

SENATE BILL 780

K4

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CF 71r3081

By: **Senators Currie, DeGrange, Hogan, Kasemeyer, and Kramer**
Introduced and read first time: February 14, 2007
Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Postretirement Health Benefits Trust Fund – Clarification**

3 FOR the purpose of specifying that certain funds shall be deposited into the
4 Postretirement Health Benefits Trust Fund; limiting the amount to be paid for
5 administrative expenses for operating the Postretirement Health Benefits Trust
6 Fund; altering the time period when payments may be made from the
7 Postretirement Health Benefits Trust Fund; altering the amount and the
8 manner in which certain payments may be made from the Postretirement
9 Health Benefits Trust Fund; repealing certain provisions that require assets of
10 the Postretirement Health Benefits Trust Fund to be transferred to the General
11 Fund under certain circumstances; altering the membership of the Blue Ribbon
12 Commission to Study Retiree Health Care Funding Options; and generally
13 relating to the Postretirement Health Benefits Trust Fund.

14 BY repealing and reenacting, with amendments,
15 Article – State Personnel and Pensions
16 Section 34–101 and 34–201
17 Annotated Code of Maryland
18 (2004 Replacement Volume and 2006 Supplement)

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

21 **Article – State Personnel and Pensions**

22 34–101.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) There is a Postretirement Health Benefits Trust Fund.

2 (b) The Postretirement Health Benefits Trust Fund shall be established as a
3 tax-exempt trust, in accordance with § 115 of the Internal Revenue Code or other
4 applicable federal statute.

5 (c) The purpose of the Postretirement Health Benefits Trust Fund is to
6 assist the State in financing the postretirement health insurance subsidy, as specified
7 in § 2-508 of this article.

8 (d) Beginning in fiscal year 2008, **THE FOLLOWING FUNDS SHALL BE**
9 **DEPOSITED INTO THE POSTRETIREMENT HEALTH BENEFITS TRUST FUND:**

10 (1) any subsidy received by the State that is provided to employers as
11 a result of the federal Medicare Prescription Drug, Improvement, and Modernization
12 Act of 2003, or similar federal subsidy received as a result of the State's prescription
13 drug program[, shall be deposited into the Postretirement Health Benefits Trust
14 Fund];

15 (2) **ANY FUNDS DEPOSITED INTO THE DEDICATED PURPOSE**
16 **ACCOUNT IN FISCAL YEAR 2007 THAT WERE APPROPRIATED IN CHAPTER 216**
17 **OF THE ACTS OF 2006 FOR THE PURPOSE OF DEFRAYING THE FUTURE COSTS**
18 **ASSOCIATED WITH RETIREMENT BENEFITS FOR STATE EMPLOYEES; AND**

19 (3) **ANY FUNDS APPROPRIATED IN THE STATE BUDGET BILL FOR**
20 **THE PURPOSE OF FUNDING THE ACCRUED LIABILITY FOR RETIREE HEALTH**
21 **CARE BENEFITS UNDER THE STATE EMPLOYEE AND RETIREE HEALTH AND**
22 **WELFARE BENEFITS PROGRAM.**

23 (e) (1) The Board of Trustees are the trustees of the Postretirement
24 Health Benefits Trust Fund.

25 (2) Notwithstanding any other provision of law:

26 (i) the Board of Trustees shall have full power to invest and
27 manage the assets of the Postretirement Health Benefits Trust Fund to achieve the
28 statutory purpose of the Fund; and

29 (ii) each member of the Board of Trustees shall discharge the
30 member's duties with respect to the Postretirement Health Benefits Trust Fund as a

1 fiduciary and be indemnified in accordance with the provisions of Title 21, Subtitle 2 of
2 this article.

3 (3) The Board of Trustees may incur reasonable investment expenses
4 payable from the assets of the Postretirement Health Benefits Trust Fund, and in
5 accordance with § 21–315(d) of this article, for:

6 (i) services of managers to invest the assets of the
7 Postretirement Health Benefits Trust Fund;

8 (ii) services of one or more duly qualified banks or trust
9 companies for the safe custody of the investments and banking services; and

10 (iii) any other service that the Board of Trustees deems
11 reasonable and necessary in connection with the investments of the Postretirement
12 Health Benefits Trust Fund.

13 (4) (i) The Board of Trustees may incur reasonable administrative
14 expenses payable from the assets of the Postretirement Health Benefits Trust Fund.

