

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	04/28/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 5/16/2014

2. COMAR Codification

Title Subtitle Chapter Regulation

22 05 01 02, .03, and .04

3. Name of Promulgating Authority

State Retirement and Pension System

4. Name of Regulations Coordinator

Anne Gawthrop

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410-625-5602

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5. Name of Person to Call About this Document

Anne E. Gawthrop

Telephone No.

410-625-5602

Email Address

agawthrop@sra.state.md.us

6. Check applicable items:

New Regulations

X- Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: 9/1/2013.

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R

(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes **X-** No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

X- OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

X- OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Rachel S. Cohen, Assistant Attorney General, (telephone #410-625-5684) on 12/17/2013. A written copy of the approval is on file at this agency.

Name of Authorized Officer

R. Dean Kenderdine

Title

Executive Director

Date

4/28/2014

Telephone No.

410-625-5601

STATE RETIREMENT AND PENSION SYSTEM

Subtitle 05 SERVICE CREDIT

22.05.01 Qualifying Leaves of Absence

Authority: State Personnel and Pensions Article, §§ 21-110, 22-303.1, 22-304, 23-304.1, 23-306, 24-304.1, 24-305, 25-304.1, 25-305, 26-306, 26-306.1, 28-306 and 28-306.1, Annotated Code of Maryland

Notice of Proposed Action

[]

The Board of Trustees for the Maryland State Retirement and Pension System proposes to amend Regulations .02, .03, and .04 under COMAR 22.05.01 Qualifying Leaves of Absence.

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 what a qualified leave of absence is and clarify: (1) the length of time for a qualified leave of absence may not exceed two years; (2) the types of acceptable qualified leaves of absence; (3) the process used by staff for the State Retirement Agency when determining creditable service and member contributions for a qualified leave of absence; (4) the procedures that a member should follow to properly file for a qualified leave of absence; and (5) when a qualified leave of absence ends and how that date will impact a service or disability effective date of retirement.

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, 16th Floor, Baltimore, Maryland 21202, or call 410-625-5602, or email to agawthrop@sra.state.md.us, or fax to 410-468-1710.

Comments will be accepted through June 12, 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 at 9:30 a.m., at 120 E. Baltimore Street, 16th Floor Board Room, Baltimore, Maryland 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:

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.

Technical and clarifying to existing policy.

G. Small Business Worksheet:

Attached Document:

TITLE 22. STATE RETIREMENT AND PENSION SYSTEM

SUBTITLE 05. SERVICE CREDIT

CHAPTER 01. QUALIFYING LEAVES OF ABSENCE

Authority: State Personnel and Pensions Article, §§ 21-110, 22-303.1, 22-304, 23-304.1, 23-306, 24-304.1, 24-305, 25-304.1, 25-305, 26-306, 26-306.1, [and] 28-306 and 28-306.1, Annotated Code of Maryland

.01 Scope.

(Text unchanged)

.02 Definition.

"Qualifying leave of absence" means a leave of absence *for a period not exceeding two years* which is approved by a member's employer for one of the following reasons:

A.— C. (Text unchanged)

D. [Government sponsored or subsidized employment, or both] *Temporary assignment with another governmental employer*; or

E. (Text unchanged)

.03 Service Credit for a Qualifying Leave of Absence.

A. Grant of Eligibility and Creditable Service [Credit] *for a Qualifying Leave of Absence.*

(1) Except as provided in § A(2) [and (3)] of this regulation, [the Retirement Agency shall grant] *to receive* eligibility and creditable service [to a member whose] *for a period of* absence from employment [is the result of] *that is determined by the Retirement Agency to be* a qualifying leave of absence, [for the period of the member's absence, if the member] *a member shall:*

(a) [Submits] *Submit* a completed [application for] *form to request* a qualifying leave of absence form to the Retirement Agency as provided in § D of this regulation; *and*

(b) [Is not otherwise entitled to receive eligibility and creditable service credit during the period of the member's absence under State Personnel and Pensions Article, Division II or III, Annotated Code of Maryland; and

(c) Pays] *Pay* the member contributions with regular interest as provided under § C of this regulation [before retirement];

(i) *Before separation from employment; or*

(ii) *If the individual is separated from employment, within 60 days after the expiration of the leave of absence.*

(2) A member may not receive eligibility or creditable service credit for a [period of more than 2 years] *qualifying leave of absence if the individual is otherwise entitled to receive eligibility and creditable service during the period of the member's absence under State Personnel and Pensions Article, Division II or III, Annotated Code of Maryland.*

B. Benefit Calculation.

(1) [Eligibility and] *Except as provided in §B(2) of this regulation,* creditable service for a member on a qualifying leave of absence shall be based on the full-time equivalent for the member's position as certified by the member's participating employer under COMAR 22.04.01 on the effective date of the leave,

and earnable compensation shall be based on the actual salary for the member's position on the effective date of the leave.

