

SENATE BILL 412

K4

71r2045

By: **Senator Kramer (Chair, Joint Committee on Pensions)**

Introduced and read first time: February 2, 2007

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **State Retirement and Pension System – Compliance with the Federal**
3 **Pension Protection Act of 2006**

4 FOR the purpose of altering the criteria certain employers must meet to participate in
5 the State Retirement and Pension System’s employer pickup program;
6 permitting certain surviving spouses and designated beneficiaries of the State
7 Retirement and Pension System to rollover certain distributions; permitting
8 certain participants of the State Retirement and Pension System to make direct
9 rollovers of certain distributions from the State Retirement and Pension System
10 to a Roth Individual Retirement Account; providing for the application of this
11 Act; providing for a delayed effective date of certain provisions of this Act; and
12 generally relating to conforming the State Retirement and Pension System to
13 federal tax legislation.

14 BY repealing and reenacting, with amendments,
15 Article – State Personnel and Pensions
16 Section 21–313, 21–601(b), (c), and (d), and 21–602
17 Annotated Code of Maryland
18 (2004 Replacement Volume and 2006 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article – State Personnel and Pensions
21 Section 21–601(a)
22 Annotated Code of Maryland
23 (2004 Replacement Volume and 2006 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – State Personnel and Pensions**

4 21–313.

5 (a) In this section, “approved employer” means a participating employer
6 who [has received a favorable ruling from the Internal Revenue Service] **ADOPTS A**
7 **RESOLUTION AND FOLLOWS PROCEDURES AS PRESCRIBED BY THE BOARD OF**
8 **TRUSTEES** for an employer pickup program in accordance with § 414(h)(2) of the
9 Internal Revenue Code.

10 (b) The State or other approved employer of a member shall pick up, within
11 the meaning of § 414(h)(2) of the Internal Revenue Code, the member contributions
12 required by this Division II.

13 (c) The member contributions under subsection (b) of this section:

14 (1) are designated as employee contributions to be picked up by the
15 employing unit within the meaning of § 414(h)(2) of the Internal Revenue Code and
16 shall be treated as employer contributions in determining tax treatment under that
17 section;

18 (2) shall reduce the compensation of the member in an amount that
19 equals the member contribution picked up by the employer;

20 (3) may not be included as gross income of the member until the
21 pickup amounts are distributed or made available to the member;

22 (4) shall be paid by the State or other approved employer from the
23 same source of funds that is used to pay compensation to the member; and

24 (5) for purposes of this Division II, shall be treated in the same
25 manner and to the same extent as member contributions made before establishment of
26 the employer pickup program.

27 21–601.

28 (a) In this subtitle the following words have the meanings indicated.

1 (b) “Direct rollover” means a payment by the State Retirement Agency
2 directly to the eligible retirement plan specified by the participant **OR THE**
3 **SURVIVING SPOUSE OF A PARTICIPANT.**

4 (d) (1) “Eligible rollover distribution” means a distribution:

5 (I) on or after January 1, 1993, to a participant of all or any
6 part of the balance to the credit of the participant in any State system;

7 (II) **ON OR AFTER JANUARY 1, 2002, TO THE SURVIVING**
8 **SPOUSE OF A MEMBER, FORMER MEMBER, OR RETIREE OF ALL OR ANY PART OF**
9 **THE BALANCE TO THE CREDIT OF THE MEMBER, FORMER MEMBER, RETIREE, OR**
10 **SURVIVING SPOUSE IN ANY STATE SYSTEM; OR**

11 (III) **ON OR AFTER JANUARY 1, 2007, TO THE DESIGNATED**
12 **BENEFICIARY OF A MEMBER, FORMER MEMBER, OR RETIREE OF ALL OR ANY**
13 **PART OF THE BALANCE TO THE CREDIT OF THE MEMBER, FORMER MEMBER,**
14 **RETIREE, OR DESIGNATED BENEFICIARY IN ANY STATE SYSTEM.**

15 (2) “Eligible rollover distribution” does not include:

16 (i) any distribution that is one of a series of substantially equal
17 periodic payments that are made at least annually for the life or life expectancy of the
18 participant or the joint lives or joint life expectancies of the participant and the
19 participant’s beneficiary;

20 (ii) any distribution that is one of a series of substantially equal
21 periodic payments made for a specified period of at least 10 years; or

22 (iii) any distribution that is required under § 401(a)(9) of the
23 Internal Revenue Code.

24 21-602.

25 (a) Except as provided in subsections (b) and (c) of this section, a participant
26 may elect on the form the Board of Trustees requires to have all or any part of an
27 eligible rollover distribution paid to the eligible retirement plan in a direct rollover.

28 (b) If an eligible rollover distribution is payable to the [surviving spouse]
29 **DESIGNATED BENEFICIARY** of a member, former member, or retiree, the [surviving
30 spouse] **DESIGNATED BENEFICIARY** may only elect to have all or any part of the

1 eligible rollover distribution paid in a direct rollover to an individual retirement
2 account or individual retirement annuity.

3 (c) A member who is eligible to participate in the plan administered by the
4 supplemental plan under Title 35, Subtitle 5 of this article may elect to have all or any
5 part of the eligible rollover distribution paid in a direct rollover to the plan in
6 accordance with the regulations adopted by the supplemental plan.

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

9 **Article – State Personnel and Pensions**

10 21–601.

11 (c) “Eligible retirement plan” means:

12 (1) an individual retirement account described in § 408(a) of the
13 Internal Revenue Code;

14 (2) an individual retirement annuity, other than an endowment
15 contract, described in § 408(b) of the Internal Revenue Code;

16 (3) a qualified trust described in § 401(a) of the Internal Revenue Code
17 that is exempt from tax under § 501(a) of the Internal Revenue Code;

18 (4) an annuity plan described in § 403(a) of the Internal Revenue
19 Code;

20 (5) an annuity plan described in § 403(b) of the Internal Revenue
21 Code; [or]

22 (6) a deferred compensation plan that is maintained by an eligible
23 employer described in § 457 of the Internal Revenue Code or any successor provisions;
24 **OR**

25 (7) **A ROTH INDIVIDUAL RETIREMENT ACCOUNT DESCRIBED IN §**
26 **408A(E) OF THE INTERNAL REVENUE CODE.**

27 SECTION 3. AND BE IT FURTHER ENACTED, That:

1 (a) Section 21–601(d)(1)(ii) of the State Personnel and Pensions Article, as
2 amended by this Act, shall be construed to apply retroactively and shall be applied to
3 and interpreted to affect any surviving spouse who received an eligible rollover
4 distribution on or after January 1, 2002; and

5 (b) Section 21–601(d)(1)(iii) of the State Personnel and Pensions Article, as
6 amended by this Act, shall be construed to apply retroactively and shall be applied to
7 and interpreted to affect any designated beneficiary who received an eligible rollover
8 distribution on or after January 1, 2007.

9 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
10 take effect January 1, 2008.

11 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in
12 Section 4 of this Act, this Act shall take effect July 1, 2007.