

Chapter 469

(Senate Bill 1252)

AN ACT concerning

Employees' and Teachers' Retirement and Pension Systems – Reemployment Earnings Limitation

FOR the purpose of correcting certain requirements pertaining to a certain earnings limitation for certain retirees of the Employees' and Teachers' Retirement and Pension Systems; exempting certain retirees of the Employees' and Teachers' Retirement and Pension Systems from a certain earnings limitation under certain circumstances; requiring certain participating employers to submit certain reports to the Board of Trustees for the State Retirement and Pension System in a certain manner for a certain period of time; requiring the Board of Trustees to notify certain participating employers under certain circumstances; requiring certain participating employers to pay a certain offset under certain circumstances; requiring the State Retirement Agency to provide certain notice to certain retirees of the Employees' and Teachers' Retirement and Pension Systems; providing that certain retirees of the Employees' and Teachers' Retirement and Pension Systems are entitled to certain reimbursement for a certain reemployment earnings offset under certain circumstances; providing a process for certain retirees to seek a certain reimbursement for a certain reemployment earnings offset; providing for the application of this Act; and generally relating to a reemployment earnings limitation in the Employees' and Teachers' Retirement and Pension Systems.

BY repealing and reenacting, with amendments,
 Article – State Personnel and Pensions
 Section 22–406(c)(1) and (4) and 23–407(c)(1) and (4)
 Annotated Code of Maryland
 (2015 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, without amendments,
 Article – State Personnel and Pensions
 Section 22–406(c)(2) and (3) and 23–407(c)(2) and (3)
 Annotated Code of Maryland
 (2015 Replacement Volume and 2017 Supplement)

BY adding to
 Article – State Personnel and Pensions
 Section 22–406(c)(11) and 23–407(c)(11)
 Annotated Code of Maryland
 (2015 Replacement Volume and 2017 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

22–406.

(c) (1) Except as provided in § 22–407 of this subtitle, the Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (b) of this section if:

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

(ii) 1. the individual's current employer is any unit of State government [and];

2. the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance or vested allowance was also a unit of State government;
AND

3. ANY PORTION OF THE INDIVIDUAL'S COMPENSATION FOR THE INDIVIDUAL'S CURRENT EMPLOYMENT COMES FROM STATE FUNDS; or

(iii) the individual becomes reemployed within 12 months of receiving an early service retirement allowance under § 22–402 of this subtitle.

(2) (i) Except as provided in subparagraph (ii) of this paragraph and subject to subparagraph (iii) of this paragraph, the reduction required under paragraph (1) of this subsection shall equal:

1. the amount by which the sum of the individual's initial annual basic allowance and the individual's annual compensation exceeds the average final compensation used to compute the basic allowance; or

2. for a retiree who retired under the Workforce Reduction Act (Chapter 353 of the Acts of 1996), the amount by which the sum of the retiree's annual compensation and the retiree's annual basic allowance at the time of retirement, including the incentive provided by the Workforce Reduction Act, exceeds the average final compensation used to compute the basic allowance.

(ii) 1. This subparagraph applies to a retiree of the Teachers' Retirement System who as faculty received a 10-month salary and retired directly from:

- A. the University System of Maryland;
- B. Morgan State University;
- C. St. Mary’s College; or
- D. a community college established or operating under Title 16 of the Education Article.

2. The reduction required under paragraph (1) of this subsection shall equal the amount by which the sum of the retiree’s initial annual basic allowance and the retiree’s annual compensation, as calculated in subparagraph 3 of this subparagraph, exceeds the average final compensation of the retiree used to compute the basic allowance.

3. The calculation of the retiree’s annual compensation in subparagraph 2 of this subparagraph does not include any of the following earnings the retiree received during the previous calendar year from the employer with whom the retiree is reemployed:

- A. bonuses;
- B. overtime;
- C. summer school salaries;
- D. adult education salary;
- E. additional temporary payments from special research projects;
- F. honorariums; and
- G. vehicle stipends.

