

HOUSE BILL 815

K4

7lr1427
CF SB 401

By: **Delegate B. Barnes (Chair, Joint Committee on Pensions)**

Introduced and read first time: February 3, 2017

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **State Retirement and Pension System – Membership Elections**

3 FOR the purpose of limiting optional membership in the Employees' Pension System to
4 certain individuals who have not previously been a member of a certain pension and
5 retirement program or who have not had certain previous employment; requiring
6 certain elections for membership in the Employees' Pension System to be made at
7 the commencement of employment; requiring the Secretary of State Police to be a
8 member of the State Police Retirement System as a condition of employment;
9 requiring an individual who is employed by a participating governmental unit as a
10 local detention center officer on or after a certain date to elect membership in the
11 Correctional Officers' Retirement System before a certain event; requiring an
12 election to join the Correctional Officers' Retirement System to be made in a certain
13 manner; providing that an election to join the Correctional Officers' Retirement
14 System is a one-time, irrevocable election; requiring certain individuals who are
15 employed by a participating governmental unit on or after a certain date to elect
16 membership in the Law Enforcement Officers' Pension System before a certain
17 event; requiring a certain election to join the Law Enforcement Officers' Pension
18 System to be made in a certain manner; providing that an election to join the Law
19 Enforcement Officers' Pension System is a one-time, irrevocable election; altering
20 the eligibility for participation in the Optional Retirement Program; requiring an
21 election to participate in the Optional Retirement Program to be made at the
22 commencement of employment; prohibiting certain individuals from participating in
23 the Optional Retirement Program; providing that an election to join the Optional
24 Retirement Program is a one-time, irrevocable election; requiring an employee who
25 is participating in the Optional Retirement Program to participate in the State
26 Retirement and Pension System under certain circumstances; establishing
27 requirements for employees of an eligible governmental unit to participate in the
28 Employees' Pension System; authorizing an eligible governmental unit to operate a
29 certain local plan after the effective date of participation in the Employees' Pension
30 System under certain circumstances; establishing requirements for employees of an
31 eligible governmental unit to participate in the Law Enforcement Officers' Pension

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



System; authorizing an eligible governmental unit to operate a certain local plan after the effective date of participation in the Law Enforcement Officers' Pension System under certain circumstances; establishing requirements for employees of an eligible governmental unit to participate in the Correctional Officers' Retirement System; authorizing an eligible governmental unit to operate a certain local plan after the effective date of participation in the Correctional Officers' Retirement System under certain circumstances; establishing certain limitations on the withdrawal of a participating governmental unit from the State Retirement and Pension System; making technical changes; making conforming changes; altering certain definitions; and generally relating to the election of membership in the State Retirement and Pension System.

BY repealing and reenacting, without amendments,

Article – State Personnel and Pensions

Section 20–101(a) and (pp), 31–101(a), 31–2A–01(a), 31–2B–01(a), and 31–301(a)

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions

Section 23–204, 24–202, 24–203, 25–202, 26–202, 30–301, 30–302, 30–303, 30–305,

30–307, 31–101(h), 31–102, 31–113, 31–2A–01(f), 31–2A–05, 31–2B–01(e),

31–2B–05, 31–301(d), and 31–302

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

BY repealing

Article – State Personnel and Pensions

Section 31–109, 31–2A–03, and 31–2B–03

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

BY adding to

Article – State Personnel and Pensions

Section 31–109, 31–2A–03, and 31–2B–03

Annotated Code of Maryland

(2015 Replacement Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – State Personnel and Pensions

20–101.

(a) In this Division II the following words have the meanings indicated.

(pp) “State system” means a retirement or pension system that is included in the State Retirement and Pension System under § 21–102 of this article.

23–204.

(a) (1) Membership in the Employees’ Pension System is optional for an individual who is:

(i) an official, elected or appointed for a fixed term;

(ii) an employee of the Governor’s office;

(iii) an employee of the Senate or House of Delegates;

(iv) a member of the Prince George’s County Board of License Commissioners;

(v) an employee of Dorchester County who is not **AND HAS NOT PREVIOUSLY BEEN** a member of the county’s general pension and retirement program **OR ANY OTHER PLAN SPONSORED BY DORCHESTER COUNTY**; or

(vi) except as provided in subsection (g) of this section, an employee of a participating governmental unit who is employed by the participating governmental unit before the effective date of participation and who remains an employee of the participating governmental unit through the effective date of participation.

(2) An individual described under paragraph (1)(i) through (v) of this subsection who elects to join the Employees’ Pension System shall make the election at commencement of employment by filing a written application with the Board of Trustees on a form that the Board of Trustees provides.

(3) An individual described under paragraph (1)(vi) of this subsection who elects to join the Employees’ Pension System shall make the election prior to the effective date of participation by filing a written application with the Board of Trustees on a form that the Board of Trustees provides.

(4) An election to join the Employees’ Pension System under this subsection is a one–time, irrevocable election.

(5) If an election to join the Employees’ Pension System is not received by the Board of Trustees within the period of time described in paragraph (2) or (3) of this subsection, the individual may not elect to join the Employees’ Pension System while employed in that position.

(6) The Board of Trustees shall adopt regulations to implement this subsection.

(b) (1) Membership in the Employees' Pension System is not optional for individuals who are:

(i) supportive service employees of the Board of Education of Kent County;

(ii) employees of the Town of Oakland;

(iii) employees of the City of Frostburg;

(iv) employees of the Town of Sykesville; or

(v) employees of the Town of University Park.

