

Chapter 182

(Senate Bill 560)

AN ACT concerning

Employees' Pension System – ~~Elected and Appointed Officials~~ – Optional Membership

FOR the purpose of providing that membership in the Employees' Pension System is optional for certain officials who are elected or appointed for a fixed term; requiring certain individuals who elect to join the Employees' Pension System to complete a certain form and file it with the Board of Trustees for the State Retirement and Pension System within a certain period of time; providing that certain individuals who do not make an election to join the Employees' Pension System within a certain period of time may not join the Employees' Pension System; providing that certain individuals' election or failure to elect to join the Employees' Pension System is a one-time, irrevocable decision; simplifying and clarifying certain provisions of law regarding mandatory and optional membership of employees of participating governmental units in the Employees' Pension System; requiring the Board of Trustees to adopt certain regulations; making conforming changes; and generally relating to optional membership in the Employees' Pension System ~~for certain elected and appointed officials.~~

BY repealing and reenacting, with amendments,
 Article – State Personnel and Pensions
 Section 21–305.3(a)(3), 23–201(a) ~~and (b)~~, 23–204, ~~31–111.4(a), 31–111.8(a), and~~
 31–113(b)(1)(iii) and (d)(1)(i)
 Annotated Code of Maryland
 (2009 Replacement Volume and 2014 Supplement)

BY repealing and reenacting, without amendments,
Article – State Personnel and Pensions
Section 23–201(b)
Annotated Code of Maryland
(2009 Replacement Volume and 2014 Supplement)

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

Article – State Personnel and Pensions

21–305.3.

(a) (3) “Special accrued liability” means, as to any participating governmental unit, the liability of the employees' systems on account of the employees of the participating

governmental unit who elect to become members under § [23–204(b)] **23–204(A)** of this article.

23–201.

(a) Except as provided in subsection (b) of this section, §§ 23–203 ~~[through]~~ ~~AND~~ 23–205 of this subtitle apply only to:

(1) a regular employee whose compensation is provided by State appropriation or paid from State funds;

(2) an appointed or elected official of the State, including:

(i) a clerk of the circuit court;

(ii) a register of wills;

(iii) a State’s Attorney; and

(iv) a sheriff;

(3) ~~EXCEPT AS PROVIDED IN § 23–204 OF THIS SUBTITLE,~~ an employee or official of a participating governmental unit who is eligible to participate under Title 31, Subtitle 1 of this article ~~WHO BECOMES AN EMPLOYEE OF THE PARTICIPATING GOVERNMENTAL UNIT AFTER THE EFFECTIVE DATE OF PARTICIPATION, AS DEFINED UNDER § 31–101(C) OF THIS ARTICLE;~~

(4) an employee of the Office of the Sheriff of Baltimore City;

(5) an additional employee or agent of the State Racing Commission authorized by § 11–207 of the Business Regulation Article;

(6) a permanent employee of the board of supervisors of elections of a county;

(7) a full–time master in chancery or in juvenile causes who is appointed on or after July 1, 1989, in any county by the circuit court for that county;

(8) an employee of the Maryland Environmental Service who is a member of the Employees’ Pension System on June 30, 1993, or transfers from the Employees’ Retirement System on or after July 1, 1993;

(9) a former Baltimore City jail employee who became an employee of the Baltimore City Detention Center and a member of the Employees’ Pension System on July 1, 1991;

- (10) a nonfaculty employee of the Baltimore City Community College who:
- (i) is a member of the Employees' Pension System on October 1, 2002;
 - (ii) transfers from the Employees' Retirement System on or after October 1, 2002;
 - (iii) transfers from the Teachers' Pension System in accordance with § 23–202.1 of this subtitle; or
 - (iv) becomes an employee of the Baltimore City Community College on or after October 1, 2002;
- (11) a court reporter for the Circuit Court for Charles County who is a member of the Employees' Pension System on July 1, 1994, or transfers from the Employees' Retirement System on or after July 1, 1994;
- (12) a staff employee of the University System of Maryland, Morgan State University, or St. Mary's College who is:
- (i) a member of the Employees' Pension System on January 1, 1998, or transfers from the Employees' Retirement System on or after January 1, 1998; or
 - (ii) a staff employee of the University System of Maryland, Morgan State University, or St. Mary's College who becomes an employee on or after January 1, 1998;
- [(13) on or after the date that the Board of Education of Kent County begins participation in the Employees' Pension System, a supportive service employee of the Board of Education of Kent County;
- (14) an employee of the Town of Oakland on or after the date that the Town of Oakland begins participation in the Employees' Pension System;
- (15) an employee of the City of Frostburg on or after the date that the City of Frostburg begins participation in the Employees' Pension System;
- (16) an employee of the Town of Berwyn Heights on or after the date that the Town of Berwyn Heights begins participation in the Employees' Pension System;
- (17) an employee of the Town of Sykesville on or after the date that the Town of Sykesville begins participation in the Employees' Pension System;
- (18) an employee of the Town of University Park on or after the date that the Town of University Park begins participation in the Employees' Pension System;]

