

MARYLAND REGISTER

## Proposed Action on Regulations

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b>	<b>TO BE COMPLETED BY DSD</b>
	04/14/2014	Date Filed with Division of State Documents
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2. COMAR Codification

**Title Subtitle Chapter Regulation**

22 04 02 02, .04

3. Name of Promulgating Authority

State Retirement and Pension System

4. Name of Regulations Coordinator

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6. Check applicable items:

New Regulations



# **STATE RETIREMENT AND PENSION SYSTEM**

## **Subtitle 04 MEMBERSHIP**

### **22.04.02 Membership in the Employees' System or the Teachers' Systems - General**

Authority: State Personnel and Pensions Article §§ 21-108, 21-110, 22-207, 23-205, and 23-209, Annotated Code of Maryland

#### **Notice of Proposed Action**

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The Board of Trustees for the Maryland State Retirement and Pension System proposes to amend Regulations .02 and .04 under COMAR 22.04.02 Membership in the Employees' System or the Teachers' System.

This action was considered at the December 17, 2013 Board of Trustees meeting for the State Retirement and Pension System.

#### **Statement of Purpose**

The purpose of this action is to define "contractual", "emergency", and "temporary extra" employees for purposes of enrollment in the State Retirement and Pension System. Providing definitions for these different groups of employees will assist the State Retirement Agency in determining whether the employees of participating employers are being enrolled properly in the System.

#### **Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

#### **Estimate of Economic Impact**

The proposed action has no economic impact.

#### **Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

#### **Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

#### **Opportunity for Public Comment**

Comments may be sent to Anne E. Gawthrop, Director, Legislative Affairs, State Retirement Agency, 120 E. Baltimore Street, Baltimore, MD 21202, or call 410-625-5602, or email to [agawthrop@sra.state.md.us](mailto:agawthrop@sra.state.md.us), or fax to 410-468-1710. Comments will be accepted through June 2, 2014. A public hearing has not been scheduled.

#### **Open Meeting**

Final action on the proposal will be considered by the Board of Trustees for the State Retirement and Pension System during a public meeting to be held on June 17, 2014 @ 9:30 a.m., at 120 E. Baltimore St., 16th Floor Board Room, Baltimore, MD 21202.

### **Economic Impact Statement Part C**

A. Fiscal Year in which regulations will become effective: FY 2014

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

No

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

No funds are necessary to implement these regulations. They are technical and clarifying changes to existing policy.

E. If these regulations have no economic impact under Part A, indicate reason briefly:

These regulations are technical and clarifying changes to existing policy.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

These regulations are technical and clarifying changes to existing policy.

G. Small Business Worksheet:

Attached Document:

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## **Title 22 STATE RETIREMENT AND PENSION SYSTEM Subtitle 04 MEMBERSHIP**

### **Chapter 02 Membership in the Employees' System or the Teachers' System— General**

**Authority:** State Personnel and Pensions Article, §§21-108, 21-110, 22-207, 23-205, and 23-209,  
Annotated Code of Maryland

#### **.02 Optional Membership.**

A. Membership in the Teachers' Pension System is optional for an individual who is appointed as a lecturer in the Overseas Division of University College.

*B. An election to participate in the Teachers' Pension System by an individual described in §A of this regulation shall be made within 90 days of commencement of employment and is a one-time irrevocable election.*

#### **.04 Membership in the Employees' Pension System.**

*A. Definitions.*

*(1) In this regulation, the following terms have the meanings indicated.*

*(2) Terms defined.*

*(a) "Contractual employee" means an individual who provides personal services to a participating employer for pay if all of the following conditions exist:*

*(i) The services and pay are specified in a current written personal services agreement between the employer and an individual;*

*(ii) There is an employer-employee relationship between the participating employer and the individual; and*

*(iii) Except as provided by law, the individual does not receive any fringe benefits.*

*(b) "Emergency employee" means an individual who:*

*(i) Is appointed by a participating employer to provide personal services on an emergency basis;*

*(ii) Is employed for a non-renewable period not to exceed 6 months; and*

*(iii) Except as provided by law, does not receive any fringe benefits.*

*(c) "Temporary extra employee" means an individual who:*

*(i) Provides personal services to a participating employer;*

*(ii) Is employed for a non-renewable period not to exceed 6 months; and*

*(iii) Except as provided by law, does not receive any fringe benefits.*

*B. The following individuals shall be excluded from membership in the Employees' Pension System:*

*(1) Subject to §C of this regulation, a contractual, emergency, or temporary extra employee of a participating employer;*

*(2) Employees of the Maryland Center for Public Broadcasting under the 9,000 series;*

*[(2)] (3) Resident doctors; and*

*[(3)] (4) School crossing guards who:*

*(a) Are employed by a participating governmental unit:*

*(i) On a substitute or relief basis, or*

*(ii) For less than [700] 500 hours; and*

*(b) [Do] Except as provided by law, do not receive any fringe benefits from the participating governmental unit.*

*[B. An individual employed under State Personnel and Pensions Article, §4-306, Annotated Code of Maryland, as a temporary pending employee shall become a member of the Employees' Pension System as a condition of employment.]*

*C. The fact that a participating employer permitted an individual to enroll in the Employees' Pension System shall not be relevant to the determination of whether the individual is a contractual, emergency, or temporary extra employee who is excluded from membership.*