(2) Membership in the Employees' Pension System is not optional for an individual who was employed in a position on or before June 30, 2015, that required the individual to be a member of the Employees' Pension System, while the individual remains in that position.

(c) (1) Subject to paragraph (2) of this subsection, membership in the Employees' Pension System is optional for an individual described in § 23–201(a)(2)(iv) of this subtitle who is elected or appointed as the Baltimore City Sheriff.

(2) An individual who is elected or appointed as the Baltimore City Sheriff and who does not elect to join the Employees' Pension System is a member of the Law Enforcement Officers' Pension System under Title 26 of this article as a condition of employment.

(3) To elect to be a member of the Employees' Pension System under this subsection, an individual shall make the election at commencement of employment by filing a written application with the Board of Trustees on a form that the Board of Trustees provides.

(4) An individual who does not elect membership [within 6 months] AS of the date the individual begins serving as the Baltimore City Sheriff shall become a member of the Law Enforcement Officers' Pension System.

(d) (1) This subsection applies to an individual described in § 23–201(a)(2)(iv) of this subtitle who elects membership in the Employees' Pension System under this section.

(2) An individual described in paragraph (1) of this subsection may elect membership in the Law Enforcement Officers' Pension System if the county employing the individual elects to become an eligible governmental unit in the Law Enforcement Officers' Pension System in accordance with §§ 31–2A–02 through 31–2A–05 of this article.

(3) If an individual transfers to the Law Enforcement Officers' Pension System under this subsection, the eligible governmental unit is responsible for all employer contributions required for the individual under § 21-306.1 of this article.

(e) (1) This subsection applies only to an individual who is an employee of the Town of Berwyn Heights on June 30, 2008.

(2) Subject to paragraph (3) of this subsection, membership in the Employees' Pension System is optional for an individual described in paragraph (1) of this subsection who elects membership on July 1, 2008.

(3) To elect to be a member of the Employees' Pension System, an individual shall file a written application with the Board of Trustees on a form that the Board of Trustees provides.

(f) (1) This subsection applies only to an individual who is an employee of the City of College Park on June 30, 2014.

(2) Subject to paragraph (3) of this subsection, membership in the Employees' Pension System is optional for an individual described in paragraph (1) of this subsection who elects membership on July 1, 2014.

(3) To elect to be a member of the Employees' Pension System, an individual shall file a written application with the Board of Trustees on a form that the Board of Trustees provides.

(g) (1) This subsection applies to an individual who is employed by Prince George's County as:

(i) the Chief Administrative Officer;

(ii) a Deputy Chief Administrative Officer;

(iii) a director of a county office or department;

(iv) a County Council Administrator;

(v) a Deputy Director of a county office or department; or

(vi) an Executive Director.

(2) (i) Membership in the Employees' Pension System is optional for an individual who:

1. begins serving in a position listed in paragraph (1) of this subsection on or after July 1, 2014; AND

(6) The Board of Trustees shall adopt regulations to implement this section.

24-202.

[Except as provided in § 24-203 of this subtitle, an] **AN** individual described in § 24-201 of this subtitle is a member of the State Police Retirement System as a condition of employment.

24-203.

The Secretary of State Police [may waive membership in] **IS A MEMBER OF** the State Police Retirement System [and elect to become a member of the Employees' Pension System] **AS A CONDITION OF EMPLOYMENT.**

25-202.

(a) Except as provided in subsection (b) of this section, an individual described in § 25-201(a) of this subtitle is a member of the Correctional Officers' Retirement System as a condition of employment.

(b) (1) Subject to paragraph [(2)] **(3)** of this subsection, membership in the Correctional Officers' Retirement System is optional for an individual described in § 25-201 of this subtitle who was employed by a participating governmental unit as a local detention center officer on the effective date of participation on or after July 1, 2006, for that participating governmental unit and who elects membership within 6 months of the effective date of participation.

(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, MEMBERSHIP IN THE CORRECTIONAL OFFICERS' RETIREMENT SYSTEM IS OPTIONAL FOR AN INDIVIDUAL:

(I) DESCRIBED IN § 25-201 OF THIS SUBTITLE WHO WAS EMPLOYED BY A PARTICIPATING GOVERNMENTAL UNIT AS A LOCAL DETENTION CENTER OFFICER ON THE EFFECTIVE DATE OF PARTICIPATION ON OR AFTER JULY 1, 2017, FOR THAT PARTICIPATING GOVERNMENTAL UNIT; AND

(II) WHO ELECTS MEMBERSHIP BEFORE THE EFFECTIVE DATE OF PARTICIPATION.

[(2)] **(3)** To elect to be a member of the Correctional Officers' Retirement System, an individual shall file a written application with the State Retirement Agency **ON A FORM THAT THE STATE RETIREMENT AGENCY PROVIDES.**

1 **[(3)] (4) (I) AN ELECTION TO JOIN THE CORRECTIONAL**
2 **OFFICERS' RETIREMENT SYSTEM UNDER THIS SUBSECTION IS A ONE-TIME,**
3 **IRREVOCABLE ELECTION.**

4 **(II)** If an individual does not elect membership during the applicable
5 period specified under paragraph (1) **OR (2)** of this subsection, the individual may not
6 **SUBSEQUENTLY** become a member of the Correctional Officers' Retirement System.

7 26–202.

8 (a) Except as provided in subsection (b) of this section, an individual described in
9 § 26–201 of this subtitle is a member of the Law Enforcement Officers' Pension System as
10 a condition of employment.

