



## Legislation Text

---

**File #:** 16-0740, **Version:** 0

---

Introduced by: The Council President

At the request of: The Administration (Employees' and Elected Officials' Retirement Systems)

### A Bill Entitled

An Ordinance concerning

#### **Employees' Retirement System and Elected Officials' Retirement System - Clarifications and Modifications**

For the purpose of changing the composition of the Board of Trustees of the Employees' and Elected Officials' Retirement Systems; clarifying certain provisions of the Employees' Retirement System relating to optional forms of payment; modifying certain provisions of the Elected Officials' Retirement System relating to eligibility for service retirement benefits and deferred vested benefits, the amount of the service retirement benefit, and post-retirement benefit increases; correcting, clarifying, and conforming related provisions; setting a special effective date; and generally relating to the Employees' Retirement System and the Elected Officials' Retirement System.

By repealing and reordaining, with amendments

Article 22 - Retirement Systems

Section(s) 5(b), 9(m)(2)(ii), 9.2(k)(2)(ii), 17A(9), 19, and 22(a), (d), and (e)(2)(ii)

Baltimore City Code

(Edition 2000)

BY repealing

Article 22 - Retirement Systems

Sections 17A(17) and (22) and 24(d)

Baltimore City Code

(Edition 2000)

BY adding

Article 22 - Retirement Systems

Sections 1(31), 17A(24), and 27

Baltimore City Code

(Edition 2000)

**Section 1. Be it ordained by the Mayor and City Council of Baltimore,** That the Laws of Baltimore City read as follows:

### **Baltimore City Code**

#### **Article 22. Retirement Systems**

##### **Subtitle - Employees' Retirement System**

## § 1. Definitions.

### (31) *Present value.*

“Present value” means the amount determined using:

- (i) regular interest for valuation purposes under paragraphs (9)(ii)(b)1. or (9)(ii)(c)1. of this section; and
- (ii) mortality assumptions based on the table in effect under the definition of “actuarial equivalent” in paragraph (19)(ii) of this section.

## § 5. Administration; Board of Trustees.

### (b) *Members.*

The Board shall consist of [7 Trustees] 9 trustees, as follows:

- (1) The City Comptroller [of the City of Baltimore, ex-officio].
- (2)
  - (i) 3 members of [the system] this System to be elected by the membership of [the system] this System, under rules and regulations adopted by the Board of Trustees to govern the election. These members shall serve for terms of 4 years each, staggered as provided for the [Trustees] trustees first elected under this paragraph (2).
  - (ii) [Effective January 1, 1996, any] A member elected to serve as [Trustee] trustee under this paragraph (2), who retires during his or her term of office after having served more than 2 years in office and who [is granted an allowance or pension (within the meaning of § 1(14) of this article)] begins receiving a retirement benefit, [shall] will continue to serve [as Trustee] for the balance of his or her term of office.
- (3)
  - (i) 2 [citizens] residents of the City of Baltimore [who are not employees within the meaning of this subtitle, 1 of whom shall be a responsible officer of a bank authorized to do business within the State of Maryland, or a person with similar experience], to be appointed by the Mayor, with the consent of the City Council, as provided in City Charter Article IV, § 6 [of the City Charter. These members shall], each to serve for terms of 4 years [each, staggered as provided for the Trustees first appointed under this paragraph (3)] concurrent with the Mayor’s term of office.
  - (ii) 1 of these trustees shall possess commercial banking experience or similar financial experience.
  - (iii) As of his or her appointment and during his or her entire term of office, a trustee appointed under this paragraph (3) may not be an employee.
- (3a)
  - (i) 1 resident of the City of Baltimore or a surrounding county, to be appointed by the Mayor, with the consent of the City Council, as provided for in City Charter Article IV, § 6, from a recommendation made by the President of the City Council, to serve for a term of 4 years concurrent with the Mayor’s term of office.
  - (ii) As of his or her appointment and during his or her entire term of office, a trustee appointed under this paragraph (3a) may not be an employee.

(3b) 1 member, to be appointed by the Mayor, with the consent of the City Council, as provided for in City Charter Article IV, § 6, from a recommendation jointly made by AFSCME Local 44 and the City Union of Baltimore, to serve for a term of 4 years concurrent with the Mayor's term of office.

(4) 1 retiree of [the system] this System to be elected by the retirees under rules and regulations adopted by the Board of Trustees to govern the election. This member shall serve for a term of 4 years [each {sic}], staggered as provided for the [Trustee] trustee first elected under this paragraph (4).