[(19)] (13) AN INDIVIDUAL WHO, ON AND BEFORE THE EFFECTIVE DATE OF PARTICIPATION AS DEFINED UNDER § 31-101(C) OF THIS ARTICLE, IS:

(I) A SUPPORTIVE SERVICE EMPLOYEE OF THE BOARD OF EDUCATION OF KENT COUNTY;

(II) AN EMPLOYEE OF THE TOWN OF OAKLAND;

(III) AN EMPLOYEE OF THE CITY OF FROSTBURG;

(IV) AN EMPLOYEE OF THE TOWN OF SYKESVILLE; OR

(V) AN EMPLOYEE OF THE TOWN OF UNIVERSITY PARK; AND

[(19)] (14) an employee of the Maryland Automobile Insurance Fund on or after the date that the Maryland Automobile Insurance Fund begins participation in the Employees' Pension System]; and

(20) an employee of the City of College Park on or after the date that the City of College Park begins participation in the Employees' Pension System].

(b) Sections 23-203 ~~through~~ ~~AND~~ 23-205 of this subtitle do not apply to:

(1) an individual who is or is entitled to be a member of any State system other than the Employees' Pension System;

(2) a contractual, emergency, or temporary extra employee;

(3) an individual who is employed under a federal public service employment program;

(4) an assessor who is a member of a retirement or pension system operated by a political subdivision of the State;

(5) an employee of a local board of elections who chooses to stay in a local merit system under § 2-207 of the Election Law Article;

(6) a nonclerical or nonprofessional employee of the Baltimore City Community College who:

(i) was an employee of the New Community College of Baltimore during the 1989-1990 academic year;

(ii) was employed by the New Community College of Baltimore on or before December 31, 1990, as a “Class A” member of the Baltimore City Retirement Plan; and

(iii) elected to remain a member of the Baltimore City Retirement Plan;

(7) an employee who is not a member of a State system and who accepts a position for which the budgeted hours per fiscal year are less than 500 hours in the first fiscal year of employment;

(8) an employee of the Domestic Relations Division of the Anne Arundel County Circuit Court who:

(i) was transferred on or after July 1, 2002, into the State Personnel Management System as an employee of the Child Support Enforcement Administration of the Maryland Department of Human Resources;

(ii) elected, under § 2–510 of the Courts Article, to remain as a participant in the Anne Arundel County Retirement and Pension System; and

(iii) remains as an employee of the Child Support Enforcement Administration of the Maryland Department of Human Resources or an attorney employed to represent the Child Support Enforcement Administration;

(9) a nonfaculty employee of the Baltimore City Community College who is eligible to participate and elects to participate in an optional retirement program under Title 30 of this article;

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

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

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

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

(iii) remains as an employee of the Social Services Administration of the Maryland Department of Human Resources.

23-204.

(a) (1) [This subsection applies to an individual who on June 30, 2004,] **MEMBERSHIP IN THE EMPLOYEES' PENSION SYSTEM IS OPTIONAL FOR AN INDIVIDUAL WHO ~~receives an annual salary and who~~ is:**

- (i) an **OFFICIAL**, elected or appointed [official] **FOR A FIXED TERM;**
- (ii) an employee of the Governor's office;
- (iii) an employee of the Senate or House of Delegates;
- (iv) a member of the Prince George's County Board of License Commissioners; [or]
- (v) an employee of Dorchester County who is not a member of the county's general pension and retirement program; **OR**

