

Chapter 216

(Senate Bill 680)

AN ACT concerning

**Teachers' Pension System – Vested Allowance – Break in Service
State Retirement and Pension System – Administration of Benefits –
Clarification**

FOR the purpose of providing that certain vested former members of the Teachers' Pension System of the State Retirement and Pension System who meet certain criteria may commence receipt of a vested allowance while continuing certain employment with certain participating employers; requiring the Board of Trustees for the State Retirement and Pension System to accept certain forms that were timely submitted; requiring certain individuals to submit a certain affidavit regarding the submission of a certain form; providing that certain individuals are entitled to certain benefits on a certain determination by the Board of Trustees; requiring an allowance provided under this Act to be adjusted to a certain actuarial equivalent; requiring the State Retirement Agency to submit a report on ordinary disability retirement applications and allowances on or before a certain date; and generally relating to retirement from the Teachers' Pension System the administration of benefits in the State Retirement and Pension System.

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 21–113(a) and 29–303(b)
Annotated Code of Maryland
(2015 Replacement Volume and 2020 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

21–113.

(a) Except as provided in § 29–409 of this article, if, because of an error, a retiree or beneficiary receives a benefit that differs from the benefit the retiree or beneficiary is entitled to receive, the Board of Trustees shall:

(1) correct the error; and

(2) to the extent practicable, adjust the payment to the retiree or beneficiary to provide the actuarial equivalent to which the retiree or beneficiary is correctly entitled.

29–303.

(b) (1) This subsection applies to an individual who is a member on or before June 30, 2011.

(2) A member is eligible to receive a vested allowance if:

(i) the member separated from employment other than by death or retirement; and

(ii) the member has at least 5 years of eligibility service.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) This section applies to an individual who:

(1) was a member of the Teachers' Pension System while an employee of:

(i) Queen Anne's County Board of Education beginning in January of 1980 and ending in June of 1980;

(ii) Allegany County Board of Education beginning in August of 1990 and ending in August of 1997;

(iii) Washington County Board of Education beginning in July of 2001 and ending in August of 2003; and

(iv) Garrett County Board of Education beginning in August of 2004 and ending in June of 2005;

(2) on or after June 1, 2021, is employed:

(i) as an employee of a participating employer in a position that is not eligible for membership in the State Retirement and Pension System; and

(ii) as a permanent employee of Baltimore City Public Schools in a position that is not eligible for membership in the State Retirement and Pension System;

(3) on or before June 1, 2021, has reached or exceeded normal retirement age to receive a vested allowance in the Teachers' Pension System; and

(4) as of the date of commencement of a vested allowance is not eligible for membership in the State Retirement and Pension System as a result of employment with any participating employer.

(b) Notwithstanding § 29–303(b) of the State Personnel and Pensions Article, an individual described under subsection (a) of this section is not required to be separated from employment with a participating employer in order to commence a vested allowance from the Teachers’ Pension System on attainment of normal retirement age.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) This section applies to a Maryland State Retirement Agency Form 703, Change of Previous Option Election signed in the presence of a notary on or before April 30, 2018, that was completed by an individual who:

(1) was enrolled in the Employees’ Pension System as an employee of the St. Mary’s County Metropolitan Commission on or after July 1, 2004;

(2) on applying for ordinary disability retirement from the Employees’ Pension System, submitted a Form 129, Preliminary Application for Disability Retirement:

(i) designating the individual’s spouse to receive the Option 2 Survivor Allowance (100% Joint and Survivor Allowance); and

(ii) on or after December 1, 2017, that was signed in the presence of a notary;

(3) (i) was awarded ordinary disability retirement effective on or after March 1, 2018; and

(ii) submitted a Maryland State Retirement Agency Form 13–23, Application for Service or Disability Retirement selecting the “Basic Allowance” as the method of distribution to receive the individual’s ordinary disability retirement allowance;

(4) on or after April 1, 2018, received notice from the Maryland State Retirement Agency stating that:

(i) the individual’s selection of the “Basic Allowance” did not provide any survivorship benefit at the individual’s death; and

(ii) if the individual wished to change this election, such a change had to be completed and submitted before the first allowance payment was due, which was on April 30, 2018;

(5) (i) on or before April 30, 2018, requested the Maryland State Retirement Agency to send the individual a Maryland State Retirement Agency Form 703, Change of Previous Option Election; and

(ii) on or before April 30, 2018, signed, in the presence of a notary, a Form 703, Change of Previous Option Election, designating the individual's spouse to receive the Option 2 Survivor Allowance (100% Joint and Survivor Allowance); and

(6) died on or before December 1, 2019.

(b) (1) A Maryland State Retirement Agency Form 703, Change of Previous Option Election, completed by an individual described in subsection (a) of this section shall be accepted by the Board of Trustees for the State Retirement and Pension System if the Board of Trustees determines that it was timely submitted before the first allowance payment was made.

(2) In order for the Board of Trustees to determine that the form described in subsection (b)(1) of this section was timely submitted, the surviving beneficiary shall submit to the Board of Trustees a sworn affidavit signed by an individual who witnessed the deceased member sending the form to the Maryland State Retirement Agency via U.S. mail that attests that the form was mailed to the Maryland State Retirement Agency before the date that the first allowance payment was due.

(3) If the Board of Trustees determines that the form described in subsection (b)(1) was timely submitted, the designated beneficiary for the Option 2 Survivor Allowance (100% Joint and Survivor Allowance) shall be entitled to benefits from the date on which benefits would have been paid in accordance with a Maryland State Retirement Agency Form 703 accepted on or before April 30, 2018.

(4) The Maryland State Retirement Agency shall adjust the amount of the Option 2 Survivor Allowance (100% Joint and Survivor Allowance) provided under subsection (b)(3) of this section to provide the actuarial equivalent amount to which the beneficiary is correctly entitled.

(c) On or before December 1, 2021, in accordance with § 2-1257 of the State Government Article, the Maryland State Retirement Agency shall report to the Joint Committee on Pensions on:

(1) the number of ordinary disability retirement allowances awarded on or after July 1, 2018;

(2) of the ordinary disability retirement allowances reported under paragraph (1) of this subsection:

(i) the number of applications in which a selection was made on the preliminary application for:

1. Option 1; and
2. Option 2;

(ii) the number of allowances, by age of the retiree, that were paid:

1. the basic allowance; and

2. each of the benefit option elections under § 21-403 of the State Personnel and Pensions Article; and

(iii) the number of allowances awarded based only on a preliminary application.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2021.

Approved by the Governor, May 18, 2021.