## **§ 9. Class C membership.**

(m) *Method of payment.*

(2) *Benefit options.*

(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 [actuarial reserve] benefit at [the time of] retirement, 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 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.

## **§ 9.2. Class D membership.**

(k) *Method of payment.*

(2) *Benefit options.*

(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 [actuarial reserve] benefit at [the time of] retirement, 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 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.

### Subtitle - Elected Officials' Retirement System

#### § 17A. Definitions.

(9) [*Current annual*] *Annual earnable compensation.*

[(i)] "[Current annual] Annual earnable compensation" means the [current] annual [compensation] salary authorized for the highest-paying elected position held by the member [and includes any future increases occurring after the retirement of the elected official from that elected position, which shall, after retirement, index benefits paid under this system subject to applicable reduction for any optional retirement allowance selection.]

[(ii)] If the position or class of any elected official is abolished and a new position or class is created, then, the current annual earnable compensation authorized for the new position or class, including any future increases, shall be used to index benefits of retired members who held office in the abolished position or class. If a new position or class is not created, then future increases to retirement benefits shall be indexed to the future compensation percentage increases to the position of Mayor of the City of Baltimore].

(17) [*Continued membership.*]

["Continued membership" shall mean a member who leaves City service and who continues to pay into the Retirement System pursuant to the provisions of § 19(c).]

(22) [*Normal retirement date.*]

["Normal retirement date" shall be the 1<sup>st</sup> day of the month after the date at which the elected official has acquired at least 12 years of service credit in this system and attained 50 years of age or more or 16 years of service credit in this system.]

(24) *Present value.*

"Present value" means the amount determined using:

- (i) regular interest for valuation purposes under paragraph (7)(ii) of this section; and
- (ii) mortality assumptions based on the table in effect under the definition of "actuarial equivalent" in paragraph (18) of this section.

#### § 19. Membership.

[The membership shall consist of the following:]

(a) *General provisions.*

(1) "*(An)other City retirement plan defined*"

In this section, "(an)other City retirement plan" means:

- (i) the Fire and Police Employees' Retirement System of the City of Baltimore; or

(ii) the Employees' Retirement System of the City of Baltimore.

(2) *Commencement of membership.*

[Any] An elected official [who is not an A, B, or C member of the Employees' Retirement System of Baltimore City], upon taking the oath of office, shall automatically become a member of this [system] System.

(3) *Prior City service.*

[Such] An elected official [shall be eligible] is entitled to [receive] purchase credit for [all previous] prior service as an elected official [of Baltimore City, and any service credit for membership in any Maryland State] or other prior City [of Baltimore] employment, regardless of retirement [system provided that he files a claim with the Board of Trustees within 6 months after becoming a member, and shall pay to this Retirement System, by a single payment or increased rate of contribution, as might be approved by the Board of Trustees, the contributions with regular interest that he would have paid had he been a Class A member of the Employees' Retirement System during that period] plan membership, as long as:

(i) the provisions of the State Personnel and Pensions Article of the Annotated Code of Maryland governing transfers do not apply;

(ii) the prior employment did not result in the elected official's being entitled to any current or future benefits for that employment in another City retirement plan; and

(iii) the elected official pays to this System, by a single payment or periodic payments over a period not to exceed the official's remaining term of office, an amount equal to:

(A) the annual earnable compensation of the elected official in the year of purchase, multiplied by

(B) the sum of the employer rate for the normal cost and the member contribution rate under § 24(a) of this subtitle for the year of purchase, multiplied by

(C) the number of years, or part of a year, being purchased.

(4) *Transfer of service.*

(i) *Eligibility.*

An elected official who satisfies the applicable requirements of the State Personnel and Pensions Article of the Annotated Code of Maryland may transfer service from a State or local retirement or pension system within Maryland, including another City retirement plan.

(ii) *Service credit.*

The service so transferred will be credited as service under this System.

[(2) Any elected official who is an A or B member of the Employees' Retirement System shall have the option within 120 days of his taking his oath of office, to become a member of this Retirement System and shall be eligible to receive credit for all service credit that he has acquired in the Employees' Retirement System, and any service credit for membership in any Maryland State, or Baltimore City retirement system. In order to receive such credit for such membership, within 6

months after becoming a member, the elected official shall pay to this Retirement System by a single payment or increased rate of contribution, as might be approved by the Board of Trustees, the contributions with regular interest that he would have paid for such membership credit had he been a contributing Class A member of the Employees' Retirement System.]