(iii) 1. Any reduction taken to a retiree’s allowance under this subsection may not exceed an amount that would reduce the retiree’s allowance to less than what is required to be deducted for:

- A. if the retiree retired from any unit of State government, the retiree’s monthly State–approved medical insurance premiums; or
- B. if the retiree retired from a participating employer other than the State, the approved monthly medical insurance premiums required by the participating employer that employed the retiree at the time of the retiree’s retirement.

2. If a reduction for a calendar year taken under subparagraph 1 of this subparagraph is less than the reduction required under subparagraph (i) of this paragraph, the Board of Trustees shall recover from the retiree an amount equal to the reduction required under subparagraph (i) of this paragraph less the reduction taken under subparagraph 1 of this subparagraph.

(3) A reduction of an early service retirement allowance under paragraph (1)(iii) of this subsection shall be applied only until the individual has received an allowance for 12 months.

(4) Except for an individual whose allowance is subject to a reduction as provided under paragraphs (1)(iii) and (3) of this subsection, the reduction of an allowance under this subsection does not apply to:

(i) an individual who has been retired for 5 years, beginning on January 1 after the date the individual retires;

(ii) an individual whose average final compensation was less than \$25,000 and who is reemployed on a permanent, temporary, or contractual basis;

(iii) an individual who is serving in an elected position as an official of a participating governmental unit or as a constitutional officer for a county that is a participating governmental unit;

(iv) a retiree of the Teachers' Retirement System:

1. who retired and was reemployed by a participating employer other than the State on or before September 30, 1994; and

2. whose employment compensation does not derive, in whole or in part, from State funds;

(v) a retiree of the Teachers' Retirement System who:

1. is or has been certified to teach in the State;

2. has verification of satisfactory or better performance in the last assignment prior to retirement;

3. based on the retired teacher's qualifications, has been appointed in accordance with § 4-103 of the Education Article; and

4. receives verification of satisfactory or better performance each year the teacher is employed under paragraph (5) of this subsection;

(vi) a retiree of the Teachers' Retirement System who:

1. A. was employed as a principal within 5 years of retirement; or

B. was employed as a principal not more than 10 years before retirement and was employed in a position supervising principals in the retiree's last assignment prior to retirement;

2. has verification of satisfactory performance for each year as a principal and, if applicable, in a position supervising principals prior to retirement;

3. based on the retiree's qualifications, has been hired as a principal; and

4. receives verification of satisfactory performance each year the retiree is employed as a principal under paragraph (6) of this subsection;

(vii) a former employee of the Domestic Relations Division of Anne Arundel County Circuit Court who transfers into the State Employees' Personnel System under § 2-510 of the Courts Article;

(viii) a retiree of the Employees' Retirement System who is reemployed on a contractual basis by the Maryland Department of Health as a health care practitioner, as defined in § 1-301 of the Health Occupations Article, in:

1. a State residential center as defined in § 7-101 of the Health – General Article;

2. a chronic disease center subject to Title 19, Subtitle 5 of the Health – General Article;

3. a State facility as defined in § 10-101 of the Health – General Article; or

4. a local health department subject to Title 3, Subtitle 2 of the Health – General Article;

(ix) a retiree of the Employees' Retirement System and the Judges' Retirement System who is temporarily assigned to sit in a court of this State under the authority of Article IV, § 3A of the Maryland Constitution;

(x) a retiree of the Employees' Retirement System who is reemployed on a contractual basis for not more than 4 years as a parole and probation employee in a position authorized under Title 6, Subtitle 1 of the Correctional Services Article; [or]

(xi) a retiree of the Teachers' Retirement System who is reemployed by a local school system or the Maryland School for the Deaf and is rehired in accordance with paragraph (8) of this subsection; **OR**

(XII) A RETIREE WHOSE:

1. CURRENT EMPLOYER IS ANY UNIT OF STATE GOVERNMENT; AND

2. COMPENSATION FROM THE RETIREE'S CURRENT EMPLOYER DOES NOT INCLUDE ANY STATE FUNDS.

(11) (i) WITHIN 30 DAYS AFTER REHIRING AN INDIVIDUAL UNDER PARAGRAPH (4)(XII) OF THIS SUBSECTION, AND ON OR BEFORE JANUARY 31 EACH YEAR FOR THE 5 CALENDAR YEARS IMMEDIATELY FOLLOWING THE INDIVIDUAL'S DATE OF RETIREMENT, THE APPOINTING AUTHORITY OF THE UNIT OF STATE GOVERNMENT EMPLOYING THE INDIVIDUAL SHALL COMPLETE AND FILE WITH THE BOARD OF TRUSTEES A FORM PROVIDED BY THE BOARD OF TRUSTEES THAT CERTIFIES THAT THE INDIVIDUAL REHIRED BY THE INDIVIDUAL'S CURRENT EMPLOYER UNDER PARAGRAPH (4)(XII) OF THIS SUBSECTION SATISFIED THE CRITERIA PROVIDED IN PARAGRAPH (4)(XII) OF THIS SUBSECTION.

(ii) IF THE BOARD OF TRUSTEES FINDS THAT AN APPOINTING AUTHORITY HAS REHIRED AN INDIVIDUAL THAT DOES NOT SATISFY THE CRITERIA PROVIDED IN PARAGRAPH (4)(XII) OF THIS SUBSECTION:

1. ON OR BEFORE JULY 1 OF THE YEAR OF THE FINDING, THE BOARD OF TRUSTEES SHALL NOTIFY THE APPOINTING AUTHORITY FOR THE UNIT OF STATE GOVERNMENT EMPLOYING THIS INDIVIDUAL; AND

2. THE UNIT OF STATE GOVERNMENT EMPLOYING THE INDIVIDUAL UNDER PARAGRAPH (4)(XII) OF THIS SUBSECTION SHALL REIMBURSE THE BOARD OF TRUSTEES THE AMOUNT EQUAL TO THE REDUCTION TO THE INDIVIDUAL'S RETIREMENT ALLOWANCE THAT WOULD HAVE BEEN MADE IN PARAGRAPH (2) OF THIS SUBSECTION.

23-407.

(c) (1) Except as provided in § 23-408 of this subtitle, the Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (b) of this section if:

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

(ii) 1. the individual's current employer is any unit of State government [and];

2. the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance or vested allowance was also a unit of State government;
AND

3. ANY PORTION OF THE INDIVIDUAL'S COMPENSATION FOR THE INDIVIDUAL'S CURRENT EMPLOYMENT COMES FROM STATE FUNDS; or

(iii) the individual becomes reemployed within 12 months of receiving an early service retirement allowance or an early vested allowance computed under § 23-402 of this subtitle.

(2) (i) Except as provided in subparagraph (ii) of this paragraph and subject to subparagraph (iii) of this paragraph, the reduction required under paragraph (1) of this subsection shall equal:

1. the amount by which the sum of the individual's initial annual basic allowance and the individual's annual compensation exceeds the average final compensation used to compute the basic allowance; or

2. for a retiree who retired under the Workforce Reduction Act (Chapter 353 of the Acts of 1996), the amount by which the sum of the retiree's annual compensation and the retiree's annual basic allowance at the time of retirement, including the incentive provided by the Workforce Reduction Act, exceeds the average final compensation used to compute the basic allowance.

(ii) 1. This subparagraph applies to a retiree of the Teachers' Pension System who as faculty receiving a 10-month salary, retired directly from:

A. the University System of Maryland;

B. Morgan State University;

C. St. Mary's College; or

D. a community college established or operating under Title 16 of the Education Article.

2. The reduction required under paragraph (1) of this subsection shall equal the amount by which the sum of the retiree's initial annual basic allowance and the retiree's annual compensation, as calculated in subparagraph 3 of this subparagraph, exceeds the average final compensation of the retiree used to compute the basic allowance.