11 (b) (1) Subject to paragraph (2) of this subsection, membership in the Law
12 Enforcement Officers' Pension System is optional for an individual described in § 26–201
13 of this subtitle:

14 (i) who was employed by the Department of Natural Resources on
15 July 1, 1990 and who elects membership on or before December 31, 2002;

16 (ii) who was employed by the Field Enforcement Division on June
17 30, 1995 and who elects membership on or before December 31, 2002;

18 (iii) who was employed by the Maryland Transportation Authority on
19 June 30, 1997 and who elects membership on or before December 31, 2002;

20 (iv) who was employed by the Baltimore City Sheriff's Department
21 on June 30, 1997 and who elects membership on or before December 31, 2002;

22 (v) who was employed by the University System of Maryland Police
23 Force on June 30, 1999 and who elects membership on or before December 31, 2002;

24 (vi) who is employed by a participating governmental unit on the
25 effective date of participation:

26 **1.** on or after July 1, 1999, **BUT BEFORE JULY 1, 2017**, for
27 that participating governmental unit and who elects membership within 6 months of the
28 effective date of participation; **OR**

29 **2. ON OR AFTER JULY 1, 2017, FOR THAT**
30 **PARTICIPATING GOVERNMENTAL UNIT AND WHO ELECTS MEMBERSHIP BEFORE THE**
31 **EFFECTIVE DATE OF PARTICIPATION;**

32 (vii) who was employed by the Maryland Port Administration Police
33 Force and was subsequently transferred to and employed by the Maryland Transportation

1 Authority Police Force on July 1, 1998 and who elects membership on or before December
2 31, 2002;

3 (viii) who was employed by the office of the State Fire Marshal on June
4 30, 1998 and who elects membership on or before December 31, 2002;

5 (ix) who was employed by the Morgan State University Police Force
6 on June 30, 1999 and who elects membership on or before December 31, 2002;

7 (x) who was employed by the BWI Airport Fire & Rescue
8 Department on June 30, 2000, and who elects membership on or before December 31, 2002;

9 (xi) who was employed by the Department of General Services,
10 Department of Health and Mental Hygiene, Motor Vehicle Administration, and
11 Department of Labor, Licensing, and Regulation Police Force on June 30, 2000 and who
12 elects membership on or before December 31, 2002;

13 (xii) who was employed by the Military Department as a firefighter at
14 Martin State Airport on June 30, 2001, and who elects membership on or before December
15 31, 2002;

16 (xiii) who was employed on June 30, 2002, by the Division of
17 Rehabilitation Services in the Department of Education as a police officer certified in
18 accordance with the Maryland Police and Correctional Training Commissions, and who
19 elects membership on or before December 31, 2002;

20 (xiv) who was employed on June 30, 2004, by the Salisbury Fire
21 Department as a firefighter or paramedic and who elects membership on or before
22 December 31, 2004, if eligible under Title 31, Subtitle 2A of this article;

23 (xv) who was employed on June 30, 2005, by the Department of State
24 Police as an aviator operating an aircraft for the State Emergency Medical System, and
25 who elects membership on or before December 31, 2005;

26 (xvi) who was employed by the Military Department as a law
27 enforcement officer at Martin State Airport on June 30, 2007, and who elects membership
28 on or before December 31, 2007;

29 (xvii) who was a member of the Department of Public Safety and
30 Correctional Services Intelligence and Investigative Division who has powers granted to a
31 police officer under § 10–701 of the Correctional Services Article on June 30, 2007, and who
32 elects membership on or before December 31, 2007;

33 (xviii) who was employed on July 1, 2008, as a police officer by the
34 Baltimore City Community College Police Force and who elects membership on or before
35 December 31, 2008; or

(xix) who was an employee of the Warrant Apprehension Unit of the Division of Parole and Probation in the Department of Public Safety and Correctional Services who has powers granted to a peace officer or police officer under § 6–106 of the Correctional Services Article on June 30, 2015, and who elects membership on or before December 31, 2015.

(2) To elect to be a member of the Law Enforcement Officers' Pension System, an individual shall file a written application with the State Retirement Agency **ON A FORM THAT THE STATE RETIREMENT AGENCY PROVIDES.**

(3) **(I) AN ELECTION TO JOIN THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM UNDER THIS SUBSECTION IS A ONE-TIME, IRREVOCABLE ELECTION.**

(II) If an individual does not elect membership during the applicable period specified under paragraph (1) of this subsection, the individual may not **SUBSEQUENTLY** become a member of the Law Enforcement Officers' Pension System.

30–301.

(a) An individual is eligible to participate in the program **ONLY** if the individual:

(1) is eligible for membership in a retirement system or a pension system;

(2) HAS NOT PREVIOUSLY PARTICIPATED IN A STATE SYSTEM AS AN EMPLOYEE OF AN EMPLOYING INSTITUTION OR ANY OTHER UNIT OF STATE GOVERNMENT; and

(3) is:

[(1)] (I) a member of the faculty of an employing institution;

[(2)] (II) a professional employee at a community college or regional community college established under Title 16 of the Education Article;

[(3)] (III) an employee of the University System of Maryland who is in a position designated as exempt under a policy adopted by the University System of Maryland Board of Regents;

[(4)] (IV) an employee of Morgan State University who is in a position designated as executive or professional administrative by the Board of Regents of Morgan State University;

[(5)] (V) an employee of St. Mary's College of Maryland who is in a position determined by the Board of Trustees of the College to be an exempt position; or

1 **[(6)] (VI)** an employee of the Maryland Higher Education Commission who
2 is in a position determined by the Secretary of Higher Education to be a professional
3 position.

