REPORT OF THE
JOINT BUDGET AND AUDIT COMMITTEE
SUBCOMMITTEE ON RETIREMENT

The Subcommittee on Retirement was appointed at the meeting of the Joint Budget and Audit Committee on June 8, 1971. The Subcommittee subsequently held hearings on the seventeen Legislative Council items assigned to it, judicial pensions, and a group of other retirement matters which were brought to its attention.

Immediately below is a list of the items studied with a notation of the Subcommittee's action on each. Following the list is a more detailed description of the action taken, when such is necessary for purposes of clarity. Bills, which have been prepared for presentation to the General Assembly, are appended to the report.

LEGISLATIVE COUNCIL ITEMS

Item No.	Description	Action
78	Transfer certain State law enforcement officers to the Police Retirement System.	See Item #80
79	Reduce service requirement for vested interest in the retirement systems from 15 years to 5 years. Cost would be $2,300,000.	Deferred
80	Establish a separate retirement program for State law enforcement employees. Cost is estimated to be $1,000,000.	Favorable (For Correctional Officers only) See Bill A
81	Increase lump sum death benefit from ½ to twice employee's earnable compensation. Cost would be $1,800,000.	Deferred
82	Change benefits for surviving spouse. Changes listed in SB 429 would cost $4,500,000.	Deferred

84	Repeal provision that Social Security payments should be deducted in computing supplementary pensions. (SB 22, enacted at the 1971 Session, has made this item obsolete.)	No action necessary
85	Provide that member age 60 may qualify for ordinary disability allowance. (Present law limits ordinary disability allowance to persons under age 60. However, this provision would be of no value to person over 60.)	No action necessary
86	Provide that member age 60 or over may qualify for accidental disability benefits. Only those under age 60 may now qualify. (This allowance may be as high as his average final compensation.) Cost is estimated to be $700,000.	Favorable See Bill B
87	Remove provision that the three highest years' compensation on which the Police retirement benefits are based be consecutive. This provision is not in the other two systems. There will probably be no cost.	Favorable See Bill C
88	Change retirement allowance in Police System to 3% per year for the first 20 years and 0.1% per year thereafter. Cost would be $615,000.	Deferred
100	Prohibit State and local pension plans from giving credit for prior service with no employee contributions therefor.	Unfavorable (Local only)
102	Provide for an optional retirement system for higher education personnel.	Unfavorable
267	Change basis of valuating securities held by the Retirement Systems.	Favorable See Resolution (1)
268	Grant a teacher retirement credit for his military service which interrupted teaching even if jurisdiction where he was employed did not.	Unfavorable
344	Extend membership in Teachers' Retirement System to all employees of local boards of education. Cost would be approximately $10,000,000, exclusive of payments for prior service.	Deferred
389	Permit Maryland Employment Security Administration employees to return contributions for prior State service. Cost is estimated to be $3,000 each year.	Favorable See Bill D
398	Correct inequities between different classes of Baltimore City teachers' pensions.	Deferred See Bill E

OTHER ITEMS

A. Judicial Pensions

1. Increase benefits in the Judges Pension program. Cost is estimated to be $200,000.	Favorable See Bill F
2. Permit judges to vest rights in other State Retirement Systems until final retirement.	Favorable See Bill G
3. Clarify law to avoid possibility of qualifying for pensions from more than one State Retirement System for the same year of service.	Favorable See Bills G & H

B. Early Pension Benefits

Repeal provision for early retirement for elected or appointed officials or certain State employees.	Favorable See Bill I

C. Transfer of City Teachers to State Teachers' Retirement System

1. Change final date for transfer of pension funds for City teachers to State Retirement System.	Favorable See Bill E
2. Change rate of contribution for members of Teachers' Retirement System who had transferred from City to county school systems.	Favorable See Bill J

D. Other Miscellaneous Recommendations

1. Exclude extraordinary increases in final year's salary in determining average final compensation.	Favorable See Bill C
2. Reopen option for State employee for retirement at age 60. The annual cost is estimated to be $500 for each member affected.	Favorable See Bill K
3. Prohibit drawing salary as a full-time State employee and receiving pension benefits simultaneously.	Favorable See Bill G

LEGISLATIVE COUNCIL ITEMS

Retirement program for correctional officers (L.C. #80)

After hearing convincing testimony from Mr. James Jordon, Acting Commissioner of Correctional Services, the Subcommittee decided that the retirement program for Correctional Officers I - VI, who work on tiers in the correctional institutions, should be geared to maintaining a sound and vigorous force. The program agreed upon would be part of the Employees' System and would vary from the program for other employees in only two respects. (1) It would permit retirement at age 55, with mandatory retirement at age 65; and (2) the guaranteed retirement benefit would be 1/55th of the average final compensation for each of the first 25 years of service as a correctional officer, and 1/110th for each year thereafter. The cost for this program is estimated to be $1,000,000. (See Bill A)

Establishment of new pension systems with credit for prior service (L.C. #100)

House Bill 1141 would prohibit a State or local government from establishing a pension system in which that government pays full cost of prior service. It was presented to the 1971 Session to take care of a local situation where local sewer rates were increased because of a new pension system which gives credit for an employee's prior service with no cost to the employee. Legislation has been prepared to have only local effect so that there will be no repercussions on the State Systems.

Value of marketable securities (L.C. #267)

The problem here is to determine what value should be given to the common stocks in the investment portfolios of the State Retirement Systems. Current practice is to use the book value, which gives no measure of the increased value from the growth in the market value of the stock until such time as the stock is sold. Mr. Lewis L. Tignor, Investment Administrator for the Systems,

was asked to present the Subcommittee with a list of write-up methods which would result in realistic values but would contain some margin of safety. Mr. Tignor presented the following list:

1. 3% of Book Value per year disregarding Market Value.
   (1971 - $4,770,000
   1972 - $5,670,000)

2. Increases Book Value of each stock by the difference between the after tax net earnings of a company and the dividend declared on a per share basis.

3. Difference between an assumed yield of say 7% and actual yield. (1971 - $6,360,000)

4. Initial cost multiplied by the ratio of current dividends to dividends at the time the stock was purchased.

5. 60% of the actual excess of market over book. (A one shot write-up, large the first year - then unpredictable. $18,000,000 first year.)

6. Same as #5 except the average Market Value for 5 years is used.

7. Unrealized gains occurring in one year are spread over future years until it is fully recognized. (Doesn't suit our purpose in any respect.)

8. 50% of average unrealized gain over the last 5 years. (End 1970 - $9,000,000.) (This is a variation of #5.)

9. Formula based on actual appreciation, dividends, and realized gains less the recognized interest assumption. This method is used in the form of a reserve fund which can diminish as well as increase from year to year. (1971 - $1,700,000)

Mr. Tignor suggested that the first method listed, the Bankers' Trust method, represents a conservative approach and is the one most used. The Subcommittee subsequently recommended that a resolution be prepared requesting the Boards of Trustees of the Retirement Systems to use this method of write-up but with an annual increase of two per cent. This action will increase the book value of the stocks by approximately $3,370,000. (See Resolution 1)

Extension of membership in Teachers' Retirement System to all employees of local boards of education (L.C. #344)

Mr. Brian Benson, Director of Financial Services for the Montgomery County Department of Education, met with the 1970 Subcommittee on Retirement and presented a problem relating to the fact that some nonprofessional employees of local boards of education are members of the State Teachers' Retirement System but others either have no retirement program at all or receive retirement benefits paid for entirely by local governments. The Subcommittee felt that an inequity did exist but deferred action because there was insufficient time to fully study the matter. The 1971 Subcommittee again took this matter under consideration, as L. C. Item 344. Dr. Homer Elseroad, Superintendent of Schools in Montgomery County, appeared before the Subcommittee on September 21st and testified to the effect that the county superintendents were unanimously in support of extending retirement coverage to all school board employees through the State Teachers' Retirement System. In his testimony, Dr. Elseroad pointed out that the Teachers' Retirement System, when initially established, was intended to provide benefits for "any teacher, helping teacher, principal, supervisor or superintendent, attendance officer or clerical employee in the public day schools within the State or in any State educational institution supported and controlled by the State." It was noted, particularly, that clerks were included in the definition. It was further noted, however, that most of the jobs not presently covered by the Teachers' Retirement System did not exist back in 1927 when the system was established or, if they did exist, were on a part-time basis. The inequitable treatment of employees would seem clear. A clerk in a school is covered. A full-time janitor, a full-time cafeteria worker, a full-time bus driver, a full-time school nurse is not covered. It was further pointed out that while most employees are covered by the local governments, at their expense, there are 7 jurisdictions where such employees

have no benefits whatsoever. Accordingly, it was proposed that the definition of persons included in the Teachers' Retirement System be changed to include all school board personnel.

Information supplied by Dr. Elseroad revealed that, out of a total of 72,109 school board employees, 47,053 are eligible for coverage and 25,056 are ineligible. Seven of the 24 subdivisions have no retirement benefits for such employees and 17 provide coverage through either the State Employees' Retirement System or a local retirement system at their own expense. It was indicated that the full cost to the State of extending coverage in the Teachers' Retirement System to all school board employees, including Social Security costs, would be in the neighborhood of $10 million. This amount, however, does not include the amortization of prior service costs if such action should be taken.

