from employment while in military service if:

(i) the employment of the member under paragraph (1)(iii) of this section is paid employment; and

(ii) membership in this system is a requirement of employment.]

(1) A member of this system shall receive service credit for a period of absence from employment while in military service as though he or she had remained continuously employed with the City as an employee.

(2) The service credit shall include the period, if any, between the date the member completes military service and the date he or she is reemployed with the City, as long as the member retains his or her reemployment rights under USERRA during that period.

(3) [(5)] *Transfer of service credit.*

A member of this system who receives service credit for military service under this subsection may transfer the credit to another state or local retirement or pension system.

(4) [(6)] [*Contributions*] *Member contributions.*

(i) Except as otherwise provided in subparagraph (ii) of this paragraph, a member of this system [who is reemployed under paragraph (1)(iii) of this subsection and is otherwise qualified to retain the status and rights of a member during a period of absence from employment for military service,] described in paragraph (1) of this subsection shall be credited [with], at the [city's] City's sole account and expense[:], with military service contributions that consist of the following:

(A) the contributions, if any, that the City would have made on behalf of the member if the member had not been absent, including DROP or DROP 2 contributions; and

(B) the contributions that the member would have made on his or her own behalf if the member had not been absent, including DROP or DROP 2 contributions.

(ii) On a member's terminating City employment, the member is not entitled to [withdraw] receive any part of [the] these military service contributions [credited to his or her account under this paragraph, including the annuity portion attributable to City contributions made under this paragraph, except in the case of death while in City service or retirement from City service]. However, the military service contributions shall be used to fund:

- (A) the annuity portion of a retirement allowance payable to that member under § 34; or
- (B) the annuity portion of a lump-sum or periodic death benefit payable to that member's beneficiary under § 34.

(iii) The Board of Trustees shall refund to a member any contributions made to the system during a period of absence from employment for military service when the member is otherwise exempted under this paragraph from paying contributions into the system.

*[(iv) On termination of a member's employment during or after a leave of absence for military service, the member, member's beneficiary, or member's estate is entitled to a refund of the member's accumulated contributions, plus interest, in lieu of any other system benefit, excluding contributions made by the City under subparagraph (i) of this paragraph.]*

(5) [(7)] *Benefits unavailable during absence.*

A member of this system, the member's beneficiary, or the member's estate is not entitled to line-of-duty disability benefits or line-of-duty death benefits arising from the member's death or disability during a period that the member is absent from employment for military service.

(6) [(8)] DROP and DROP 2 benefits.

[Except as otherwise provided in this subsection, a] A member of this system [who is actively reemployed under paragraph (1)(iii) of this subsection and is otherwise qualified to retain the status and rights of a member during a period of absence from employment for military service] described in paragraph (1) of this subsection is entitled to all of the rights and privileges relating to the Deferred Retirement Option Plan ("DROP") under [Section] § 36B [of this subtitle] or the Deferred Retirement Option Plan 2 ("DROP 2") under § 36C otherwise afforded to a member who is actively employed, including:

- (i) after being reemployed on returning from military service, the right to elect retrospectively to participate in DROP or DROP 2 or to terminate DROP or DROP 2 participation, as of a date during the period of the member's absence from employment;
- (ii) the right to accumulate DROP or DROP 2 contributions and benefits participation during the period of the member's absence from employment; and
- (iii) the right to be credited with post-DROP or post-DROP 2 employment during the period of the member's absence from employment.

(7) [(9)] *"Military service" defined.*

- (i) In this subsection and in subsection (f) of this section, "military service" means any service that falls within the term:
  - (A) "service in the uniformed services", as defined by and interpreted under 38 U.S.C. § 4303(13); or
  - (B) "military service", as defined by and interpreted under State Personnel and Pensions Article § 38-101(d);

(ii) “Military service” embraces all forms of duty, including active duty, active duty for training, initial active duty for training, and inactive duty training (such as drills), under competent authority, on a voluntary or involuntary basis, in the Army, Navy, Marine Corps, Air Force, Coast Guard, Public Health Service Commissioned Corps, the Army National Guard, the Air National Guard, the Maryland National Guard, as well as the reserve components of each of these services, and any other category of persons designated by the President or the Governor of the State of Maryland in time of war or national or State emergency.