(VI) EXCEPT AS PROVIDED IN SUBSECTION ~~(D)~~ (G) OF THIS SECTION AND ~~§ 23-201(A) OF THIS SUBTITLE~~, AN EMPLOYEE OF A PARTICIPATING GOVERNMENTAL UNIT WHO IS EMPLOYED BY THE PARTICIPATING GOVERNMENTAL UNIT BEFORE THE EFFECTIVE DATE OF PARTICIPATION AND WHO REMAINS AN EMPLOYEE OF THE PARTICIPATING GOVERNMENTAL UNIT THROUGH THE EFFECTIVE DATE OF PARTICIPATION, AS DEFINED UNDER ~~§ 31-101(C) OF THIS ARTICLE~~ PARTICIPATION.

(2) THIS SUBSECTION DOES NOT APPLY TO AN INDIVIDUAL EMPLOYED BY PRINCE GEORGE'S COUNTY WHO IS SUBJECT TO THE PROVISIONS OF SUBSECTION (D) OF THIS SECTION. AN INDIVIDUAL DESCRIBED UNDER PARAGRAPH (1)(I) THROUGH (V) OF THIS SUBSECTION WHO ELECTS TO JOIN THE EMPLOYEES' PENSION SYSTEM SHALL MAKE THE ELECTION AT COMMENCEMENT OF EMPLOYMENT BY FILING A WRITTEN APPLICATION WITH THE BOARD OF TRUSTEES ON A FORM THAT THE BOARD OF TRUSTEES PROVIDES.

(3) AN INDIVIDUAL DESCRIBED UNDER PARAGRAPH (1)(VI) OF THIS SUBSECTION WHO ELECTS TO JOIN THE EMPLOYEES' PENSION SYSTEM SHALL MAKE THE ELECTION PRIOR TO THE EFFECTIVE DATE OF PARTICIPATION BY FILING A WRITTEN APPLICATION WITH THE BOARD OF TRUSTEES ON A FORM THAT THE BOARD OF TRUSTEES PROVIDES.

(4) AN ELECTION TO JOIN THE EMPLOYEES' PENSION SYSTEM UNDER THIS SUBSECTION IS A ONE-TIME, IRREVOCABLE ELECTION.

[(2) Membership in the Employees' Pension System is optional for an individual under paragraph (1) of this subsection while the individual remains employed in the position the individual held on June 30, 2004.]

~~(3) (i) AN INDIVIDUAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION WHO ELECTS TO JOIN THE EMPLOYEES' PENSION SYSTEM SHALL MAKE THE ELECTION:~~

~~1. IN WRITING ON A FORM PROVIDED BY THE BOARD OF TRUSTEES; AND~~

~~2. A. WITHIN 3 MONTHS OF FIRST BECOMING EMPLOYED IN A POSITION DESCRIBED IN PARAGRAPH (1)(i) THROUGH (v) OF THIS SUBSECTION; OR~~

~~B. WITHIN 3 MONTHS OF THE EFFECTIVE DATE OF PARTICIPATION OF THE PARTICIPATING GOVERNMENTAL UNIT EMPLOYING THE INDIVIDUAL UNDER PARAGRAPH (1)(vi) OF THIS SUBSECTION.~~

~~(H) (5) IF AN ELECTION TO JOIN THE EMPLOYEES' PENSION SYSTEM IS NOT RECEIVED BY THE BOARD OF TRUSTEES WITHIN THE PERIOD OF TIME DESCRIBED IN SUBPARAGRAPH (i)2 OF THIS PARAGRAPH, PARAGRAPH (2) OR (3) OF THIS SUBSECTION, THE INDIVIDUAL MAY NOT ELECT TO JOIN THE EMPLOYEES' PENSION SYSTEM WHILE EMPLOYED IN THAT POSITION.~~

~~(H) AN INDIVIDUAL'S ELECTION TO JOIN THE EMPLOYEES' PENSION SYSTEM OR AN INDIVIDUAL'S FAILURE TO ELECT TO JOIN THE EMPLOYEES' PENSION SYSTEM WITHIN THE REQUIRED TIME PERIOD IS A ONE-TIME, IRREVOCABLE DECISION.~~

