Maryland State Personnel, Pensions, and Procurement

Volume V

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And Procurement

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Foreword

In Maryland, one of the largest areas of fiscal impact to the State relates to salary and benefits for employees of the State who are hired to carry out the many duties and responsibilities of State government. To assist in carrying out these responsibilities, the State additionally spends hundreds of millions of dollars every year through procurement contracts with the private sector for goods and services.

The State of Maryland's public employee workforce consists of approximately 88,000 individuals either in a regular or contractual capacity. In fiscal 2006, the State will spend in excess of $5.8 billion on salaries, wages, and benefits, which amounts to 21.8 percent of the total State operating budget for that year. In addition, there are almost 336,000 individuals who are enrolled as members of the State Retirement and Pension System (which includes active members, vested members, and beneficiaries). These numbers include all public school teachers in Maryland who are employees of local government but whose retirement is provided by the State. In fiscal 2007, the projected payment the State will make to the State Retirement and Pension System on behalf of these members is $726.1 million. As of May 31, 2006, the State Retirement and Pension System investment portfolio had a market value of $34.3 billion which represents the State's largest public pool of capital.

In terms of contracts with the private sector for goods and services, State law and regulations detail all aspects of the procurement process which begins with the solicitation and award of procurement contracts and continues through all phases of procurement contract administration. The General Assembly enacted the procurement law to ensure that State contracts are immune from inappropriate influences and are awarded on the basis of technical merit and price after effective competition between vendors.

This volume provides a broad overview of the State's workforce and compensation, the personnel policies and procedures relating to management of the workforce, retirement benefits afforded to the State workforce, and the system under which retirement benefits are provided. Additionally, this volume will provide a summary of the process and procedures governing the State's procurement of goods and services with the private sector. The laws governing these matters are quite complex, and this volume is intended to provide general information to assist in the consideration of legislation affecting the State's personnel, retirement, and procurement laws. A close review of the statutes, regulations, and administrative procedures will be necessary to answer specific questions.

This is the fifth in a series of eight volumes of the 2006 Legislative Handbook Series prepared prior to the start of the General Assembly term by the staff of the Department of Legislative Services' Office of Policy Analysis. The material for this volume was assembled and prepared by Anne Gawthrop, Elizabeth Moss, Ryane Necessary, Lori O'Brien, Michael Rubenstein, Lisa Simpson, David Smulski, and Dana Tagalicod. Supervision and review of the volume was provided by Vicki Gruber, Ted King, John Rixey, Carol Swan, and Patrick Tracy. The manuscript was prepared by Kelly Keyser and Kim Landry.

The Department of Legislative Services appreciates the cooperation and assistance received from State agencies and other interested parties and hopes that this volume will be of use to all persons interested in Maryland State government.

Karl S. Aro
Executive Director
Department of Legislative Services
Maryland General Assembly

Annapolis, Maryland
November 2006

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Chapter 1. Profile of Maryland's Public Workforce

As of December 31, 2005, Maryland's public employee workforce consists of 78,486 regular full-time equivalent positions located in various agencies, departments, and commissions in State government. A summary of the number of employees in each of the major areas of State government is found in Appendix 1. In addition, approximately 9,058 full-time equivalent positions are in the other major category – contractual employment. The State will spend in excess of $5.8 billion on salaries, wages, and benefits during fiscal 2006, which amounts to 21.8 percent of the total State operating budget.

The following exhibits provide a demographic and functional "snap shot" of the State Personnel Management System and Maryland Department of Transportation workforce:

Exhibit 1.1 compares the State's population with the number of budgeted State employees from fiscal 2001 to 2006.

Exhibit 1.2 compares the distribution of State employees by length of service in fiscal 2005.

Exhibit 1.3 shows the distribution of State employees by department/service area in fiscal 2007. Appendix 1 presents a historical table of this distribution.

Exhibit 1.4 is a demographic profile of the State workforce for fiscal 2005.