[(3) Any elected official who is a C member of the Employees' Retirement System shall have the option, within 120 days of his taking his oath of office, to become a member of this Retirement System, and he shall be entitled to receive credit in this Retirement System, for all service credit he had acquired while a C member in the Employees' Retirement System, and any service credit for membership in any Maryland State, or Baltimore City retirement system. In order to receive such credit for membership, within 6 months after becoming a member, the elected official shall pay to this Retirement System by a single payment or increased rate of contribution, as might be approved by the Board of Trustees, the contributions with regular interest that he would have paid for such membership credit had he been a contributing Class A member of the Employees' Retirement System.]

(b) *Non-participation in other City retirement plans.*

(1) *General rule.*

[An] Except as provided in paragraph (2) of this subsection, an elected official may not make contributions to, receive any pension or retirement [allowance] benefit from, or accrue any service credit in [any other pension or] another City retirement [system of the City of Baltimore] plan while at the same time accruing service credit in this [system] System.

[(2) The prohibition set forth in paragraph (1) of this subsection does not apply to contributions made to or benefits received from:

- (i) the Baltimore City Municipal Deferred Compensation Plan, or
- (ii) the Social Security System established by the Act of Congress known generally as "The Social Security Act of 1935", as amended from time to time.]

(2) *Exception.*

[(3)]Notwithstanding paragraph (1) of this subsection, and pursuant to § 48 of this article, the following [shall] may become members of this [system] System and accrue service credit in this [system] System while [employed in a permanent full-time or permanent part-time position covered by this system] an elected official:

- (i) members of another City [system] retirement plan who were eligible to begin receiving retirement benefits from that [system] other plan but who [chose to postpone], on becoming an elected official, postponed receipt of those benefits [and change employment to a position covered by this system (including former members of the Employees' Retirement System with entitlement to deferred vested pension benefits from that system, who ceased all permanent full-time or permanent part time employment covered by that system)]; or
- (ii) retirees who were receiving retirement benefits from another City [system] retirement plan but who [chose to suspend], on becoming an elected official, suspended receipt of those benefits [and accept reemployment in a position covered by this system].

[(c) Notwithstanding anything to the contrary, any elected official who is a member of this retirement system has the right at his or her option to continue membership in the retirement system after his or her

leaving office or the end of the term of office for which he or she was last elected. This right is contingent on that person's making all the payments that would have been made by him or her and also by the City, as determined by the actuary, had he or she continued to hold the elected office. These payments shall be based on the current annual earnable rate of compensation that the person would have received had he or she remained in office. However, to the extent that any elected official leaves office to begin employment in a position covered by another City system and begins to accrue service credit in that other system, pursuant to § 48 of this article, that former elected official may not choose to continue active membership in this system.]

[To exercise this option, the elected official is required to deposit the remainder of all the payments in advance, within 30 days after leaving office or the end of the term of office for which the elected official served, for the current fiscal year that would have been paid had he or she continued to hold office. Thereafter, payments shall be made in annual amounts, in advance within 30 days of the beginning of each fiscal year. These payments entitle the official to the same service credit that he or she was receiving as a member before leaving office. On accruing 12 years of membership credits and 50 years of age or more or 16 years of membership credits the elected official is entitled to receive a service retirement allowance as provided for in § 22(a) of this subtitle, computed as if he or she were a member retiring from active service. Should a member so electing die before he or she becomes eligible for any benefits under this subtitle, the amount of his or her accumulated contributions with interest to the date of death shall be paid to his or her estate, or to the person that she or he nominated by written designation duly acknowledged and filed with the Board of Trustees at the time of retirement. The deceased member's beneficiary or estate is not entitled to any benefit under this subtitle other than the return of the deceased member's accumulated contributions.]

[(d) Any elected official may remain in service as a contributing member regardless of age. However, no contributions shall be made by the member after the member has attained age 60 and has acquired 35 years of service credit in this system.]

## § 22. Benefits.

(a) *Service retirement benefits.*

(1) *Eligibility.*

(i) *First became a member on or before December 5, 2016.*

[Any member in service may retire] An elected official who first became a member on or before December 5, 2016, [provided that] is entitled to receive, commencing on the 1<sup>st</sup> day of the month following his or her retirement, a service retirement benefit, calculated as provided in paragraph (3)(i) of this subsection, if the member has:

(A) [acquired] at least 12 [or more] years of service and attained [the] age [of] 50; or

(B) [acquired] at least 16 years of service [, regardless of age].