Again, the Subcommittee felt that this was a matter worthy of consideration. It recognized, however, that the additional cost to the State would be very substantial and the full cost is not known. Further, it was recognized that an inequity exists presently in the different conditions resulting from coverage of the same types of employees in two different retirement systems. Most of the State employees of the type being considered here are covered in the State Employees' Retirement System, which results in different contribution rates. Therefore, if action is to be taken, consideration should be given either to including all such employees in the Employees' System or to combining all employees (including teachers) in one system with a uniform rate for all. The idea of a uniform rate for all State employees has been presented to the Subcommittee before and has been a matter of considerable interest. Accordingly, the Subcommittee agreed that the matter should again be held for further study and that the study should cover not only the matter of extending coverage to such

personnel but the possibility of combining all State employees in one system with the possibility of changing to a single uniform rate of contribution for all members.

Prior service in Employment Security Administration (L.C. #389)

This problem deals with retirement credit for employees of the Maryland Employment Security Administration for the years 1942 - 1946 when the organization was taken over by the federal government. When the Administration was transferred back to the State of Maryland in 1946, those employees who had been members of the State Retirement System before the 1942 transfer to the federal system were allowed to buy back credit for any years of their service prior to 1946. Anyone who was originally employed while the Administration was under federal control, however, was not eligible to buy credit for his service during the 1942-46 period.

The Subcommittee recommends that any person who was in the employ of the Division of Employment Service while the said service and its personnel were under the control of the United States employment service shall receive retirement credit in the Employees' Retirement System of the State of Maryland upon payment of his share of contributions and interest to date of payment.

The annual State cost of this action is estimated to be $300 for each member who purchases this credit for prior experience. The Subcommittee was informed that there are eight to ten such members. (See Bill D)

Inequities between different classes of Baltimore City teacher pensions (L.C. #398)

Baltimore City converted its retirement program to a 1/60 basis in 1954. At that time teachers were given the option of making additional contributions to receive 1/60th benefits (Class A), or accepting 1/65th benefits (Class B). In 1969, the State increased the benefits for all teachers to the 1/60th basis. Thus, the Class A city teachers are now receiving the same benefits as the

Class B, but have paid more for them. The Class A teachers would like to have their excess payments returned to them. At least some of them would like to have the adjustment made in the form of additional annuities. The Actuary for the Retirement Systems has estimated that these excess payments may amount to approximately $10,000,000.

When the transfer of the City teachers into the State Retirement System is completed, these funds will have been transferred to the State. The Subcommittee feels that no action can be taken with respect to this problem until the transfer has been completed. The Subcommittee recommends, however, that the City be held responsible for determining the amount of excess payment for each Class A teacher. (See Bill E)

OTHER ITEMS

A. Judicial Pensions

1. When House Bill 687 was presented to the 1971 Session, it provided for increases in both salaries and pensions of judges. Before its passage, however, all of the pension provisions were struck from the bill. The Subcommittee was asked to reconsider these provisions.

The Summary of Judicial Pension Proposal presented by Judge Ernest A. Loveless, Jr., Chairman, Legislative Committee of the Judicial Conference, is attached to this report. The Subcommittee accepted the proposal to increase the judges' pensions to 1/16 of 75% for each year of service up to a maximum of 16 years instead of the present 60%. In order to make this action retroactive for all retired judges, it is recommended that the pensions under the noncontributory system be increased by 25%.

The cost of the above is estimated to be $200,000. (See Bill F)

The Subcommittee also recommends that the words "or salary" be deleted from the Judges' pension law wherever pensions are referred to as "pension or salary."

2. In addition to the Judge's recommendations, another matter concerning pensions for judges was presented to the Subcommittee. Currently, a judge who is entitled to a pension from another State Retirement System may draw that pension while he is serving on the bench. When he finally retires, however, he may not receive two pensions and must, therefore, make a selection. The Subcommittee recommends that any member of another State Retirement System who is elected or appointed to the bench shall (1) vest his rights in that system until his final retirement and at that time receive benefits from both retirement programs, or (2) recover the contributions he made to the other State system.

There is no State cost involved. (See Bill G)

3. In reviewing the various judges' pension systems, the possibility of earning credit in two pension systems simultaneously was noted. When the Municipal Court of Baltimore City was created, there was no provision for a pension system for its judges. The Attorney General rendered an opinion that, since there was no pension system, members of the State Employees' Retirement System who had become judges of the Municipal Court could continue their membership in that System. He also ruled that judges who had not been members of the State Employees' System could joint that System.

When the District Court system was established, the Municipal Court judges were taken into that system, immediately qualified for pensions under the retirement provisions for the District Courts, and received credit for all previous service on the bench without contribution. It appears possible, therefore, that such judges might be able to qualify for two pensions for the same years of service. The Subcommittee believes that the law should be clarified to remove this possibility. (See Bills G and H)

B. Early Pension Benefits

It was brought to the attention of the Subcommittee that Section 11 (12) of Article 73B has been interpreted to permit an employee in the unclassified service to be paid his pension if he voluntarily resigns after 16 years of State service. At the direction of the Subcommittee, Dr. Cooper sent the following letter to the Attorney General expressing the group's concern in the matter.

Department of Fiscal Services
Maryland General Assembly
State Treasury Building
P.O. Box 231
Annapolis, Maryland 21404

September 10, 1971

The Honorable Francis B. Burch,
Attorney General of Maryland
State Law Department
One Charles Center
Baltimore, Maryland 21201

Dear General Burch:

At a recent meeting of a Retirement Subcommittee of the Joint Budget and Audit Committee of the Maryland General Assembly the issue involved in the much publicized Sidney Singer matter was given consideration. The Subcommittee reviewed the statute and felt that it could not have been intended to apply in the manner in which it has been applied and that the present interpretation resulted in very inequitable treatment of some State employees in relation to others.

The part of the Code referred to is Section 11 (12) of Article 73B which makes the following provision:

> "Notwithstanding anything to the contrary in this article, if any person, while being a member of the State Employees' Retirement System, has been or may hereafter be appointed or elected to any State office, or promoted to any position within the State government which is not a part of the classified service and which is not covered by the provisions of Article 64A (Merit System), for a fixed or indefinite term and not be continued in office, reappointed or reelected, after the completion of sixteen years of creditable service, regardless of age, such member may elect, in lieu of the withdrawal of his accumulated contributions, to have such contributions paid to him in an annuity of equivalent actuarial value, in which event he shall also be paid a pension equal to the ordinary disability pension that would have been payable at such time had he been retired on an ordinary disability retirement; and if any person, while being a member of said retirement system, shall vacate his position by reason of the termination of his tenure by act of the General Assembly after said person has twenty years of creditable service, regardless of age, he may elect to receive the allowance for service retirement in lieu of the withdrawal of his accumulated contributions....."

The Subcommittee felt first that the intention of the Legislature must have been to make provision for elected or appointed personnel who were removed from office involuntarily. Further, it noted that the provision was adopted prior to the more recent provisions for vesting and the Subcommittee decided there was no longer any reason for such provision in today's situation. Accordingly, the Subcommittee voted to recommend legislation that would repeal this section of Article 73B.

The Subcommittee further, however, expressed concern over the fact that such legislative action, if taken, would not correct inequities that presently exist. The Subcommittee believes that the law was not intended to cover the type of situation represented in the Singer matter and, if such is the case, it does not believe that further benefits should be paid if the law, in fact, does not support the action that has been taken. The Subcommittee has requested me to suggest to you that the State file a declaratory judgment action to have the meaning of this part of the Code clarified and also to clarify action that might be taken with respect to the payment of further benefits to persons now receiving them under this section of the law.

Sincerely yours,

SENATOR ROY N. STATEN, CHAIRMAN
Joint Budget and Audit Committee

(Signed - PAUL D. COOPER)

per: Paul D. Cooper
Director
DEPT. OF FISCAL SERVICES

PDC/sjb

cc: Senator Roy N. Staten
President William S. James
Mr. Henry Lord

The Attorney General's answer is included in the following paragraphs excerpted from a letter, dated September 14, 1971, addressed to the Honorable Louis L. Goldstein, Chairman, Board of Trustees of Employees' Retirement System.