Exhibit 1.5 lists average salaries of State employees from fiscal 1987 to 2005.

Exhibit 1.1
State Population – State Employment
(Includes Contractual and University System of Maryland Employees)
Fiscal 2001-2006

Fiscal Year	Population[1]	% Change	Authorized State Positions[2]	% Change	Employees as % of State Population
2001	5,379,450		88,059		1.6%
2002	5,441,531	1.2%	90,994	3.3%	1.7%
2003	5,512,310	1.3%	89,098	-2.1%	1.6%
2004	5,558,058	0.8%	86,538	-2.9%	1.6%
2005	5,600,563	0.8%	87,236	0.8%	1.6%
2006	5,661,630	1.1%	87,544	0.4%	1.5%

[1]Estimated population as of July 1 of the fiscal year.
[2]Full-time equivalent positions; number of positions on the last day of the fiscal year except fiscal 2006, which is as of December 31, 2005.

Source: U.S. Census Bureau, Department of Legislative Services, Department of Budget and Management

Exhibit 1.2
State Employees by Length of Service[1]
Fiscal 2005

Years of Service	Distribution of Employees Fiscal 2005
Less than 1 year	11%
1 – 5 years	24%
6 – 10 years	18%
11 – 15 years	13%
16 – 20 years	13%
21 – 30 years	16%
Over 30 years	5%

[1]Includes employees covered by the State Personnel and Management System and the Maryland Department of Transportation.

Source: Department of Budget and Management

Exhibit 1.3
State Positions by Department/Service Area
Authorized Full-time Equivalent Regular Positions
Fiscal 2007 Legislative Appropriation

Department/Service Area	FTE	Percent
Legislative Branch	744	0.9%
Judicial Branch	3,397	4.3%
Executive Branch:		
Legal	1,586	2.0%
Executive & Administrative Control	1,661	2.1%
Financial & Revenue Administration	2,026	2.5%
Budget & Management	443	0.6%
Retirement	189	0.2%
General Services	636	0.8%
Transportation	9,021	11.3%
Natural Resources	1,369	1.7%
Agriculture	436	0.5%
Health & Mental Hygiene	7,656	9.6%
Human Resources	7,021	8.8%
Labor, Licensing, & Regulation	1,475	1.8%
Public Safety & Correctional Services	11,475	14.4%
MSDE and Other Education	2,191	2.7%
Housing & Community Development	316	0.4%
Business & Economic Development	292	0.4%
Environment	951	1.2%
Juvenile Services	2,079	2.6%
Police & Fire Marshal	2,472	3.1%
Executive Branch Subtotal	**53,291**	**66.8%**
Higher Education	22,327	28.0%
Total	**79,760**	**100.0%**

MSDE: Maryland State Department of Education

Note: Contractual employees not included. Numbers may not sum to total due to rounding.

Source: Department of Legislative Services, Department of Budget and Management

Exhibit 1.4
State Workforce Highlights
Fiscal 2005

	SPMS	MDOT
• **State Government Employees by Bargaining Status:**[1]		
Included in A Collective Bargaining Unit	63.7%	67.7%
Excluded From Collective Bargaining Units	36.3%	32.3%
• **State Government Employees by Service Classification:**[2]		
At-will:	**13.3%**	**7.6%**
Executive Service	0.4%	7.1%
Management Service	4.1%	n/a
Special Appointment[3]	8.8%	n/a
Other At-will	0.0%	0.5%
Not At-will:	**83.4%**	**87.0%**
Professional Service	7.0%	n/a
Skilled Service	76.5%	n/a
Career Service	n/a	87.0%
Other:	**3.3%**	**5.5%**
• **Work Location of State Employees:** [1]		
Baltimore City	37.3%	30.2%
Anne Arundel County	14.7%	33.2%
Baltimore Metro Area	18.3%	10.5%
Western Maryland	12.0%	6.8%
Eastern Shore Area	10.1%	7.5%
Washington Metro Area	4.7%	9.1%
Southern Maryland Area	2.5%	2.6%