(8) *Deadline for purchase of service.*

For a member of this system described in paragraph (1) of this subsection, any deadline for transferring and purchasing service otherwise applicable under § 32(k) shall be extended by the period of service credited to the member under paragraph (2) of this subsection.

(9) [(10)] *Rules and regulations.*

The Board of Trustees may adopt rules, resolutions, and regulations to carry out the provisions of this subsection as long as those rules, resolutions, and regulations are consistent with USERRA.

(f) [*Military*] *Credit for military service [credit] prior to employment.*

(1) [Notwithstanding any other provision of this subtitle, upon] Upon proper application to [the System] this system, a member who has acquired at least 10 years of service and attained age 50, or who has acquired 20 years of service, shall be granted credit for military service, as defined in [§ 32(e)] subsection (e)(7) of this [subtitle], prior to employment with the City [for purposes of eligibility for a normal service retirement under § 34(a-1), DROP under § 36B, or DROP 2 under § 36C, and for benefit purposes shall be granted to any member of this system who has served in the military prior to employment with the City, if that member has acquired at least 10 years of service and attained the age of 50, or has acquired 20 years of service] unless otherwise provided in this Article 22.

(k) [*Transfers*] *Purchases and transfers of service. [- Persons becoming members on or after July 1, 2003.]*

(1) *Definitions.*

(iii) In this subsection, the following words have the meanings indicated.

(ii) A. “Former system” means an actuarially funded contributory or non-contributory federal, state, or local governmental defined benefit retirement or pension system located within the United States.

B. “Former system” includes:

1. this system;
2. the Employees’ Retirement System of the City of Baltimore;
3. the Elected Officials’ Retirement System of the City of Baltimore; and
4. even though it is not actuarially funded, the Retirement Savings Plan of Baltimore City.

(iii) “Uniformed position” means a fireman’s or policeman’s position held by a transferring employee.

- (iv) “Fireman’s position” means a position held by an employee of a federal, state, or local fire department whose services bear a substantial and direct relationship to extinguishing fires or protecting lives or property endangered by fires.
- (v) “Policeman’s position” means a position held by an employee of a federal, state, or local law enforcement agency who is regularly engaged in enforcing the public peace and whose duties include the power of arrest.
- (vi) “Civilian position” means a position held by a transferring employee that was not a uniformed position.
- (vii) “Former City service” means:
  - (A) prior service;
  - (B) service for any regular and permanent employment with the City that resulted in the member’s being vested in the City Retirement Savings Plan or credited for service in a defined benefit City Retirement System other than this system; or
  - (C) non-credited City service.
- (viii) “Earnable compensation” means the annual salary authorized for the member as of the date of the member’s system entry date.
- (ix) “Prior service” means service credit previously earned or purchased in this system but lost due to separation from employment.
- (x) “Non-credited City service” means service for any regular and permanent employment with the city that did not result in the member’s being credited for service in any City retirement system or vested in the City Retirement Savings Plan.
- (xi) “Maryland Police Corps service” means service, not to exceed 6 months, earned by a member while successfully completing the Maryland Police Corps training program.

(2) *In general.*

(A) *[Transfers] Purchases and transfers authorized.*

An employee who becomes a member of this system [on or after July 1, 2003,] may purchase and transfer all or any portion of service previously earned or acquired in a former system or through Maryland Police Corps service if:

- (i) for service purchases and transfers of other than prior service, non-credited City service, or Maryland Police Corps service, the member begins employment covered by this system within 90 days of terminating employment covered by the former system;
- (ii) the member files an application with this system to purchase and transfer that service within 1 year of [membership in this system] his or her system entry date.
- (iii) the member’s former system or employer provides verification to this system of the member’s

s transferable service; and

- (iv) on transferring [credit] service from the member's former system or Maryland Police Corps service, the member would no longer be eligible to receive a present or future benefit [from the former system] for the service transferred.

(B) *Limit of years transferable.*

- (i) If the service from the former system was acquired or earned on account of employment in a uniformed position, the member may purchase and transfer up to 10 years of that service, in addition to any prior service, non-credited City service, and Maryland Police Corps service.
- (ii) If the service from the former system was acquired or earned on account of employment in a civilian position, the member may purchase and transfer up to 5 years of that service, in addition to any prior service, non-credited City service, and Maryland Police Corps service.