4 (b) (1) This subsection applies to an individual who:

5 (i) on August 22, 2004, was eligible to participate in the program;
6 and

7 (ii) is in a position that, as of August 23, 2004, was reclassified by
8 the University System of Maryland Board of Regents or the Board of Regents of Morgan
9 State University and would no longer be eligible for participation in the program under
10 subsection (a) of this section.

11 (2) An individual described under paragraph (1) of this subsection shall
12 continue to participate in the program if the individual:

13 (i) would otherwise be eligible for membership in a system under
14 the State Retirement and Pension System; and

15 (ii) is employed by an employing institution.

16 (c) (1) This subsection applies to an individual who:

17 (i) is in a position that was eligible to participate in the program but
18 was reclassified by the governing board of the individual's employing institution or the
19 Secretary of Higher Education to a position that would no longer be eligible for participation
20 in the program under subsection (a) of this section; and

21 (ii) was a participant in the program on the date immediately
22 preceding the reclassification.

23 (2) An individual described under paragraph (1) of this subsection shall
24 continue to participate in the program if the individual:

25 (i) would otherwise be eligible for membership in a system under
26 the State Retirement and Pension System; and

27 (ii) is employed by an employing institution.

28 30–302.

29 (a) An election to participate in the program shall be made by an eligible employee
30 [within 1 year of first becoming an eligible employee of an employing institution] **AT**
31 **COMMENCEMENT OF EMPLOYMENT.**

(b) An eligible employee's election to participate in the program is a one-time irrevocable election.

(C) AN INDIVIDUAL WHO PREVIOUSLY PARTICIPATED IN A STATE SYSTEM AS AN EMPLOYEE OF AN EMPLOYING INSTITUTION OR ANY OTHER UNIT OF STATE GOVERNMENT MAY NOT ELECT TO PARTICIPATE IN THE PROGRAM.

30-303.

(a) An eligible employee shall elect to:

(1) join a pension or retirement system in accordance with the provisions of this Division II applicable to that system; or

(2) participate in the program.

(b) An eligible employee shall:

(1) make an election under this section in writing; and

(2) file the election with the Board of Trustees and the employing institution [within 1 year of first becoming an eligible employee of an employing institution] **AT COMMENCEMENT OF EMPLOYMENT.**

(c) [An eligible employee may not participate in the program if both the Board of Trustees and the employing institution have not received the eligible employee's written election required under subsection (b) of this section, within 1 year of first becoming an eligible employee with an employing institution.] **AN ELIGIBLE EMPLOYEE'S ELECTION UNDER THIS SECTION IS A ONE-TIME, IRREVOCABLE ELECTION.**

(d) The effective date of the election shall be the [first day of the month after the election] **DAY OF COMMENCEMENT OF EMPLOYMENT.**

30-305.

(a) This section applies only to a State employee who [becomes eligible to elect participation in the program if the employee] is appointed, promoted, transferred, or reclassified to a position [as an eligible employee] **IN WHICH AN EMPLOYEE WOULD BE ELIGIBLE TO PARTICIPATE IN THE PROGRAM.**

(b) A State employee described in subsection (a) of this section may **NOT** elect to participate in the program.

[(c) An eligible employee shall:

(1) make an election under this section in writing; and

(2) file the election with the Board of Trustees and the employing institution within 1 year of first becoming an eligible employee of an employing institution.

(d) An eligible employee may not participate in the program if both the Board of Trustees and the employing institution have not received the eligible employee's written election required under subsection (c) of this section, within 1 year of first becoming an eligible employee with an employing institution.]

30–307.

(a) **(1) THIS SUBSECTION APPLIES TO AN ELECTION TO PARTICIPATE IN THE PROGRAM MADE ON OR BEFORE JUNE 30, 2017.**

(2) Except as otherwise provided in this section, an election to participate in the program is a waiver of all rights and benefits provided by the retirement or pension system in which the participating employee was a member on the effective date of the election.

[(b)] (3) For the purpose of determining eligibility for immediate vested rights or benefits in a retirement system or pension system, an eligible employee who is a member of that State system when the employee elects to participate in the program is deemed to have separated from employment on the effective date of the election.

[(c)] (4) The Board of Trustees may only compute retirement system or pension system benefits on the basis of years of creditable service as a member of that State system.

[(d) (1)] (5) (I) This [section] PARAGRAPH applies only to a participating employee whose last employer prior to joining the program was a participating employer that does not participate in the employer pick-up program as defined in § 414(h)(2) of the Internal Revenue Code.

[(2)] (II) A participating employee may withdraw any accumulated contributions in the annuity savings fund on or after the effective date of the participating employee's election to join the program.

[(3)] (III) If a participating employee withdraws the accumulated contributions, the participating employee forfeits any right to a benefit in the State system from which the accumulated contributions were withdrawn.

[(e)] (B) (1) A participating employee is ineligible for membership in a retirement system or pension system while the participating employee is employed in any eligible position by any employing institution.

(2) A PARTICIPATING EMPLOYEE WHO IS SUBSEQUENTLY APPOINTED, PROMOTED, OR TRANSFERRED TO ANOTHER POSITION THAT IS

1 ELIGIBLE FOR MEMBERSHIP IN A STATE SYSTEM BUT IS NOT ELIGIBLE FOR
2 PARTICIPATION IN THE PROGRAM SHALL PARTICIPATE IN A STATE SYSTEM WITH
3 RESPECT TO THAT POSITION AS A CONDITION OF EMPLOYMENT.

4 31-101.