• **The Statewide Civilian Labor Force Is:**	**...while the State Employee Workforce Is:**
50.9% Male	43.8% Male
49.1% Female	56.2% Female
34.1% Minority	42.1% Minority

• **The average SPMS employee is 45 years old and has 13 years of service, while the average MDOT employee is 47 years old with 15 years of service.**[1]

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[1]Excludes information from the University System of Maryland, the Injured Workers' Insurance Fund, the Maryland Transportation Authority, the union employees of the Maryland Transit Administration, and employees of the legislative and judicial branches.
[2]Excludes higher education and non-budgeted agency positions.
[3]A small percentage of special appointments have limited job protections; however, most employees with special appointment status serve completely at the pleasure of the appointing authority.

SPMS: State Personnel and Management System
MDOT: Maryland Department of Transportation

Source: Department of Legislative Services, Department of Budget and Management, Maryland Department of Transportation, Department of Labor, Licensing, and Regulation

Exhibit 1.5
Average Salaries of State Employees
Fiscal 1987-2005

Fiscal Year	Average Salary
1987	$22,792
1988	24,242
1989	26,276
1990	27,943
1991	28,587
1992	28,633
1993	28,786
1994	29,946
1995	30,978
1996	31,858
1997	32,426
1998	33,885
1999	35,432
2000	36,767
2001	39,014
2002	41,261
2003	41,191
2004	42,505
2005	42,746

Note: Averages reflect salaries paid to employees covered by the State Personnel and Management System.

Source: Department of Budget and Management

Chapter 2. Evolution of the State Merit System – Historical Perspective

Civil service reform was accomplished at the federal level in 1883, but Maryland did not follow suit until 37 years later. Chapter 41 of 1920 established the State merit system, making Maryland the ninth state to adopt civil service reform. Civil service or merit systems comprise the laws and rules developed to uphold principles of fairness, equality, and open competition in all areas of public sector personnel management.

As at the national level, the electorate eventually voiced its distaste for a continuance of the "spoils system" that linked public employment with political party affiliation. Proponents of reform argued that the patronage system deprived taxpayers of an impartial and responsive public workforce.

Historical Federal Influence

"Every four years the whole machinery of government is pulled to pieces. The business of the nation and the legislation of Congress is subordinated to the distribution of plunder among eager partisans." The preceding quote by President Chester Arthur described the "spoils system" that characterized the personnel practices of federal and state governments for decades. Beginning with President Andrew Jackson's election in 1828, the patronage system was common practice for obtaining public employment.

The assassination of President James Garfield in 1881 by a disappointed job seeker jump-started the reform process. In 1883, the Civil Service Reform Act, also known as the Pendleton Act, established the United States Civil Service Commission, which provided for the merit selection, retention, and promotion of federal employees. The Pendleton Act and other subsequent federal actions, along with state initiatives, started the movement towards comprehensive, modern personnel systems.

As a result of the Pendleton Act, within a few months New York established a civil service commission to administer tests for individuals seeking state positions. Massachusetts followed with a similar system in 1884. Other states, however, did not start adopting merit systems until the early 1900s.

1939 Social Security Act Amendments

In 1939, amendments to the federal Social Security Act again moved the states toward merit-based personnel systems by requiring states to place all federally funded state agency employees into merit systems. Therefore, states that did not have some type of merit coverage for most of their employees were now required to have this coverage.

Since 1939, there have been additional changes to merit system standards in the Social Security Act. Covered agency requirements were consolidated in 1948 and revised again in 1963 to bar discrimination on the basis of race, national origin, and other personal factors unrelated to merit. In 1971, additional revisions permitted state diversity in the design and operation of personnel systems. The most important changes were:

- providing affirmative action to achieve equal employment opportunity;
- adding specific prohibitions of discrimination based on age, sex, or physical disability; and
- providing stronger opportunities to appeal alleged discrimination.

