

**BOARD OF TRUSTEES FOR THE
MARYLAND STATE RETIREMENT AND PENSION SYSTEM
MINUTES OF MEETING**

April 16, 2019

The Board of Trustees for the Maryland State Retirement and Pension System met in the Board Room of the SunTrust Building, 120 East Baltimore Street, 16th Floor Board Room, Baltimore, Maryland beginning at 9:30- a.m.

The Trustees present included:

Peter Franchot, Vice Chairman (via phone)
Eric Brotman
Jamaal Craddock
David Hamilton
Linda Herman (via phone)

Sheila Hill
F. Patrick Hughes (presiding)
Charles Johnson (via phone)
Theresa Lochte (via phone)
Richard Norman
Douglas Prouty (via phone)

Agency Staff members attending included: R. Dean Kenderdine, Executive Director/Board Secretary

Melody Countess
Anne Gawthrop
Michael Golden
Ira Greenstein

Angie Jenkins
Andrew Palmer
Harvey Raitzyk

Ken Reott
David Rongione
Janet Sirkis

Assistant Attorneys General present included: Rachel Cohen, Jody Shaw, Emily Spiering and Kathleen Wherthey

Other attendees included: D/Sgt. Warren Smith and Tom Brennan (via phone)

Administrative
Appeal of Capt.
Timothy McDonald

Trustee Richard Norman, for the record, advised the Committee that as the representative for the members of the State Police Retirement System, he would be recusing himself from the appeal.

Rebecca Smith, Esquire and Capt. Timothy McDonald appeared before the Board of Trustees, and requested that the Board reject the Administrative Committee's recommendation to adopt the Summary Decision of the Executive Director and grant Capt. McDonald's request to revoke his election to transfer service credit from one retirement system into the State Police Retirement System.

Ms. Smith argued that in September 1994, when Capt. McDonald submitted his completed Election to Transfer Service form, he was unaware that the transfer would be irrevocable. Ms. Smith argued that the Agency's form MSRA-37, Election to Transfer Service did not, at that time, specify that the election to transfer service is an irrevocable election. Ms. Smith also argued that the Agency's benefits handbook nor Title 37 of State Personnel and Pensions Art. ("SPP"), indicate that an election to transfer service is irrevocable. In addition, Ms. Smith indicated that Capt. McDonald did not complete form MSRA-26 "Request to Purchase Previous Service", which she argues Capt. McDonald was required to do in order for his service time to be transferred.

Captain McDonald also addressed the Board indicating that at no time, when he spoke with Agency staff, did they indicate that the election to transfer the time was irrevocable. Capt. McDonald also indicated that he is being penalized for not purchasing the service that had been transferred.

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Ms. Emily Spiering, Assistant Attorney General, addressed the Committee on behalf of the Agency.

Ms. Spiering indicated that the Agency received a completed form MSRA-37 Election to Transfer Service from Capt. McDonald on or about September 2, 1994, and a second completed form on or about November 15, 1994, transferring sixty-nine (69) months of service to the State Police Retirement System.

Ms. Spiering argued that SPP § 37-203(c), which governs Capt. McDonald's transfer of service credit from the non-contributory Employees' Pension System to the State Police Retirement System, provides that "an individual who transfers service credit under this title *shall* receive service credit in the new system in the amount of service credit accumulated under the previous system." Ms. Spiering also argued that numerous provisions in SPP Title 24, governing the State Police Retirement System reflect the legislature's intent that the transferred service credit is irrevocable and must be considered for DROP eligibility purposes.

Ms. Spiering argued that applying a "plain-meaning" review of the governing statutes reveals that the irrevocability of an election to transfer service is inherent in the law. The Agency properly transferred Capt. McDonald's prior service credit consistent with his election in 1994, and that transfer is not revocable or reversible.

Ms. Spiering also indicated that the Agency, when it received Capt. McDonald's complete Election to Transfer Service Credit form, automatically transferred the service credit from his previous employer to his State Police Retirement account and that it was not a requirement that Capt. McDonald complete a Purchase of Service Credit form for that transfer to take effect.

Mr. Hamilton asked Ms. Spiering if the Agency changing the Election to Transfer Service Credit form in 2014, to now specify that the election is irrevocable, has any significance.