(2) [The] *For a member of the Employees' Pension System, Law Enforcement Officers' Pension System, Local Fire and Police System, or Teachers' Pension System who works on a part-time basis, creditable service for a qualifying leave of absence shall be pro-rated, and* earnable compensation [for a member on a qualifying leave of absence] shall be based on the full-time equivalent salary for the member's position on the effective date of the leave.

C. Member Contributions.

(1) A member shall pay the Retirement Agency the member contributions as determined under this section, together with regular interest on the contributions compounded annually to the date of payment[, before retirement].

(2) [A member of the Correctional Officers' Retirement System, Employees' Retirement System, Teachers' Retirement System, Employees' Contributory Pension System, Teachers' Contributory Pension System, State Police Retirement System, and the Law Enforcement Officers' Pension System,] *Except as provided in §C(3) of this regulation, a member shall pay the member contributions based on the [full-time equivalent] salary for the member's position as of the effective date of the qualifying leave of absence.*

(3) A member of the Employees' Pension System or the Teachers' Pension System who is not subject to the contributory pension benefit[, or a member of the Local Fire and Police System] *and who was receiving earnable compensation in excess of the Social Security taxable [wages] wage base on the effective date of the qualifying leave of absence shall pay the member contributions payable on the excess.*

D. Filing Procedures.

(1) [The member's employer shall provide a member with the Retirement Agency application for] *A member shall properly complete and submit the form available from the Retirement Agency to request a qualifying leave of absence [form and the application shall conform to the requirements of § D(2) of this regulation].*

(2) The [application] *request for a qualifying leave of absence form shall:*

(a) State the [date a member's] *term of the leave approved by the employer, not to exceed two years, including the dates that the qualifying leave of absence begins and ends;*

(b) *Specify the type of qualifying leave;*

(c) *Contain certification by the member's employer that:*

(i) *The employee was placed on a leave of absence for the term and reason specified on the form, and*

(ii) [Reflect that the] *The leave of absence has been approved by a member's employer; and*

[(c)] (d) Require the member to provide [other] *any documentation or information that is [necessary for] requested by the Retirement Agency, including a letter of explanation from the member's employer if the leave of absence has been*

approved for [government sponsored or subsidized employment or service in a professional or employee organization] *a temporary assignment with another governmental employer.*

(3) Except as provided in § D(4) of this regulation, to protect a member's benefits while on a qualifying leave of absence, including [the] *any* death [benefit] *benefits*, a member shall submit a completed [application for] *form requesting* a qualifying leave of absence [form] to the Retirement Agency before the member is placed on the qualifying leave of absence. A member's employer representative may complete and submit [an application for a qualifying leave of absence] *the* form to the Retirement Agency on the member's behalf.

(4) Waiver of Filing Requirement.

(a) The Executive Director may waive the requirements for filing [the application for] *a request for a* qualifying leave of absence form before a member is placed on a qualifying leave of absence on a showing by the member of good cause. [If the Executive Director denies a request for a waiver, the denial shall be presented to the Board of Trustees for review.]

(b) The Executive Director shall waive the requirement for filing [an application] *a request for a qualifying leave of absence form* before a member is placed on a qualifying leave of absence for a terminal illness for a period of up to 6 months following the last contribution or payroll report and shall treat the member as if the member is on a qualifying leave of absence unless the employer notifies the system to the contrary.

.04 Term of a Qualifying Leave of Absence.

A. *A qualifying leave of absence ends upon the earlier of:*

- (1) The end of the term of the leave approved by the member's employer and determined by the Retirement Agency to be a qualifying leave of absence;*
- (2) The date the member returns to work with the member's employer; or*
- (3) Separation from employment.*

B. *Unless the member returns to work with the member's employer or separates from employment, a request for a qualifying leave of absence may not be withdrawn or discontinued earlier than the end of the term of the leave approved by the member's employer and determined by the Retirement Agency to be a qualifying leave of absence.*

C. *An individual may not retire with a disability retirement allowance or a service retirement allowance prior to the earlier of:*

- (1) Separation from employment; or*
- (2) The expiration of a qualifying leave of absence.*