> "In seeking to resolve the issues here presented, we are not provided with any legislative history nor can any legislative intent be gleaned from the title of the respective enactments of the General Assembly. In addition, there has been no court decision construing the statutes here in question nor have we found any other authority which would assist us in reaching a conclusion. Under these circumstances, and in view of the lack of clarity of the language of the statutes involved when applied to the facts here presented, we think this situation presents an appropriate case for resolution by way of a suit for declaratory judgment.
>
> "Our view that this matter should be determined by a declaratory judgment has been reinforced by receipt of a letter dated September 10, 1971, addressed to this office from the Department of Fiscal Services. In that letter, copy of which is attached, the Director of the Department of Fiscal Services forwarded to us the request of the Retirement Subcommittee of the Joint Budget and Audit Committee of the Legislative Council of the Maryland General Assembly that this matter be submitted to the courts for a final determination of the rights of the Director to the early pension benefit (as well as the rights of any other individual who might be affected by a decision on this matter).
>
> "In conclusion, we are of the view that because of the closeness of the questions here presented, an appropriate action for a declaratory judgment should be filed seeking final determination of the issues from the courts. Should the Board agree that this is the proper course of action, we will, of course, be available to advise it with respect to the alternative ways in which such an action may be brought. In such event, we believe that payment of the benefits in question should be continued until the anticipated litigation is finally resolved and that all individuals and organizations affected should be given prompt written notice of the pendency of this action."

The Subcommittee felt that this law, as presently interpreted, creates a serious inequity for one group of employees as opposed to another. Accordingly, it voted to recommend that Section 11 (12) of Article 73B be repealed. (See Bill I)

It further recommended that the Attorney General be requested to proceed with appropriate action for a declaratory judgment.

C. Transfer of City Teachers to State Teachers' Retirement System

1. The Subcommittee was informed by Mr. Christ G. Christis, Assistant Secretary of Personnel for Retirement Systems, that the transfer of the City teachers to the State System cannot be completed by the time designated in Chapter 27 of the Laws of 1971 because of unexpected difficulties encountered in connection with the City records. The Subcommittee, therefore, recommends that the final date for the transfer of funds be changed to July 1, 1973. (See Bill E)

2. Another problem caused by the transfer of the City teachers to the State System has to do with the rate of retirement contribution of a former City teacher who transferred to a county school prior to July 1, 1971. Such a teacher's rate of contribution is determined by his age at the time of his transfer. If, however, he transferred after that date, or if he had transferred between two counties, or if he had remained in the City school system, his rate would be determined by his age when he started teaching in the public schools in the State.

The Subcommittee recommends that, beginning July 1, 1972, the rate of contribution of any member of the State Teachers' System who had transferred into that system from the City retirement system prior to July 1, 1971, shall be determined by his age at the time of his initial entry into a State or Baltimore City retirement system provided that his service has been continuous since that time. There is no way to ascertain the number of teachers in the counties who formerly taught in Baltimore City short of a survey of the staffs of all 23 subdivisions. The Department of Education records indicate that 55 may have transferred from the City to the counties in 1967-68. The number would have been somewhat smaller in earlier years. It is highly unlikely that the total number of transferees still teaching would be in excess of 500. Assuming such figure, the annual cost would be about $50,000-$100,000. (See Bill J)

D. Other Miscellaneous Recommendations

1. It was brought to the Subcommittee's attention that several persons just prior to retirement had received large lump sum salary adjustments which put them in an advantageous position when determining their average final compensation. To preclude possible abuse, the Subcommittee recommends that any extraordinary increases in the final year's salary be excluded from the average final compensation determination, leaving to the discretion of the Boards of Trustees of the Retirement Systems what constitutes "extraordinary". (See Bill C)

2. In 1947, each State employee was given the option of staying in a program designed for retirement at age 65 or electing a program which would require larger employee contributions but permit retirement at age 60. The final date for the election was originally March 31, 1948, but was later changed to March 31, 1964, with the provision that the employee make retroactive contributions. The Subcommittee recommends that the date be left openended. The annual State cost for this is estimated to be $500 for each member who applies. There is no way of determining how many people would avail themselves of this opportunity, but the number would have to be very small. (See Bill K)

3. Under the present law, certain employees or State officials are permitted to serve as full-time State employees while, at the same time, drawing pension benefits. While this practice may have had some justification under certain circumstances in the past, the Subcommittee believes that, in view of the level of benefits presently provided in the State Retirement Systems, such practice should be prohibited. (See Bill G)

4. During its deliberations, the Subcommittee noted that a comprehensive study of the Retirement Systems had been made by the Actuary in 1964, and that the findings of this study have not been updated since that time. It was agreed that a resolution should be introduced calling upon the Board of Trustees to have this study updated. (See Resolution 2)

SUMMARY OF JUDICIAL PENSION PROPOSAL

History and Background:

Present judicial retirement benefits range from the maximum of $12,000.00 per annum non-contributory state plan, based on $750.00 for each year of service, to the $21,300.00 per annum state contributions plan computed at $1,331.00 per annum through the $20,000.00 per annum non-contributory state with local supplementation program available in Baltimore City and Prince George's County, allowing $1,250.00 for each year of service. In between there are several jurisdictions supplementing without contribution in varying amounts, e.g. Baltimore County to a maximum of $18,000.00.

The basic factor for determining pension has been the number of years of service; but there are provisions for full benefits both for the judge and his widow in case of disability or early retirement in some of the supplementation plans of the political subdivisions.

In an effort to provide for basic equality for all judges without taking away any benefits and giving some increase to all judges, the proposed bill is submitted. The only inequality that will exist is that judges in office prior to July 1, 1969, will not be contributing as much as subsequent judges. This is a self-liquidating provision; and as these judges leave, there will be full contribution by all judges.

Proposed Changes:

1. The pension would be increased to 1/16 of 75% of the maximum salary a judge received for each year of service or any part thereof up to a maximum of sixteen years.

2. A judge may retire when he completes his elected or confirmed term of office if he is not sixty years of age.

This would rarely happen but would be available to a judge who might not be reappointed or re-elected. In any event he would have actually served his sixteen years to earn

maximum benefits; and this would prevent a hiatus or dilemna for this short period between termination of service and sixty years of age; if he did not desire to go back into private practice.

3. A judge who has to retire because of incapacitating illness would have his benefits accelerated to an amount he would have received had he completed his eligible term. This advantage exists in the Prince George's County supplementation and is most desirable as a guarantee against some emergency. This would rarely be used; and in the past it has been accomplished through special legislation for certain individual judges.

The deletion of the provision denying a pension to any judge who retires for other than a disability has already been stricken for those judges who are contributing, and now all judges would be under contributions. It is only fair that if a judge resigns before he is eligible for retirement, he can either withdraw his contributions with interest at 4% or let it stay in the fund until he reaches such age and then receive benefits based on his years of service.

4. The contribution rate would be 6% of total salary for all judges assuming office after July 1, 1969, and 6% of any increase in salary over what a judge was making on June 30, 1972.

This difference is necessary to protect the constitutionality of the plan; and to insure that there will be eventual full contribution from all judges. No election of plans would be available.

It is pointed out that within the next ten years approximately one-half of the judges who are not contributing at the present time will be retired because of reaching their maximum age for active service.

5. The additional new matter for sub-section (j) is basically all now included for contributing judges under sub-section (i). Only two changes are made here, viz:

(a) In the case of a retired judge who retires and dies without a widow, his estate would be entitled to receive his contributions with interest at 4% less any retirement benefits paid to him.

(b) A judge would not have to contribute on his pension after sixteen years of service. This would only be available as a type of grandfather protection clause. It would also encourage experienced judges to stay in active service and is really only fair when we consider that the pension is based on years of service up to a maximum of sixteen years. Under the present contributory system no contribution is paid after sixteen years of contributions. As the system becomes totally contributory, this provision would be of no effect.

6. A widow of a judge who dies in service would be entitled to receive what she would have gotten had her husband completed his maximum eligibility of his term of election or confirmation. This exists in the Prince George's County supplementation program now. It is just another element of security for an emergency and would rarely be applicable.

Comment:

The final point is that local supplementation is not abolished but is limited to the point that if a judge gets as much as $20,000.00 from the state he could not receive any supplementation. All of this is in the present contribution plan. Any complete cancellation of existing supplementation programs would be unconstitutional since this is all classified as deferred salary.

These changes, of course give more to some judges than to others, because of the great inequality which now exists. However, nothing is taken away from any judge and equality would be basically achieved. If any of these provisions are deleted, some judges now in office would be hurt.

A BILL
ENTITLED

AN ACT to add new Section 11(19) to Article 73B of the Annotated Code of Maryland (1970 Replacement Volume and 1971 Supplement), title "Pensions," subtitle "In General," to follow immediately after Section 11(18) thereof, to provide special retirement benefits in the Employees' Retirement System to Correctional Officers I through VI.

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SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That new Section 11(19) be and it is hereby added to Article 73B of the Annotated Code of Maryland (1970 Replacement Volume and 1971 Supplement), title "Pensions," subtitle "In General," to follow immediately after Section 11(18) thereof, and to read as follows:

BEGIN ITALICS

11.

(19) Any Correctional Officer I through VI who has attained the age of fifty-five (55) years, and who has served as a Correctional Officer in one of these classifications for five (5) or more years immediately preceding retirement, may retire and receive a retirement allowance equal to one fifty-fifth (1/55) of his average final compensation multiplied by the number of years of service in that class for each of the first twenty-five (25) years and one one-hundred-and-tenth (1/110) of his average final compensation multiplied by the number of years of service in that class for each year thereafter; and if he has other State service credit, he shall receive an additional allowance equal to one-sixtieth (1/60) of his average final compensation for each year of other State service credit. Retirement for a Correctional Officer I through VI is mandatory when he attains the age of 65 years.