In 1979, after a two-year congressional review, additional changes were made to the Social Security Act, including:

- requiring adoption of uniform selection guidelines to participate in grant programs;
- broadening standards for competition and choice for the handicapped and participants in congressional or state authorized employment/rehabilitation programs;
- specifying requirements for affirmative action programs; mandatory workforce analysis; goals and timetables; and race, sex, and ethnic data collection for applicants; and
- waiving local jurisdictions with fewer than 25 employees.

By 1982, the Social Security Act standards covered almost 20 percent of all state personnel.

Civil Service Reform Act of 1978

Another potential federal influence on state and local personnel systems was the Civil Service Reform Act of 1978, which was based in part on personnel reforms already

underway in state and local governments. The Act represented the most comprehensive reform of federal government service since the 1883 Pendleton Act.

The Act was largely based on the recommendations from a study conducted through President Jimmy Carter's Personnel Management Project. Major provisions included:

- protecting "whistle blowers" who disclose illegal or improper government activities;
- streamlining dismissal procedures for employees terminated for cause;
- replacing the Civil Service Commission with the Office of Personnel Management to manage the federal workforce; and
- designating a Merit Protection Board to insure compliance with merit system principles and laws.

Maryland's Efforts

A review of Maryland's civil service reform efforts from the pre-1900s through the early 1900s follows.

Pre-1900s

The "spoils" or patronage system was an established part of Maryland government in the late 1800s. The patronage system allowed political bosses and elected officials to reward individuals who supported them.

During the latter half of the 1800s, State politics was controlled by two powerful public figures: Freeman Rasin and Arthur Gorman. The extent of their influence was widespread. As detailed in the 1971 book, "The Old Line State," based on a mutual agreement, Freeman Rasin had control of the City of Baltimore and Senator Arthur Gorman had control over the rest of the State. These two individuals controlled the Maryland political landscape from approximately 1870 to the mid-1890s. Both Freeman Rasin and Senator Gorman were noted opponents of civil service reform because it threatened to undermine the heart of the patronage system from which both derived unmatched strength and influence. However, with their respective deaths in 1905 and 1906, coupled with the progressive era movement in Maryland, conditions were conducive for change.

Early 1900s

The merit system bill adopted by the 1920 General Assembly was not an isolated attempt at governmental reform; it was part of a larger reform movement which swept Maryland in the early 1900s (*i.e.*, executive budget system, child labor laws, work safety, voting fraud, etc.).

Maryland's system of government in the early 1900s was a loose configuration of autonomous agencies. In 1914 Governor Emerson Harrington, realizing that a continuation of this arrangement was not in the State's best interests, appointed the Commission on Efficiency and Economy under the direction of President Frank J. Goodnow of The Johns Hopkins University. Its mandate was to examine the governmental operations and recommend changes to increase the efficacy of State government.

The Goodnow Commission was best known for its December 15, 1915, recommendation leading to the adoption of Maryland's current executive budget system. However, the commission recommendations were also responsible for the elimination of several agencies deemed to be of insignificant importance and the placement of many State institutions under central administrative control.

With the implementation of the Goodnow Commission's recommendations and Governor Albert C. Ritchie's subsequent Reorganization Commission's efforts, the wave of support for better government started the dismantling of the spoils system. Finally, with the introduction of House Bill 107, entitled "64-A, Merit System," and its subsequent enactment in 1920, Maryland's long engagement with the spoils system ended.

Evolution of Maryland's Merit System Law

The purpose for which the State's merit system was established, as stated in Section 27 of Chapter 41 (later codified as Section 44 of Article 64A), was:

> …to provide candidates for appointment to positions in the classified service after determining by practical tests of the fitness of such candidates for the positions which they seek, without regard to the political or religious opinions or affiliations of such candidates, or of any other standard except the business efficiency of the classified service, and to provide adequate means for the prompt removal from positions in the classified service of all persons therein who may be indolent, incompetent, inefficient, or otherwise unfit to remain therein, and to keep in a workable state the provisions for the promotion of employees as provided in this article to the end that the

same shall be so administered as to attract the best class of candidates to the classified service.

