

SENATE BILL 477

K4

3lr1324
CF HB 494

By: **Senator Jones–Rodwell (Chair, Joint Committee on Pensions)**

Introduced and read first time: January 30, 2013

Assigned to: Budget and Taxation

A BILL ENTITLED

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 by certain employers within a certain
6 period of time; deleting certain obsolete provisions; making certain clarifying
7 changes; providing for the effective date of certain provisions of this Act;
8 providing for the termination of certain provisions of this Act; and generally
9 relating to the requirement of a break in service prior to the employment of
10 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), and 28–402(g)
15 Annotated Code of Maryland
16 (2009 Replacement Volume and 2012 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article – State Personnel and Pensions
19 Section 25–403(a), 26–403(a), 27–406(a), and 28–402(a)
20 Annotated Code of Maryland
21 (2009 Replacement Volume and 2012 Supplement)

22 BY repealing
23 Article – State Personnel and Pensions
24 Section 22–406(m) and 23–407(m)
25 Annotated Code of Maryland
26 (2009 Replacement Volume and 2012 Supplement)

27 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – State Personnel and Pensions
 2 Section 29–117(e)
 3 Annotated Code of Maryland
 4 (2009 Replacement Volume and 2012 Supplement)

5 BY repealing and reenacting, without amendments,
 6 Article – State Personnel and Pensions
 7 Section 27–406(a) and (b)
 8 Annotated Code of Maryland
 9 (2009 Replacement Volume and 2012 Supplement)
 10 (As enacted by Chapter 688 of the Acts of the General Assembly of 2010)

11 BY adding to
 12 Article – State Personnel and Pensions
 13 Section 27–406(e)
 14 Annotated Code of Maryland
 15 (2009 Replacement Volume and 2012 Supplement)
 16 (As enacted by Chapter 688 of the Acts of the General Assembly of 2010)

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

19 **Article – State Personnel and Pensions**

20 22–406.

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

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

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

28 (d) An individual who is [rehired under this section] **RECEIVING A SERVICE**
 29 **RETIREMENT ALLOWANCE UNDER THIS TITLE AND WHO IS EMPLOYED BY THE**
 30 **STATE OR OTHER PARTICIPATING EMPLOYER** may not be [rehired] **EMPLOYED**
 31 within 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;

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

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

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

12 [(m) An individual who is rehired under this section may not be rehired within
13 45 days of the date the individual retired if:

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

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

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

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

27 (2) (i) the school and school system where each retiree was rehired;
28 and

29 (ii) whether the school:

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

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

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

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

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

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

12 (5) the salary of each rehired retiree;

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

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

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

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

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

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

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

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

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

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

5 23-407.

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

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

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

13 (d) An individual who is [rehired under this section] **RECEIVING A SERVICE**
14 **RETIREMENT ALLOWANCE UNDER THIS TITLE AND WHO IS EMPLOYED BY THE**
15 **STATE OR OTHER PARTICIPATING EMPLOYER** may not be [rehired] **EMPLOYED**
16 within 45 days of the date the individual retired [if:

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

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

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

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

32 [(m) An individual who is rehired under this section may not be rehired within
33 45 days of the date the individual retired if:

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

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

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

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

14 (2) (i) the school and school system where each retiree was rehired;
15 and

16 (ii) whether the school:

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

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

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

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

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

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

33 (5) the salary of each rehired retiree;

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

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

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

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

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

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

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

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

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

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

26 24–405.1.

27 A retiree of the State Police Retirement System who is [rehired] **EMPLOYED BY**
28 **THE STATE OR OTHER PARTICIPATING EMPLOYER** on a permanent, temporary, or
29 contractual basis may not be [rehired] **EMPLOYED** within 45 days of the date the
30 individual retired [if the individual's current employer is any unit of State government
31 and the individual's employer at the time of the individual's last separation from
32 employment with the State before the individual commenced receiving a service
33 retirement allowance was also a unit of State government].

34 25–403.

1 (a) Except as provided in subsection (h) of this section, an individual who is
2 receiving a service retirement allowance or vested allowance may accept employment
3 with a participating employer on a permanent, temporary, or contractual basis, if the
4 individual immediately notifies the Board of Trustees:

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

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

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

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

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

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

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

26 26-403.

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

31 (f) An individual who is [rehired under this section] **RECEIVING A SERVICE**
32 **RETIREMENT ALLOWANCE UNDER THIS TITLE AND WHO IS EMPLOYED BY THE**
33 **STATE OR OTHER PARTICIPATING EMPLOYER** may not be [rehired] **EMPLOYED**
34 within 45 days of the date the individual retired [if:

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

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

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

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

16 27-406.

17 (a) A retiree may accept employment in which all or part of the
18 compensation for the employment comes from municipal, county, or State funds, if the
19 retiree immediately notifies the Board of Trustees of:

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

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

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

25 (2) A retiree may not be [rehired] **EMPLOYED BY THE STATE OR**
26 **OTHER PARTICIPATING EMPLOYER** within 45 days of the date the individual retired
27 [if the individual's current employer is any unit of State government and the
28 individual's employer at the time of the individual's last separation from employment
29 with the State before the individual commenced receiving a service retirement
30 allowance was also a unit of State government].

31 28-402.

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

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

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

4 (g) 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**
7 within 45 days of the date the individual retired [if the individual's current employer
8 is a participating employer other than the State and is the same participating
9 employer that employed the individual at the time of the individual's last separation
10 from employment with a participating employer before the individual commenced
11 receiving a service retirement allowance].

12 29–117.

13 **(E) AN INDIVIDUAL WHO IS RECEIVING A DISABILITY RETIREMENT**
14 **ALLOWANCE UNDER THIS TITLE AND WHO IS EMPLOYED BY THE STATE OR**
15 **OTHER PARTICIPATING EMPLOYER MAY NOT BE EMPLOYED WITHIN 45 DAYS OF**
16 **THE DATE THE INDIVIDUAL RETIRED.**

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

19 **Article – State Personnel and Pensions**

20 27–406.

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

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

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

26 (b) A retiree may accept employment in which all or part of the
27 compensation for the employment comes from municipal, county, or State funds, if the
28 retiree immediately notifies the Board of Trustees of:

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

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

1 **(E) A RETIREE MAY NOT BE EMPLOYED BY THE STATE OR OTHER**
2 **PARTICIPATING EMPLOYER WITHIN 45 DAYS OF THE DATE THE INDIVIDUAL**
3 **RETIRED.**

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

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