(C) *Payment amount [- Transfers from City system].*

For service transferred from a [Baltimore City retirement] former system, the member must pay:

- (i) an amount equal to the product of:
  - 1. the member's [actual] earnable compensation [for the position covered by this system as of the member's date of entry into this system], multiplied by
  - 2. the number of years or part of a year of service to be transferred, multiplied by
  - 3. [6%] either:
    - A. for service that is former City service, the member contribution rate under § 36(h)(5) in effect on the date of the member's application, or
    - B. for service that is not former City service, twice the member contribution rate under § 36(h)(5) in effect on the date of the member's application, [plus] less
- [(ii) interest on that product calculated at this system's current annuity savings fund rate from the member's date of entry into this system to the date the payment for the transfer of service is completed.]
- (ii) accumulated contributions, with interest, that the member may have retained in this system for his or her prior service.

[(D) *Payment amount - Transfers from other system.*]

[For service transferred from a system other than a Baltimore City retirement system, the member must pay:

- (i) an amount equal to the product of:
  - 1. the member's actual earnable compensation for the position covered by this system as of the member's date of entry into this system, multiplied by

2. the number of years or part of a year of service to be transferred, multiplied by
3. 12%, plus

(ii) interest on that product calculated at this system's current annuity savings fund rate from the member's date of entry into this system to the date the payment for the transfer of service is completed.]

(D) [(E)] *Payment methods, deadline.*

The payment for transferred service[: (i) may] must be [made] by a single payment [or an increased rate of contribution; but (ii) must be completed] made before the earlier of:

- (i) [(A)] 10 years from the member's system entry date [of entry into this system]; or
- (ii) [(B)] the member's retirement date.

(E) [(F)] *Pro rata credit.*

The transferred service shall be credited pro rata at the time each payment for the service is made.

[(3) *Transferred service deemed earned in this system.*]

[For purposes of determining benefit eligibility and calculation of benefits, on payment by a member for the transferred service and the credit of that service by this system, the transferred service shall be treated the same as all other service acquired in this system, whether or not the member retires more than 5 years after transferring into this system.]

[(4) *Special review provision.*]

[(A) After the June 30, 2008, actuarial valuation has been completed and presented to the Board of Trustees, the Board shall review with the system's actuary the cost impact to the City of Baltimore of this subsection (k) as applied to service credit transfers from federal and out-of-state retirement or pension systems.]

[(B) If the Board of Trustees determines that the provisions of this subsection (k) that allow the transfer of service credit from federal and out-of-state retirement or pension systems should not be continued, the Board shall submit legislation to the Mayor and City Council to rescind those provisions.]

[(C) Otherwise, if the Board of Trustees determines that the provisions of this subsection (k) that allow for these transfers should be continued, those provisions will remain in full force and effect and this paragraph (4) will be null and void.]

## § 34. Benefits.

(h) *Non-line-of-duty death benefit.*

(4) *25% plus death benefit.*

(B) This benefit shall be paid:

- (i) to the member's designated beneficiary, as long as that designated beneficiary is limited

to:

1. the member's surviving spouse, to continue for life or until remarriage; or
2. the member's minor children, to be paid to each child, in equal shares, until that child is no longer minor, as defined in § 47(h) of this article; or

(ii) if the designated beneficiary is not the member's spouse or minor child, as defined in § 47(h) of this article, and that beneficiary predeceases the member, or if there is no designated beneficiary, then to the member's surviving spouse, to continue for life or until remarriage, if the member was married to that spouse for at least 1 year immediately before the date of the member's death; or

(iii) if there is no qualifying surviving spouse under subparagraph (B)(i) or (ii), or if the surviving spouse dies or remarries, then to the member's minor children, to be paid to each child, in equal shares, until that child is no longer minor, as defined in § 47(h) of this article.

(C) For purposes of this paragraph (4), when a member's child is no longer a minor, as defined in § 47(h) of this article, and consequently ceases to receive benefits under this paragraph (4), each remaining minor child shall begin to receive, in addition to his or her existing benefit, an equal share of the benefit formerly paid to the other child. This process continues until the member's youngest child is no longer a minor.

(i) *Line-of-duty death benefit.*

(2) *Line-of-duty death benefit.*

(C) For purposes of this paragraph (2), when a member's child is no longer a minor, as defined in § 47(h) of this article, and consequently ceases to receive benefits under this paragraph (2), each remaining minor child shall begin to receive, in addition to his or her existing benefit, an equal share of the benefit formerly paid to the other child. This process continues until the member's youngest child is no longer a minor.

