

HOUSE BILL 609

K4

4lr1757

By: **Delegates Serafini and Krebs**

Introduced and read first time: January 30, 2014

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Employees' Pension System – Cash Balance Plan Option**

3 FOR the purpose of establishing a cash balance plan under the State Retirement and
4 Pension System; exempting certain individuals who elect to participate in the
5 cash balance plan from the requirement to join the Employees' Pension System
6 as a condition of employment; requiring the Board of Trustees for the State
7 Retirement and Pension System to administer the cash balance plan and adopt
8 certain regulations; providing the vesting requirements for participating
9 employees in the cash balance plan; authorizing certain eligible employees to
10 elect to cease membership in the Employees' Pension System if a written
11 election is made within a certain period of time; providing that certain eligible
12 employees who do not make an election to cease membership within a certain
13 period of time remain members in the Employees' Pension System; requiring
14 certain eligible employees to elect to join the Employees' Pension System or the
15 cash balance plan and requiring the election to be made in writing within a
16 certain period of time; providing that certain eligible employees who do not elect
17 to participate in the cash balance plan within a certain period of time shall
18 become members of the Employees' Pension System; providing that a certain
19 election is a one-time irrevocable election; requiring that employee
20 contributions to the cash balance plan be a certain amount and be made in a
21 certain manner; requiring certain participating employees of the cash balance
22 plan to be a certain age with a certain number of years of service as an eligible
23 employee prior to receiving certain distributions; requiring certain participating
24 employees of the cash balance plan who elect to receive certain distributions
25 before reaching a certain age with a certain number of years of service to wait
26 until a certain time to receive the distribution; providing for distribution of
27 certain benefits from the cash balance plan to a participating employee on
28 retirement; providing that certain participating employees in the cash balance
29 plan may make certain elections with regard to the method of distribution for
30 certain benefits payable under the cash balance plan; requiring the State to
31 make certain employer contributions to the cash balance plan in a certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 manner; providing that certain participating employees in the cash balance plan
 2 may receive a certain benefit from the Employees' Pension System; providing
 3 that certain eligible employees in the cash balance plan may elect to convert a
 4 certain accrued benefit to the cash balance plan or receive a return of certain
 5 member contributions plus regular interest; prohibiting certain eligible
 6 employees who elect to convert a certain benefit to the cash balance plan from
 7 receiving certain member contributions; defining certain terms; requiring the
 8 State Retirement Agency to request a certain private letter ruling from the
 9 Internal Revenue Service on or before a certain date; making certain provisions
 10 of this Act subject to a certain contingency; and generally relating to the
 11 establishment of an optional cash balance plan for individuals eligible for
 12 membership in the Employees' Pension System.

13 BY repealing and reenacting, with amendments,
 14 Article – State Personnel and Pensions
 15 Section 23–201(b)(10) and (11)
 16 Annotated Code of Maryland
 17 (2009 Replacement Volume and 2013 Supplement)

18 BY adding to
 19 Article – State Personnel and Pensions
 20 Section 23–201(b)(12); and 41–101 through 41–209 to be under the new title
 21 “Title 41. Cash Balance Plan”
 22 Annotated Code of Maryland
 23 (2009 Replacement Volume and 2013 Supplement)

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

26 **Article – State Personnel and Pensions**

27 23–201.

28 (b) Sections 23–203 through 23–205 of this subtitle do not apply to:

29 (10) an appointed or elected official who on or after July 1, 2007, is a
 30 member of any other State or local retirement or pension system as defined under
 31 Title 37 of this article; [or]

32 (11) the Director of the Department of Social Services in Montgomery
 33 County who:

34 (i) was transferred into the State Personnel Management
 35 System as an employee of the Social Services Administration of the Maryland
 36 Department of Human Resources;

1 (ii) elected, under § 3–403.1 of the Human Services Article, to
2 remain as a participant in the Montgomery County Employees’ Retirement System;
3 and

4 (iii) remains as an employee of the Social Services
5 Administration of the Maryland Department of Human Resources; OR

6 (12) AN INDIVIDUAL WHO IS ELIGIBLE TO PARTICIPATE AND
7 ELECTS TO PARTICIPATE IN A CASH BALANCE PLAN UNDER TITLE 41 OF THIS
8 ARTICLE.

9 TITLE 41. CASH BALANCE PLAN.

10 SUBTITLE 1. DEFINITIONS.

11 41–101.

12 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
13 INDICATED.