The original merit system law included provisions relating to the administration of the system and the enforcement of its rules; the establishment of position classes; the conduct of competitive examinations; the preparation of eligible lists; the separation of employees as laid off or suspended; and the allowance of vacation, sick, personal, and accident leave.

After 1920, the merit system law was the subject of piecemeal revision. Over the years, sections were added to prohibit discrimination; require employee disclosure and confidentiality protection; provide for the hiring of contractual employees; specify a probation period after promotion; specify reinstatement qualifications; allow temporary employees to become permanent; provide incentive awards; allow time off for religious observance and seasonal leaves of absence; allow participation of retired employees in the State Employees' Health Insurance Program; and specify grievance procedures.

One major subsequent change in the merit system law was the establishment of several independent personnel systems. As explained in Chapter 3, several State entities, including the Department of Transportation and the University System of Maryland, were granted the authority to establish their own policies and practices without regard to the Secretary of Personnel. Chapters 6 and 7 explain the independent policies and practices of the legislative and judicial branches, respectively. Other than providing more flexibility, these systems generally mirror the merit system law.

During 1993, as part of the Code Revision process, the merit system law was revised and reorganized. Effective October 1, 1993, Chapter 10 of 1993 recodified Article 64A into Division I of the State Personnel and Pensions Article. Although the revision was enacted as new language without substantive changes, one major change was made for clarification purposes. The name of the personnel system was changed from "Merit System" to "State Personnel Management System." In the former law, the term "Merit System" generally, although not universally, referred only to classified service employees. The new name refers to the personnel system that encompasses all the employees under the authority of the former Department of Personnel, now incorporated in the Department of Budget and Management.

Modern Reform Efforts

Although merit system principles continue to have broad-based acceptance, civil service laws and rules that were adopted decades ago became increasingly seen as inefficient and incompatible with today's economic and social conditions. The situation

led the federal government, as well as many state and local governments, to examine and modernize their personnel systems.

In Maryland, three significant review efforts stimulated modernization of the personnel system. During the 1987 through 1990 term of the General Assembly, the legislature reviewed the former Department of Personnel's efforts to reform the State personnel system. As a result of the legislature's work, several significant revisions were made to the State's personnel system. The process for certifying candidates and managing eligible lists was more clearly defined and expanded. Further, a family leave policy was established, the use of sick leave was expanded, certain types of leave that were authorized by regulation were codified, and several floating holidays were created.

During the 1991 through 1994 term, Governor William Donald Schaefer created a Commission on Efficiency and Economy (the Butta Commission) for the purpose of recommending changes to reduce costs and promote efficiency in State government. In 1993, after reviewing the 70-year-old personnel system, the Butta Commission made several recommendations to significantly restructure and modernize the system.

The commission concluded that (1) recruiting and hiring efforts of classified service employees were lengthy, costly, and resulted in many applicants being processed and tested but few hired; (2) the salary plan did not link pay to performance, was not competitive, and was not long-term career oriented; (3) investment in career development and training was insufficient; and (4) adjudicating grievances, suspensions, and terminations was costly.

The commission recommended modernizing the personnel system, resulting in a new distribution of functions between what was the former Department of Personnel and other State agencies. To reduce duplication and delay, the department would provide statewide policies, monitor and audit systems, develop training programs, operate the centralized service functions, and provide human resources support. Agencies would operate and administer key internal personnel functions and have authority over most personnel transactions.

On June 6, 1995, Governor Parris Glendening signed an executive order creating the Task Force to Reform the State Personnel Management System. The task force was charged with developing a personnel system that would streamline and simplify the State's personnel policies, decentralize personnel management functions, and provide for the consistent application of human resources management principles throughout the executive branch of State government, with the ultimate goal of improving the quality of State services.

