

BY: Appropriations Committee

AMENDMENTS TO HOUSE BILL NO. 1737
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, after “James” insert “, Conway, Jones, Barkley, Bates, Bohanan, Cadden, G. Clagett, Eckardt, Edwards, Gaines, Griffith, Haynes, Leopold, Paige, Proctor, and Stocksdales”; in line 5, after the semicolon, insert “altering a certain exemption from a certain offset of a retirement allowance for certain retirees of the Teachers’ Retirement System and Teachers’ Pension System; altering the number of years that certain retirees of the Teachers’ Retirement System and Teachers’ Pension System may be reemployed under certain circumstances;”; in line 12, after the semicolon insert “making a technical correction; providing for the termination of certain provisions of this Act;”; after line 15, insert:

“BY repealing and reenacting, without amendments,
Article - State Personnel and Pensions
Section 22-406(a) and (b) and 23-407(a) and (b)
Annotated Code of Maryland
(2004 Replacement Volume and 2005 Supplement)”;

and in line 18, strike “23-212, 23-217, and 23-401” and substitute “22-406(c), 23-212, 23-217, 23-401, and 23-407(c)”.

AMENDMENT NO. 2

On page 2, in line 9, after “(C)” insert “(1) THIS SUBSECTION DOES NOT APPLY TO:

(I) AN EMPLOYEE OF A PARTICIPATING GOVERNMENTAL UNIT PARTICIPATING IN THE EMPLOYEES’ PENSION SYSTEM OR A FORMER PARTICIPATING GOVERNMENTAL UNIT THAT HAS WITHDRAWN FROM THE EMPLOYEES’ PENSION SYSTEM; OR

(Over)

(II) A MEMBER OF THE EMPLOYEES' PENSION SYSTEM OR THE TEACHERS' PENSION SYSTEM WHO TRANSFERRED FROM THE EMPLOYEES' RETIREMENT SYSTEM OR THE TEACHERS' RETIREMENT SYSTEM AFTER APRIL 1, 1998.

(2)”;

strike beginning with “WHO” in line 10 down through “SUBTITLE” in line 11; in lines 12, 14, and 16, strike “(1)”, “(2)”, and “(3)”, respectively, and substitute “(I)”, “(II)”, and “(III)”, respectively; in line 12, strike “3.17%” and substitute “2.7%”; in line 14, strike “4.3%” and substitute “3.4%”; in line 16, strike “5.5%” and substitute “4.1%”; in line 15, strike “AND”; strike beginning with “ON” in line 16 down through the period in line 17 and substitute “FROM JULY 1, 2008 TO JUNE 30, 2009, BOTH INCLUSIVE;”; after line 17, insert:

“(IV) 4.8% OF THE MEMBER’S EARNABLE COMPENSATION RECEIVED FROM JULY 1, 2009 TO JUNE 30, 2010, BOTH INCLUSIVE; AND

(V) 5.5% OF THE MEMBER’S EARNABLE COMPENSATION RECEIVED ON OR AFTER JULY 1, 2010.”;

in line 18, strike “(D)” and substitute “(3)”; and strike beginning with “WHO” in line 19 down through “SUBTITLE” in line 20.

AMENDMENT NO. 3

On page 2, after line 21 insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - State Personnel and Pensions

22-406.

(a) In this section, “area of critical shortage” means an academic field identified by the State Department of Education in accordance with the provisions of § 18-703(g)(1) of the Education

Article as having projected employment vacancies that substantially exceed projected qualified graduates.

(b) Except as provided in subsection (m) of this section, an individual who is receiving a service retirement allowance or vested allowance may accept employment with a participating employer on a permanent, temporary, or contractual basis, if:

(1) the individual immediately notifies the Board of Trustees of the individual's intention to accept this employment; and

(2) the individual specifies the compensation to be received.

(c) (1) The Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (b) of this section if:

(i) the individual's current employer is a participating employer other than the State and is the same participating employer that employed the individual at the time of the individual's last separation from employment with a participating employer before the individual commenced receiving a service retirement allowance or vested allowance;

(ii) the individual's current employer is any unit of State government and the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance or vested allowance was also a unit of State government; or

(iii) the individual becomes reemployed within 12 months of receiving an early service retirement allowance under § 22-402 of this subtitle.