14 (B) “BOARD OF TRUSTEES” MEANS THE BOARD OF TRUSTEES FOR THE
15 STATE RETIREMENT AND PENSION SYSTEM.

16 (C) “CASH BALANCE PLAN” MEANS A DEFINED BENEFIT PLAN
17 QUALIFIED UNDER THE INTERNAL REVENUE CODE THAT REQUIRES EMPLOYER
18 CONTRIBUTIONS AND EMPLOYEE CONTRIBUTIONS EQUAL TO A FIXED
19 PERCENTAGE OF A PARTICIPATING EMPLOYEE’S ANNUAL EARNABLE
20 COMPENSATION THAT ARE DEPOSITED INTO AN INTEREST BEARING ACCOUNT
21 AND ADMINISTERED BY THE BOARD OF TRUSTEES.

22 (D) “ELIGIBLE EMPLOYEE” MEANS AN INDIVIDUAL WHO:

23 (1) IS ELIGIBLE FOR MEMBERSHIP IN THE EMPLOYEES’ PENSION
24 SYSTEM UNDER TITLE 23 OF THIS ARTICLE; AND

25 (2) (I) IS A MEMBER OF THE EMPLOYEES’ PENSION SYSTEM
26 AND THE TIME HAS NOT YET ELAPSED IN WHICH THE MEMBER CAN ELECT TO
27 JOIN THE CASH BALANCE PLAN IN ACCORDANCE WITH § 41–204(A) OF THIS
28 TITLE; OR

29 (II) HAS NOT YET ELECTED TO JOIN THE EMPLOYEES’
30 PENSION SYSTEM IN ACCORDANCE WITH § 41–204(B) OF THIS TITLE.

1 CEASE BEING A MEMBER OF THE EMPLOYEES' PENSION SYSTEM AND
2 PARTICIPATE IN THE CASH BALANCE PLAN ESTABLISHED UNDER THIS SUBTITLE
3 IF THE ELIGIBLE EMPLOYEE FILES A WRITTEN ELECTION WITH THE BOARD OF
4 TRUSTEES AND THE PARTICIPATING EMPLOYER ON OR BEFORE JUNE 30, 2015.

5 (2) AN ELIGIBLE EMPLOYEE UNDER PARAGRAPH (1) OF THIS
6 SUBSECTION WHO DOES NOT ELECT TO TERMINATE MEMBERSHIP IN THE
7 EMPLOYEES' PENSION SYSTEM ON OR BEFORE JUNE 30, 2015, REMAINS A
8 MEMBER IN THE EMPLOYEES' PENSION SYSTEM AND MAY NOT PARTICIPATE IN
9 THE CASH BALANCE PLAN ESTABLISHED UNDER THIS SUBTITLE.

10 (B) (1) AN ELIGIBLE EMPLOYEE WHO IS NOT A MEMBER OF THE
11 EMPLOYEES' PENSION SYSTEM ON OR BEFORE JULY 1, 2014, SHALL ELECT TO:

12 (I) JOIN THE EMPLOYEES' PENSION SYSTEM IN
13 ACCORDANCE WITH TITLE 23 OF THIS ARTICLE; OR

14 (II) PARTICIPATE IN THE CASH BALANCE PLAN
15 ESTABLISHED UNDER THIS SUBTITLE.

16 (2) (I) AN ELIGIBLE EMPLOYEE UNDER PARAGRAPH (1) OF
17 THIS SUBSECTION SHALL FILE A WRITTEN ELECTION WITH THE BOARD OF
18 TRUSTEES AND THE PARTICIPATING EMPLOYER WITHIN 1 YEAR OF BECOMING
19 AN ELIGIBLE EMPLOYEE.

20 (II) AN ELIGIBLE EMPLOYEE UNDER PARAGRAPH (1) OF
21 THIS SUBSECTION WHO DOES NOT ELECT TO PARTICIPATE IN THE CASH
22 BALANCE PLAN ESTABLISHED UNDER THIS SUBTITLE WITHIN 1 YEAR OF
23 BECOMING AN ELIGIBLE EMPLOYEE SHALL BECOME A MEMBER OF THE
24 EMPLOYEES' PENSION SYSTEM AND MAY NOT PARTICIPATE IN THE CASH
25 BALANCE PLAN ESTABLISHED UNDER THIS SUBTITLE.

26 (C) THE EFFECTIVE DATE OF THE ELECTION SHALL BE THE FIRST DAY
27 OF THE MONTH AFTER THE ELECTION.

