

HOUSE BILL 494

K4

(3lr1327)

ENROLLED BILL

— Appropriations/Budget and Taxation —

Introduced by **Delegate Griffith (Chair, Joint Committee on Pensions)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **State Retirement and Pension System – Employment of Retirees – Required**
3 **Break in Service**

4 FOR the purpose of prohibiting certain retired members of the State Retirement and
5 Pension System from being employed on a certain basis by certain employers
6 within a certain period of time; deleting certain obsolete provisions; making
7 certain clarifying changes; providing for the effective date of certain provisions
8 of this Act; providing for the termination of certain provisions of this Act; and
9 generally relating to the requirement of a break in service prior to the
10 employment of certain retirees of the State Retirement and Pension System.

11 BY repealing and reenacting, with amendments,
12 Article – State Personnel and Pensions
13 Section 22–406(b), (d), (n), (o), and (p), 23–407(b), (d), (n), (o), and (p), 24–405.1,
14 25–403(h), 26–403(f), ~~27–406(b)~~ 27–406(a) and (b), and 28–402(g)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 Annotated Code of Maryland
2 (2009 Replacement Volume and 2012 Supplement)

3 BY repealing and reenacting, without amendments,
4 Article – State Personnel and Pensions
5 Section 25–403(a), 26–403(a), ~~27–406(a)~~, and 28–402(a)
6 Annotated Code of Maryland
7 (2009 Replacement Volume and 2012 Supplement)

8 BY repealing
9 Article – State Personnel and Pensions
10 Section 22–406(m) and 23–407(m)
11 Annotated Code of Maryland
12 (2009 Replacement Volume and 2012 Supplement)

13 BY adding to
14 Article – State Personnel and Pensions
15 Section 29–117(e)
16 Annotated Code of Maryland
17 (2009 Replacement Volume and 2012 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article – State Personnel and Pensions
20 Section 27–406(a) ~~and (b)~~
21 Annotated Code of Maryland
22 (2009 Replacement Volume and 2012 Supplement)
23 (As enacted by Chapter 688 of the Acts of the General Assembly of 2010)

24 BY repealing and reenacting, with amendments,
25 Article – State Personnel and Pensions
26 Section 27–406(b)
27 Annotated Code of Maryland
28 (2009 Replacement Volume and 2012 Supplement)
29 (As enacted by Chapter 688 of the Acts of the General Assembly of 2010)

30 BY adding to
31 Article – State Personnel and Pensions
32 Section 27–406(e)
33 Annotated Code of Maryland
34 (2009 Replacement Volume and 2012 Supplement)
35 (As enacted by Chapter 688 of the Acts of the General Assembly of 2010)

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

38 **Article – State Personnel and Pensions**

1 22-406.

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

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

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

9 (d) An individual who is [rehired under this section] **RECEIVING A SERVICE**
10 **RETIREMENT ALLOWANCE UNDER THIS TITLE ~~AND WHO IS EMPLOYED BY THE~~**
11 **~~STATE OR OTHER PARTICIPATING EMPLOYER~~** may not be [rehired] **EMPLOYED BY**
12 **~~THE STATE OR OTHER PARTICIPATING EMPLOYER ON A PERMANENT,~~**
13 **~~TEMPORARY, OR CONTRACTUAL BASIS~~** within 45 days of the date the individual
14 retired, **ON A PERMANENT, TEMPORARY, OR CONTRACTUAL BASIS, BY:**

15 (1) **THE STATE OR OTHER PARTICIPATING EMPLOYER; OR**

16 (2) **A WITHDRAWN PARTICIPATING GOVERNMENTAL UNIT, IF THE**
17 **RETIREE WAS AN EMPLOYEE OF THE WITHDRAWN PARTICIPATING**
18 **GOVERNMENTAL UNIT WHILE THE WITHDRAWN GOVERNMENTAL UNIT WAS A**
19 **PARTICIPATING EMPLOYER** [if:

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

24 (2) (i) at the time of retirement, the individual was a member of
25 the Employees' Retirement System as an employee of a withdrawn governmental unit;
26 and

27 (ii) the individual's current employer is the same withdrawn
28 governmental unit that employed the individual at the time of the individual's last
29 separation from employment with a withdrawn governmental unit before the
30 individual commenced receiving a service retirement allowance; or

31 (3) the individual's current employer is any unit of State government
32 and the individual's employer at the time of the individual's last separation from
33 employment with the State before the individual commenced receiving a service
34 retirement allowance was also a unit of State government].