(4) *Death on account of a line-of-duty injury.*

(A) This paragraph (4) applies to any member who:

- (i) retires under the provisions of § 34(e) of this subtitle;
- (ii) elects to receive maximum benefits without [optional] actuarial modification; and
- (iii) within 5 years of the date of line-of-duty disability retirement, dies from the last injury that caused or contributed to that retirement.

(C) Any accumulated contributions payable to the designated beneficiary of a member whose death is governed by this paragraph (4) shall be reduced by the amount of annuity payments that the deceased member previously received through a [special] line-of-duty disability pension.

[(k) *Optional allowances.*]

[(1) Any member who is entitled to a disability or service allowance under the provisions of this subtitle may elect to receive the maximum amount of such allowance or he may elect to receive the actuarial equivalent of such allowance, computed as of the effective date of retirement, in a lesser amount

payable throughout life in accordance with the following provisions:]

- [Option 1. If the member dies before he has received in annuity payments the present value of his annuity computed as of the time of his retirement, the balance of the annuity reserve remaining unpaid shall be paid to such person, if any, as he shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, otherwise to his estate; or]
- [Option 2. If the member dies before he has received in payments the present value of his retirement allowance as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees; or]
- [Option 3. Upon the member's death, his reduced retirement allowances shall be continued throughout the life of and paid to such person as he shall have nominated by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement; or]
- [Option 4. Upon the member's death,  $\frac{1}{2}$  of his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall have nominated by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement; or]
- [Option 5. Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall have nominated, provided such other benefit or benefits, together with the lesser retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the Board of Trustees.]

[Any living retired member shall have the right within 30 days after the effective date of his retirement, and not thereafter, to change his election of the maximum allowance to any one of the options hereinbefore set forth or to change his election of any one of said options to another one of said options, or to change his election from any one of said options to the maximum allowance. Any living retired member shall have the right within 30 days after the effective date of his retirement to change his designation of a beneficiary, but thereafter no such change may be made in connection with any option hereinbefore set forth which provides for the payment of a benefit allowance to, and throughout the life, of the beneficiary designated.]

[The election of any option or any change in connection therewith shall be made on forms provided for that purpose by the Board of Trustees and filed with the Board.]

[(2) *{Repealed}*]

- [(3) Subject to the provisions of (a), (b), (c), (d), and (e) of this paragraph (3), in the event that a member who retires and elects to receive maximum benefits without optional modification later dies and is survived by a spouse to whom the member had been married for at least 1 year immediately prior to retirement, an amount equal to 37½% of the allowance said member was receiving shall be paid to such surviving spouse to continue as long as he or she remains unmarried. If there be no such spouse or if the spouse dies or remarries before the youngest unmarried child of said deceased member shall have either attained the age of 18 years or, in the event said child is a full-time student, before he shall have attained the age of 22 years, then an amount equal to 37½% of the allowance said member was receiving shall be paid to such child or children, divided in such manner as the Board of Trustees in its discretion shall determine to continue for the benefit of such child or children until the last child marries, dies or either attains the age of 18 years or in the event he is a full-time student, attains the age of 22 years.]

[Provided, however, that the above benefits shall apply only to the following members, surviving spouses and/or children, as the case may be:]

- [(a) any member who retires on or after July 1, 1970;]
- [(b) any member who retired prior to July 1, 1970, who is still living as of July 1, 1970, and who elected to receive maximum benefits without optional modification at the time of retirement.]
- [(c) Any member who retired prior to July 1, 1970, who is still living as of July 1, 1970, and who elected a reduced optional allowance at the time of retirement, shall be entitled to change his election and receive the maximum benefits without optional modification under Article 22, aforesaid, and to have his eligible surviving spouse, child or children, as the case may be, receive the benefits provided for herein. Anything herein to the contrary notwithstanding, any member who was entitled to the benefits of this paragraph on July 1, 1970, and who has been determined by the Board of Trustees to be a disabled person on that date and who died as a result of such disability before August 30, 1970, without having exercised his rights to change his election as required by the provisions of this paragraph, may have such rights to change his election carried over to his eligible surviving spouse, child or children, as the case may be. Such election by the surviving spouse, child or children, as the case may be, to receive the benefits provided in (c) herein, must be made within 30 days of the effective date of this ordinance and these benefits shall be paid retroactively effective on the day after such member died.]
- [(d) The eligible surviving spouse, child or children, as the case may be, of a retired member who died prior to July 1, 1970, who is or are receiving a retirement allowance as a result of the fact that the member elected a reduced optional allowance at the time of retirement shall be entitled upon application to receive the adjusted benefits provided for herein notwithstanding the prior election by the member.]
- [(e) The eligible surviving spouse, child or children, as the case may be, of a retired member who died prior to July 1, 1970, and who had elected to receive maximum benefits without optional modification, shall receive the benefits provided for herein commencing as of July 1, 1970.]

