

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

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 12, 2013

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)
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

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.



1 Article – State Personnel and Pensions
 2 Section 22–406(m) and 23–407(m)
 3 Annotated Code of Maryland
 4 (2009 Replacement Volume and 2012 Supplement)

5 BY adding to
 6 Article – State Personnel and Pensions
 7 Section 29–117(e)
 8 Annotated Code of Maryland
 9 (2009 Replacement Volume and 2012 Supplement)

10 BY repealing and reenacting, without amendments,
 11 Article – State Personnel and Pensions
 12 Section 27–406(a) ~~and (b)~~
 13 Annotated Code of Maryland
 14 (2009 Replacement Volume and 2012 Supplement)
 15 (As enacted by Chapter 688 of the Acts of the General Assembly of 2010)

16 BY repealing and reenacting, with amendments,
 17 Article – State Personnel and Pensions
 18 Section 27–406(b)
 19 Annotated Code of Maryland
 20 (2009 Replacement Volume and 2012 Supplement)
 21 (As enacted by Chapter 688 of the Acts of the General Assembly of 2010)

22 BY adding to
 23 Article – State Personnel and Pensions
 24 Section 27–406(e)
 25 Annotated Code of Maryland
 26 (2009 Replacement Volume and 2012 Supplement)
 27 (As enacted by Chapter 688 of the Acts of the General Assembly of 2010)

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

30 **Article – State Personnel and Pensions**

31 22–406.

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

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

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

2 (d) An individual who is [rehired under this section] **RECEIVING A SERVICE**
3 **RETIREMENT ALLOWANCE UNDER THIS TITLE ~~AND WHO IS EMPLOYED BY THE~~**
4 **~~STATE OR OTHER PARTICIPATING EMPLOYER~~** may not be [rehired] **EMPLOYED**
5 within 45 days of the date the individual retired, **ON A PERMANENT, TEMPORARY,**
6 **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 Employees' Retirement System as an employee of a withdrawn governmental unit;
18 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 [(m) An individual who is rehired under this section may not be rehired within
28 45 days of the date the individual retired if:

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

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

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

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

6 (2) (i) the school and school system where each retiree was rehired;
7 and

8 (ii) whether the school:

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

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

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

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

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

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

25 (5) the salary of each rehired retiree;

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

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

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

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

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

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

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

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

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

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

18 23-407.

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

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

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

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

31 **(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** [if:

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

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

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

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

20 [(m) An individual who is rehired under this section may not be rehired within
21 45 days of the date the individual retired if:

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

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

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

35 (2) (i) the school and school system where each retiree was rehired;
36 and

1 (ii) whether the school:

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

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

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

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

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

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

18 (5) the salary of each rehired retiree;

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

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

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

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

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

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

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

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

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

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

12 24-405.1.

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

23 25-403.

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

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

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

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

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

2 **(2) A WITHDRAWN PARTICIPATING GOVERNMENTAL UNIT, IF THE**
 3 **RETIREE WAS AN EMPLOYEE OF THE WITHDRAWN PARTICIPATING**
 4 **GOVERNMENTAL UNIT WHILE THE WITHDRAWN GOVERNMENTAL UNIT WAS A**
 5 **PARTICIPATING EMPLOYER** [if:

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

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

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

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

21 26-403.

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

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

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

32 **(2) A WITHDRAWN PARTICIPATING GOVERNMENTAL UNIT, IF THE**
 33 **RETIREE WAS AN EMPLOYEE OF THE WITHDRAWN PARTICIPATING**
 34 **GOVERNMENTAL UNIT WHILE THE WITHDRAWN GOVERNMENTAL UNIT WAS A**
 35 **PARTICIPATING EMPLOYER** [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~~ **SUBJECT TO SUBSECTION (B) OF THIS SECTION, A** retiree may
18 accept employment in which all or part of the compensation for the employment comes
19 from municipal, county, or State funds, if the retiree immediately notifies the Board of
20 Trustees of:

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

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

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

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

33 28-402.

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

1 with a participating employer on a permanent, temporary, or contractual basis,
2 without any reduction in the allowance, if:

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

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

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

15 29–117.

16 (E) **AN INDIVIDUAL WHO IS RECEIVING A DISABILITY RETIREMENT**
17 **ALLOWANCE UNDER THIS TITLE ~~AND WHO IS EMPLOYED BY THE STATE OR~~**
18 **~~OTHER PARTICIPATING EMPLOYER~~ MAY NOT BE EMPLOYED WITHIN 45 DAYS OF**
19 **THE DATE THE INDIVIDUAL RETIRED, ON A PERMANENT, TEMPORARY, OR**
20 **CONTRACTUAL BASIS BY:**

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

22 (2) **A WITHDRAWN PARTICIPATING GOVERNMENTAL UNIT, IF THE**
23 **RETIREE WAS AN EMPLOYEE OF THE WITHDRAWN PARTICIPATING**
24 **GOVERNMENTAL UNIT WHILE THE WITHDRAWN GOVERNMENTAL UNIT WAS A**
25 **PARTICIPATING EMPLOYER.**

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

28 **Article – State Personnel and Pensions**

29 27–406.

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

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

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

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

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

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

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

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.