5 (a) In this subtitle the following words have the meanings indicated.

6 (h) (1) “Local [pension system] PLAN” means a [retirement or pension system
7 established by the legislative body] PLAN OR ANY OTHER ARRANGEMENT of an eligible
8 governmental unit THAT IS DESCRIBED IN § 219(G)(5) OF THE INTERNAL REVENUE
9 CODE.

10 (2) “LOCAL PLAN” DOES NOT INCLUDE A PLAN ESTABLISHED UNDER
11 § 457 OF THE INTERNAL REVENUE CODE.

12 31-102.

13 Subject to [§] §§ 22-202(b) AND 31-109 of this article, the governmental units that
14 are eligible to participate in the employees’ systems are:

15 (1) a political subdivision of the State, including:

16 (i) a county;

17 (ii) a municipal corporation; and

18 (iii) a special taxing area; and

19 (2) the following governmental units:

20 (i) an agency on aging, as designated by the legislative body of the
21 agency on aging;

22 (ii) the Allegany County Transit Authority;

23 (iii) subject to § 31-104 of this subtitle, the Baltimore Metropolitan
24 Council;

25 (iv) a board or commission created by an Act of the General Assembly
26 for public purpose and not for the profit of a private person;

27 (v) subject to § 31-105 of this subtitle, the Canal Place Preservation
28 and Development Authority;

29 (vi) the Chesapeake Bay Commission;

(vii) a cooperative library commission;

(viii) subject to § 31–103 of this subtitle, a community action agency, as designated by the legislative body of the community action agency;

(ix) a fire department that receives any of its funds from or through a county, municipal corporation, special taxing area, or other political subdivision of the State;

(x) the Health Planning Council of Appalachia;

(xi) the Howard County Economic Development Authority;

(xii) the Interstate Commission on the Potomac River Basin;

(xiii) the Lower Shore Private Industry Council, Inc.;

(xiv) the Maryland Environmental Service;

(xv) subject to § 31–106 of this subtitle, the Maryland Stadium Authority;

(xvi) a public library association or organization;

(xvii) subject to § 31–106.2 of this subtitle, the St. Mary's Nursing Center, Inc.;

(xviii) the Tri–County Council for Western Maryland, Inc.;

(xix) the Tri–County Council for Southern Maryland;

(xx) subject to § 31–107 of this subtitle, the University of Maryland Medical System Corporation;

(xxi) the Upper Potomac River Commission;

(xxii) subject to § 31–106.1 of this subtitle, the Maryland African American Museum Corporation;

(xxiii) the Garrett County Office for Children, Youth and Families;

(xxiv) the Somerset County Economic Development Commission; and

(xxv) the Dorchester County Sanitary Commission.

[31–109.

1 Except as provided in § 31–110 of this subtitle, an employee of an eligible
2 governmental unit is entitled to be a member of the Employees' Pension System if:

- 3 (1) (i) the employee is not a member of a local pension system; and
- 4 (ii) the legislative body of the eligible governmental unit approves
5 participation of the eligible governmental unit in the Employees' Pension System; or
- 6 (2) (i) the employee is a member of a local pension system;
- 7 (ii) at least 60% of the members of the local pension system petition
8 to become members of the Employees' Pension System; and
- 9 (iii) the legislative body of the eligible governmental unit approves
10 participation of the eligible governmental unit in the Employees' Pension System as though
11 the local pension system were not in operation.]

12 **31–109.**

13 **(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE LEGISLATIVE BODY**
14 **OF AN ELIGIBLE GOVERNMENTAL UNIT MAY APPROVE PARTICIPATION BY ITS**
15 **EMPLOYEES IN THE EMPLOYEES' PENSION SYSTEM IF:**

16 **(1) THE LEGISLATIVE BODY ADOPTS A RESOLUTION IN THE FORM**
17 **PRESCRIBED BY THE BOARD OF TRUSTEES; AND**

18 **(2) THE ELIGIBLE GOVERNMENTAL UNIT OPERATES A LOCAL PLAN,**
19 **ONLY IF:**

20 **(I) AT LEAST 60% OF THE MEMBERS OF THE LOCAL PLAN**
21 **PETITION TO BECOME MEMBERS OF THE EMPLOYEES' PENSION SYSTEM;**

22 **(II) THE ELIGIBLE GOVERNMENTAL UNIT SATISFIES THE**
23 **REQUIREMENTS IN SUBSECTION (B) OF THIS SECTION; AND**

24 **(III) THE LEGISLATIVE BODY APPROVES PARTICIPATION OF THE**
25 **ELIGIBLE GOVERNMENTAL UNIT IN THE EMPLOYEES' PENSION SYSTEM AS THOUGH**
26 **THE LOCAL PLAN WERE NOT IN OPERATION.**

27 **(B) AN ELIGIBLE GOVERNMENTAL UNIT THAT OPERATES A LOCAL PLAN**
28 **MAY APPROVE PARTICIPATION BY ITS EMPLOYEES IN THE EMPLOYEES' PENSION**
29 **SYSTEM ONLY IF:**

1 **(1) THE LOCAL PLAN OF THE ELIGIBLE GOVERNMENTAL UNIT**
2 **REQUIRES MEMBER CONTRIBUTIONS AT THE SAME RATE AS THE MEMBER**
3 **CONTRIBUTION RATE THAT WOULD BE APPLICABLE TO EMPLOYEES OF THE**
4 **ELIGIBLE GOVERNMENTAL UNIT IN THE EMPLOYEES' PENSION SYSTEM; OR**

5 **(2) THE ELIGIBLE GOVERNMENTAL UNIT:**

6 **(I) DOES NOT PROVIDE FOR THE EMPLOYER PICKUP OF**
7 **MEMBER CONTRIBUTIONS TO THE LOCAL PLAN WITHIN THE MEANING OF §**
8 **414(H)(2) OF THE INTERNAL REVENUE CODE; AND**

9 **(II) CERTIFIES THAT IT WILL NOT BECOME AN APPROVED**
10 **EMPLOYER UNDER § 21–313 OF THIS ARTICLE ON OR AFTER THE EFFECTIVE DATE**
11 **OF PARTICIPATION.**

12 31–113.