[In no event will a surviving spouse, child or children receive any benefits under this paragraph (3) if such spouse, child or children received lump sum benefits as a result of election of Options 1, 2 or 5 by the retired member and his subsequent death prior to July 1, 1970. Provided, further, that all increased benefits available hereunder shall become effective as of July 1, 1970, and in no event shall any payment be made for any period prior to July 1, 1970. However, elections or applications provided under this paragraph (3)(c) and (3)(d) made after September 30, 1970, shall not be effective prior to the date of such election or application and no retroactive payments shall be made. Provided, further, that notwithstanding the above provisions, a spouse by a marriage occurring at least 6 months prior to the effective date of this paragraph (3), or a child or children of such marriage, shall be entitled to the benefits provided for herein as if the marriage had occurred 5 years prior to retirement.]

- [(f) In the event a retired member, who elected to receive maximum benefits under the provisions of this subtitle, dies before he has received in annuity payments a sum equal to the amount of his accumulated contributions at the time of his retirement, and there is no surviving spouse, minor children, mother or father of the deceased member entitled to receive further retirement benefits as a result of his death, the difference between the amount of the deceased member's accumulated contributions at the time of his retirement and the

sum of the annuity payments which he has received shall be paid to the deceased member's designated beneficiary, and if no beneficiary has been designated, then said difference shall be paid to his estate.]

[(4) Provided, however, that effective January 1, 1987, any beneficiary receiving or thereafter eligible to receive the 37½% survivor's benefit under subsection (k)(3) shall receive 42½% of the member's allowance, in lieu of the 37½% previously provided. Any such increased rate shall be effective beginning January 1, 1987, or from date of eligibility, whichever comes later.]

[(5) Effective as of July 1, 1993, in the event that a member who retires and elects to receive maximum benefits without optional modification later dies and is survived by a spouse to whom the member had been married for at least 1 year immediately prior to retirement or at least 5 years prior and/or subsequent to retirement, an amount equal to 50% of the allowance said member was receiving shall be paid to such surviving spouse to continue as long as he or she remains unmarried. If there be no such spouse or if the spouse dies or remarries before the youngest unmarried child of said deceased member shall have either attained the age of 18 years, or, in the event said child is a full-time student, before he shall have attained the age of 22 years, then an amount equal to 50% of the allowance said member was receiving shall be paid to such child or children, divided in such manner as the Board of Trustees in its discretion shall determine to continue for the benefit of such child or children until the last child marries, dies or either attains the age of 18 years or in the event he is a full-time student, attains the age of 22 years. The surviving spouse benefit provided under this paragraph is effective as of July 1, 1993, and is not payable to the surviving spouse of a member who died before July 1, 1993, where such spouse was not previously entitled to a surviving spouse benefit.]

[(6) Effective as of July 1, 1993, any beneficiary receiving or thereafter eligible to receive the 42.5% survivor's benefit under subsection (k)(4) shall receive 50% of the member's allowance, in lieu of the 42.5% previously provided under subsection (k)(4). Any such increased rate shall be effective beginning July 1, 1993, or from the date of eligibility, whichever occurs later.]

(k) *Retirement payment options.*

(1) *Maximum retirement allowance.*

(i) *In general.*

A member who is eligible to receive a retirement benefit under this subtitle is entitled to receive, without actuarial modification, the full benefit for which he or she is qualified, payable in periodic payments during the retired member's lifetime (the "maximum retirement allowance").

