

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2015, Legislative Day No. 21

Bill No. 87-15

Mrs. Cathy Bevins, Chair
By Request of County Executive

By the County Council, December 21, 2015

A BILL
ENTITLED

AN ACT concerning

Employees Retirement System – Heroes Earnings Assistance and Tax Relief Act
(HEART)

FOR the purpose of complying with certain provisions of the Federal Internal Revenue Code by enacting certain provisions of the HEART Act; defining “military service;” providing for member contributions during military service; providing for benefits for certain members who die during military service under certain circumstances; providing for certain vesting for members who die while in military service; providing for the treatment of differential pay for members during military service; clarifying distinctions between disability and death during military service and county service; providing for retroactive application of this Act; and generally relating to the enactment of certain HEART provisions in the Code.

By renumbering

Section 5-1-201(q) through (y)
Article 5. Pensions and Retirement
Baltimore County Code, 2003
To be
Section 5-1-201(r) through (z)

By adding

Sections 5-1-201(q), 5-1-206(d), (e), and (f), and 5-1-228(a)(4)
Article 5. Pensions and Retirement
Baltimore County Code, 2003

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
 [Brackets] indicate matter stricken from existing law.
 ~~Strike out~~ indicates matter stricken from bill.
 Underlining indicates amendments to bill.

By repealing and reenacting, with amendments
Sections 5-1-206(a) and 5-1-223
Article 5. Pensions and Retirement
Baltimore County Code, 2003

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND, that Section 5-1-201(q) through (y), of Article 5. Pensions and
3 Retirement, of the Baltimore County Code, 2003, shall be renumbered to be Section 5-1-201(r)
4 through (z).

5

6 SECTION 2. AND BE IT FURTHER ENACTED, that the Laws of Baltimore County
7 shall read as follows:

8

9 Article 5. Pensions and Retirement

10

11 § 5-1-201.

12

13 (Q) "MILITARY SERVICE" MEANS:

14 (1) INDUCTION INTO THE ARMED FORCES OF THE UNITED STATES
15 FOR TRAINING AND SERVICE UNDER THE SELECTION TRAINING AND SERVICE
16 ACT OF 1940 OR A SUBSEQUENT ACT OF A SIMILAR NATURE;

17 (2) MEMBERSHIP IN A RESERVE COMPONENT OF THE ARMED FORCES
18 OF THE UNITED STATES:

19 (I) ON ACTIVE DUTY OR ORDERED OR ASSIGNED TO ACTIVE
20 DUTY; OR

1 (II) ON ACTIVE DUTY FOR TRAINING THAT INTERRUPTS A
2 MEMBER'S SERVICE;

3 (3) ENLISTMENT INTO THE ARMED FORCES OF THE UNITED STATES;
4 OR

5 (4) MEMBERSHIP IN THE MARYLAND NATIONAL GUARD.
6
7

8 § 5-1-206.

9 (a) Anything in this subtitle to the contrary notwithstanding, if any member enters
10 [directly into the Armed Forces of the United States by reason of the activation of a reserve unit
11 of which the member may be a member or as the result of the member's initial enlistment
12 therein] MILITARY SERVICE and does not withdraw the member's contributions, and if the
13 member returns to service as an employee within one (1) year after having been honorably
14 discharged from the Armed Forces or separated therefrom under honorable conditions,
15 membership service credit shall be granted by the Board of Trustees for the period of such
16 service in the Armed Forces, provided the member elects to make up the member's contributions
17 for the period of the member's service in the Armed Forces within a reasonable period after the
18 member's reemployment, such contributions to be based on the ACTUAL AVERAGE
19 MEMBER CONTRIBUTIONS MADE BY THE MEMBER DURING THE 12-MONTH
20 PERIOD PRIOR TO MILITARY SERVICE OR, IF MEMBERSHIP SERVICE IS LESS THAN
21 12 MONTHS, THE AVERAGE ACTUAL EMPLOYEE CONTRIBUTIONS FOR THE
22 ACTUAL LENGTH OF CONTINUOUS SERVICE IN THE RETIREMENT SYSTEM
23 [member's rate of earnable compensation at the time the member's service in the armed forces

1 commenced]. Any employee who entered directly into the Armed Forces of the United States
2 before the date of establishment by reason of induction under any applicable Selective Service
3 Act, by reason of the activation of a reserve unit of which the employee may be a member or as
4 the result of the employee's initial enlistment therein and who returns to service within one (1)
5 year after having been honorably discharged from the Armed Forces and who elects to become a
6 member within thirty (30) days thereafter, may be deemed by the Board of Trustees to be a
7 member at establishment and to be entitled to credit for prior service, and for service in the
8 armed forces after the date of establishment, under the same conditions as credit for membership
9 service is allowed members entering into the Armed Forces after the date of establishment.