13 **(A) THIS SECTION APPLIES ONLY TO A LOCAL PLAN THAT IS A QUALIFIED**
14 **PLAN UNDER § 401(A) OF THE INTERNAL REVENUE CODE AND PROVIDES A DEFINED**
15 **BENEFIT TO ITS PARTICIPANTS.**

16 **[(a)] (B)** Except as provided in subsection **[(b)] (C)** of this section, the operation
17 of the local **[pension system] PLAN** of an eligible governmental unit terminates on the
18 effective date.

19 **[(b)] (C)** (1) An eligible governmental unit may elect to continue to operate a
20 local **[pension system] PLAN** after the effective date of participation in the Employees'
21 Pension System to provide benefits to **[a person] AN INDIVIDUAL** who:

22 (i) is receiving benefits from the local **[pension system] PLAN**;

23 (ii) is eligible to receive benefits from the local **[pension system]**
24 **PLAN** on account of the **[person's] INDIVIDUAL'S** previous employment by the eligible
25 governmental unit; or

26 (iii) did not elect to join the Employees' Pension System under §
27 23–204(a) of this article.

28 **(2) [A person] AN INDIVIDUAL** may not be enrolled in the local **[pension**
29 **system] PLAN** of a participating governmental unit electing to continue to operate its
30 **[system] LOCAL PLAN** under paragraph (1) of this subsection if the **[person] INDIVIDUAL**
31 becomes employed or is rehired by the participating governmental unit on or after the
32 effective date of participation of the participating governmental unit in the Employees'
33 Pension System.

1 **[(c)] (D)** The liability for the continuation of benefits under subsection **[(b)] (C)**
2 of this section shall be included in the computation of the special accrued liability as
3 provided by § 21–305.3 of this article.

4 **[(d)] (E)** (1) On the effective date:

5 (i) the assets to the credit of the local **[pension system] PLAN** of the
6 participating governmental unit that are attributable to the employees of the participating
7 governmental unit who elect to become members of the Employees' Pension System under
8 § 23–204(a) of this article shall be transferred to the Employees' Pension System; and

9 (ii) the trustee or other administrative head of the local **[pension**
10 **system] PLAN** shall certify the proportion of the funds of the local **[pension system] PLAN**
11 that represents the accumulated contributions of the members as of that date.

12 (2) The accumulated contributions shall be credited to the respective
13 annuity savings accounts of the members in the Employees' Pension System.

14 (3) Any balance of the funds transferred to the Employees' Pension System
15 shall be offset against the special accrued liability to be funded by the participating
16 governmental unit as provided by § 21–305.3 of this article.

17 31–2A–01.

18 (a) In this subtitle the following words have the meanings indicated.

19 (f) **(1)** “Local **[pension system] PLAN**” means a **[retirement or pension system**
20 **established by the legislative body] PLAN OR ANY OTHER ARRANGEMENT** of an eligible
21 governmental unit **THAT IS DESCRIBED IN § 219(G)(5) OF THE INTERNAL REVENUE**
22 **CODE.**

23 **(2)** “**LOCAL PLAN**” **DOES NOT INCLUDE A PLAN ESTABLISHED UNDER**
24 **§ 457 OF THE INTERNAL REVENUE CODE.**

25 **[31–2A–03.**

26 (a) If at least 60% of the law enforcement officers of an eligible governmental unit
27 who are members of a local pension system or State system petition to become members of
28 the Law Enforcement Officers' Pension System, the legislative body of the eligible
29 governmental unit may approve the participation of these law enforcement officers in the
30 Law Enforcement Officers' Pension System as though the local pension system were not in
31 operation.

32 (b) If at least 60% of the firefighters and paramedics employed by the Salisbury
33 Fire Department petition to become members of the Law Enforcement Officers' Pension
34 System, the legislative body of the City of Salisbury, as an eligible governmental unit, may

1 approve the participation of these firefighters and paramedics in the Law Enforcement
2 Officers' Pension System.

3 (c) If at least 60% of the firefighters of an eligible governmental unit who are
4 members of a local pension system or State system petition to become members of the Law
5 Enforcement Officers' Pension System, the legislative body of the eligible governmental
6 unit may approve the participation of these firefighters in the Law Enforcement Officers'
7 Pension System as though the local pension system were not in operation.]