28 (D) AN ELIGIBLE EMPLOYEE'S ELECTION TO PARTICIPATE IN THE CASH
29 BALANCE PLAN IS A ONETIME IRREVOCABLE ELECTION.

30 41-205.

31 (A) A PARTICIPATING EMPLOYEE'S CONTRIBUTION RATE IS 5% OF THE
32 PARTICIPATING EMPLOYEE'S ANNUAL EARNABLE COMPENSATION.

1 **(B) THE PARTICIPATING EMPLOYEE CONTRIBUTIONS SHALL BE MADE**
2 **AS PAYROLLS ARE PAID BY PAYROLL DEDUCTION OR BY A REDUCTION IN**
3 **SALARY IN ACCORDANCE WITH THE INTERNAL REVENUE CODE AND AS**
4 **PROVIDED BY THE CASH BALANCE PLAN.**

5 **41-206.**

6 **(A) (1) A PARTICIPATING EMPLOYEE MAY RETIRE FROM THE CASH**
7 **BALANCE PLAN IF THE PARTICIPATING EMPLOYEE HAS ATTAINED AT LEAST AGE**
8 **62 AND HAS AT LEAST 10 YEARS OF SERVICE AS AN ELIGIBLE EMPLOYEE.**

9 **(2) IF A PARTICIPATING EMPLOYEE ELECTS TO RETIRE BEFORE**
10 **ATTAINING AGE 62 AND 10 YEARS OF SERVICE, THE PARTICIPATING EMPLOYEE**
11 **MAY NOT RECEIVE ANY DISTRIBUTION UNDER SUBSECTION (C) OF THIS SECTION**
12 **UNTIL JULY 1 FOLLOWING THE NEXT ACTUARIAL EVALUATION FOLLOWING THE**
13 **PARTICIPATING EMPLOYEE'S ELECTION.**

14 **(B) ON RETIREMENT UNDER SUBSECTION (A) OF THIS SECTION, A**
15 **PARTICIPATING EMPLOYEE SHALL RECEIVE A DISTRIBUTION UNDER**
16 **SUBSECTION (C) OF THIS SECTION THAT EQUALS THE PARTICIPATING**
17 **EMPLOYEE'S ACCOUNT WITH 5% INTEREST COMPOUNDED ANNUALLY FOR EACH**
18 **YEAR OF SERVICE AS AN ELIGIBLE EMPLOYEE.**

19 **(C) BENEFITS UNDER THE CASH BALANCE PLAN:**

20 **(1) SHALL BE PAYABLE TO A PARTICIPATING EMPLOYEE AS:**

21 **(I) A LUMP SUM PAYMENT; OR**

22 **(II) AN ANNUITY BEGINNING AT THE TIME OF RETIREMENT**
23 **OF THE PARTICIPATING EMPLOYEE WITH:**

24 **1. NO SURVIVOR BENEFIT;**

25 **2. A 100% JOINT AND SURVIVOR BENEFIT; OR**

26 **3. A 50% JOINT AND SURVIVOR BENEFIT; AND**

27 **(2) SHALL BE PAYABLE IN ACCORDANCE WITH THE INTERNAL**
28 **REVENUE CODE AND AS PROVIDED BY THE CASH BALANCE PLAN.**

29 **41-207.**

1 ON BEHALF OF EACH PARTICIPATING EMPLOYEE WHO MAKES
2 CONTRIBUTIONS UNDER § 41-205 OF THIS SUBTITLE, THE STATE SHALL
3 CONTRIBUTE 5% OF THE PARTICIPATING EMPLOYEE'S ANNUAL EARNABLE
4 COMPENSATION.

5 **41-208.**

6 THE GOVERNOR SHALL INCLUDE IN THE ANNUAL STATE BUDGET BILL AN
7 APPROPRIATION THAT IS SUFFICIENT TO PAY THE EMPLOYER CONTRIBUTIONS
8 FOR PARTICIPATING EMPLOYEES REQUIRED UNDER § 41-207 OF THIS
9 SUBTITLE.

10 **41-209.**

11 (A) SUBJECT TO SUBSECTIONS (B) AND (C) OF THIS SECTION, A
12 PARTICIPATING EMPLOYEE WHO WAS A MEMBER OF THE EMPLOYEES' PENSION
13 SYSTEM AND ELECTED TO JOIN THE CASH BALANCE PLAN IN ACCORDANCE
14 WITH § 41-204(A) OF THIS SUBTITLE SHALL RECEIVE A BENEFIT UNDER §
15 23-401 OF THIS ARTICLE FOR THE PERIOD OF TIME THE PARTICIPATING
16 EMPLOYEE WAS A MEMBER OF THE EMPLOYEES' PENSION SYSTEM.