1 [(m) An individual who is rehired under this section may not be rehired within
2 45 days of the date the individual retired if:

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

7 (2) the individual's current employer is any unit of State government
8 and the individual's employer at the time of the individual's last separation from
9 employment with the State before the individual commenced receiving a service
10 retirement allowance was also a unit of State government.]

11 [(n) (M) On or before October 1 of each year, the State Superintendent of
12 Schools shall submit a report for the previous school year, to the Joint Committee on
13 Pensions, in accordance with § 2-1246 of the State Government Article, that provides:

14 (1) the number of rehired retirees under subsection (c)(4)(v) and (vi)
15 and (8) of this section;

16 (2) (i) the school and school system where each retiree was rehired;
17 and

18 (ii) whether the school:

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

22 2. was receiving funds under Title 1 of the federal No
23 Child Left Behind Act of 2001;

24 3. has more than 50% of the students attending that
25 school who are eligible for free and reduced-price meals established by the United
26 States Department of Agriculture; or

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

30 (3) a copy of the annual staffing report generated by the State
31 Superintendent of Schools in accordance with § 18-703(g)(1) of the Education Article
32 certifying areas of critical shortage for the previous school year as evidenced by
33 projected employment vacancies substantially exceeding projected qualified graduates;

34 (4) the subject matter that each rehired retiree was teaching;

1 (5) the salary of each rehired retiree;

2 (6) the total number of years each retiree has been reemployed at the
3 school where the retiree was rehired for the previous school year; and

4 (7) the percentage of student population composed of children in
5 poverty that is required to be present in a school in that school system in order for that
6 school to qualify as a Title 1 school.

7 **[(o)] (N)** On or before October 1 of each year, the Board of Trustees shall
8 submit a report for the previous calendar year to the Joint Committee on Pensions, in
9 accordance with § 2–1246 of the State Government Article, that provides:

10 (1) the number of individuals in each local school system that the
11 Board of Trustees and the State Department of Education agree were rehired and did
12 not satisfy the criteria provided in subsection (c)(4)(v) or (vi) and (5), (6), or (8) of this
13 section; and

14 (2) any reimbursements a local school system made under subsection
15 (c)(9)(iii) of this section.

16 **[(p)] (O)** On or before September 1 of each year, the Secretary of Public
17 Safety and Correctional Services shall submit a report in accordance with § 2–1246 of
18 the State Government Article to the Joint Committee on Pensions that provides:

19 (1) the number of rehired retirees under subsection (c)(4)(x) of this
20 section;

21 (2) the annual salary of each rehired retiree at the time of retirement
22 and the current annual salary of each rehired retiree;

23 (3) the number of parole and probation employees hired who are not
24 retirees; and

25 (4) the annual salary of each parole and probation employee who is
26 hired.

27 23–407.

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

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

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

4 (d) An individual who is [rehired under this section] **RECEIVING A SERVICE**
5 **RETIREMENT ALLOWANCE UNDER THIS TITLE ~~AND WHO IS EMPLOYED BY THE~~**
6 **~~STATE OR OTHER PARTICIPATING EMPLOYER~~** may not be [rehired] **EMPLOYED BY**
7 **~~THE STATE OR OTHER PARTICIPATING EMPLOYER ON A PERMANENT,~~**
8 **~~TEMPORARY, OR CONTRACTUAL BASIS~~** within 45 days of the date the individual
9 retired, **ON A PERMANENT, TEMPORARY, OR CONTRACTUAL BASIS, BY:**

10 (1) **THE STATE OR OTHER PARTICIPATING EMPLOYER; OR**

11 (2) **A WITHDRAWN PARTICIPATING GOVERNMENTAL UNIT, IF THE**
12 **RETIREE WAS AN EMPLOYEE OF THE WITHDRAWN PARTICIPATING**
13 **GOVERNMENTAL UNIT WHILE THE WITHDRAWN GOVERNMENTAL UNIT WAS A**
14 **PARTICIPATING EMPLOYER** [if:

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

19 (2) (i) at the time of retirement, the individual was a member of
20 the Employees' Pension System as an employee of a withdrawn governmental unit;
21 and

22 (ii) the individual's current employer is the same withdrawn
23 governmental unit that employed the individual at the time of the individual's last
24 separation from employment with a withdrawn governmental unit before the
25 individual commenced receiving a service retirement allowance; or

26 (3) the individual's current employer is any unit of State government
27 and the individual's employer at the time of the individual's last separation from
28 employment with the State before the individual commenced receiving a service
29 retirement allowance was also a unit of State government].