(2) The reduction required under paragraph (1) of this subsection shall equal:

(i) the amount by which the sum of the individual's initial annual basic allowance and the individual's annual compensation exceeds the average final compensation used to compute the basic allowance; or

(Over)

(ii) for a retiree who retired under the Workforce Reduction Act (Chapter 353 of the Acts of 1996), the amount by which the sum of the retiree's annual compensation and the retiree's annual basic allowance at the time of retirement, including the incentive provided by the Workforce Reduction Act, exceeds the average final compensation used to compute the basic allowance.

(3) A reduction of an early service retirement allowance under paragraph (1)(iii) of this subsection shall be applied only until the individual has received an allowance for 12 months.

(4) Except for an individual whose allowance is subject to a reduction as provided under paragraphs (1)(iii) and (3) of this subsection, the reduction of an allowance under this subsection does not apply to:

(i) an individual who has been retired for 9 years, beginning on January 1 after the date the individual retires;

(ii) an individual whose average final compensation was less than \$10,000 and who is reemployed on a temporary or contractual basis;

(iii) an individual who is serving in an elected position as an official of a participating governmental unit or as a constitutional officer for a county that is a participating governmental unit;

(iv) a retiree of the Teachers' Retirement System:

1. who retired and was reemployed by a participating employer other than the State on or before September 30, 1994; and

2. whose employment compensation does not derive, in whole or in part, from State funds;

(v) a retiree of the Teachers' Retirement System who:

1. is or has been certified to teach in the State;

2. has verification of satisfactory or better performance in the last assignment prior to retirement;

3. based on the retired teacher's qualifications, has been appointed in accordance with § 4-103 of the Education Article; and

4. receives verification of satisfactory or better performance each year the teacher is employed under paragraph (5) of this subsection;

(vi) a retiree of the Teachers' Retirement System who:

1. A. was employed as a principal within 5 years of retirement; or

B. was employed as a principal not more than 10 years before retirement and was employed in a position supervising principals in the retiree's last assignment prior to retirement;

2. has verification of satisfactory performance for each year as a principal and, if applicable, in a position supervising principals prior to retirement;

3. based on the retiree's qualifications, has been hired as a principal; and

4. receives verification of satisfactory performance each year the retiree is employed as a principal under paragraph (6) of this subsection;

(vii) a former employee of the Domestic Relations Division of Anne Arundel County Circuit Court who transfers into the State Employees' Personnel System under § 2-510 of the Courts Article; or

(viii) a retiree of the Employees' Retirement System who is reemployed on a

(Over)

contractual basis for not more than 4 years by the Department of Health and Mental Hygiene as a health care practitioner, as defined in § 1-301 of the Health Occupations Article, in:

1. a State residential center as defined in § 7-101 of the Health - General Article;
2. a chronic disease center subject to Title 19, Subtitle 5 of the Health - General Article;
3. a State facility as defined in § 10-101 of the Health - General Article; or
4. a local health department subject to Title 3, Subtitle 2 of the Health - General Article.

(5) [(i)] An individual who is rehired under paragraph (4)(v) of this subsection shall be employed as a classroom teacher, substitute classroom teacher, or teacher mentor:

(I) in a public school that:

1. is not making adequate yearly progress or is a school in need of improvement as defined under the federal No Child Left Behind Act of 2001 and as implemented by the State Department of Education;
2. is receiving funds under Title 1 of the federal No Child Left Behind Act of 2001; or
3. provides an alternative education program for adjudicated youths or students who have been expelled, suspended, or identified for suspension or expulsion from a public school[.]; OR

(ii) [An individual rehired at a school described under subparagraph (i) of this paragraph shall teach:] WHO:

1. TEACHES in an area of critical shortage;

2. TEACHES a special education class for students with special needs; or

3. TEACHES a class for students with limited English proficiency.

(6) An individual who is rehired under paragraph (4)(vi) of this subsection shall be employed as a principal at a public school that:

(i) is not making adequate yearly progress or is a school in need of improvement as defined under the federal No Child Left Behind Act of 2001 and as implemented by the State Department of Education;

(ii) is receiving funds under Title 1 of the federal No Child Left Behind Act of 2001; or

(iii) provides an alternative education program for adjudicated youths or students who have been expelled, suspended, or identified for suspension or expulsion from a public school.