8 **31-2A-03.**

9 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE LEGISLATIVE BODY
10 OF AN ELIGIBLE GOVERNMENTAL UNIT MAY APPROVE PARTICIPATION BY ITS LAW
11 ENFORCEMENT OFFICERS OR FIREFIGHTERS IN THE LAW ENFORCEMENT
12 OFFICERS' PENSION SYSTEM IF:

13 (1) THE LEGISLATIVE BODY ADOPTS A RESOLUTION IN THE FORM
14 PRESCRIBED BY THE BOARD OF TRUSTEES; AND

15 (2) THE ELIGIBLE GOVERNMENTAL UNIT PARTICIPATES IN A STATE
16 SYSTEM OR OPERATES A LOCAL PLAN, ONLY IF:

17 (I) AT LEAST 60% OF THE LAW ENFORCEMENT OFFICERS OR
18 FIREFIGHTERS OF THE ELIGIBLE GOVERNMENTAL UNIT PETITION TO BECOME
19 MEMBERS OF THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM;

20 (II) THE ELIGIBLE GOVERNMENTAL UNIT SATISFIES THE
21 REQUIREMENTS IN SUBSECTION (B) OF THIS SECTION; AND

22 (III) THE LEGISLATIVE BODY APPROVES PARTICIPATION OF ITS
23 LAW ENFORCEMENT OFFICERS OR FIREFIGHTERS IN LIEU OF PARTICIPATION IN THE
24 STATE SYSTEM OR LOCAL PLAN.

25 (B) AN ELIGIBLE GOVERNMENTAL UNIT THAT OPERATES A LOCAL PLAN OR
26 PARTICIPATES IN A STATE SYSTEM MAY APPROVE PARTICIPATION OF ITS LAW
27 ENFORCEMENT OFFICERS OR FIREFIGHTERS IN THE LAW ENFORCEMENT
28 OFFICERS' PENSION SYSTEM ONLY IF:

29 (1) THE STATE SYSTEM OR LOCAL PLAN OF THE ELIGIBLE
30 GOVERNMENTAL UNIT REQUIRES MEMBER CONTRIBUTIONS AT THE SAME RATE AS
31 THE MEMBER CONTRIBUTION RATE THAT WOULD BE APPLICABLE TO THE LAW
32 ENFORCEMENT OFFICERS OR FIREFIGHTERS OF THE ELIGIBLE GOVERNMENTAL
33 UNIT IN THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM; OR

(2) THE ELIGIBLE GOVERNMENTAL UNIT:

(I) DOES NOT PROVIDE FOR THE EMPLOYER PICKUP OF MEMBER CONTRIBUTIONS TO THE STATE SYSTEM OR LOCAL PLAN WITHIN THE MEANING OF § 414(H)(2) OF THE INTERNAL REVENUE CODE; AND

(II) CERTIFIES THAT IT WILL NOT BECOME AN APPROVED EMPLOYER UNDER § 21–313 OF THIS ARTICLE ON OR AFTER THE EFFECTIVE DATE OF PARTICIPATION.

31–2A–05.

(A) THIS SECTION APPLIES ONLY TO A LOCAL PLAN THAT IS A QUALIFIED PLAN UNDER § 401(A) OF THE INTERNAL REVENUE CODE AND PROVIDES A DEFINED BENEFIT TO ITS PARTICIPANTS.

[(a)] (B) If an eligible governmental unit approves participation in the Law Enforcement Officers' Pension System, the operation of the local [pension system] **PLAN** or State system with respect to the law enforcement officers, firefighters, or paramedics terminates on the effective date.

[(b)] (C) (1) On the effective date:

(i) the assets to the credit of the local [pension system] **PLAN** or State system that relate to the law enforcement officers, firefighters, or paramedics who elect to become members shall be transferred to the Law Enforcement Officers' Pension System; and

(ii) the trustee or other administrative head of the local [pension system] **PLAN** or State system shall certify the proportion of the funds of the local [pension system] **PLAN** or State system that represents the accumulated contributions of the members as of that date.

(2) The accumulated contributions shall be credited to the respective annuity savings accounts of the members in the Law Enforcement Officers' Pension System.

(3) The balance of the funds transferred to the Law Enforcement Officers' Pension System shall be offset against the special accrued liability to be funded by the participating governmental unit as provided by § 21–306.1(d) of this article.

31–2B–01.

(a) In this subtitle the following words have the meanings indicated.

(e) **(1)** “Local [pension system] PLAN” means a [retirement or pension system established by the legislative body] **PLAN OR ANY OTHER ARRANGEMENT** of an eligible governmental unit **THAT IS DESCRIBED IN § 219(G)(5) OF THE INTERNAL REVENUE CODE.**

(2) “LOCAL PLAN” DOES NOT INCLUDE A PLAN ESTABLISHED UNDER § 457 OF THE INTERNAL REVENUE CODE.

[31-2B-03.

If at least 60% of the local detention center officers of an eligible governmental unit who are members of a local pension system or State system petition to become members of the Correctional Officers’ Retirement System, the legislative body of the eligible governmental unit may approve the participation of these local detention center officers in the Correctional Officers’ Retirement System as though the local pension system were not in operation.]

31-2B-03.

(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE LEGISLATIVE BODY OF AN ELIGIBLE GOVERNMENTAL UNIT MAY APPROVE PARTICIPATION BY ITS LOCAL DETENTION CENTER OFFICERS IN THE CORRECTIONAL OFFICERS’ RETIREMENT SYSTEM IF:

(1) THE LEGISLATIVE BODY ADOPTS A RESOLUTION IN THE FORM PRESCRIBED BY THE BOARD OF TRUSTEES; AND

(2) THE ELIGIBLE GOVERNMENTAL UNIT PARTICIPATES IN A STATE SYSTEM OR OPERATES A LOCAL PLAN FOR ITS LOCAL DETENTION CENTER OFFICERS, ONLY IF:

(I) AT LEAST 60% OF THE LOCAL DETENTION CENTER OFFICERS OF THE ELIGIBLE GOVERNMENTAL UNIT PETITION TO BECOME MEMBERS OF THE CORRECTIONAL OFFICERS’ RETIREMENT SYSTEM;

(II) THE ELIGIBLE GOVERNMENTAL UNIT SATISFIES THE REQUIREMENTS IN SUBSECTION (B) OF THIS SECTION; AND

(III) THE LEGISLATIVE BODY APPROVES PARTICIPATION OF ITS LOCAL DETENTION CENTER OFFICERS IN LIEU OF PARTICIPATION IN THE STATE SYSTEM OR LOCAL PLAN.