(ii) *First became a member on or after December 6, 2016.*

An elected official who first became a member on or after December 6, 2016, is entitled to receive, commencing on the 1<sup>st</sup> day of the month following his or her retirement, a service retirement benefit, calculated as provided in paragraph (3)(i) of this subsection, if the member has at least 12 years of service and attained age 55.

(2) *Application.*

Prior to receiving a service retirement benefit, a member must:

(i) [complete a written] file the appropriate application [filed] with the Board of Trustees, in the form and containing the information that the Board requires; and

(ii) [select an effective date of retirement] specify on the form the date, which is not less than 30 days [or] nor more than 90 days after the date of filing [of] the [written] application, on which the member desires his or her benefits to commence.

(3) *Amount of service retirement benefit.*

(i) *Amount.*

(A) *In general.*

[Upon] Subject to sub-subparagraph (B) of this subparagraph, the annual service retirement [from service,] benefit of [a member] an elected official [is entitled to receive an annual maximum service retirement allowance equaling] is equal to 2.5% of the member's [current] annual earnable compensation at retirement multiplied by [the number of years of the member's] his or her years of service [credit].

(B) *Cap.*

For an elected official who first became a member on or after December 6, 2016, the annual service retirement benefit may not exceed 60% of the member's annual earnable compensation at retirement.

(ii) *Components of benefit.*

[Such] This [allowance] benefit shall consist of:

(A) [(i)] an annuity equal to the actuarial equivalent of the member's accumulated contributions at [the time of] his or her retirement; and

(B) [(ii)] a pension, equal to the annual [maximum] service retirement [allowance] benefit less the annuity described in [item (i)] sub-subparagraph (A) of this [paragraph 2] subparagraph.

(d) *Deferred vested retirement benefit.*

(1) *Eligibility.*

(i) *First became a member on or before December 5, 2016.*

[Any member will] An elected official who first became a member on or before December 5, 2016, is entitled to receive, commencing on the 1<sup>st</sup> day of the month immediately following his or her 50<sup>th</sup> birthday, a deferred vested retirement benefit [who], if the member has:

(A) [(i) has acquired] at least 12 years of service but less than 16 years of service [, all of which does not need to be continuous];

(B) [(ii) has] left office before attaining age 50; and



(C) [(iii) has] after leaving office, elected not to [leave] withdraw his or her accumulated contributions with [the] this System[, with regular interest, while the member is no longer in office].

(ii) *First became a member on or after December 6, 2016.*

An elected official who first became a member on or after December 6, 2016, is entitled to receive, commencing on the 1<sup>st</sup> day of the month immediately following his or her 55<sup>th</sup> birthday, a deferred vested retirement benefit, if the member has:

(A) at least 12 years of service;

(B) left office before attaining age 55; and

(C) after leaving office, elected not to withdraw his or her accumulated contributions with this System.

(2) *Application.*

Prior to receiving a deferred vested retirement benefit [under this subsection (d)], a member must:

(i) file [a written] the appropriate application [for retirement] with the Board of Trustees, in the form and containing the information that the Board requires; and

(ii) [more] specify on the form the date, which is not less than 30 days [and less] nor more than 90 days [from the member's effective retirement date] after the date of filing the application, on which the member desires his or her benefits to commence.

(3) [Amount of deferred vested retirement benefits] *Benefit amount.*

[Upon attaining age 50, a member is entitled to receive a] The deferred vested retirement benefit [equaling] is equal to [an annual maximum] the member's accrued service retirement [allowance] benefit, as [described in paragraph (3) of] calculated under subsection [(a)] (a)(3) of this section.

(4) *Death prior to commencement of deferred vested retirement benefit.*

(i) *Scope of [section] paragraph.*

This [section] paragraph will apply to [any] a member who:

(A) [is eligible] satisfies the requirements for a deferred vested retirement benefit under paragraph (1) of this subsection [(d)]; and

(B) [dies before attaining age 50, but after leaving office; and

(C)] dies before [properly] filing an application [for benefits] under [this] paragraph [(d)] (2) of this subsection.