(7) (I) [An] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN individual who is reemployed under paragraph (4)(v) or (vi) of this subsection MAY NOT BE REEMPLOYED FOR MORE THAN 5 CONSECUTIVE YEARS.

(II) AN INDIVIDUAL WHO IS REEMPLOYED UNDER PARAGRAPH (4)(V) OR (VI) OF THIS SUBSECTION at a school described under paragraph (5) or (6) of this subsection may not continue that reemployment after the school makes adequate yearly progress for [4] 5 consecutive years.

(8) (i) Notwithstanding paragraph (5) of this subsection, each superintendent of a local school system may rehire an additional number of individuals described under paragraph (4)(v) of this subsection equal to the greater of:

(Over)

1. three; or

2. 0.1% of the total full-time equivalent instructional teachers employed by that local school system, rounded up to the nearest whole number not to exceed 10, as reported annually by the State Department of Education.

(ii) At any one time, the total number of individuals rehired by a superintendent of a local school system under this paragraph may not exceed the number determined under subparagraph (i) of this paragraph.

[(iii) An individual rehired under this paragraph:

1. shall be reemployed at a school specified in paragraph (5)(i) of this subsection; and

2. may teach any subject or class or provide educational services assigned by the individual's superintendent.]

(9) (i) The superintendent of the local school system rehiring an individual under paragraph (4)(v) or (vi) of this subsection shall:

1. approve the rehiring of that individual; and

2. determine the school where the individual is to be reemployed.

(ii) Within 30 days after rehiring an individual, the superintendent of a local school system shall complete and file with the Board of Trustees and the State Department of Education a form provided by the Board of Trustees that certifies that the individual rehired by the local school system under paragraph (4)(v) or (vi) of this subsection:

1. satisfied the criteria provided in paragraph (4)(v) or (vi) of this subsection; AND

2. A. was reemployed at a school described under paragraph (5)(i) or (6) of this subsection; [and

3. if rehired under paragraph (4)(v) of this subsection, was:

A.] B. WAS REEMPLOYED teaching in an area specified in paragraph (5)(ii) of this subsection; or

[B.] C. [teaching in any class or subject or providing educational services] WAS REEMPLOYED as provided under paragraph (8) of this subsection.

(iii) 1. On or before April 1 of each year, the Board of Trustees and the State Department of Education shall jointly review any forms filed by a superintendent of a local school system under subparagraph (ii) of this paragraph during the previous calendar year.

2. If the Board of Trustees and the State Department of Education agree that a superintendent of a local school system has rehired an individual that does not satisfy the criteria provided in paragraph (4)(v) or (vi) and (5), (6), or (8) of this subsection:

A. on or before July 1 of the year of the finding, the Board of Trustees shall notify the superintendent of the local school system of this individual; and

B. the local school system shall reimburse the Board of Trustees the amount equal to the reduction to the individual's retirement allowance that would have been made in paragraph (2) of this subsection.

(iv) The local school system shall make the reimbursement on or before December 31 of the year the local school system receives notice from the Board of Trustees under subparagraph (iii)2A of this paragraph.

(10) On or before August 1 of each year, the local superintendent shall report to the State Department of Education for the previous school year:

(Over)

(i) the number of individuals rehired under paragraph (4)(v) or (vi) or (8) of this subsection;

(ii) 1. the school and school system where each individual was rehired; and

2. whether the school:

A. was not making adequate yearly progress or was a school in need of improvement as defined under the federal No Child Left Behind Act of 2001 and as implemented by the State Department of Education;

B. was receiving funds under Title 1 of the federal No Child Left Behind Act of 2001; or

C. provided an alternative education program for adjudicated youths or students who have been expelled, suspended, or identified for suspension or expulsion from a public school;

(iii) the original date of rehire for each individual;

(iv) the subject matter taught by each individual; and

(v) the annual salary of each individual.