1996 Reforms

The State Personnel Management System Reform Act of 1996 (Chapter 347) incorporated many of the task force's recommendations. For the first time in over 60 years, the State Personnel Management System was significantly restructured. Chapter 347 established a decentralized personnel management system where the unit, or agency, has most of the responsibility for the management of its work force. The Act did not affect agencies with independent personnel authority or the judicial or legislative branches of State government.

Also during the 1996 session, the Department of Personnel was abolished as an independent unit within the executive branch of State government; the Department of Budget and Management (formerly the Department of Budget and Fiscal Planning) was designated as its successor (Chapter 347). The positions of the Secretary of Personnel and the Deputy Secretary of Personnel were also abolished, and the Secretary of Budget and Management was designated as the successor of the Secretary of Personnel. The Secretary of the Department of Budget and Management in turn created the Office of Personnel and Employee Benefits to oversee the management of the State's work force.

Chapter 347 also eliminated the classified and unclassified services. Instead, the Act provided for four basic classes of regular employees: skilled service, professional service, management service, and executive service. Within each of the classes of regular employees, a category of "special appointment employees" was also established. Reform also provided for two categories of temporary employment, contractual and emergency. The Department of Budget and Management has responsibility for overseeing the development of positions and job classifications and, in some cases, still develops positions and classifications for smaller agencies.

The Act also altered the leave and holidays available to State employees; changed the procedures for hiring and evaluating employees; modified the provisions relating to discipline, layoffs, and separations; and altered the procedures for filing grievances. Chapter 3 includes a comprehensive discussion of the current features of the State Personnel Management System.

Collective bargaining for State employees was initiated in 1996 through an executive order issued by Governor Parris Glendening. Chapter 298 of 1999 codified the executive order and Chapter 341 of 2001 gave collective bargaining rights to specified employees in Maryland institutions of higher education. Chapter 5 contains a comprehensive discussion of collective bargaining for State employees.

Chapter 3. Personnel Policies and Practices in the Executive Branch

This chapter reviews the personnel policies and practices in the executive branch established by statute and the Code of Maryland Regulations. While this chapter specifically addresses policies in the executive branch, many sections also apply to employees of the legislative and judicial branches of State government.

Definitions

Before reviewing personnel policies and practices related to State employment, the meaning of certain terms should be clarified. The State Personnel and Pensions Article and Code of Maryland Regulations provide the following definitions:

- "Position" means an employment assignment of duties and responsibilities requiring the full-time employment of one individual or less than full-time employment of one or more individuals.

- "Temporary employee" means an employee who is either a contractual employee or a temporary employee.

- "Contractual employee" means an individual with whom the State has an employer-employee relationship to provide services for pay under a written agreement but who is not employed in the skilled, professional, management, or executive service or who is not an emergency employee.

- "Emergency employee" means an individual who has been hired to prevent stoppage of public business during an emergency but whose employment cannot exceed six months.

- "Temporary non-contractual employee" means an individual who has been hired to assist with the efficient and effective operation of a department but whose employment cannot exceed six months.

- "Professional service" means a position in the executive branch that requires advanced knowledge in a field of science or learning acquired through special courses and study, and that normally requires a professional license or an advanced degree.

- "Management service" means a position in the executive branch that involves direct responsibility for oversight and management of personnel and financial resources, requires discretion and independent judgment, and is not in the executive service.

- "Executive service" means a position in the executive branch that is the chief administrator of a principal unit or comparable position that is not the result of an election or required by the State Constitution; or a deputy or assistant secretary of the principal unit or similar position that has similar stature.

- "Skilled service" means all positions for which persons are selected on a competitive basis in the executive branch not in the professional management or executive service, in accordance with Section 6-401 of the State Personnel and Pensions Article.