~~(4) (6) THE BOARD OF TRUSTEES SHALL ADOPT REGULATIONS TO IMPLEMENT THIS SUBSECTION.~~

~~(3) (i) In lieu of membership in any other retirement or pension system operated under the laws of the State or any political subdivision of the State, an individual under paragraph (1)(i) of this subsection may elect to join the Employees' Pension System within 1 year of employment or July 1, 2008, whichever is later.~~

~~(ii) An individual under paragraph (1)(i) of this subsection who elects to join the Employees' Pension System under subparagraph (i) of this paragraph, may transfer from a State or local retirement or pension system to the Employees' Pension System in accordance with Title 37 of this article, any service credit earned while serving in that position.~~

~~(b) (1) This subsection does not apply to:~~

~~(i) an employee of the Town of Berwyn Heights;~~

~~(ii) the City of College Park; or~~

~~(iii) an individual employed by Prince George's County who is subject to the provisions of subsection (g) of this section.~~

~~(2) (i) Except as provided in paragraph (3) of this subsection, this subsection applies only to the employees of a participating governmental unit who:~~

~~1. are employed by the participating governmental unit on June 30, 2004; and~~

~~2. were employed by the participating governmental unit on the effective date of participation in the State systems.~~

~~(ii) Except as provided in paragraph (3) of this subsection, membership in the Employees' Pension System is optional for an individual under subparagraph (i) of this paragraph until the individual ceases employment with the participating governmental unit that was employing the individual on June 30, 2004.~~

~~(3) (B) (1) Membership in the Employees' Pension System is not optional for individuals who are:~~

~~(i) supportive service employees of the Board of Education of Kent County;~~

~~(ii) employees of the Town of Oakland;~~

~~(iii) employees of the City of Frostburg;~~

~~(iv) employees of the Town of Sykesville; or~~

~~(v) employees of the Town of University Park.~~

(2) MEMBERSHIP IN THE EMPLOYEES' PENSION SYSTEM IS NOT OPTIONAL FOR AN INDIVIDUAL WHO WAS EMPLOYED IN A POSITION ON OR BEFORE JUNE 30, 2015, THAT REQUIRED THE INDIVIDUAL TO BE A MEMBER OF THE EMPLOYEES' PENSION SYSTEM, WHILE THE INDIVIDUAL REMAINS IN THAT POSITION.

~~(c)~~ ~~(B)~~ (1) Subject to paragraph (2) of this subsection, membership in the Employees' Pension System is optional for an individual described in § 23-201(a)(2)(iv) of this subtitle who is elected or appointed as the Baltimore City Sheriff.

(2) An individual who is elected or appointed as the Baltimore City Sheriff and who does not elect to join the Employees' Pension System is a member of the Law Enforcement Officers' Pension System under Title 26 of this article as a condition of employment.

(3) To elect to be a member of the Employees' Pension System under this subsection, an individual shall ~~file a written application with the State Retirement Agency~~ **MAKE THE ELECTION AT COMMENCEMENT OF EMPLOYMENT BY FILING A WRITTEN APPLICATION WITH THE BOARD OF TRUSTEES ON A FORM THAT THE BOARD OF TRUSTEES PROVIDES.**

(4) An individual who does not elect membership within 6 months of the date the individual begins serving as the Baltimore City Sheriff shall become a member of the Law Enforcement Officers' Pension System.

~~(d)~~ ~~(C)~~ (1) This subsection applies to an individual described in § 23-201(a)(2)(iv) of this subtitle who elects membership in the Employees' Pension System under this section.

(2) An individual described in paragraph (1) of this subsection may elect membership in the Law Enforcement Officers' Pension System if the county employing the individual elects to become an eligible governmental unit in the Law Enforcement Officers' Pension System in accordance with §§ 31-2A-02 through 31-2A-05 of this article.

(3) If an individual transfers to the Law Enforcement Officers' Pension System under this subsection, the eligible governmental unit is responsible for all employer contributions required for the individual under § 21-306.1 of this article.

~~(e)~~ (1) This subsection applies only to an individual who is an employee of the Town of Berwyn Heights on June 30, 2008.

(2) Subject to paragraph (3) of this subsection, membership in the Employees' Pension System is optional for an individual described in paragraph (1) of this subsection who elects membership on July 1, 2008.

(3) To elect to be a member of the Employees' Pension System, an individual shall file a written application with the Board of Trustees on a form that the Board of Trustees provides.