23-407.

(a) In this section, “area of critical shortage” means an academic field identified by the State Department of Education in accordance with the provisions of § 18-703(g)(1) of the Education Article as having projected employment vacancies that substantially exceed projected qualified graduates.

(b) Except as provided in subsection (m) of this section, an individual who is receiving a service retirement allowance or a vested allowance may accept employment with a participating

employer on a permanent, temporary, or contractual basis, if:

(1) the individual immediately notifies the Board of Trustees of the individual's intention to accept this employment; and

(2) the individual specifies the compensation to be received.

(c) (1) The Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (b) of this section if:

(i) the individual's current employer is a participating employer other than the State and is the same participating employer that employed the individual at the time of the individual's last separation from employment with a participating employer before the individual commenced receiving a service retirement allowance or vested allowance;

(ii) the individual's current employer is any unit of State government and the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance or vested allowance was also a unit of State government; or

(iii) the individual becomes reemployed within 12 months of receiving an early service retirement allowance or an early vested allowance computed under § 23-402 of this subtitle.

(2) The reduction required under paragraph (1) of this subsection shall equal:

(i) the amount by which the sum of the individual's initial annual basic allowance and the individual's annual compensation exceeds the average final compensation used to compute the basic allowance; or

(ii) for a retiree who retired under the Workforce Reduction Act (Chapter 353 of the Acts of 1996), the amount by which the sum of the retiree's annual compensation and the retiree's annual basic allowance at the time of retirement, including the incentive provided by the Workforce Reduction Act, exceeds the average final compensation used to compute the basic

(Over)

allowance.

(3) A reduction of an early service retirement allowance or an early vested allowance under paragraph (1)(iii) of this subsection shall be applied only until the individual has received an allowance for 12 months.

(4) Except for an individual whose allowance is subject to a reduction as provided under paragraphs (1)(iii) and (3) of this subsection, the reduction of an allowance under this subsection does not apply to:

(i) an individual whose average final compensation was less than \$10,000 and who is reemployed on a temporary or contractual basis;

(ii) an individual who is serving in an elected position as an official of a participating governmental unit or as a constitutional officer for a county that is a participating governmental unit;

(iii) an individual who has been retired for 9 years, beginning on January 1 after the date the individual retires;

(iv) a retiree of the Teachers' Pension System who:

1. is or has been certified to teach in the State;

2. has verification of satisfactory or better performance in the last assignment prior to retirement;

3. based on the retired teacher's qualifications, has been appointed in accordance with § 4-103 of the Education Article; and

4. receives verification of satisfactory or better performance each year the teacher is employed under paragraph (5) of this subsection;

(v) a retiree of the Teachers' Pension System who:

1. A. was employed as a principal within 5 years of

retirement; or

B. was employed as a principal not more than 10 years before retirement and was employed in a position supervising principals in the retiree's last assignment prior to retirement;

2. has verification of satisfactory performance for each year as a principal and, if applicable, in a position supervising principals prior to retirement;

3. based on the retiree's qualifications, has been hired as a principal; and

4. receives verification of satisfactory performance each year the retiree is employed as a principal under paragraph (6) of this subsection; or

(vi) a retiree of the Employees' Pension System who is reemployed on a contractual basis for not more than 4 years by the Department of Health and Mental Hygiene as a health care practitioner, as defined in § 1-301 of the Health Occupations Article in:

1. a State residential center as defined in § 7-101 of the Health - General Article;

2. a chronic disease center subject to Title 19, Subtitle 5 of the Health - General Article;

3. a State facility as defined in § 10-101 of the Health - General Article; or

4. a local health department subject to Title 3, Subtitle 2 of the Health - General Article.