30 [(m) An individual who is rehired under this section may not be rehired within
31 45 days of the date the individual retired if:

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

1 (2) the individual's current employer is any unit of State government
2 and the individual's employer at the time of the individual's last separation from
3 employment with the State before the individual commenced receiving a service
4 retirement allowance was also a unit of State government.]

5 **[(n)] (M)** On or before October 1 of each year, the State Superintendent of
6 Schools shall submit a report for the previous school year, to the Joint Committee on
7 Pensions, in accordance with § 2-1246 of the State Government Article, that provides:

8 (1) the number of rehired retirees under subsection (c)(4)(iv) and (v)
9 and (8) of this section;

10 (2) (i) the school and school system where each retiree was rehired;
11 and

12 (ii) whether the school:

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

16 2. was receiving funds under Title 1 of the federal No
17 Child Left Behind Act of 2001;

18 3. has more than 50% of the students attending that
19 school who are eligible for free and reduced-price meals established by the United
20 States Department of Agriculture; or

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

24 (3) a copy of the annual staffing report generated by the State
25 Superintendent of Schools in accordance with § 18-703(g)(1) of the Education Article
26 certifying areas of critical shortage for the previous school year as evidenced by
27 projected employment vacancies substantially exceeding projected qualified graduates;

28 (4) the subject matter that each rehired retiree was teaching;

29 (5) the salary of each rehired retiree;

30 (6) the total number of years each retiree has been reemployed at the
31 school where the retiree was rehired for the previous school year; and

32 (7) the percentage of student population composed of children in
33 poverty that is required to be present in a school in that school system in order for that
34 school to qualify as a Title 1 school.

1 [(o)] (N) On or before October 1 of each year, the Board of Trustees shall
2 submit a report for the previous calendar year to the Joint Committee on Pensions, in
3 accordance with § 2–1246 of the State Government Article, that provides:

4 (1) the number of individuals in each local school system that the
5 Board of Trustees and the State Department of Education agree were rehired and did
6 not satisfy the criteria provided in subsection (c)(4)(iv) or (v) and (5), (6), or (8) of this
7 section; and

8 (2) any reimbursements a local school system made under subsection
9 (c)(9)(ii) of this section.

10 [(p)] (O) On or before September 1 of each year, the Secretary of Public
11 Safety and Correctional Services shall submit a report in accordance with § 2–1246 of
12 the State Government Article to the Joint Committee on Pensions that provides:

13 (1) the number of rehired retirees under subsection (c)(4)(viii) of this
14 section;

15 (2) the annual salary of each rehired retiree at the time of retirement
16 and the current annual salary of each rehired retiree;

17 (3) the number of parole and probation employees hired who are not
18 retirees; and

19 (4) the annual salary of each parole and probation employee who is
20 hired.

21 24–405.1.

22 ~~A retiree of the State Police Retirement System who is [rehired]~~ **EMPLOYED BY**
23 **THE STATE OR OTHER PARTICIPATING EMPLOYER** on a permanent, temporary, or
24 ~~contractual basis~~ **AN INDIVIDUAL WHO IS RECEIVING A SERVICE RETIREMENT**
25 **ALLOWANCE UNDER THIS TITLE** may not be [rehired] **EMPLOYED BY THE STATE**
26 **OR OTHER PARTICIPATING EMPLOYER ON A PERMANENT, TEMPORARY, OR**
27 **CONTRACTUAL BASIS** within 45 days of the date the individual retired [if the
28 individual's current employer is any unit of State government and the individual's
29 employer at the time of the individual's last separation from employment with the
30 State before the individual commenced receiving a service retirement allowance was
31 also a unit of State government].

32 25–403.

33 (a) Except as provided in subsection (h) of this section, an individual who is
34 receiving a service retirement allowance or vested allowance may accept employment

1 with a participating employer on a permanent, temporary, or contractual basis, if the
2 individual immediately notifies the Board of Trustees:

3 (1) of the individual's intention to accept the employment; and

4 (2) of the compensation that the individual will receive.