Ms. Spiering responded that even though the Agency revised the form to make it clearer to its members that the election to transfer service is irrevocable, the law has not changed.

Mr. Brotman asked if there was any precedent, and how frequently cases like this one have occurred.

Mr. Kenderdine said that there have not been past cases with Capt. McDonald's specific circumstances that he could recall although there have been a relatively small number of appeals over the years where similar attempts to unwind service credit has been denied, for example, with military service credit.

Ms. Spiering added that the law has never allowed the election to be revocable and the Agency has been consistent with the law.

Mr. Hamilton asked what information, if any, would the Retirement Coordinator provide.

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Ms. Spiering responded that the Retirement Coordinator is an employee of the State Police and not of the State Retirement Agency, but that the Agency is not estopped by any misinformation provided to an employee and is required to administer the law as written.

Mr. Brotman asked, regarding the recommendation to combine service found in the Agency's letter on page 18 of the record, if the Agency is still issuing those letters. He expressed concern that the letter reads such that the Agency is making a recommendation to the member which might be considered financial advice.

Ms. Spiering responded that she could not confirm if the form letter is still being issued by the Agency, but that an Agency recommendation, such as found in the letter, is not a requirement.

The Committee discussed and voted on this appeal in closed session.

Consent Agenda On a motion made by Ms. Hill and seconded by Mr. Norman, the Board approved the consent agenda, which included:

- March 19, 2019 Open Meeting Board Minutes
- April 2, 2019 Administrative Committee Meeting Summary

2019 Legislative Bill Review Ms. Anne Gawthrop provided the Board of Trustees a final report on the 2019 pension related legislation. *See Attachment A.*

Ms. Gawthrop reported that all Board requested legislation passed.

Mr. Kenderdine acknowledged Ms. Gawthrop's representation of the Board and Agency, especially at the eleventh hour of sine die regarding a bill that made significant changes to retiree health benefits, and which, in its original form, would have had very burdensome administrative consequences for the Agency.

CIO Report Mr. Palmer provided the Board the State Street preliminary report as of March 31, 2019, which showed the total fund value at approximately \$52.7 Billion. Mr. Palmer reported that, through March, the fund increased 1.24% for the month and 3.40% fiscal-year-to-date.

Mr. Palmer reported that, for the quarter, the fund's return was strong on an absolute basis, but it was challenged on a relative basis. For the month, the public markets drove the underperformance. Stocks lagged, largely because of poor performance of small cap stocks. In the sharp rally in bonds was challenging for the System's rate sensitive portfolio to fully capture. Both the underperformance in small capitalization stocks and the drop in yields were extreme moves for a month and are expected to smooth out over longer time frames. For the quarter, Mr. Palmer indicated that the fund was behind by approximately 80 basis points. The primary drivers for the quarter were more structural, primarily some of the asset classes that have public market benchmarks and a mix of public and private assets. When public markets move quickly, the private assets don't keep up. Mr. Palmer noted that the quarter represented a reversal of the fourth quarter where the private assets did not fall as much as the public markets.

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On a motion made by Ms. Hill and seconded by Mr. Norman, the Board voted to meet in a Closed Session, beginning at 10:25 a.m., in the Board Room of the SunTrust Building at 120 East Baltimore Street, 16th Floor, for the purpose of:

1. reviewing the closed session Board minutes, pursuant to General Provisions Art., § 3-103(a)(1)(i), the exercise of an administrative function;
2. reviewing the Medical Board reports regarding individual participants' claims for disability retirement benefits, pursuant to General Provisions Art., § 3-305(b)(13), to comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter namely, General Provisions Art., § 4-312 regarding the prohibition on disclosing retirement records, and General Provisions Art., § 4-329 regarding the prohibition on disclosing medical and psychological information;
3. discussing the administrative appeal of Timothy McDonald, pursuant to General Provisions Art., § 3-103(a)(1)(iii), a quasi-judicial function; and
4. discussing the results of the Executive Director's Evaluation, pursuant to General Provisions Art., § 3-305(b)(1)(i), to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of an appointee, employee, or official over whom it has jurisdiction.