The benefit for ordinary disability for any Correctional Officer I through VI, who has served as a Correctional Officer in one of these classifications for five (5) or more years immediately preceding retirement, shall be computed in the manner described in this subsection. In cases of vested retirement allowance as provided under Section 11(15), the benefits payable to any Correctional Officer I through VI, who has served as a Correctional Officer in one of these classifications for five (5) or more years immediately preceding retirement, shall commence upon attainment of age 55 years. END ITALICS

SEC. 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1972.

A BILL
ENTITLED

AN ACT to repeal and re-enact, with amendments, Section 11(7) of Article 73B of the Annotated Code of Maryland (1970 Replacement Volume), title "Pensions," subtitle "In General": and to repeal and re-enact, with amendments, Section 195(4B) of Article 77 of said Code (1969 Replacement Volume), title "Public Education," subtitle "Chapter 17. Teachers' Retirement System"; and to repeal and re-enact, with amendments, Section 53(6) of Article 88B of the said Code (1969 Replacement Volume), title "State Police," subtitle "State Police Retirement System"; amending the laws relating to the Employees', Teachers' and State Police Retirement Systems by removing therefrom the age requirements for an accidental disability benefit.

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SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section 11(7) of Article 73B of the Annotated Code of Maryland (1970 Replacement Volume), title "Pensions," subtitle "In General," be and it is hereby repealed and re-enacted, with amendments, to read as follows:

ARTICLE 73B

11.

(7) Upon retirement for accidental disability a member [[shall receive a service retirement allowance if he has attained the age of 60; otherwise he]] shall receive an accidental disability retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and

(b) A pension of sixty-six and two-thirds per centum of his average final compensation, but in no event shall his total accidental disability retirement allowance exceed his average final compensation.

SEC. 2. AND BE IT FURTHER ENACTED, That Section 195(4B) of Article 77 of said Code (1969 Replacement Volume), title "Public Education," subtitle "Chapter 17, "Teachers' Retirement System," be and it is hereby repealed and re-enacted, with amendments, to read as follows:

ARTICLE 77

195.

(4B) Upon retirement for accidental disability a member [[shall receive a service retirement allowance if he has attained the age of 60; otherwise he]] shall receive an accidental disability retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and

(b) A pension of sixty-six and two-thirds per centum of his average final compensation, but in no event shall his total accidental disability retirement allowance exceed his average final compensation.

SEC. 3. AND BE IT FURTHER ENACTED, That Section 53(6) of Article 88B of said Code (1969 Replacement Volume), title "State Police," subtitle "State Police Retirement System," be and it is hereby repealed and re-enacted, with amendments, to read as follows:

ARTICLE 88B

53.

(6) Upon retirement for special disability a member shall receive a [[service]] retirement allowance [[if he has attained the age of 50; otherwise he shall receive a special disability retirement allowance]] which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and

(b) A pension of sixty-six and two-thirds per centum of his average final compensation, but in no event shall his total special disability retirement allowance exceed his average final compensation.

(c) Upon the death of a member retired on a special disability retirement allowance, one half of the allowance calculated above shall be continued to his widow, if he leaves a widow, to continue during her widowhood; or if there be no widow, or if the widow dies or remarries before the youngest child of such deceased retired member shall have attained the age of 18, then to his child or children under said age if he leaves children, divided in such manner as the board in its discretion shall determine to continue, as a joint and survivorship pension for the benefit of the child or children under said age until every child dies or attains said age.

SEC. 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1972.

A BILL
ENTITLED

AN ACT to repeal and re-enact, with amendments, Section 1(15) of Article 73B of the Annotated Code of Maryland (1971 Supplement), title "Pensions," subtitle "In General"; to repeal and re-enact, with amendments, Section 190(15) of Article 77 of the Code (1971 Supplement), title "Public Education," subtitle "Chapter 17. Teachers' Retirement System"; and to repeal and re-enact, with amendments, Section 49(15) of Article 88B of the Code (1971 Supplement), title "State Police," subtitle "State Police Retirement System," amending the laws concerning the Employees', Teachers', and State Police Retirement Systems in order to exclude certain extraordinary salary increases in the determination of "average final compensation," removing certain superfluous language from the section concerning the State Police Retirement System, and otherwise amending the definition of "average final compensation" in the laws relating to the State Police Retirement System.

* * * *

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section 1(15) of Article 73B of the Annotated Code of Maryland (1971 Supplement), title "Pensions," subtitle "In General," be and it is hereby repealed and re-enacted, with amendments; that Section 190(15) of Article 77 of the Code (1971 Supplement), title "Public Education," subtitle "Chapter 17. Teachers' Retirement System," be and it is hereby repealed and re-enacted, with amendments; and that Section 49(15) of Article 88B of the Code (1971 Supplement), title "State Police," subtitle "State Police Retirement System," be and it is hereby repealed and re-enacted, with amendments, all to read as follows:

ARTICLE 73B

1.

(15) "Average final compensation" shall mean the average annual earnable compensation of an employee for the three years of service as an employee during which his earnable compensation was highest, or if he had less than three years of service, then his average earnable compensation for his total service. The average

final compensation of the judges of the Municipal Court of Baltimore City shall be based on the total salary received by them from both the State and the City. Effective July 1, 1971, the provisions of this subsection shall be applicable to members who retired after July 1, 1970, as well as to those members who retire on or after July 1, 1971. Effective July 1, 1972, the provisions of this subsection shall be applicable to those members who retired on or prior to July 1, 1970.

BEGIN ITALICS:

In the determination of average final compensation, any extraordinary salary increase in the last year prior to retirement shall be excluded; and for this purpose an extraordinary salary increase is an increase in earnable compensation for the particular year, over the earnable compensation for the next prior year, which much exceeds an average or usual increase from year to year and which, because of the unusual increase, would cause an inequity to the Retirement System and the members and beneficiaries thereof and to the fair purpose of the Retirement System if made the basis for determining average final compensation in this instance. The Board of Trustees by a rule of general application shall determine what constitutes an extraordinary salary increase.

END ITALICS.

ARTICLE 77

190.

(15) "Average final compensation" shall mean the average annual earnable compensation of a teacher for the three years of service as a teacher during which his earnable compensation was highest, or if he had less than three years of service, then his average earnable compensation for his total service. Effective July 1, 1971, the provisions of this subsection shall be applicable to members who retired after July 1, 1970, as well as to those members who retire on or after July 1, 1971. Effective July 1, 1972, the provisions of this subsection shall be applicable to

those members who retired on or prior to July 1, 1970.

BEGIN ITALICS:

In the determination of average final compensation, any extraordinary salary increase in the last year prior to retirement shall be excluded; and for this purpose an extraordinary salary increase is an increase in earnable compensation for the particular year, over the earnable compensation for the next prior year, which much exceeds an average or usual increase from year to year and which, because of the unusual increase, would cause an inequity to the Retirement System and the members and beneficiaries thereof and to the fair purpose of the Retirement System if made the basis for determining average final compensation in this instance. The Board of Trustees by a rule of general application shall determine what constitutes an extraordinary salary increase.

END ITALICS.

ARTICLE 88B

49.

(15) "Average final compensation" shall mean the average annual earnable compensation of an employee during the three ((consecutive)) years of service as an employee, during which his earnable compensation was highest or if he had less than three years of service, then his average earnable compensation for his total service ((; provided, however, that during the three-year period immediately following July 1, 1965, "average final compensation" will be supplemented by a sum equal to 1/60 of $1600 multiplied by the number of months remaining in the three-year period subsequent to the effective date of retirement)). Effective July 1, 1971, the provisions of this subsection shall be applicable to members who retired after July 1, 1970, as well as to those members who retire on or after July 1, 1971. Effective July 1, 1972, the provisions of this subsection shall be applicable to those members who retired on or prior to July 1, 1970.

BEGIN ITALICS:

In the determination of average final compensation, any extraordinary salary increase in the last year prior to retirement shall be excluded; and for this purpose an extraordinary salary increase is an increase in earnable compensation for the particular year, over the earnable compensation for the next prior year, which much exceeds an average or usual increase from year to year and which, because of the unusual increase, would cause an inequity to the Retirement System and the members and beneficiaries thereof and to the fair purpose of the Retirement System if made the basis for determining average final compensation in this instance. The Board of Trustees by a rule of general application shall determine what constitutes an extraordinary salary increase.

END ITALICS.

SEC. 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1972.

D

A BILL

ENTITLED

AN ACT to repeal and re-enact, with amendments, Section 13(a) of Article 95A of the Annotated Code of Maryland (1969 Replacement Volume), title "Unemployment Insurance Law," subtitle "Employment Service"; to add new Section 9(10) to Article 73B of said Code (1970 Replacement Volume), title "Pensions," subtitle "In General," to permit retirement credit to employees of the Division of Employment Service while the Service was under U.S. control.