(f) (1) This subsection applies only to an individual who is an employee of the City of College Park on June 30, 2014.

(2) Subject to paragraph (3) of this subsection, membership in the Employees' Pension System is optional for an individual described in paragraph (1) of this subsection who elects membership on July 1, 2014.

(3) To elect to be a member of the Employees' Pension System, an individual shall file a written application with the Board of Trustees on a form that the Board of Trustees provides.†

~~†(g)†~~ ~~(D)~~ (1) This subsection applies to an individual who is employed by Prince George's County as:

- (i) the Chief Administrative Officer;
- (ii) a Deputy Chief Administrative Officer;
- (iii) a director of a county office or department;
- (iv) a County Council Administrator;
- (v) a Deputy Director of a county office or department; or
- (vi) an Executive Director.

(2) (i) Membership in the Employees' Pension System is optional for an individual who begins serving in a position listed in paragraph (1) of this subsection on or after July 1, 2014.

(ii) An individual described under subparagraph (i) of this paragraph who elects to join the Employees' Pension System shall ~~make the election in writing on a form provided by the Board of Trustees and must file the form with the Board of Trustees within 1 year of employment~~ **MAKE THE ELECTION AT COMMENCEMENT OF EMPLOYMENT BY FILING A WRITTEN APPLICATION WITH THE BOARD OF TRUSTEES ON A FORM THAT THE BOARD OF TRUSTEES PROVIDES.**

(3) Membership in the Employees' Pension System is mandatory for:

(i) an individual who:

1. is employed in one of the positions listed under paragraph (1) of this subsection on or before June 30, 2014; and

2. is enrolled as a member of the Employees' Pension System;

or

(ii) an individual described under paragraph (2)(i) of this subsection who elected to join the Employees' Pension System under paragraph (2)(ii) of this subsection.

(4) Membership in the Employees' Pension System is prohibited for an individual who:

(i) begins serving in a position listed in paragraph (1) of this subsection on or after July 1, 2004, but before July 1, 2014;

(ii) remains in a position listed in paragraph (1) of this subsection on or after July 1, 2014; and

(iii) is not enrolled in the Employees' Pension System.

(5) (i) An individual's election under paragraph (2)(ii) of this subsection to join the Employees' Pension System or an individual's failure to elect to join the Employees' Pension System within the required time period is a one-time, irrevocable decision.

(ii) An individual employed in one of the positions listed under paragraph (1) of this subsection who does not elect to join the Employees' Pension System under paragraph (2)(ii) of this subsection may not join the Employees' Pension System while employed in one of the positions listed under paragraph (1) of this subsection.

(iii) An individual described under paragraph (4) of this subsection or subparagraph (ii) of this paragraph who changes employment to a different position under paragraph (1) of this subsection, whether or not a break in employment occurs, may not elect to join the Employees' Pension System.

(6) The Board of Trustees shall adopt regulations to implement this section.

~~31-111.4.~~

~~(a) An individual who elects membership in the Employees' Pension System under § [23-204(e)] 23-204(A) of this article and is an employee of the Town of Berwyn Heights on the effective date shall receive eligibility service and creditable service in the Employees' Pension System equal to one-third of the individual's period of employment with the Town of Berwyn Heights before the effective date, as certified by the Town of Berwyn Heights as of the effective date.~~

~~31-111.8.~~

~~(a) An individual who elects membership in the Employees' Pension System under § [23-204(f)] 23-204(A) of this article and is an employee of the City of College Park~~

~~on the effective date shall receive eligibility service and creditable service in the Employees' Pension System equal to 60% of the individual's period of employment with the City of College Park before the effective date as certified by the City of College Park as of the effective date.~~

31-113.

(b) (1) An eligible governmental unit may elect to continue to operate a local pension system after the effective date of participation in the Employees' Pension System to provide benefits to a person who:

(iii) did not elect to join the Employees' Pension System under § [23-204(b)] **23-204(A)** of this article.

(d) (1) On the effective date:

(i) the assets to the credit of the local pension system of the participating governmental unit that are attributable to the employees of the participating governmental unit who elect to become members of the Employees' Pension System under § [23-204(b)] **23-204(A)** of this article shall be transferred to the Employees' Pension System; and

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2015.

Approved by the Governor, May 12, 2015.