CLOSED SESSION

The Trustees present included:

Peter Franchot, Vice Chairman (via phone)
Eric Brotman
Jamaal Craddock
David Hamilton
Linda Herman (via phone)

Sheila Hill
F. Patrick Hughes (presiding)
Charles Johnson (via phone)
Theresa Lochte (via phone)
Richard Norman
Douglas Prouty (via phone)

Agency Staff members attending included: R. Dean Kenderdine, Executive Director/Board Secretary

Melody Countess
Anne Gawthrop
Michael Golden
Ira Greenstein

Angie Jenkins
Andrew Palmer
Harvey Raitzyk

Ken Reott
David Rongione
Janet Sirkis

Assistant Attorneys General present included: Rachel Cohen, Jody Shaw, and Kathleen Wherthey

Other attendees included: Tom Brennan (via phone)

On a motion made by Mr. Brotman and seconded by Ms. Hill, the Board returned to open session at 10:49 a.m. in the Board Room of the SunTrust Building at 120 East Baltimore Street, 16th Floor.

**BOARD OF TRUSTEES FOR THE
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OPEN SESSION

The Trustees present included:

Peter Franchot, Vice Chairman (via phone)
Eric Brotman
Jamaal Craddock
David Hamilton
Linda Herman (via phone)

Sheila Hill
F. Patrick Hughes (presiding)
Charles Johnson (via phone)
Theresa Lochte (via phone)
Richard Norman
Douglas Prouty (via phone)

Other attendees included: Tom Brennan (via phone)

During closed session, the Board of Trustees discussed and took action on the following matters:

Closed Session Minutes	The Board reviewed and approved the March 19, 2019 closed session minutes.
Medical Board Reports	The Board reviewed and adopted the medical board reports from March 20, March 28, April 3 and April 11, 2019. One case on the March 28, 2019 report was pulled from consideration at the request of staff and will brought back to the Board at a later date.
Administrative Appeal of Timothy McDonald	The Board reviewed and adopted the Committee's recommendation for summary decision and denied the appeal of Timothy McDonald.
Adjournment	There being no further business before the Board, on a motion made by Mr. Brotman and seconded by Ms. Hill, the meeting adjourned at 10:50 a.m.

Respectfully submitted,



R. Dean Kenderdine
Secretary to the Board

**BOARD OF TRUSTEES
MARYLAND STATE RETIREMENT AND PENSION SYSTEM**

**ADMINISTRATIVE COMMITTEE MEETING SUMMARY
APRIL 2, 2019**

Evaluation of the
Executive
Director

THIS MATTER WILL BE DISCUSSED OUTSIDE THE CONSENT AGENDA IN CLOSED SESSION.

Theresa Lochte, Acting Chairman of the Administrative Committee presented the results of the performance evaluation of the Executive Director.

Ms. Lochte will present, in Closed Session, those results to the Board of Trustees.

Administrative
Appeal of
Timothy
McDonald

THIS MATTER WILL BE DISCUSSED OUTSIDE OF THE CONSENT AGENDA IN OPEN SESSION AND VOTED ON IN CLOSED SESSION.

Capt. Timothy McDonald filed a Petition for Hearing requesting that the Board of Trustees reject the recommendation for Summary Decision of the Executive Director and grant his request to revoke his election to transfer service credit from one retirement system into the State Police Retirement System.

Trustee Richard Norman, for the record, advised the Committee that as the representative for the members of the State Police Retirement System, he would be recusing himself from the appeal.

The Acting Chairman of the Administrative Committee will present, in closed session, the Committee's recommendation for the Board's approval.

Request for a
Waiver of the
One Year
Requirement to
Request a
Service Credit
Transfer

Mr. Ken Reott presented background information regarding the request of Harry Hopkins, III, for a waiver of the one-year requirement to request a service credit transfer and the Executive Director's recommendation that the Committee uphold his decision in this regard.

Mr. Reott reported that Mr. Hopkins' request was denied by the Executive Director because it was not received within the four (4) year deadline for a member to request a waiver.

Mr. Reott further reported that staff has contacted Mr. Hopkins and Mr. Hopkins indicated that he understood the law and has decided to submit an application to purchase the four (4) months of service.

On a motion made by Mr. Nicole and seconded by Mr. Norman, the Administrative Committee adopted the Executive Director's recommendation to deny Mr. Hopkins' request for a waiver to transfer service credit.