* * * * *

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section 13(a) of Article 95A of the Annotated Code of Maryland (1969 Replacement Volume), title "Unemployment Insurance Law," subtitle "Employment Service," be and it is hereby repealed and re-enacted, with amendments, to read as follows:

13.

(a) The Executive Director shall create and administer a division to be known as the Division of Employment Service which shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this article and for the purpose of performing such duties as are within the purview of the act of Congress, entitled "An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes," approved June 6, 1933 (48 Stat. 113; U.S.C.A., Title 29, §§ 49(c), as amended). The said Division shall be administered by a full-time salaried director, who shall

be charged with the duty to cooperate with any official or agency of the United States having powers or duties under the provisions of the said act of Congress, as amended, and to do and perform all things necessary to secure to this State the benefits of the said act of Congress, as amended, in the promotion and maintenance of a system of public employment offices. The provisions of the said act of Congress, as amended, are hereby accepted by this State, in conformity with § 4 of said act, and this State will observe and comply with the requirements thereof. The Division of Employment Service is hereby designated and constituted the agency of this State for the purpose of said act. The Executive Director is directed to appoint the director and employees of the Division of Employment Service, in accordance with regulations prescribed by the director of the United States employment service, and in accordance with the provisions of Article 64A of the Annotated Code of Maryland; provided, however, that all of the employees of the Division of Employment Service on January 1, 1939, shall remain employees of the Division of Employment Service subject to reclassification under said Article 64A of the Annotated Code of Maryland.

The Executive Director may cooperate with or enter into agreements with the railroad retirement board with respect to the establishment, maintenance, and use of free employment service facilities.

The legislature hereby declares its intent that operation of the Division of Employment Service shall be resumed whenever the needs of national defense, as determined by the President of the United States, will permit.

Within a period of one year from such time, notwithstanding any other provisions of the laws of the State of Maryland, the Governor of this State is hereby authorized to take such action as he finds necessary to transfer to the Division of Employment Service the personnel, records, and facilities of the United States employment service in this State as a going concern, and to secure to this State all advantages available under the Wagner-Peyser Act, as amended, the Social Security Act, as amended, and the federal Unemployment Tax Act, as amended.

[[Any person who was in the employ of the Division of Employment Service at the time that the said service and its personnel were taken over by the United States employment service and who has remained in the employ of the United States employment service and has not withdrawn his accumulated contributions to the Employees' Retirement System of the State of Maryland shall be restored to active membership in the said system when the operation of the Division of Employment Service shall be resumed, without loss of creditable service which had accrued up to January 1, 1942. Any person who, under the aforegoing provision, is restored to active membership in the said system, shall receive credit for membership service for the period during which the personnel of the Division of Employment Service was taken over by the United States employment service; provided that, within such time or times after return to the State service as the board of trustees of the Employees' Retirement System of Maryland may by rule provide, such employee makes up the contributions which would have been paid by the employee if such employee had remained continuously in the State service; and provided further that such contribution as shall be determined by the board of trustees

of the Employees' Retirement System of the State of Maryland is made to the Employees' Retirement System of the State of Maryland to cover the employer's liability for such period by transfer to the Employees' Retirement System of the State of Maryland of contributions made by the United States to any retirement system of which the employee was a member during the period of employment by the United States, or otherwise, or by the State of Maryland, on such terms and conditions as shall be prescribed by the board of trustees of the Employees' Retirement System of the State of Maryland. Any former employee who is eligible for reinstatement in the Employees' Retirement System of the State of Maryland, under the other provisions of this section, but who withdrew his accumulated contributions after the Division of Employment Service was taken over by the United States employment service, shall be restored to active membership in the Employees' Retirement System of the State of Maryland, upon paying to said system the total amount of contributions withdrawn plus interest at the rate of four per cent (4%) per annum from the date of withdrawal to the date or dates on which such contributions are repaid, provided the total amount of such contributions, with interest, are repaid within such period of time as the board of trustees of the Maryland Employees' Retirement System may provide. Such board of trustees is specifically hereby authorized to make rules and regulations to carry out all the provisions of this section.]]

SEC. 2. AND BE IT FURTHER ENACTED, That new Section 9(10) be and it is hereby added to Article 73B of said Code (1970 Replacement Volume), title "Pensions," subtitle "In General," to follow immediately after Section 9(9) thereof, and to read as follows:

<u>(10) Any person who was in the employ of the Division of Employment Service while the Service and its personnel were under the control</u>

of the United States Employment Service shall receive retirement credit in the Employees' Retirement System of the State of Maryland upon payment of his share of contributions for the period of his Federal service, together with interest to date of payment.

SEC. 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1972.

[[ ]] denotes deletions
Underlines denote additions

E

A BILL
ENTITLED

AN ACT to repeal and re-enact, with amendments, Section 192(3a) of Article 77 of the Annotated Code of Maryland (1971 Supplement), title "Public Education," subtitle "Chapter. 17. Teachers' Retirement System," to extend the time limit under which the transfer of Baltimore City teachers to the State System shall be implemented, and amending the retirement law to require the Employees' Retirement System of the City of Baltimore to provide certain data.

* * * * *

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section 192(3a) of Article 77 of the Annotated Code of Maryland (1971 Supplement), title "Public Education," subtitle "Chapter 17. Teachers' Retirement System," be and it is hereby repealed and re-enacted, with amendments, to read as follows:

192.

(3a) Anything to the contrary notwithstanding, effective July 1, 1971, all members and/or beneficiaries of the Employees' Retirement System of the City of Baltimore who in the absence of the City System would have qualified for membership or benefits hereunder shall become members and/or beneficiaries of this State System.

Commencing July 1, 1971, the Board of Trustees of this Retirement System and the Board of Trustees of the Employees' Retirement System of the City of Baltimore shall proceed to implement as soon as practicable thereafter, and before July 1, [[1972]] <u>1973</u>, the administrative processes necessary for orderly transition of the membership arrangements provided under this subsection. Within these time limits the Board of Trustees

shall arrange for the commencement of the payment of retirement allowances and supplementary payments to transferred beneficiaries in receipt of benefits in such amounts as are payable from the City System, consistent with the provisions of this subsection and Article. Provided, however, that the System from which each member or beneficiary is transferred has the absolute obligation for and shall pay any amount to which the member or beneficiary would have been entitled under the provisions of the local system as they exist as of July 1, 1971, to the extent, if any, that amount exceeds what is provided under this Article.

The rate of contribution payable under this Retirement System by each transferee who has not retired shall be determined on the basis of his age and time of entry into the City System.

The assets transferable from the City System to the State System shall be determined on a basis satisfactory to both Boards. The transfer shall include the actuarial value of the unexpended balance of the State's contributions to the City System with interest to the date of transfer, the accumulated contributions of active members, and the actuarial value of the annuities payable to beneficiaries as of the date of transfer. The assets shall be transferred on or before June 30, [[1972]] 1973. Prior to this transfer, the City System shall determine and advise the State System the amount of contributions, with interest, made by each active and retired Class "A" City teacher which represents the difference in cost between Class "A" and Class "B" membership of each City teacher.

In every case the effective date of the transfer and any adjustments related thereto shall be as of June 30, 1971.

SEC. 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 1972.

[[ ]] denotes deletions
Underlines denote new material

A BILL
ENTITLED

AN ACT to repeal and re-enact, with amendments, subsections (a), (b), (c), (d), (e), (f), and (i)(1) of Section 49, Sections 50, 50A and 50B and subsections (c)(1), (c)(1-1), (c)(1-7), (c)(1-9), and (c)(3) of Section 125 of Article 26 of the Annotated Code of Maryland (1966 Replacement Volume and 1971 Supplement), title "Courts," subtitles "Pensions of Judges and Their Widows" and "Municipal Court of Baltimore City," revising the formula for the payment of judges' pensions in certain instances, clarifying the references to these pensions by eliminating their partial designation as salaries, and relating generally to the computation and payment of pensions to certain judges and their widows.

* * * *

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That subsections (a), (b), (c), (d), (e), (f), and (i)(1) of Section 49, Sections 50, 50A, and 50B and subsections (c)(1), (c)(1-1), (c)(1-7), (c)(1-9), and (c)(3) of Section 125 of Article 26 of the Annotated Code of Maryland (1966 Replacement Volume and 1971 Supplement), title "Courts," subtitles "Pensions of Judges and Their Widows" and "Municipal Court of Baltimore City," be and they are hereby repealed and re-enacted, with amendments, to read as follows:

49.

(a) Every judge of the circuit court for any of the counties, of the Supreme Bench of Baltimore City, of the Court of Appeals of Maryland and of the Court of Special Appeals, shall be paid, after the termination of active service, if he is then at least sixty years of age or when he becomes sixty years of age, a pension ((or salary)) calculated at the rate of ((seven hundred and fifty dollars ($750.00))) <u>nine hundred thirty-seven dollars and fifty cents ($937.50)</u> per annum for each year, or any part thereof, of active service as a judge of the circuit court for any of the counties, of the Supreme Bench of Baltimore City, of the Court

of Appeals of Maryland and of the Court of Special Appeals, up to and including sixteen years of such active service, so that the maximum pension ((or salary)) for such service payable hereunder to any one person shall not exceed the sum of ((twelve thousand dollars ($12,000.00))) fifteen thousand dollars ($15,000.00) per annum.