10 (D)(1) TO THE EXTENT REQUIRED BY § 401(A)(37) OF THE INTERNAL
11 REVENUE CODE, A MEMBER WHO DIES ON OR AFTER JANUARY 1, 2007 WHILE
12 PERFORMING QUALIFIED MILITARY SERVICE AS DEFINED IN CHAPTER 43, TITLE
13 38 OF THE UNITED STATES CODE SHALL RECEIVE ANY ADDITIONAL BENEFITS
14 THAT THE SYSTEM PROVIDES FOR ANY MEMBER WHO RESUMES EMPLOYMENT
15 AFTER COMPLETING MILITARY SERVICE AND THEN DIES, INCLUDING ANY
16 DEATH BENEFITS THAT ARE CONTINGENT ON THE MEMBER'S DEATH WHILE
17 EMPLOYED.

18 (2) ADDITIONAL BENEFITS UNDER THIS SUBSECTION MEAN SERVICE
19 TIME VESTING AND DOES NOT MEAN ADDITIONAL BENEFIT ACCRUAL. FOR THIS
20 PURPOSE, THE INDIVIDUAL IS DEEMED TO HAVE MADE EMPLOYEE
21 CONTRIBUTIONS IN AN AMOUNT EQUAL TO THE ACTUAL AVERAGE MEMBER
22 CONTRIBUTIONS MADE BY THE MEMBER DURING THE 12-MONTH PERIOD PRIOR
23 TO MILITARY SERVICE OR, IF MEMBERSHIP SERVICE IS LESS THAN 12 MONTHS,

1 THE AVERAGE ACTUAL EMPLOYEE CONTRIBUTIONS FOR THE ACTUAL LENGTH
2 OF CONTINUOUS SERVICE IN THE RETIREMENT SYSTEM.

3 (E) A MEMBER WHO BECOMES DISABLED OR DIES ON OR AFTER JANUARY
4 1, 2007 WHILE PERFORMING QUALIFIED MILITARY SERVICE AS DEFINED IN
5 CHAPTER 43, TITLE 38 OF THE UNITED STATES CODE SHALL BE TREATED AS
6 HAVING RETURNED TO EMPLOYMENT ON THE DAY BEFORE THE DEATH OR
7 DISABILITY AND THEN TERMINATED ON THE DATE OF DEATH OR DISABILITY.

8 (F)(1) THIS SUBSECTION APPLIES TO A MEMBER CALLED TO MILITARY
9 SERVICE AND RETURNS TO COUNTY SERVICE WHO RECEIVED DIFFERENTIAL
10 WAGE PAYMENTS AS PROVIDED IN RULE 24.01.B.1. OF THE PERSONNEL RULES,
11 RULE 12.01.B.1. OF THE SPECIAL PERSONNEL RULES FOR THE POLICE AND FIRE
12 DEPARTMENTS, OR ANY SIMILAR PRACTICE NOT OTHERWISE SUBJECT TO THE
13 PERSONNEL RULES.

14 (2) DIFFERENTIAL WAGES SHALL BE TREATED AS COMPENSATION.

15 (3) THE SYSTEM SHALL PROVIDE BENEFITS TO THE EMPLOYEE
16 BASED ON THE DIFFERENTIAL WAGE PAYMENTS.

17

18 § 5-1-223.

19 Upon the application of a member in service or of the employer, any member who has
20 been totally and permanently incapacitated for duty as the natural and proximate result of an
21 accident occurring while in the actual performance of duty at some definite time and place,
22 without willful negligence on the member's part, shall be retired by the Board of Trustees;
23 provided that the Medical Board shall certify that such member is mentally or physically

1 incapacitated for the further performance of duty, that such incapacity is likely to be permanent,
2 and that such member should be retired. No beneficiary entitled to an accidental disability
3 retirement allowance shall receive any allowance on account of ordinary disability. FOR
4 PURPOSES OF THIS SECTION, A DISABILITY DOES NOT INCLUDE A DISABILITY
5 PROVIDED FOR UNDER § 5-1-206 OF THIS SUBTITLE.

6

7 § 5-1-228.

8 (a)(4)(I) THE BENEFITS PROVIDED UNDER THIS SECTION SHALL BE SUBJECT
9 TO THE PROVISIONS OF § 5-1-206 OF THIS SUBTITLE.

10 (II) FOR PURPOSES OF THIS SECTION, A LINE OF DUTY DEATH DOES
11 NOT INCLUDE A DEATH PROVIDED FOR UNDER § 5-1-206 OF THIS SUBTITLE.

12

13 SECTION 3. AND BE IT FURTHER ENACTED, that this Act, having passed by the
14 affirmative vote of five members of the County Council shall take effect retroactive to January 1,
15 2012.