Member
Services Update

Mr. Raitzyk reported that the Member Services unit was unable to meet its performance goals for both the call abandonment rate and for the average call wait time for February 2019. The unit's call abandonment rate was 25.27% and the average speed of answer was 431 seconds. Mr. Raitzyk indicated that calls relating to refund questions, tax questions and 1099Rs were the main contributors to the increased call volume. He indicated that over 900 calls had been received the previous day alone.

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***ADMINISTRATIVE COMMITTEE MEETING SUMMARY
APRIL 2, 2019***

Mr. Raitzyk reported on the actions staff has taken to help change the trend of missed performance goals. Mr. Raitzyk indicated that while during the last reporting period, there were vacancies in the member services unit, three (3) new counselors have been hired and April is the first month in which those new employees will begin answering phone calls. Mr. Raitzyk also indicated the Agency is working closely with the staff at the Department of Budget and Management (“DBM”) to hire employees to fill the “double-pinned” positions discussed at the Committee’s previous meeting.

In addition, Mr. Raitzyk indicated that the Agency’s phone system has been changed to increase the number of calls allowed in the queue from ten (10) to twenty (20) twenty. The phone system also has a call-back feature, in which, if the caller leaves a phone number on an available recording feature, a staff member will return the call. Mr. Raitzyk also indicated that once the Member Portal goes “live” in September, the number of calls should decrease as a lot of the calls received are requests for income verification letters and other documents or information that will be accessible on the portal.

Mr. Nicole commented that that the Agency may also receive a spike in the volume of calls due to the current Medicare Part D legislation, depending on the outcome of the bill and implementation of those requirements

Mr. Raitzyk responded that Agency staff is working with DBM staff to ensure that both agencies are prepared for any outcome of that legislation.

Mr. Kenderdine commented that the possibility of the deadline being moved from May to December, for members to have to decide about retirement would be helpful to both agencies, and be much fairer to the members.

Ms. Hill asked how the Agency advertises vacant positions, and asked if vacant positions are put on the website or does staff attend job fairs like the one that Congressman Cummings conducts.

Mr. Raitzyk responded that he would need to confirm with DBM staff on what the process is, but that he knows that there are lists of eligible candidates that staff has been working from to schedule interviews and hire from.

Treasurer Kopp requested that Mr. Raitzyk look into this and report back to the Administrative Committee on the recruitment/hiring process, specifically concerning the congressman’s event.

Mr. Norman asked if the number of call-backs have increased for the member services unit.

Mr. Raitzyk responded that staff has called back over approximately 2,000 people for each of the months of January and February 2019.

Mr. Nicole asked how call-backs get reported on statistics.

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***ADMINISTRATIVE COMMITTEE MEETING SUMMARY
APRIL 2, 2019***

Mr. Raitzyk responded that it depends on how long each caller stays on the line during the recording. If a caller hangs up during the recording, that would inflate the call abandonment rate.

Treasurer Kopp asked if there are questions being asked are generic enough that staff could prepare a FAQ sheet to post on the website.

Mr. Raitzyk responded that the vast majority of the calls are so member-specific that they can't be addressed with a FAQ page on the website.

Ms. Lochte asked how many counselors were answering the 900 calls that came into the unit the day before.

Mr. Raitzyk responded that typically eight to ten counselors are answering calls on a daily basis.

2019 Legislative
Review

THIS MATTER WILL BE DISCUSSED OUTSIDE OF THE CONSENT AGENDA
IN OPEN SESSION.

Ms. Anne Gawthrop provided the Committee an updated overview of the 2019 pension related legislation.

**Final Legislative Update
2019 Session
April 16, 2019**

PASSED LEGISLATION

BOARD REQUESTED LEGISLATION

House Bill 62/Senate Bill 119 (Barnes/Griffith)

Employees' and Teachers' Pension Systems - Benefits

As amended, this Board requested legislation clarifies provisions regarding limitations on members of the EPS purchase of eligibility service credit for past employment. Specifically, it corrects an inadvertent erroneous reference within the statute that is counter to legislative intent. Additionally, amendments were added to exempt certain retirees who have reached normal service retirement age from a 45-day break in service when returning to work as a reemployed retiree.