5 (h) An individual who is [rehired under this section] **RECEIVING A SERVICE**
6 **RETIREMENT ALLOWANCE UNDER THIS TITLE ~~AND WHO IS EMPLOYED BY THE~~**
7 **~~STATE OR OTHER PARTICIPATING EMPLOYER~~** may not be [rehired] **EMPLOYED BY**
8 **~~THE STATE OR OTHER PARTICIPATING EMPLOYER ON A PERMANENT,~~**
9 **~~TEMPORARY, OR CONTRACTUAL BASIS~~** within 45 days of the date the individual
10 retired, **ON A PERMANENT, TEMPORARY, OR CONTRACTUAL BASIS, BY:**

11 (1) **THE STATE OR OTHER PARTICIPATING EMPLOYER; OR**

12 (2) **A WITHDRAWN PARTICIPATING GOVERNMENTAL UNIT, IF THE**
13 **RETIREE WAS AN EMPLOYEE OF THE WITHDRAWN PARTICIPATING**
14 **GOVERNMENTAL UNIT WHILE THE WITHDRAWN GOVERNMENTAL UNIT WAS A**
15 **PARTICIPATING EMPLOYER** [if:

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

20 (2) (i) at the time of retirement, the individual was a member of
21 the Correctional Officers' Retirement System as an employee of a withdrawn
22 governmental unit; and

23 (ii) the individual's current employer is the same withdrawn
24 governmental unit that employed the individual at the time of the individual's last
25 separation from employment with a withdrawn governmental unit before the
26 individual commenced receiving a service retirement allowance; or

27 (3) the individual's current employer is any unit of State government
28 and the individual's employer at the time of the individual's last separation from
29 employment with the State before the individual commenced receiving a service
30 retirement allowance was also a unit of State government].

31 26-403.

32 (a) Except as provided in subsection (f) of this section, a retiree who is
33 receiving a service retirement allowance may accept employment with a participating
34 employer on a permanent, temporary, or contractual basis, without any reduction in
35 retirement allowance.

1 (f) An individual who is [rehired under this section] **RECEIVING A SERVICE**
 2 **RETIREMENT ALLOWANCE UNDER THIS TITLE ~~AND WHO IS EMPLOYED BY THE~~**
 3 **~~STATE OR OTHER PARTICIPATING EMPLOYER~~** may not be [rehired] **EMPLOYED ~~BY~~**
 4 **~~THE STATE OR OTHER PARTICIPATING EMPLOYER ON A PERMANENT,~~**
 5 **~~TEMPORARY, OR CONTRACTUAL BASIS~~** within 45 days of the date the individual
 6 retired, **ON A PERMANENT, TEMPORARY, OR CONTRACTUAL BASIS, BY:**

7 (1) **THE STATE OR OTHER PARTICIPATING EMPLOYER; OR**

8 (2) **A WITHDRAWN PARTICIPATING GOVERNMENTAL UNIT, IF THE**
 9 **RETIREE WAS AN EMPLOYEE OF THE WITHDRAWN PARTICIPATING**
 10 **GOVERNMENTAL UNIT WHILE THE WITHDRAWN GOVERNMENTAL UNIT WAS A**
 11 **PARTICIPATING EMPLOYER** [if:

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

16 (2) (i) at the time of retirement, the individual was a member of
 17 the Law Enforcement Officers' Pension System as an employee of a withdrawn
 18 governmental unit; and

19 (ii) the individual's current employer is the same withdrawn
 20 governmental unit that employed the individual at the time of the individual's last
 21 separation from employment with a withdrawn governmental unit before the
 22 individual commenced receiving a service retirement allowance; or

23 (3) the individual's current employer is any unit of State government
 24 and the individual's employer at the time of the individual's last separation from
 25 employment with the State before the individual commenced receiving a service
 26 retirement allowance was also a unit of State government].

27 27-406.

28 (a) **A SUBJECT TO SUBSECTION (B) OF THIS SECTION, A** retiree may
 29 accept employment in which all or part of the compensation for the employment comes
 30 from municipal, county, or State funds, if the retiree immediately notifies the Board of
 31 Trustees of:

32 (1) the retiree's intention to accept the employment; and

33 (2) the compensation that the retiree will receive.

1 (b) (1) This subsection does not apply to a retiree who is temporarily
2 assigned to sit in a court of this State under the authority of Article IV, § 3A of the
3 Maryland Constitution.