3. The calculation of the retiree's annual compensation in subparagraph 2 of this subparagraph does not include any of the following earnings the retiree received during the previous calendar year from the employer with whom the retiree is reemployed:

- A. bonuses;
- B. overtime;
- C. summer school salaries;
- D. adult education salary;
- E. additional temporary payments from special research projects;
- F. honorariums; and
- G. vehicle stipends.

(iii) 1. Any reduction taken to a retiree's allowance under this subsection may not exceed an amount that would reduce the retiree's allowance to less than what is required to be deducted for:

- A. if the retiree retired from any unit of State government, the retiree's monthly State-approved medical insurance premiums; or
- B. if the retiree retired from a participating employer other than the State, the approved monthly medical insurance premiums required by the participating employer that employed the retiree at the time of the retiree's retirement.

2. If a reduction for a calendar year taken under subparagraph 1 of this subparagraph is less than the reduction required under subparagraph (i) of this paragraph, the Board of Trustees shall recover from the retiree an amount equal to the reduction required under subparagraph (i) of this paragraph less the reduction taken under subparagraph 1 of this subparagraph.

(3) A reduction of an early service retirement allowance or an early vested allowance under paragraph (1)(iii) of this subsection shall be applied only until the

individual has received an allowance for 12 months.

(4) Except for an individual whose allowance is subject to a reduction as provided under paragraphs (1)(iii) and (3) of this subsection, the reduction of an allowance under this subsection does not apply to:

(i) an individual whose average final compensation was less than \$25,000 and who is reemployed on a permanent, temporary, or contractual basis;

(ii) an individual who is serving in an elected position as an official of a participating governmental unit or as a constitutional officer for a county that is a participating governmental unit;

(iii) an individual who has been retired for 5 years, beginning on January 1 after the date the individual retires;

(iv) a retiree of the Teachers' Pension System who:

1. is or has been certified to teach in the State;

2. has verification of satisfactory or better performance in the last assignment prior to retirement;

3. based on the retired teacher's qualifications, has been appointed in accordance with § 4-103 of the Education Article; and

4. receives verification of satisfactory or better performance each year the teacher is employed under paragraph (5) of this subsection;

(v) a retiree of the Teachers' Pension System who:

1. A. was employed as a principal within 5 years of retirement; or

B. was employed as a principal not more than 10 years before retirement and was employed in a position supervising principals in the retiree's last assignment prior to retirement;

2. has verification of satisfactory performance for each year as a principal and, if applicable, in a position supervising principals prior to retirement;

3. based on the retiree's qualifications, has been hired as a principal; and

4. receives verification of satisfactory performance each year the retiree is employed as a principal under paragraph (6) of this subsection;

(vi) a retiree of the Employees' Pension System who is reemployed on a contractual basis by the Maryland Department of Health as a health care practitioner, as defined in § 1–301 of the Health Occupations Article in:

1. a State residential center as defined in § 7–101 of the Health – General Article;
2. a chronic disease center subject to Title 19, Subtitle 5 of the Health – General Article;
3. a State facility as defined in § 10–101 of the Health – General Article; or
4. a local health department subject to Title 3, Subtitle 2 of the Health – General Article;

(vii) a retiree of the Employees' Pension System and the Judges' Retirement System who is temporarily assigned to sit in a court of this State under the authority of Article IV, § 3A of the Maryland Constitution;

(viii) a retiree of the Employees' Pension System who is reemployed on a contractual basis for not more than 4 years as a parole and probation employee in a position authorized under Title 6, Subtitle 1 of the Correctional Services Article; [or]

(ix) a retiree of the Teachers' Pension System who is reemployed by a local school system or the Maryland School for the Deaf and is rehired in accordance with paragraph (8) of this subsection; **OR**

(X) A RETIREE WHOSE:

1. CURRENT EMPLOYER IS ANY UNIT OF STATE GOVERNMENT; AND

2. COMPENSATION FROM THE RETIREE'S CURRENT EMPLOYER DOES NOT INCLUDE ANY STATE FUNDS.

(11) (i) WITHIN 30 DAYS AFTER REHIRING AN INDIVIDUAL UNDER PARAGRAPH (4)(X) OF THIS SUBSECTION, AND ON OR BEFORE JANUARY 31 EACH YEAR FOR THE 5 CALENDAR YEARS IMMEDIATELY FOLLOWING THE INDIVIDUAL'S DATE OF RETIREMENT, THE APPOINTING AUTHORITY OF THE UNIT OF STATE GOVERNMENT EMPLOYING THE INDIVIDUAL SHALL COMPLETE AND FILE WITH THE BOARD OF TRUSTEES A FORM PROVIDED BY THE BOARD OF TRUSTEES THAT CERTIFIES THAT THE INDIVIDUAL REHIRED BY THE INDIVIDUAL'S CURRENT EMPLOYER UNDER PARAGRAPH (4)(X) OF THIS SUBSECTION SATISFIED THE

CRITERIA PROVIDED IN PARAGRAPH (4)(X) OF THIS SUBSECTION.

(II) IF THE BOARD OF TRUSTEES FINDS THAT AN APPOINTING AUTHORITY HAS REHIRED AN INDIVIDUAL THAT DOES NOT SATISFY THE CRITERIA PROVIDED IN PARAGRAPH (4)(X) OF THIS SUBSECTION:

1. ON OR BEFORE JULY 1 OF THE YEAR OF THE FINDING, THE BOARD OF TRUSTEES SHALL NOTIFY THE APPOINTING AUTHORITY FOR THE UNIT OF STATE GOVERNMENT EMPLOYING THIS INDIVIDUAL; AND

2. THE UNIT OF STATE GOVERNMENT EMPLOYING THE INDIVIDUAL UNDER PARAGRAPH (4)(X) OF THIS SUBSECTION SHALL REIMBURSE THE BOARD OF TRUSTEES THE AMOUNT EQUAL TO THE REDUCTION TO THE INDIVIDUAL'S RETIREMENT ALLOWANCE THAT WOULD HAVE BEEN MADE IN PARAGRAPH (2) OF THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) This Act shall apply to any retiree who:

(1) retired from the Employees' Retirement System, the Employees' Pension System, the Teachers' Retirement System, or the Teachers' Pension System under Title 22 or 23 of the State Personnel and Pensions Article on or after October 1, 1994;

(2) (i) at the time of retirement was employed by any unit of State government and after the retiree's date of retirement was employed by any unit of State government; and

(ii) as a retiree, received an earnings limit reduction to the retiree's service retirement allowance as a result of the retiree's employment with a unit of State government; and

(3) did not receive any compensation that came from State funds as an employed retiree under paragraph (2)(i) of this subsection.

(b) (1) A retiree described under subsection (a) of this section is not subject to an earnings limit and is entitled to a return of any reemployment earnings offset that was taken from the retiree's service retirement allowance by the Board of Trustees for the State Retirement and Pension System.

(2) The State Retirement Agency shall notify potential retirees who may be eligible to receive a reimbursement of their reemployment earnings offset through postings on the Agency's website and notice in the Agency's retiree newsletter.

(3) (i) Any retiree seeking a reimbursement under subsection (b)(1) of

this section shall complete and submit a request for the reimbursement to the Board of Trustees for the State Retirement and Pension System on or before June 30, 2019, on a form provided by the State Retirement Agency.

(ii) It is the responsibility of any retiree seeking a reimbursement under subsection (b)(1) of this section to contact the retiree's former employer who employed the retiree while the reemployment earnings offset occurred in order to provide confirmation to the State Retirement Agency that the retiree's compensation with the former employer did not include any State funds.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2018.

Approved by the Governor, May 8, 2018.