House Bill 63/Senate Bill 306 (Barnes/Griffith)

State Retirement and Pension System - Maryland Pension Administration System - Member Contributions

This Board requested legislation requires participating employers in the System to submit member contributions and payroll data supporting the contributions at the same time.

House Bill 64/Senate Bill 120 (Barnes/Griffith)

State Retirement and Pension System - Designation of Beneficiary

This Board requested legislation authorizes a member of the System to designate a beneficiary either by submitting a notarized written designation to the Agency or electronically through Agency's secure access portal.

House Bill 265/Senate Bill 153 (Barnes/Griffith)

Alternate Contributory Pension Selection - Return to Employment

This Board requested legislation allows individuals who vest in the ACPS on or after July 1, 2011, to return to the ACPS if they terminate employment with a participating employer of the System and later return to work for a participating employer of the System, regardless of the length of their break in service. This bill codifies the existing practice of the Agency.

House Bill 266/Senate Bill 186 (Barnes/Griffith)

State Retirement and Pension System - Designated Beneficiary Change – Rescission

This Board requested legislation allows retirees of the System to rescind a request to change their designated beneficiary before the second monthly allowance is paid (instead of before the first allowance is paid). If a retiree rescinds the change of beneficiary under the bill, the benefit payment amount for the next payment is restored to the amount paid before the change in beneficiary.

House Bill 267/Senate Bill 179 (Barnes/Griffith)

Optional Retirement Program - Regulations

This Board requested legislation requires the Board to adopt and maintain a written plan document for the ORP, and it authorizes Board to adopt regulations it deems necessary to carry out its ORP responsibilities.

House Bill 860/Senate Bill 828 (Barnes/Griffith)

Employees', Teachers', and Correctional Officers' Systems - Active Members - Death Benefits

As amended, this Board requested legislation applies to an active member of the employees', teachers', or correctional officers' system who dies after reaching age 55 with 15 years of service or after accruing 25 years of service regardless of age. If, at the death of an active member described above, the member is survived by children under age 26 or disabled children at any age, but not a surviving spouse, the children shall receive 50% of what the member's basic allowance would have been, had the member been retired. The bill requires the Board to make this payment and removes existing language that currently allows the surviving spouse to elect to receive this benefit.

House Bill 861/Senate Bill 829 (Barnes/Griffith)

State Retirement and Pension System - Service Credit for Unused Sick Leave

This Board requested legislation preserves the unused sick leave for individuals who have been required to move from the ERS or EPS into the CORS through legislation over the past three years.

House Bill 862/Senate Bill 827 (Barnes/Griffith)

State Police Retirement System - Employment of Retirees - Clarifications

This Board requested legislation makes clarifying changes to the reemployment provisions in the State Police Retirement System.

House Bill 863/Senate Bill 486 (Barnes/Griffith)

State Retirement and Pension System - Workers' Compensation Offset

This Board requested legislation clarifies that, in the event that a retiree's ordinary disability benefit is converted to an accidental or special disability benefit, any offsets taken to a retiree's line of duty disability benefit due to a workers' compensation benefit awarded for the same injury shall commence on the date the disability benefit is converted.

NON-BOARD REQUESTED LEGISLATION

House Bill 821 (Barve)

State Retirement and Pension System - Investment Management Fees

As amended, this proposed legislation requires the Board to include in its annual reporting of investment management fees to the General Assembly the amount of carried interest paid to the System's investment managers each year.

House Bill 1056/Senate Bill 636 (Queen Anne's County Delegation/Hershey)

Correctional Officers' Retirement System - Queen Anne's County

This proposed legislation provides that if Queen Anne's County joins the CORS, membership in the CORS will be mandatory for individuals who are detention center officers for Queen Anne's County before and through the effective date of Queen Anne's County's participation in the CORS. The bill further provides that these employees shall receive all creditable and eligibility service earned prior to joining the CORS.

House Bill 1379 (Barnes)

Optional Retirement Program - Membership

This proposed legislation prohibits certain members of the EPS who satisfy certain requirements from participating in the ORP on or after February 1, 2015. Staff is aware of one individual who would be impacted by this legislation.

Senate Bill 913 (Beidle)

State Retirement and Pension System - Administration - Retiree Information for Direct Mailings

This proposed legislation provides that retiree organizations may make up to two requests, annually, for assistance in performing direct mailings to retirees of the several systems who are members of the retiree organization. These two requests may be made at any time throughout the year. Current law limits the two requests to April and October each year.