- "Special appointments" means a position in the skilled service, professional service, management service, or executive service that is exempted from the selection and termination provisions of that service.

Administration

Maryland's personnel policies are developed primarily by the legislative and executive branches but in distinctly different manners. The General Assembly affects personnel policies by adopting legislation and taking action on the State budget. The executive branch develops personnel policies through legislation, regulation, and executive order. Often the Department of Budget and Management will submit departmental legislation to change the State's personnel laws. The department also develops regulations to administer the laws, which must be published in the Maryland Register to provide for public review and comment and must be approved by the Administrative, Executive, and Legislative Review Committee. In addition, the Governor can issue executive orders to change personnel policies. Examples include State employee substance abuse (E.0.01.01.1989.05), smoking in public buildings (E.0.01.01.1987.13), an increase in the standard workweek for State employees from 35.5 to 40 hours per week (E.0.01.01.1991.15), the State employee furlough program (E.0.01.01.1992.05), and standards of conduct for executive branch employees (E.01.01.2003.01).

The administration of Maryland's personnel system rests with the Department of Budget and Management, various independent salary setting authorities, and agencies with independent personnel systems. The University System of Maryland, for example,

administers a separate personnel system for its faculty members and employees, as does the Department of Transportation.

Department of Budget and Management

Legislation enacted in 1996 (Chapter 347) abolished the Department of Personnel as an independent unit within the executive branch of State government and designated the Department of Budget and Management (formerly the Department of Budget and Fiscal Planning) as its successor. The Secretary of Budget and Management was designated as the successor of the Secretary of Personnel. The former Department of Personnel was created as a principal department by Chapter 98 of 1970. It was the successor department to the State Commissioner of Personnel, previously established by Chapter 310 of 1953, which was the successor to the Commissioner of Employment and Registration, previously established by Chapter 41 of 1920.

The Department of Budget and Management is responsible for:

- developing and enforcing the rules that govern the administration of the State Personnel Management System;
- developing and maintaining the State's system for classifying positions in the State Personnel Management System;
- developing the State's salary and wage system and governing salary transactions and activities;
- analyzing jobs and creating appropriate testing instruments to provide a ranking system for placement of candidates on eligibility lists;
- providing training and technical assistance for staff and managers of operating agencies in public sector labor relations and performance evaluations;
- providing confidential and professional assessment and referral services for State employees who are experiencing personal problems that affect their work performance;
- coordinating equal employment opportunity and affirmative action activities for all agencies within the executive branch; and

- administering the sick leave bank and donations of leave to other State employees, administering State benefits programs, coordinating the Unemployment Insurance Program, and administering the Social Security Program.

Independent Salary Setting Authorities

Independent salary setting authorities are State agencies with the legal authority to establish the salaries of employees independent from the Department of Budget and Management's pay plan. This authority exists in all three branches of government but is mainly found in the areas of higher education and transportation which constitute 28 percent (22,327 full-time equivalent (FTE) positions) and 11.3 percent (9,021 FTE positions), respectively, of the total number of State positions. Some of the agencies with the authority to set salaries also have the authority to establish their own independent personnel systems.

Before 1986, there were over 30 independent salary setting authorities employing approximately 32,000 State employees. Based on recommendations from the Task Force to Study Independent Salary Setting Authorities in 1985, Chapter 173 of 1986 repealed the authority for many agencies to set salaries. The goal was to provide a more uniform salary schedule across State agencies.

Since the enactment of Chapter 173, however, several agencies which demonstrated a need for flexibility have been given the authority to independently set salaries including Baltimore City Community College in 1990; the Maryland Insurance Administration in 1993; the Maryland Public Broadcasting Commission in 1998; and the Public Service Commission and the Office of People's Counsel in 2000.