17 (B) TO QUALIFY FOR A BENEFIT FROM THE EMPLOYEES' PENSION
18 SYSTEM UNDER SUBSECTION (A) OF THIS SECTION, THE PARTICIPATING
19 EMPLOYEE IS SUBJECT TO THE PROVISIONS OF TITLE 23 OF THIS ARTICLE.

20 (C) (1) THIS SUBSECTION APPLIES TO AN ELIGIBLE EMPLOYEE WHO:

21 (I) 1. BEGAN EMPLOYMENT AS AN EMPLOYEE OF A
22 PARTICIPATING EMPLOYER DESCRIBED UNDER § 41-101(D)(2) OF THIS TITLE
23 ON OR BEFORE JUNE 30, 2011; AND

24 2. ON JUNE 30, 2014, HAS LESS THAN 5 YEARS OF
25 SERVICE CREDIT IN THE EMPLOYEES' PENSION SYSTEM; OR

26 (II) 1. BEGAN EMPLOYMENT AS AN EMPLOYEE OF A
27 PARTICIPATING EMPLOYER DESCRIBED UNDER § 41-101(D)(2) OF THIS TITLE
28 ON OR AFTER JULY 1, 2011; AND

29 2. ON JUNE 30, 2014, HAS LESS THAN 10 YEARS OF
30 SERVICE CREDIT IN THE EMPLOYEES' PENSION SYSTEM.

31 (2) AN ELIGIBLE EMPLOYEE DESCRIBED IN PARAGRAPH (1) OF
32 THIS SUBSECTION:

1 **(I) MAY ELECT TO RECEIVE A RETURN OF THE ELIGIBLE**
2 **EMPLOYEE’S MEMBER CONTRIBUTIONS, WITH REGULAR INTEREST, FROM THE**
3 **EMPLOYEES’ PENSION SYSTEM; OR**

4 **(II) MAY ELECT TO CONVERT THE BENEFIT THE ELIGIBLE**
5 **EMPLOYEE HAS ACCRUED IN THE EMPLOYEES’ PENSION SYSTEM ON JUNE 30,**
6 **2014, TO AN EQUIVALENT BENEFIT IN THE CASH BALANCE PLAN.**

7 **(3) AN ELIGIBLE EMPLOYEE WHO ELECTS TO CONVERT THE**
8 **BENEFIT THE ELIGIBLE EMPLOYEE HAS ACCRUED IN THE EMPLOYEES’ PENSION**
9 **SYSTEM UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION MAY NOT RECEIVE A**
10 **RETURN OF THE ELIGIBLE EMPLOYEE’S MEMBER CONTRIBUTIONS.**

11 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before July 1,
12 2014, the State Retirement Agency shall request a private letter ruling from the
13 Internal Revenue Service that confirms:

14 (1) the qualification under § 401 of the Internal Revenue Code of the
15 cash balance plan established under Section 1 of this Act;

16 (2) the continued pretax qualification under § 414(h)(2) of the Internal
17 Revenue Code of a member’s contributions under the cash balance plan established
18 under Section 1 of this Act; and

19 (3) that a distribution from a member’s account under the cash
20 balance plan established under Section 1 of this Act constitutes an eligible rollover
21 distribution under the Internal Revenue Code.

22 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
23 take effect contingent on the receipt of a private letter ruling by the Internal Revenue
24 Service that makes the confirmations specified under Section 2 of this Act. If a private
25 letter ruling by the Internal Revenue Service is received that makes the confirmations
26 specified under Section 2 of this Act, Section 1 of this Act shall take effect the first day
27 of the month after the State Retirement Agency receives the ruling. If a private letter
28 ruling is received by the State Retirement Agency from the Internal Revenue Service
29 that does not make all of the confirmations specified in Section 2 of this Act, Section 1
30 of this Act, with no further action required by the General Assembly, shall be null and
31 void and of no force and effect. The State Retirement Agency, within 5 days after
32 receiving the ruling from the Internal Revenue Service, shall forward a copy of the
33 ruling to the Department of Legislative Services, 90 State Circle, Annapolis, Maryland
34 21401.

35 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 3 of
36 this Act, this Act shall take effect July 1, 2014.