4 (2) A retiree may not be [rehired] **EMPLOYED BY THE STATE OR**
5 **OTHER PARTICIPATING EMPLOYER ON A PERMANENT, TEMPORARY, OR**
6 **CONTRACTUAL BASIS** within 45 days of the date the individual retired [if the
7 individual's current employer is any unit of State government and the individual's
8 employer at the time of the individual's last separation from employment with the
9 State before the individual commenced receiving a service retirement allowance was
10 also a unit of State government].

11 28-402.

12 (a) Except as provided in subsection (g) of this section, an individual who is
13 receiving a service retirement allowance or vested allowance may accept employment
14 with a participating employer on a permanent, temporary, or contractual basis,
15 without any reduction in the allowance, if:

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

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

19 (g) An individual who is [rehired under this section] **RECEIVING A SERVICE**
20 **RETIREMENT ALLOWANCE UNDER THIS TITLE ~~AND WHO IS EMPLOYED BY THE~~**
21 **~~STATE OR OTHER PARTICIPATING EMPLOYER~~** may not be [rehired] **EMPLOYED BY**
22 **THE STATE OR OTHER PARTICIPATING EMPLOYER ON A PERMANENT,**
23 **TEMPORARY, OR CONTRACTUAL BASIS** within 45 days of the date the individual
24 retired [if the individual's current employer is a participating employer other than the
25 State and is the same participating employer that employed the individual at the time
26 of the individual's last separation from employment with a participating employer
27 before the individual commenced receiving a service retirement allowance].

28 29-117.

29 (E) **AN INDIVIDUAL WHO IS RECEIVING A DISABILITY RETIREMENT**
30 **ALLOWANCE UNDER THIS TITLE ~~AND WHO IS EMPLOYED BY THE STATE OR~~**
31 **~~OTHER PARTICIPATING EMPLOYER~~ MAY NOT BE EMPLOYED ~~BY THE STATE OR~~**
32 **~~OTHER PARTICIPATING EMPLOYER ON A PERMANENT, TEMPORARY, OR~~**
33 **~~CONTRACTUAL BASIS~~ WITHIN 45 DAYS OF THE DATE THE INDIVIDUAL RETIRED,**
34 **ON A PERMANENT, TEMPORARY, OR CONTRACTUAL BASIS, BY:**

35 (1) **THE STATE OR OTHER PARTICIPATING EMPLOYER; OR**

1 **(2) A WITHDRAWN PARTICIPATING GOVERNMENTAL UNIT, IF THE**
2 **RETIREE WAS AN EMPLOYEE OF THE WITHDRAWN PARTICIPATING**
3 **GOVERNMENTAL UNIT WHILE THE WITHDRAWN GOVERNMENTAL UNIT WAS A**
4 **PARTICIPATING EMPLOYER.**

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

7 **Article – State Personnel and Pensions**

8 27–406.

9 (a) This section does not apply to a retiree who:

10 (1) is temporarily assigned to sit in a court of this State under the
11 authority of Article IV, § 3A of the Maryland Constitution; or

12 (2) is employed as a member of the faculty of a public institution of
13 higher education in the State.

14 (b) ~~A~~ **SUBJECT TO SUBSECTION (E) OF THIS SECTION, A** retiree may
15 accept employment in which all or part of the compensation for the employment comes
16 from municipal, county, or State funds, if the retiree immediately notifies the Board of
17 Trustees of:

18 (1) the retiree’s intention to accept the employment; and

19 (2) the compensation that the retiree will receive.

20 **(E) A RETIREE MAY NOT BE EMPLOYED BY THE STATE OR OTHER**
21 **PARTICIPATING EMPLOYER ON A PERMANENT, TEMPORARY, OR CONTRACTUAL**
22 **BASIS WITHIN 45 DAYS OF THE DATE THE INDIVIDUAL RETIRED.**

23 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
24 take effect on the taking effect of the termination provision specified in Section 2 of
25 Chapter 688 of the Acts of the General Assembly of 2010. If that termination provision
26 takes effect, § 27–406(a) and (b) of the State Personnel and Pensions Article of the
27 Annotated Code of Maryland, as enacted by Section 1 of this Act, shall be abrogated
28 and of no further force and effect. This Act may not be interpreted to have any effect
29 on that termination provision.

30 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions
31 of Section 3 of this Act, this Act shall take effect July 1, 2013.