(5) [(i)] An individual who is rehired under paragraph (4)(iv) of this subsection shall be employed as a classroom teacher, substitute classroom teacher, or teacher mentor:

(I) in a public school that:

1. is not making adequate yearly progress or is a school in need of improvement as defined under the federal No Child Left Behind Act of 2001 and as implemented by the State Department of Education;

2. is receiving funds under Title 1 of the federal No Child Left Behind Act of 2001; or

3. provides an alternative education program for adjudicated youths or students who have been expelled, suspended, or identified for suspension or expulsion from a public school[.]; OR

(ii) [An individual rehired at a school described under subparagraph (i) of this paragraph shall teach:] WHO:

1. TEACHES in an area of critical shortage;

2. TEACHES a special education class for students with special needs; or

3. TEACHES a class for students with limited English proficiency.

(6) An individual who is rehired under paragraph (4)(v) of this subsection shall be employed as a principal at a public school that:

(i) is not making adequate yearly progress or is a school in need of improvement as defined under the federal No Child Left Behind Act of 2001 and as implemented by the State Department of Education;

(ii) is receiving funds under Title 1 of the federal No Child Left Behind Act of 2001; or

(iii) provides an alternative education program for adjudicated youths or students who have been expelled, suspended, or identified for suspension or expulsion from a public

school.

(7) (I) [An] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN individual who is reemployed under paragraph (4)(iv) or (v) of this subsection MAY NOT BE REEMPLOYED FOR MORE THAN 5 CONSECUTIVE YEARS.

(II) AN INDIVIDUAL WHO IS REEMPLOYED UNDER PARAGRAPH (4)(IV) OR (V) OF THIS SUBSECTION at a school described under paragraph (5) or (6) of this subsection may not continue that reemployment after the school makes adequate yearly progress for [4] 5 consecutive years.

(8) (i) Notwithstanding paragraph (5) of this subsection, each superintendent of a local school system may rehire an additional number of individuals described under paragraph (4)[(v)] (IV) of this subsection equal to the greater of:

1. three; or
2. 0.1% of the total full-time equivalent instructional teachers employed by that local school system, rounded up to the nearest whole number not to exceed 10, as reported annually by the State Department of Education.

(ii) At any one time, the total number of individuals rehired by a superintendent of a local school system under this paragraph may not exceed the number determined under subparagraph (i) of this paragraph.

[(iii) An individual rehired under this paragraph:

1. shall be reemployed at a school specified in paragraph (5)(i) of this subsection; and
2. may teach any subject or class or provide educational services assigned by the individual's superintendent.]

(9) (i) The superintendent of the local school system rehiring an individual

(Over)

under paragraph (4)(iv) or (v) of this subsection shall:

1. approve the rehiring of that individual; and
2. determine the school where the individual is to be reemployed.

(ii) Within 30 days after rehiring an individual, the superintendent of a local school system shall complete and file with the Board of Trustees and the State Department of Education a form provided by the Board of Trustees that certifies that the individual rehired by the local school system under paragraph (4)(v) or (vi) of this subsection:

1. satisfied the criteria provided in paragraph (4)(iv) or (v) of this subsection;

2. A. was reemployed at a school described under paragraph (5)(i) or (6) of this subsection; [and

3. if rehired under paragraph (4)(iv) of this subsection, was:

A.] B. WAS REEMPLOYED teaching in an area specified in paragraph (5)(ii) of this subsection; or

[B.] C. [teaching in any class or subject or providing educational services] WAS REEMPLOYED as provided under paragraph (8) of this subsection.

(iii) 1. On or before April 1 of each year, the Board of Trustees and the State Department of Education shall jointly review any forms filed by a superintendent of a local school system under subparagraph (ii) of this paragraph.

2. If the Board of Trustees and the State Department of Education agree that a superintendent of a local school system has rehired an individual that does not satisfy the criteria provided in paragraph (4)(iv) or (v) and (5), (6), or (8) of this subsection:

A. on or before July 1 of the year of the finding, the Board of Trustees shall notify the superintendent of the local school system of this individual; and

B. the local school system shall reimburse the Board of Trustees the amount equal to the reduction to the individual's retirement allowance that would have been made in paragraph (2) of this subsection.