(B) AN ELIGIBLE GOVERNMENTAL UNIT THAT OPERATES A LOCAL PLAN OR PARTICIPATES IN A STATE SYSTEM MAY APPROVE PARTICIPATION OF ITS LOCAL

**DETENTION CENTER OFFICERS IN THE CORRECTIONAL OFFICERS' RETIREMENT
SYSTEM ONLY IF:**

**(1) THE STATE SYSTEM OR LOCAL PLAN OF THE ELIGIBLE
GOVERNMENTAL UNIT REQUIRES MEMBER CONTRIBUTIONS AT THE SAME RATE AS
THE MEMBER CONTRIBUTION RATE THAT WOULD BE APPLICABLE TO THE LOCAL
DETENTION CENTER OFFICERS OF THE ELIGIBLE GOVERNMENTAL UNIT IN THE
CORRECTIONAL OFFICERS' RETIREMENT SYSTEM; OR**

(2) THE ELIGIBLE GOVERNMENTAL UNIT:

**(I) DOES NOT PROVIDE FOR THE EMPLOYER PICKUP OF
MEMBER CONTRIBUTIONS TO THE STATE SYSTEM OR LOCAL PLAN WITHIN THE
MEANING OF § 414(H)(2) OF THE INTERNAL REVENUE CODE; AND**

**(II) CERTIFIES THAT IT WILL NOT BECOME AN APPROVED
EMPLOYER UNDER § 21-313 OF THIS ARTICLE ON OR AFTER THE EFFECTIVE DATE
OF PARTICIPATION.**

31-2B-05.

**(A) THIS SECTION APPLIES ONLY TO A LOCAL PLAN THAT IS A QUALIFIED
PLAN UNDER § 401(A) OF THE INTERNAL REVENUE CODE AND PROVIDES A DEFINED
BENEFIT TO ITS PARTICIPANTS.**

[(a)] (B) If an eligible governmental unit approves participation in the
Correctional Officers' Retirement System, the operation of the local [pension system] **PLAN**
or State system with respect to the local detention center officers terminates on the effective
date.

[(b)] (C) (1) On the effective date:

(i) the assets to the credit of the local [pension system] **PLAN** or
State system that relate to the local detention center officers who elect to become members
shall be transferred to the Correctional Officers' Retirement System; and

(ii) the trustee or other administrative head of the local [pension
system] **PLAN** or State system shall certify the proportion of the funds of the local pension
system that represents the accumulated contributions of the members as of that date.

(2) The accumulated contributions shall be credited to the respective
annuity savings accounts of the members in the Correctional Officers' Retirement System.

(3) The balance of the funds transferred to the Correctional Officers' Retirement System shall be offset against the special accrued liability to be funded by the participating governmental unit as provided by § 21-306.1(d) of this article.

31-301.

(a) In this subtitle the following words have the meanings indicated.

(d) "Local pension system" means a retirement or pension system established by the legislative body of an eligible governmental unit **THAT IS A QUALIFIED PLAN UNDER § 401(A) OF THE INTERNAL REVENUE CODE AND PROVIDES A DEFINED BENEFIT TO ITS PARTICIPANTS.**

31-302.

(A) [The] SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE legislative body of a participating governmental unit may withdraw from participation in a State system and transfer to a local pension system or another State system any of the following groups of employees of the governmental unit who consent to the withdrawal, and who qualify for membership in the State system or local pension system:

(1) all employees of the participating governmental unit;

(2) fire fighters;

(3) law enforcement personnel;

(4) detention center officers; or

(5) subject to the approval of the Board of Trustees, a homogeneous unit of at least 10 employees.

(B) A PARTICIPATING GOVERNMENTAL UNIT MAY WITHDRAW FROM PARTICIPATION IN A STATE SYSTEM ONLY IF:

(1) THE NEW STATE SYSTEM OR LOCAL PENSION SYSTEM OF THE PARTICIPATING GOVERNMENTAL UNIT REQUIRES MEMBER CONTRIBUTIONS AT THE SAME RATE AS THE MEMBER CONTRIBUTION RATE APPLICABLE TO EMPLOYEES OF THE PARTICIPATING GOVERNMENTAL UNIT IN THE STATE SYSTEM FROM WHICH THE PARTICIPATING GOVERNMENTAL UNIT IS WITHDRAWING; OR

(2) THE PARTICIPATING GOVERNMENTAL UNIT:

(I) DOES NOT PROVIDE FOR THE EMPLOYER PICKUP OF MEMBER CONTRIBUTIONS TO THE CURRENT STATE SYSTEM OF THE PARTICIPATING

1 GOVERNMENTAL UNIT WITHIN THE MEANING OF § 414(H)(2) OF THE INTERNAL
2 REVENUE CODE; AND

3 (II) CERTIFIES THAT IT WILL NOT BECOME AN APPROVED
4 EMPLOYER UNDER § 21–313 OF THIS ARTICLE ON OR AFTER THE EFFECTIVE DATE
5 OF PARTICIPATION IN THE NEW STATE SYSTEM OR LOCAL PENSION SYSTEM.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
7 1, 2017.