15 (ii) Administrative expenses paid under subparagraph (i) of this
16 paragraph may not exceed [an amount equal to the amount of administrative expenses
17 paid by the Board of Trustees under § 21–315(c) of this article multiplied by a fraction:

18 1. the numerator of which equals the total assets of the
19 Postretirement Health Benefits Trust Fund; and

20 2. the denominator of which equals the combined total
21 assets of the several systems and the Postretirement Health Benefits Trust Fund]
22 **\$100,000 ANNUALLY.**

23 (5) The Board of Trustees is not subject to Division II of the State
24 Finance and Procurement Article for:

25 (i) obtaining services of managers to invest the assets of the
26 Postretirement Health Benefits Trust Fund; and

27 (ii) expenditures to manage, maintain, and enhance the value of
28 the assets of the Postretirement Health Benefits Trust Fund.

29 (f) To the extent possible, the assets of the Postretirement Health Benefits
30 Trust Fund shall be invested in the same manner as those of the several systems.

1 (g) [For fiscal year 2008 through fiscal year 2017] **PRIOR TO FISCAL YEAR**
2 **2009**, no payments may be made from the Postretirement Health Benefits Trust
3 Fund.

4 (h) [For fiscal year 2018 and each fiscal year thereafter] **BEGINNING IN**
5 **FISCAL YEAR 2009**, the Board of Trustees [shall] **MAY** transfer **AN AMOUNT FROM**
6 **THE POSTRETIREMENT HEALTH BENEFITS TRUST FUND** to the [General Fund]
7 **THE DEPARTMENT OF BUDGET AND MANAGEMENT, SUBJECT TO**
8 **APPROPRIATION IN THE STATE BUDGET**, for the sole purpose of assisting in the
9 payment of the State's postretirement health insurance subsidy[, the lesser of:

10 (1) one-quarter of the prior year's investment gains of the
11 Postretirement Health Benefits Trust Fund; or

12 (2) the amount necessary to pay the annual health insurance
13 premiums and other costs that constitute the State's postretirement health insurance
14 subsidy specified in § 2-508 of this article].

15 (i) [If for any reason the State discontinues the postretirement health
16 insurance subsidy specified in § 2-508 of this article or a successor subsidy, the assets
17 of the Postretirement Health Benefits Trust Fund shall be transferred to the General
18 Fund.

19 (j) On or before October 1, 2009, and on or before October 1 thereafter, the
20 Board of Trustees shall publish an annual consolidated report that includes:

21 (1) the fiscal transactions of the Postretirement Health Benefits Trust
22 Fund for the preceding fiscal year; and

23 (2) the amount of the accumulated cash, securities, and other assets of
24 the Postretirement Health Benefits Trust Fund.

25 34-201.

26 (a) There is a Blue Ribbon Commission to Study Retiree Health Care
27 Funding Options.

28 (b) The Commission shall consist of the following members:

29 (1) [three] **FIVE** members from the Senate of Maryland, appointed by
30 the President of the Senate[, including:

- 1 (i) the Senate Chair of the Joint Committee on Pensions; and
- 2 (ii) two members from among the members of the Joint
3 Committee on Pensions];
- 4 (2) [~~three~~ **FIVE** members from the House of Delegates, appointed by
5 the Speaker of the House[, including:
- 6 (i) the House Chair of the Joint Committee on Pensions; and
- 7 (ii) two members from among the members of the Joint
8 Committee on Pensions];
- 9 (3) the State Treasurer, or the Treasurer's designee;
- 10 (4) the Comptroller, or the Comptroller's designee;
- 11 (5) the Secretary of Budget and Management, or the Secretary's
12 designee;
- 13 (6) the Chancellor of the University System of Maryland, or the
14 Chancellor's designee;
- 15 (7) the Executive Director of the State Retirement and Pension
16 System, or the Executive Director's designee; and
- 17 (8) three members of the public with expertise in either funding
18 retiree health benefits, the economics of affordable retiree health care programs, or
19 investing pension fund assets, with one member each appointed by the Governor, the
20 President of the Senate, and the Speaker of the House.
- 21 (c) [The Senate and House Chairs of the Joint Committee on Pensions shall
22 serve jointly as the Chairs of the Commission.] **THE PRESIDENT OF THE SENATE
23 AND THE SPEAKER OF THE HOUSE SHALL JOINTLY DESIGNATE CO-CHAIRS OF
24 THE COMMISSION FROM THE SENATE MEMBERS AND HOUSE MEMBERS
25 APPOINTED TO THE COMMISSION.**
- 26 (d) The Commission shall be guided by the following principles:
- 27 (1) a recognition that:

1 (i) funding State retiree health benefits solely on a
2 pay-as-you-go basis is no longer a viable solution; and

3 (ii) any proposed solution, funding or otherwise, should treat
4 employees, retirees, and taxpaying citizens fairly;

5 (2) in light of the enormity of the State's projected unfunded accrued
6 liability for retiree health care that is estimated to be as high as \$20,400,000,000 and
7 the potential effect this liability may have on the State's bond rating, the State's
8 ultimate goal should be to fully fund the obligations set forth under the Government
9 Accounting Standards Board (GASB) Statement 45;

10 (3) a clear message should be sent to the bond rating agencies that the
11 State is taking this issue seriously, and a multiyear plan that clearly articulates the
12 State's commitment to address this issue should be implemented as soon as
13 practicable;

14 (4) any funding solution proposed by the Commission will likely
15 include some direct State appropriation, with the Commission pursuing any and all
16 viable funding sources, including the possibility of employee contributions during
17 active service;

18 (5) the Commission should consider the actual impact any changes in
19 the State Employee and Retiree Health and Welfare Benefits Program will have on
20 the State's annual required contribution and should look for appropriate cost
21 efficiencies that maintain the quality health care coverage the State provides for
22 retirees; and

23 (6) special consideration should be given to State retirees who are
24 receiving benefits or State employees who have accrued at least 16 years of service
25 with the State and have vested for State retiree health benefits under current law,
26 recognizing that while there may be no legal obligation on the part of the State to
27 provide retiree health care benefits to these individuals, the Commission should view
28 the commitment to provide retiree health care benefits to these individuals as an
29 ethical one.

30 (e) The Commission shall:

31 (1) contract with an actuarial consulting firm to:

32 (i) commission an actuarial valuation that illustrates the
33 State's annual required contribution as both a fixed dollar amount and also as a
34 percentage of payroll; and

1 (ii) provide ongoing services to the Commission throughout its
2 existence;

3 (2) review the specific legal obligations of the State to provide retiree
4 health benefits to existing retirees, fully vested employees, active employees, and new
5 employees;

6 (3) study the cost drivers associated with the State's unfunded retiree
7 health care liabilities which provide the basis for the unfunded accrued liability that is
8 estimated to be as high as \$20,400,000,000 as well as the ongoing normal costs
9 associated with the retiree health care liabilities;

10 (4) review the current health care benefit levels for both State
11 employees and retirees and how the benefits compare to benefits provided under
12 Medicare, by private employers, and by other public employers, with a particular
13 emphasis on whether the various levels are appropriate, equitable, and sustainable;

14 (5) review the eligibility requirements for State retiree health care
15 benefits with a particular emphasis on whether the requirements are appropriate and
16 equitable;

17 (6) review alternative vehicles for providing health care benefits to
18 State retirees including Voluntary Employee Beneficiary Accounts (VEBAs), Section
19 401(h) accounts, Section 115 trusts, health reimbursement arrangements, and health
20 savings accounts; and

21 (7) recommend a multiyear implementation plan to address fully
22 funding the obligations of the State as set forth in GASB Statement 45 as soon as
23 practicable.

24 (f) (1) The Commission shall be staffed by the Department of Legislative
25 Services.

26 (2) (i) The Department of Budget and Management shall provide
27 any information the Commission may require with regard to health care benefits and
28 health benefit costs for State employees and retirees.

29 (ii) If the Department of Budget and Management is unable to
30 provide the information requested by the Commission under subparagraph (i) of this
31 paragraph, the Commission may contract with an independent health care consulting
32 firm for assistance.

1 (3) (i) The Department of Budget and Management shall provide
2 the funding for the Commission to hire more than one actuarial consulting firm and a
3 health care consulting firm.

4 (ii) 1. The Commission may request up to two actuarial
5 valuations annually.

6 2. If the Commission requests two actuarial valuations
7 in the same year, each shall be performed by a different actuarial consulting firm.

8 (g) On or before December 31, 2008, the Commission shall issue a final
9 report of its findings and recommendations to the Governor and, in accordance with §
10 2-1246 of the State Government Article, the General Assembly.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 July 1, 2007.