(iv) The local school system shall make the reimbursement on or before December 31 of the year the local school system receives notice from the Board of Trustees under subparagraph (iii)2A of this paragraph.

(10) On or before August 1 of each year, the local superintendent shall report to the State Department of Education for the previous school year:

(i) the number of individuals rehired under paragraph (4)(iv) or (v) or (8) of this subsection;

(ii) 1. the school and school system where each individual was rehired; and

2. whether the school:

A. was not making adequate yearly progress or was a school in need of improvement as defined under the federal No Child Left Behind Act of 2001 and as implemented by the State Department of Education;

B. was receiving funds under Title 1 of the federal No Child Left Behind Act of 2001; or

C. provided an alternative education program for adjudicated youths or students who have been expelled, suspended, or identified for suspension or expulsion from a public school;

(iii) the original date of rehire for each individual;

(iv) the subject matter taught by each individual; and

(v) the annual salary of each individual.”.

AMENDMENT NO. 4

On page 2, in line 22, strike “2.” and substitute “3.”; after line 24, insert:

“23-212.

(a) Except as [provided in subsection (b) of] OTHERWISE PROVIDED IN this section, a member’s contribution rate is 5% of the part of the member’s earnable compensation that exceeds the taxable wage base for each year.

(b) The contribution rate of a member who is subject to the contributory pension benefit under Part II of this subtitle is 2% of the member’s earnable compensation.

(C) THE CONTRIBUTION RATE OF A MEMBER OF THE EMPLOYEES’ PENSION SYSTEM WHO IS SUBJECT TO THE MODIFIED CONTRIBUTORY PENSION BENEFIT UNDER PART III OF THIS SUBTITLE IS:

(1) 2.7% OF THE MEMBER’S EARNABLE COMPENSATION RECEIVED FROM JULY 1, 2006 TO JUNE 30, 2007, BOTH INCLUSIVE;

(2) 3.4% OF THE MEMBER’S EARNABLE COMPENSATION RECEIVED FROM JULY 1, 2007 TO JUNE 30, 2008, BOTH INCLUSIVE;

(3) 4.1% OF THE MEMBER’S EARNABLE COMPENSATION RECEIVED FROM JULY 1, 2008 TO JUNE 30, 2009, BOTH INCLUSIVE;

(4) 4.8% OF THE MEMBER’S EARNABLE COMPENSATION RECEIVED FROM JULY 1, 2009 TO JUNE 30, 2010, BOTH INCLUSIVE; AND

(5) 5.5% OF THE MEMBER’S EARNABLE COMPENSATION RECEIVED ON OR AFTER JULY 1, 2010.

(D) THE CONTRIBUTION RATE OF A MEMBER OF THE TEACHERS’ PENSION

SYSTEM WHO IS SUBJECT TO THE MODIFIED CONTRIBUTORY PENSION BENEFIT UNDER PART III OF THIS SUBTITLE IS 5.5% OF THE MEMBER'S EARNABLE COMPENSATION."

AMENDMENT NO. 5

On page 3, in line 17, strike "2006" and substitute "2007".

On page 5, in line 23, strike "2002" and substitute "2006"; in line 24, after the semicolon insert "AND"; strike in their entirety lines 25 through 27, inclusive; in line 28, strike "(4)" and substitute "(3)"; and in line 29, strike "1.95%" and substitute "2.0%".

AMENDMENT NO. 6

On page 6, in lines 7, 15, and 17, strike "3.", "4.", and "5.", respectively, and substitute "4.", "5.", and "6.", respectively; in line 8, strike "an individual" and substitute "a member of the Employees' Pension System or the Teachers' Pension System"; in line 9, strike "of 3.17%" and substitute "in excess of 2%"; in line 15, strike "2" and substitute "3"; in line 18, strike "Section 4" and substitute "Section 5"; and in the same line, after "2006." insert "Section 1 of this Act shall remain effective for a period of 1 year and, at the end of June 30, 2007, with no further action required by the General Assembly, Section 1 of this Act shall be abrogated and of no further force and effect.".