(b) In addition to the payment of a pension ((or salary)) of ((seven hundred and fifty dollars ($750.00))) nine hundred thirty-seven dollars and fifty cents ($937.50) for each year of service, each judge of the Court of Appeals shall be allowed one hundred twenty-five dollars ((($100.00))) ($125.00) for each year of service as a member of the Court of Appeals but, in no event, shall the total pension ((or salary)) exceed ((thirteen thousand six hundred dollars ($13,600.00))) seventeen thousand dollars ($17,000.00).

(c) In addition to the payment of a pension ((or salary)) of ((seven hundred and fifty dollars ($750.00))) nine hundred thirty-seven dollars and fifty cents ($937.50) for each year of service, each judge of the Court of Special Appeals shall be allowed ((fifty dollars ($50.00)) sixty-two dollars and fifty cents ($62.50) for each year of service as a member of the Court of Special Appeals, but in no event, shall the total pension ((or salary)) exceed ((twelve)) sixteen thousand ((eight hundred)) dollars ((($12,800.00))) ($16,000.00).

(d) Provided, however, that any elected judge who retired prior to July 1, 1955, or who during the period from July 1, 1955, to July 1, 1962, voluntarily retired from active service after reaching the age of sixty years and before reaching the age of seventy years, and has resumed the practice of law, ((shall not be entitled to the increases in salary or pension provided by this section, but shall be paid the salary or pension at the rate provided before the passage of this section)) shall be paid a pension twenty-five per cent (25%) higher than the pension to which he was entitled on July 1, 1971.

(e) A judge who retires and accepts the pension ((or salary)) provided by this section shall not during the period of such acceptance engage in the practice of law. A judge who has been receiving the benefits provided by this section and who decides to engage in the practice of law may notify the Governor and Comptroller of such fact, and on the indicated date of his engaging in the practice of law his

benefits under this section shall cease and no longer be paid; and such a judge shall never again be paid such benefits. In the event that a retired judge who has never been paid benefits under this section and who has been engaged in the practice of law should thereafter relinquish such practice and notify the Governor and Comptroller of the State of such fact, then, from and after the date of such notification the judge shall be entitled to all the benefits provided by this section.

(f) In the case of a judge who may serve on the Court of Appeals or on the Court of Special Appeals subsequent or prior to service as a circuit court judge for any of the counties or of the Supreme Bench of Baltimore City, the amount of pension per annum shall be calculated according to the total years of active service not exceeding sixteen at the pension rate fixed herein. This section shall apply to all elected judges already retired from active service except as provided herein. Any former judge who accepts any salaried public office or position, municipal, county, State or federal, shall not be paid any pension ((or salary)) so long as he remains in such office or position.

(i) (1) On and after July 1, ((1969)) 1972, each judge subject to the provisions of this subtitle and covered by the pension plan provided for in this subsection shall receive upon termination of active service if he is then at least sixty years of age or when he becomes sixty years of age a pension in an amount equal to ((sixty per centum (60%))) seventy-five per centum (75%) of his maximum salary or one sixteenth (1/16) of that amount for each year of service, or a pro rata share to reflect less than a full year of service, if he served for less than sixteen years.

50.

The widow of every judge who dies in active service shall be paid one half of the pension ((or salary)) to which such judge would have been entitled on the date of his death if he had been eligible for retirement and had retired on said date irrespective of whether he shall have attained the age of 60 at the date of

his death. The widow of every such judge who dies after retiring shall be paid one half of the pension ((of salary)) which such judge was receiving at the date of his death. The widow of every such judge who dies after his active service is terminated, if he was at least 60 years of age at the time of his death, shall be paid one half of the pension ((or salary)) to which such judge would have been entitled on the date of his death if he had elected to receive said pension ((or salary)) immediately after termination of his active service. In order to be entitled to the pension ((or salary)) provided by this section, a widow of a judge who dies during active service shall have been married to him for a period of not less than three years prior to his death, and, in the case of the death of a retired judge, not less than three years before his retirement. A widow who is entitled to a pension ((or salary)) under the provisions of this section shall be paid for the period of her life unless she remarries, in which event the pension ((or salary)) is to cease and terminate. The provisions of this section shall apply to the widows, who have not remarried and who are otherwise qualified as provided herein, of elected judges and retired elected judges who died before June 1, 1955. In determining the amount which any widow is entitled to be paid after July 1, 1962, the pension of the deceased judge shall be calculated at the rates prescribed by Section 49 of Article 26 as of that date, notwithstanding that such judge may have died prior thereto.

50A.

(a) The County Commissioners of Allegany County may pay a pension ((or salary)) to the widow of any former chief judge of the fourth judicial circuit if (1) he served as chief judge at any time during or following the year 1960 and resided in Allegany County during his service as such; and (2) she is receiving or eligible to receive payments of a ((salary or)) pension under the provisions of Section 50 of this subtitle.

(b) The pension ((or salary)) paid to the widow may be annually an amount computed in this manner: (i) An amount equal to one and one-half per centum

(1 1/2%) of the total amount being paid annually to the former chief judge under the provisions of Section 48 of this subtitle, at the time of his death, is multiplied by (ii) the number of years (or portions thereof) during which the former chief judge served either as an associate judge or as the chief judge in the fourth judicial circuit.

(c) The County Commissioners of Allegany County may levy upon the assessable property of the county a tax sufficient to pay the amount payable and computed under this section.

50B.

The County Commissioners of Harford County shall pay a pension ((or salary)) to each judge who (1) is retired under this subtitle, (2) is receiving a pension ((or salary)) from the State under this subtitle, and (3) was a resident judge in Harford County at the time of his retirement. The pension ((or salary)) is in addition and supplementary to any pension ((or salary)) paid by the State under this subtitle; and it shall be in an annual amount computed as two hundred and fifty dollars ($250.00) for each year or partial year of service as a resident judge in Harford County.

125.

(c) (1) Every judge of the Municipal Court of Baltimore City who is retired from active service or is in office on June 30, 1970, and every appointed judge in office on June 30, 1970, if subsequently elected shall at his option elect Plan A and thereby be paid, after the termination of his active service, if he is then at least sixty years of age or when he becomes sixty years of age, a pension ((or salary)) calculated at the rate of ((six hundred dollars ($600.00))) seven hundred fifty dollars ($750.00) per annum for each year or any part thereof of active service as a judge of said Municipal Court up to and including twenty years of such active service, so that a maximum pension ((or salary)) for such service payable hereunder to any one person shall

not exceed the sum of ((twelve thousand dollars ($12,000.00))) fifteen thousand dollars ($15,000.00) per annum.

(1-1) Every judge of the Municipal Court of Baltimore City who is retired from active service or who is in office on June 30, 1970, and every appointed judge in office on June 30, 1970, if subsequently elected, who does not at his option elect to be paid a pension ((or salary)) under Plan A, and every judge who takes office after June 30, 1970, shall be placed under Plan B and shall be paid, after termination of his active service, if he is then at least sixty years of age or when he becomes sixty years of age, a pension ((or salary)) in an amount equal to ((sixty per centum (60%))) seventy-five per centum (75%) of his maximum salary or one sixteenth (1/16) of that amount per annum for each year or any part thereof of active service by appointment and election, if he has served less than sixteen years as a judge of the Municipal Court of Baltimore City.

(1-7) Any former judge who accepts any salaried public office or position, municipal, county, State or federal shall not be paid any pension ((or salary)) so long as he remains in any such office or position.

(1-9) The mayor and city council of Baltimore City are hereby expressly authorized to levy for such pensions ((or salaries,)) or their proportionate share thereof as the case may be, and pay such pensions ((or salaries)) to former judges of the Municipal Court of Baltimore City.

(3) The widow of every municipal judge who dies in active service shall be paid one half of the pension ((or salary)) the judge would have received if his service had been terminated by retirement and for this purpose only, the age of the judge is not to be considered; the widow of any judge eligible for retirement pension who dies after retiring shall be paid one half of the pension ((or salary)) to which her husband was entitled at the time of his death. In determining the amount which any widow is entitled to be paid after June 1, 1963, the pension of the deceased judge shall be calculated at the rates prescribed by sub-section (1) of

this subsection, as of that date, notwithstanding that such judge may have died prior thereto. In each instance the pension is to be paid to the widow until her remarriage or death. The provisions of this section shall not apply in the case of a widow who was married to the judge for a period less than three years and to a retired judge for a period less than three years before his retirement.

SEC. 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1972.

A BILL
ENTITLED

AN ACT to repeal and re-enact, with amendments, Sections 3(1) and 3(5) of Article 73B of the Annotated Code of Maryland (1970 Replacement Volume and 1971 Supplement), title "Pensions," subtitle "In General," amending the retirement law to prevent a salaried employee, Judge, Legislator or Executive Official from receiving pension benefits from a State-supported Retirement System while still a State employee: enabling a person with separate years of service in two State-supported pension systems, upon retirement, to receive the benefits to which he is entitled under both systems; and relating generally to the payment of pension benefits to certain members of the Employees' Retirement System.