(ii) *Retired member's death - In general.*

As of the 1<sup>st</sup> day of the calendar month following the death of a retired member who is receiving this maximum retirement allowance, the following beneficiaries are entitled to receive periodic payments in an amount equal to 50% of the periodic payment that the retired member was receiving at the time of his or her death:

(A) if the retired member is survived by a spouse to whom the retired member was married for at least 1 year immediately before the member's retirement date or at least 5 years before the member's death, the benefit shall be paid to the surviving spouse, to continue for the spouse's lifetime or until the spouse remarries before age 70; or

(B) if there is no qualifying surviving spouse or if the surviving spouse remarries before age 70 or

dies, then the benefit shall be paid to the retired member's minor children, in equal shares, to continue until the children are no longer minors, as defined in § 47(h) of this article.

(iii) *retired member's death - Share of minor child who attains majority.*

For purposes of this paragraph, when a retired member's child is no longer a minor, as defined in § 47(h) of this article, and consequently ceases to receive benefits under this paragraph, each remaining minor child shall begin to receive, in addition to his or her existing benefit, an equal share of the benefit formerly paid to the other child. This process continues until the youngest child is no longer a minor.

(iv) *Retired member's death - before contributions and drop or drop 2 account recovered.*

If a retired member who is receiving the maximum retirement allowance dies before the member has received in annuity payments a sum equal to the amount of his or her accumulated contributions and DROP or DROP 2 account at the time of retirement, and if there is no qualifying surviving spouse or minor child, as defined in § 47(h) of this article, entitled to receive further benefits as a result of the member's death, the difference between the amount of the deceased member's accumulated contributions and DROP or DROP 2 account at the time of his or her retirement and the sum of the annuity payments that he or she had received during his or her lifetime shall be paid in the form of a lump-sum cash payment as follows:

- (A) to the deceased member's beneficiary specifically designated to receive the unused annuity and remaining DROP or DROP 2 account; or
- (B) if no beneficiary has been designated or if the designated beneficiary predeceases the retired member, to the deceased member's estate.

(2) *Survivorship benefit options.*

(i) *In general.*

- (A) Instead of the maximum retirement allowance provided for in paragraph (1) of this subsection, a member who is entitled to receive a retirement benefit from this system may elect to receive an actuarially reduced benefit in the form of one of the survivorship options set forth in subparagraphs (ii) through (iv) of this paragraph.
- (B) Other than as provided in subparagraph (ii) of this paragraph, a member who elects to receive one of these options will receive his or her benefit in the form of periodic payments during his or her lifetime.

(ii) *Reserve guarantee option.*

(A) As soon as administratively practicable after the death of a retired member who elected this reserve guarantee option, the balance of the present value of the retired member's benefit at his or her death, after deducting the total amount of periodic payments received by the retired member during his or her lifetime, shall be paid in the form of a lump-sum cash payment as follows:

1. to the retired member's designated beneficiary; or
2. if no designated beneficiary has been designated or if the designated beneficiary

predeceases the retired member, to the retired member's estate.

(B) A member who elects this option may change his or her designated beneficiary at any time throughout the member's retirement.

(iii) *Joint-and-survivor options.*

(A) As of the 1<sup>st</sup> day of the calendar month immediately after the death of a retired member who elected a joint-and-survivor option, the member's designated beneficiary is entitled to receive periodic payments during the beneficiary's lifetime in either of the following amounts, as elected by the member:

1. 100% of the periodic payment that the retired member was receiving at the time of her or his death; or
2. 50% of the periodic payment that the retired member was receiving at the time of her or his death.

(B) A member who elects this option may change his or her designated beneficiary within 30 days after the member's retirement date.

(C) If the designated beneficiary predeceases the retired member within 30 days after the retirement date, the retired member may designate a new beneficiary within 30 days after the designated beneficiary's death.

(D) If the designated beneficiary predeceases the retired member within 30 days after the retirement date and the retired member does not designate a new beneficiary within 30 days after the designated beneficiary's death or if the designated beneficiary dies on or after the 31<sup>st</sup> day following the retirement date:

1. the retired member continues during his or her lifetime to receive periodic payments in the same amount that the member has been receiving;
2. no new beneficiary may be designated; and
3. on the retired member's death, no survivorship benefit is payable.

(iv) *"Pop-up" joint-and-survivor options.*

(A) As of the 1<sup>st</sup> day of the calendar month following the death of a retired member who elected this "pop-up" joint-and-survivor option, the member's designated beneficiary is entitled to receive periodic payments during the beneficiary's lifetime in either of the following amounts, as elected by the member:

1. 100% of the periodic payment that the retired member was receiving at the time of his or her death; or
2. 50% of the periodic payment that the retired member was receiving at the time of his or her death.