(ii) *Return of accumulated contributions.*

[The] On the member's death, his or her accumulated contributions [of any member described in

item (i) above], including regular interest to the date of death, will be paid:

(A) to the member's designated beneficiary;

(B) if there is no designated beneficiary or if the designated beneficiary predeceases the member, to the member's surviving spouse;

(C) if there is no designated beneficiary and no surviving spouse, to the member's children, in equal shares;

(D) if there is no designated beneficiary, surviving spouse, or surviving child, to the member's surviving parents, in equal shares; and

(E) otherwise, to the member's estate.

(iii) [Interest] *No other benefit.*

[The amount of accumulated contributions paid will include interest to the date of the member's death.]

[(iv)] Any beneficiary or estate receiving benefits under this paragraph [(3)] (4) is not entitled to any other benefit under this section.

(e) *Method of payment.*

(2) [*Elections for retirement allowance with actuarial modification*] *Benefit options.*

(ii) *Reserve guarantee option.*

(A) [On the retired member's] 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 [retirement allowance] benefit at [the time of] retirement, after deducting the total amount of [periodical] periodic payments received by the retired member during his or her [life] lifetime, [will] shall be [payable as] paid in the form of a [lump sum] lump-sum cash payment as follows:

1. to the retired member's designated beneficiary; or

2. if [there is] no [designated] beneficiary has been designated or if the designated beneficiary predeceases the retired member, to the retired member's estate.

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

## § 24. Method of financing.

[(d)] For an elected official who transfers to this System, the Board of Trustees of the Transferring system shall determine and transfer to this System all applicable funds provided by the City of Baltimore for the transferring member's past service. The amount to be transferred shall be based on the benefit accrued in the transferring retirement system.]

## § 27. Post-retirement benefit increases.

(a) *Amount.*

(1) *First became a member on or before December 5, 2016.*

(i) *In general.*

A retiree who first became a member on or before December 5, 2016, or a beneficiary of a retiree who first became a member on or before December 5, 2016, is entitled to receive an annual increase in his or her monthly benefit equal to the percentage increase in the annual earnable compensation authorized for the highest-paying elected official position held by the retiree while a member.

(ii) *If position abolished.*

(A) If the position of an elected official is abolished and a replacement position is created, percentage increases in the annual earnable compensation authorized for the replacement position will be used to calculate increases in monthly benefits under subparagraph (i) of this paragraph.

(B) If the position of an elected official is abolished and a replacement position is not created, percentage increases in the annual earnable compensation authorized for the position of Mayor of the City of Baltimore will be used to calculate increases in monthly benefits under subparagraph (i) of this paragraph.

(2) *First became a member on or after December 6, 2016.*

A retiree who first became a member on or after December 6, 2016, or a beneficiary of a retiree who first became a member on or after December 6, 2016, is entitled to receive an annual increase in his or her monthly benefit equal to the greater of:

(i) 1.5%, or

(ii) the amount of any corresponding post-retirement benefit increase provided by the Fire and Police Employees' Retirement System of the City of Baltimore to its members.

(b) *When increase begins.*

(1) *First began receiving benefits on or before February 1, 2017.*

A retiree who first began receiving retirement benefits on or before February 1, 2017, or a beneficiary of a retiree who first began receiving retirement benefits on or before February 1, 2017, will receive the benefit increase beginning in January of the year following the year in which his or her retirement benefits began.

(2) *First began receiving benefits on or after March 1, 2017.*

(i) A retiree who first began receiving retirement benefits on or after March 1, 2017, or a beneficiary of a retiree who first began receiving retirement benefits on or after March 1, 2017, is eligible for the benefit increase as of the 1<sup>st</sup> June 30 as of which the retiree and the beneficiary, whether individually or in combination with the other, have been receiving benefit payments for at least 12 consecutive months.

(ii) A retiree who first began receiving retirement benefits on or after March 1, 2017, or a

beneficiary of a retiree who first began receiving retirement benefits on or after March 1, 2017, will receive the benefit increase beginning in January of the year following the June 30 on which he or she became eligible under subparagraph (i) of this paragraph (2).

(c) *Administration of benefit increases.*

- (1) each benefit increase will continue for the lifetime of the retiree and any beneficiary, consistent with the option elected under § 22(e) of this subtitle.
- (2) the benefit increases provided by this section are effective regardless of the investment performance of this System.
- (3) the benefit increases provided by this section are payable in the same form as the post-retirement benefit payments being received by the eligible retiree or beneficiary.

§[§27-] 28. {Vacant.}

**Section 2. 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 3. And be it further ordained,** That this Ordinance takes effect on the date it is enacted.