****

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Sections 3(1) and 3(5) of Article 73B of the Annotated Code of Maryland (1970 Replacement Volume and 1971 Supplement), title "Pensions," subtitle "In General," be and it is hereby repealed and re-enacted, with amendments, to read as follows:

3.

(1) Any person who shall become an employee as herein defined after the date of establishment may become a member of the Retirement System at any time within the first two years of his employment, but if he has not previously joined must become a member at the end of that period as a condition of employment [[, and shall not be entitled to receive any pension or retirement allowance from any other pension or Retirement System if that pension or retirement allowance is supported wholly or in part by the State of Maryland, anything to the contrary notwithstanding, except benefits from Social Security]].

During any period a person is receiving compensation as either an employee or an elected or appointed official, whether or not he is a member of the Retirement System, he is not entitled to receive any pension or retirement allowance supported wholly or in part by the State of Maryland, except benefits from Social Security; but this sentence does not affect or change the provisions of Section 11(14) of this Article. The rate of contribution of the employee shall be determined by his age at the time he actually joins the system, and will not be reduced for reason of service prior to joining, provided, however, that any employee may purchase credit for service before joining by paying the contributions due plus interest. Such purchase may be made at any time prior to retirement.

(5) Notwithstanding anything to the contrary in this article, membership in the retirement system shall be optional with any class of officials elected or appointed; or with any employees of the Governor's office, or with any desk officer or employee of either house of the General Assembly who receives an annual salary as his compensation for such employment, who shall be deemed to be an appointed official within the application of this subsection. All officials elected or appointed on or after July 1, 1957, may become members of the system upon making application therefor at any time after their elections or appointment and before the expiration of their respective terms. All such officials shall be entitled to credit for previous service rendered by them to the State, or a participating municipal corporation, including service rendered prior to the establishment of the Employees' Retirement System. [[If any such official is entitled to a pension or retirement allowance under the provisions of any other law, and such pension or retirement allowance is supported wholly or in part by the State of Maryland, except benefits from social security, such official shall be deemed to have waived the

benefits thereof by accepting the payment of benefits under this article.]] Upon receiving a claim for such service credit from the official, the board of trustees of the retirement system shall verify the fact of such previous employment and the creditable service to which the member is entitled, compute the amount due from such political subdivision for which credit is claimed, and submit a statement to the participating municipal corporation for such amount, such computation to be based upon the compensation actually received by the official from the municipal corporation during the period for which service is to be credited. The participating municipal corporation is authorized and directed forthwith to pay the said amount to the retirement system or to place it in the next ensuing budget for prompt payment when that budget becomes effective. The board of trustees is authorized and directed to include any amount due from the State in the appropriation allowed by the next ensuing State budget.

Any such official who receives membership service credit for service rendered to the State or to a participating municipal corporation under the provisions of this subsection shall pay to the retirement system by single payment, within such period of time as may be determined by the board of trustees, the contributions, with interest, which he would have paid had he been a member of the retirement system but withdrew. Provided, however, that any such member may waive the payment of any or all such contributions, in which case upon retirement any ordinary disability retirement allowance or any allowance due to non-reappointment or non-reelection to any office payable to such official, shall be reduced by the actuarial equivalent of those contributions which he had not paid, with interest to date of retirement.

[[The total retirement allowance that would have been payable to the beneficiary had he not waived his contributions shall be used as the basis for the determination of any supplemental payment under the provisions of Section 14(7) of this article.]]

Provided further that any desk officer or employee of either house of the General Assembly, who was receiving an annual salary as compensation for such employment as of February 1, 1961, and who previously served as a desk officer or employee of either house of the General Assembly and received per diem compensation for such previous service, shall be entitled to prior service credit equal to four years for any four-year term of a General Assembly during which such previous service was rendered.

Notwithstanding any other provisions of this article, any member of the retirement system who had previously served as an elected or appointed official shall be entitled to receive credit for the period of such prior service upon making in a single payment, within such period of time as may be determined by the board of trustees, the contributions, with interest, which he would have paid on behalf of such service.

Any member of the State Retirement System who is elected or appointed to the State judiciary (as a member of the District Court, a circuit court, the Supreme Bench of Baltimore City, the Court of Special Appeals, or the Court of Appeals) shall have immediate vesting rights in the Employees' Retirement System. At the time of retirement as a Judge in one of the listed courts, the member is eligible to receive benefits from both the Retirement System and the Judges' Pension System. Upon retirement, no salaried State employee, Judge, Legislator, or Executive official may receive benefits under more than one pension system for the same period of service.

SEC. 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1972.

A BILL
ENTITLED

AN ACT to repeal and re-enact, with amendments, Section 1(3) of Article 73B of the Annotated Code of Maryland (1971 Supplement), title "Pensions," subtitle "In General," amending the Employees' Retirement System Law to clarify the exclusion of membership in the Retirement System as to Judges of Circuit Courts, Supreme Bench of Baltimore City, Court of Appeals of Maryland, Court of Special Appeals, and District Courts.

* * * *

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section 1(3) of Article 73B of the Annotated Code of Maryland (1971 Supplement), title "Pensions," subtitle "In General," be and it is hereby repealed and re-enacted, with amendments, to read as follows:

1.

(3) "Employee" shall mean any classified or unclassified officer or employee of the State for whom compensation is provided for by State appropriation, or whose compensation is paid from State funds, including all employees of the State Roads Commission, whether classified or unclassified and whether paid on an annual, daily or hourly basis, and shall expressly include those engaged in work on the maintenance of county roads under the supervision of the State Roads Commission. Provided, however, that all unclassified persons working for the State Roads Commission or on county roads under the supervision and control of the State Roads Commission on an hourly basis who have not been regularly employed in such work for a period of one year, shall not be eligible for membership until they have been so regularly employed for a period of one year. The term "employee" shall include any appointed or elected employee of the State, and any clerk of any court and register of wills, and shall include the Sheriff of Baltimore City and the employees of his office. It shall exclude any person who is a member of or eligible to membership

in the Teachers' Retirement System of the State of Maryland or of the State Police Pension Fund or ((the Judges Retirement System)) <u>any Judge of the Circuit Courts, Supreme Bench of Baltimore City, Court of Appeals of Maryland, Court of Special Appeals, and District Courts,</u> and any class of employees whose compensation is only partly paid by the State. The term "employee" also shall include any person who was regularly employed by Miners' Hospital in Frostburg and who was a member of the retirement system at the time it was transferred from State ownership, and who continues in employment at the hospital after the transfer, so long as all contributions to the retirement system which are required from both employees and employer are made when and as payable. From and after the time the hospital is transferred from State ownership, the State no longer has the responsibility of paying the employer's share of the contributions. The term "employee" also shall, on and after June 1, 1961, include any person who is regularly employed by the State Military Department as a National Guard technician, although paid by or from federal appropriated funds, provided the employer's contribution to the retirement system, when and as payable, shall be made by the United States, or otherwise, and provided the State shall not be responsible for payment of such employer's contribution. The term "employee" also includes all the several classes of assessors, including supervisors and assistants, for whom the State pays a portion of annual salary under the provisions of the subtitle "State Department of Assessments and Taxation" in Article 81 of this Code; but the term "employee" does not include any such assessor who is a member of a retirement or pension system operated by a political subdivision of this State. In all cases of doubt, the board of trustees, provided for in Section 11 of this article, shall determine whether any person is an employee as defined in this article, irrespective of the method of payment.

SEC. 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1972.

A BILL
ENTITLED

AN ACT to repeal and re-enact, with amendments, Section 11(12) of Article 73B of the Annotated Code of Maryland (1970 Replacement Volume), title "Pensions," subtitle "In General," amending the Retirement Law to prohibit special benefits to certain officials and employees after June 30, 1972.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section 11(12) of Article 73B of the Annotated Code of Maryland (1970 Replacement Volume), title "Pensions," subtitle "In General," be and it is hereby repealed and re-enacted, with amendments, to read as follows:

11.

(12) ELECTION TO HAVE ACCUMULATED CONTRIBUTIONS PAID IN ANNUITY. -- Notwithstanding anything to the contrary in this article, if any person, while being a member of the State Employees' Retirement System, has been or may hereafter be appointed or elected to any State office, or promoted to any position within the State government which is not a part of the classified service and which is not covered by the provisions of Article 64A (Merit System), for a fixed or indefinite term and not be continued in office, reappointed or reelected, after the completion of sixteen years of creditable service, regardless of age, such member may elect, in lieu of the withdrawal of his accumulated contributions, to have such contributions paid to him in an annuity of equivalent actuarial value, in which event he shall also be paid a pension equal to the ordinary disability pension that would have been payable at such time had he been retired on an ordinary disability retirement; and if any person, while being a member of said retirement system, shall vacate his position by reason of the termination of his tenure by act of the General Assembly after said person has twenty years of creditable service, regardless of age, he may elect to receive the allowance for service retirement in lieu of the withdrawal of his accumulated contributions. The board of trustees shall include any additional amount required to pay such pension in the amount certified to the Governor as required by § 14 (6) of this article. Should such beneficiary be appointed or elected to any office, the salary or compensation of which is paid by the State, his retirement allowance shall cease, and he may again become a member of the retirement system and shall contribute thereafter at the same rate he paid prior to his retirement. Any prior service certificate on the basis of which his service was computed at the time of his retirement shall be restored to full force and effect, and in addition upon his subsequent retirement he shall be credited with all his service as a member, provided his pension upon such subsequent retirement shall not exceed the pension he was receiving prior to restoration plus such pension as may have accrued on account of his membership service

after restoration. The payment of all such pensions and the continued payment of such pensions shall be contingent on the payment annually by the State of Maryland of the additional amount so required to meet the current disbursements of such pensions.