(B) A member who elects this option may change his or her designated beneficiary within 30 days

after the member's retirement date.

(C) If the designated beneficiary predeceases the retired member within 30 days after the retirement date, the retired member may designate a new beneficiary within 30 days after the designated beneficiary's death.

(D) If the designated beneficiary predeceases the retired member within 30 days after the retirement date and the retired member does not designate a new beneficiary within 30 days after the designated beneficiary's death or if the designated beneficiary dies on or after the 31<sup>st</sup> day following the retirement date:

1. the retired member commences, as of the 1<sup>st</sup> day of the month immediately after the designated beneficiary's death, to receive the maximum retirement allowance, payable in periodic payments during the retired member's lifetime, plus post-retirement increases already granted the retired member;
2. no other beneficiary may be designated; and
3. on the retired member's death, no survivorship benefit is payable, whether under this option or the maximum retirement allowance.

(3) *Change of election within 30 days.*

(i) A retired member may elect to make the changes authorized in this paragraph on or before the later of:

(A) the 30<sup>th</sup> day after the retired member's retirement date; or

(B) if the retired member's designated beneficiary predeceases the retired member within 30 days after the retirement date, the 30<sup>th</sup> day after the designated beneficiary's death.

(ii) Within the periods specified, the retired member may elect to change:

(A) the retired member's maximum retirement allowance under paragraph (1) of this subsection to any one of the benefit options provided under paragraph (2) of this subsection;

(B) the retired member's election of a benefit option under paragraph (2) of this subsection to the maximum retirement allowance provided under paragraph (1) of this subsection; or

(C) the retired member's election of a benefit option under paragraph (2) of this subsection to any other benefit option provided under paragraph (2) of this subsection.

(iii) Any payments made to a retired member under the original election shall be taken into account in computing the benefit to be paid under the subsequent election.

### § 34.1. Benefit payments.

(d) *Direct deposit for periodic benefit payments.*

(1) *"periodic benefit payments" defined.*

- (i) “Periodic benefit payments” means all periodic benefit payments made by this system.
- (ii) “Periodic benefit payments” does not include any one-time, lump-sum payment.

(2) *Direct deposit required.*

Except as provided in paragraph (3) of this subsection:

- (i) all periodic benefit payments made by this system shall be paid by electronic funds transfer; and
- (ii) each recipient of periodic benefit payments shall:
  - (A) designate a financial institution or other authorized payment agent; and
  - (B) provide the system with the information necessary for the recipient to receive electronic funds transfer payments through the payment agent so designated.

(3) *Waiver for hardship.*

- (i) The Board of Trustees may waive the requirements of this section on written request of a recipient of periodic benefit payments demonstrating hardship to receive funds by electronic transfer.
- (ii) Periodic benefit payments shall be paid to any recipient granted a waiver under this paragraph by any method determined appropriate by the Board of Trustees.

### Subtitle - General Provisions

#### § 47. Definitions .

(h) *Minor child.*

- (1) [Subject to paragraph (2) of this subsection] For purposes of § 34 of this article, “minor child” means the child of a member, former member, or retiree who:
  - (i) has not attained age [18; or] 22.
  - [(ii) if the child is a full-time student, as verified to the satisfaction of the Executive Director in accordance with policies set by the Board of Trustees, has not attained age 22.]
- (2) [Notwithstanding paragraph (1) of this subsection, for] For purposes of §§ 9, 9.2, and 22 of this article, “minor child” means the child of a member, former member, or retiree who:
  - (i) has not attained age 18; or
  - (ii) if the child is a student, as verified to the satisfaction of the Executive Director in accordance with policies set by the Board of Trustees, has not attained age 22.

**Section 3. And be it further ordained,** That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

**Section 4. And be it further ordained** , That the changes made by this Ordinance to Article 22, § 32, take effect with regard to members whose system entry dates are on or after July 1, 2019. Members whose system entry dates

are on or before June 30, 2019, must purchase and transfer service pursuant to the law in effect on or before June 30, 2019.

**Section 5. And be it further ordained** , That the direct-deposit requirement of Article 22, § 34.1(d), as added by this Ordinance, applies only to members or beneficiaries whose first periodic benefit payment from this System is made on or after January 1, 2020.

**Section 6. And be it further ordained** , That, except as provided in Sections 4 and 5 of this Ordinance, this Ordinance takes effect when it is enacted.