UNFAVORABLE OR NO ACTION

House Bill 75 (Grammer)

State Retirement and Pension System – Investment Management Fee Reporting

This proposed legislation requires the Board of Trustees to include in its annual reporting of investment management fees to the General Assembly (1) fixed fees; (2) performance fees; (3) fees that are formally invoiced; and (4) fees that are not formally invoiced.

House Bill 29 (McCay)

Correctional Officers' Retirement System - Membership – Chaplains

This legislation would require employees of the Department of Public Safety and Correctional Services who are employed as prison chaplains in State correctional facilities, to become members of the CORS on July 1, 2019. All new employees in these positions would be members of the CORS.

House Bill 283/Senate Bill 273 (Allegany County Delegation/Edwards)

Correctional Officers' Retirement System

This legislation would require employees of the Department of Public Safety and Correctional Services who are employed as office support staff, to become members of the CORS on July 1, 2019. All new employees in these positions would be members of the CORS.

House Bill 1383 (Jackson)

Correctional Officers' Retirement System - Membership - Maintenance Employees

This legislation would require employees of the Department of Public Safety and Correctional Services who are employed as prison maintenance officers in State correctional facilities, to become members of the CORS on July 1, 2019. All new employees in these positions would be members of the CORS.

Senate Bill 454 (Guzzone)

Correctional Officers' Retirement System - Retirement - Eligibility and Allowance

This proposed legislation applies to parole and probation officers who were required to move into the CORS through legislation enacted in 2017. This legislation would provide that any parole and probation officer who is not retired from the CORS and did not transfer their EPS or ERS service into the CORS in 2017, would be immediately vested in the CORS if their combined EPS/ERS and CORS service equaled at least 20 years of service. Additionally, the bill provides that the deficiency on any account for a parole and probation officer who did transfer service credit into the CORS, shall be removed from the member's account.

House Bill 430 (Cox)

State Retirement and Pension System – Disability Retirement - Alterations

This proposed legislation would allow any member of the several systems who is currently receiving a military retirement to claim up to five years of military service in the plan in which they are a member. Currently, members are prohibited from making a claim for military service if they are receiving a benefit from any other pension system for that same service.

House Bill 1133/Senate Bill 636 (Young/Peters)

Military Service Credit – Eligibility

This proposed legislation would allow any member of the CORS, LEOPS, or SPRS who is currently receiving a military retirement to claim up to five years of military service in the plan in which they are a member. Currently, members are prohibited from making a claim for military service if they are receiving a benefit from any other pension system for that same service.

House Bill 94 (Rosenberg)

State Retirement and Pension System – Accidental Disability Application

This proposed legislation would allow one retiree who is currently receiving a service retirement allowance from the EPS to allow the member to apply for an accidental disability retirement. The bill provides that if the member is awarded an accidental disability it will begin on the first day of the month following the date the application was submitted.

House Bill 1299 (Jackson)

Law Enforcement Officers' Pension System - Benefits

This proposed legislation would increase the benefit multiplier in the LEOPS from 2% to 2.5%.

Senate Bill 735 (Serafini)

State Employees and Teachers – Cash Balance Plan

This proposed legislation would provide individuals employed by a participating employer of the EPS or TPS on or after July 1, 2020, with an election to join either the EPS/TPS or a cash balance. Individuals employed by a participating governmental unit in the System (regardless of start date) may not elect to participate in the cash balance plan. New employees of a participating employer hired on or after July 1, 2020 who would be eligible to elect to join the ORP, would also be eligible to elect to participate in the cash balance plan.

The Board is responsible for administering the plan.

Under the provisions of this bill, the employee contribution rate and employer contribution rate are 5%, each. Normal service retirement is age 62 with 10 years of service. Members of the cash balance plan will receive 5% compounded annually on their contributions (employee and employer). At retirement, a member may receive a lump sum benefit or an annuity with no survivor benefit, a 100% joint and survivor benefit, or a 50% joint and survivor benefit.

Local employers (school systems, libraries, and community colleges) shall pay 80% of the employer cost for their employees, while the State pays the remaining 20%.