Beginning July 1, 1972, no elected or appointed official or merit system employee appointed to an unclassified position in the State shall be permitted to retire under the provisions of this subsection, except, those former elected or appointed officials who prior to July 1, 1972 were continuing their membership under the provisions of Sections 4 and 5 of this Article.

SEC. 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1972.

A BILL

ENTITLED

AN ACT to repeal and re-enact, with amendments, Section 192(3a) of Article 77 of the Annotated Code of Maryland (1971 Supplement), title "Public Education," subtitle "Chapter 17. Teachers' Retirement System," amending the laws concerning certain persons who are or were members or beneficiaries of the Employees' Retirement System of the City of Baltimore, in order to provide for the rate of contribution in certain circumstances, and clarifying the arrangement of several paragraphs in this section.

* * * * *

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section 192(3a) of Article 77 of the Annotated Code of Maryland (1971 Supplement), title "Public Education," subtitle "Chapter 17. Teachers' Retirement System," is hereby repealed and re-enacted, with amendments, to read as follows:

192.

3a (a) Anything to the contrary notwithstanding, effective July 1, 1971, all members and/or beneficiaries of the Employees' Retirement System of the City of Baltimore who in the absence of the City System would have qualified for membership or benefits hereunder shall become members and/or beneficiaries of this State System.

(b) Commencing July 1, 1971, the Board of Trustees of this Retirement System and the Board of Trustees of the Employees' Retirement System of the City of Baltimore shall proceed to implement as soon as practicable

thereafter, and before July 1, 1972, the administrative processes necessary for orderly transition of the membership arrangements provided under this subsection. Within these time limits the Board of Trustees shall arrange for the commencement of the payment of retirement allowances and supplementary payments to transferred beneficiaries in receipt of benefits in such amounts as are payable from the City System, consistent with the provisions of this subsection and Article. Provided, however, that the System from which each member or beneficiary is transferred has the absolute obligation for and shall pay any amount to which the member or beneficiary would have been entitled under the provisions of the local system as they exist as of July 1, 1971, to the extent, if any, that amount exceeds what is provided under this Article.

(c) The rate of contribution payable under this Retirement System by each transferee who has not retired shall be determined on the basis of his age and time of entry into the City System.

(d) The assets transferable from the City System to the State System shall be determined on a basis satisfactory to both Boards. The transfer shall include the actuarial value of the unexpended balance of the State's contributions to the City System with interest to the date of transfer, the accumulated contributions of active members, and the actuarial value of the annuities payable to beneficiaries as of the date of transfer. The assets shall be transferred on or before June 30, 1972.

(e) In every case the effective date of the transfer and any adjustments related thereto shall be as of June 30, 1971.

(f) Any member of the Teachers' Retirement System of the State of Maryland who transferred his credit from the Employees' Retirement Sys-

tem of the City of Baltimore prior to July 1, 1971, from and after July 1, 1972, shall pay the rate of contribution for his attained age at the time of his enrollment in the City System which was in effect at the time of his enrollment in the State Teachers' System.

SEC. 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1972.

Underlines denote new material

A BILL
ENTITLED

AN ACT to repeal and re-enact, with amendments, Section 14(1)(b) of Article 73B of the Annotated Code of Maryland (1970 Replacement Volume), title "Pensions," subtitle "In General," to remove a limitation on the time members of the State Employees' Retirement System may elect to change the rate of their contribution into the system and make retroactive contributions since 1947 in order to base such contributions on retirement at age 60.

* * * *

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section 14(1)(b) of Article 73B of the Annotated Code of Maryland (1970 Replacement Volume), title "Pensions," subtitle "In General," be and it is hereby repealed and re-enacted, with amendments, to read as follows:

14.

(1)(b) The proportion so computed for a member of the age of 59 shall be applied to a member who attains a greater age before he becomes a member of the retirement system. The board of trustees shall certify to the head of each department, and the head of each department shall cause to be deducted from the salary of each member on each and every payroll of such department for each payroll period, the proportion of earnable compensation of each member so computed, except that the percentage rate of contribution of any member who was contributing prior to July 1, 1947, on the basis of retirement at age 65 shall not be changed unless ((, prior to March 31, 1964,)) the member elects to contribute on the basis of retirement at age 60 and makes retroactive contributions with accrued interest accounting from July 1, 1947, to and including the date he elects to contribute on the basis of retirement at age 60. But the head of any department shall not have any deduction made for annuity purposes from the compensation of a member who elects not to

contribute if he has attained the age of 60 and has completed thirty years of service. In determining the amount earnable by a member in a payroll period, the board of trustees may consider the rate of annual compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deduction from compensation for any period less than a full payroll period if an employee was not a member on the first day of the payroll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as shall not exceed one-tenth of one per centum of the annual compensation upon the basis of which such deduction is to be made.

SEC. 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1972.

JOINT RESOLUTION

Joint Resolution requesting the Boards of Trustees of the three State Retirement Systems to increase the book value of all common stocks held in their portfolios at the rate of two per cent (2%) per annum at the end of each fiscal year, or on any other date decided upon by the three Boards of Trustees.

WHEREAS, The Boards of Trustees of the various State Retirement Systems, under present policies, account for the value of shares of stock held on the basis of book value (purchase price); and

WHEREAS, The common stock portion of the total investment portfolios has been considerably increased in recent years to the point where it now represents nearly twenty-two per cent of total investments, or $168,774,000 of a total of $769,782,000 for all three systems; and

WHEREAS, Presently, the records of the systems do not reflect the value of unrealized capital gains for those securities, since appreciation is taken into account only when the stocks are sold; and

WHEREAS, The market value of stock holdings, as of July 1, 1971, was $208,399,000 as opposed to a recorded book value of $168,774,000, and the total value of the portfolios was thus understated by approximately $39,625,000; and

WHEREAS, The Retirement Subcommittee of the General Assembly's Joint Budget and Audit Committee has been advised by representatives of the actuarial, banking, and insurance industries that it would be sound policy to write-up at least a portion of unrealized gain; and

WHEREAS, The Subcommittee, after studying a variety of methods of accomplishing this purpose and being advised that the actuary for the systems approved the method of increasing the total book value each year by a relatively low

fixed percentage as being both sound and conservative; and

WHEREAS, The Retirement Subcommittee has recommended that a policy of increasing the book value of common stocks annually at the rate of 2% be adopted; now, therefore, be it

Resolved by the General Assembly of Maryland, That the Board of Trustees of the Teachers' Retirement System of the State of Maryland, the Board of Trustees of the Employees' Retirement System of the State of Maryland, and the Board of Trustees of the State Police Retirement System of the State of Maryland are requested to increase the book value of all common stocks held by the three systems at the rate of 2% per annum at the end of each fiscal year or on any other date decided upon by the three Boards of Trustees; and be it further

Resolved, That copies of this Resolution be sent to the Secretary of the three Boards of Trustees of the Retirement Systems.

JOINT RESOLUTION

Joint Resolution requesting the Boards of Trustees of the three State Retirement Systems to have their consulting actuary update his 1964 report of his survey of benefits of the Maryland systems compared with the provisions of systems in other states.

WHEREAS, The Board of Trustees of the Teachers' Retirement System of the State of Maryland, the Board of Trustees of the Employees' Retirement System of the State of Maryland, and the Board of Trustees of the State Police Retirement System of the State of Maryland in 1964 requested the consulting actuary for the systems to make a comprehensive survey of the benefits provided in comparison with the provisions of systems in other states; and

WHEREAS, Under date of April 24, 1964, the actuary reported his findings to the Boards; and

WHEREAS, Since 1964, the General Assembly has made numerous changes in the statutes under which the retirement systems operate, and benefits have been considerably improved; and

WHEREAS, The survey of 1964 has not been updated since that year; now, therefore, be it

Resolved by the General Assembly of Maryland, That the Board of Trustees of the Teachers' Retirement System of the State of Maryland, the Board of Trustees of the Employees' Retirement System of the State of Maryland, and the Board of Trustees of the State Police Retirement System of the State of Maryland are requested to have their consulting actuary review again the provisions for the three systems and to bring the 1964 reports up to date; and be it further

Resolved, That copies of this Resolution be forwarded to the Secretary of the three Boards of Trustees of the Retirement Systems.