The judicial and legislative branches (combined 5.2 percent of the total regular workforce or 4,141 FTE positions) have independent salary setting authority consistent with the constitutional doctrine of separation of powers. Agencies in the executive branch with independent salary setting authority tend to be either quasi-public agencies with self-generating funds (*e.g.*, the Maryland Automobile Insurance Fund) or agencies with some level of autonomy within the executive branch. The advantage of independent salary setting authority for an agency is threefold in that it (1) enables immediate response to salary problems; (2) allows freedom from regulatory oversight; and (3) does not require consideration of or comparison with other employees or jobs elsewhere in State service. Appendix 2 lists all agencies with independent salary setting authority and independent personnel systems as established by the Annotated Code of Maryland and the Maryland Constitution.

A disadvantage of independent salary setting authority is that pay increases granted to small groups of employees under independent authority can result in salary disparities among groups of employees performing similar tasks or functions.

Independent Personnel Systems

Several agencies with independent salary setting authority have also been given the authority to establish their own personnel systems independent of the Department of Budget and Management and the State Personnel Management System (Appendix 2). The State's public higher education institutions and the Department of Transportation are among the largest entities with their own personnel systems.

University System of Maryland Personnel System

Chapter 246 of 1988 reorganized Maryland's higher education structure. The University System of Maryland combines the university's campuses with the campuses of the former Board of Trustees of State Universities and Colleges. The university system also includes two institutes: the Center for Environmental Science and the Maryland Biotechnology Institute.

Chapter 246 authorized the Board of Regents of the University System of Maryland to establish personnel policies and procedures independent of the Department of Personnel. Prior to the reorganization, the campuses of Bowie, Towson, Frostburg, Coppin, University of Baltimore, and Salisbury operated under a different personnel system closely aligned with the Department of Personnel. By 1990, the Board of Regents of the University System of Maryland had meshed the personnel systems of all its units and established personnel policies and procedures for all University System of Maryland employees independent of the Department of Budget and Management.

Other Higher Education Institutions Personnel Systems

St. Mary's College (Chapter 209 of 1992), Morgan State University (Chapter 485 of 1994), and Baltimore City Community College (Chapter 220 of 1990) have their own personnel systems independent of the Department of Budget and Management. While these institutions participate in some State programs such as health benefits, retirement, and the Employee Assistance Program, most personnel policies and procedures are separate.

Department of Transportation Personnel System

Chapter 168 of 1992 authorized the Department of Transportation to combine the personnel systems of the Maryland Port Administration, the Maryland Transportation Authority, the Mass Transit Administration, and the rest of the department's units into a personnel system independent of the Department of Budget and Management. The result was the establishment of the Transportation Service Human Resources System to encompass all the department's units.

Types of Positions

There are three types of employment positions in State government: regular full-time; regular part-time; and short-term contractual, temporary, and emergency. Regular positions are further divided into four categories: skilled service; professional service; management service; and executive service. The majority of positions are in the skilled service or professional service category. Over 83 percent of State Personnel Management System employees are in these categories and enjoy full employee protections inherent in a merit system. Approximately 6,000 or 13 percent of State Personnel Management System employees are either at-will or special appointment positions. Some special appointments are at-will positions for the purposes of termination from service while others have job security as specified in statute.

Creation of Positions

A summary of the process by which State positions are created and abolished through the budget process is contained in Appendix 3. This process may differ, however, by statute for certain nonbudgeted independent agencies such as the Maryland Food Center Authority, the Maryland Automobile Insurance Fund, and the Maryland Transportation Authority. For more information on how positions are created and funded, see *Volume IV – The Budget Process*.

State Personnel Management System

The State Personnel and Pensions Article sets forth the positions that are included in the State Personnel Management System. Unless specified otherwise (*e.g.*, positions covered by independent salary setting authority), all positions in the executive branch are included. The Maryland Code specifies which positions are included in the skilled service, professional service, management service, and executive service, and which positions are included in the services as special appointments. Contractual, emergency, and temporary employees are not included in any of these services.

In fiscal 2005, the State Personnel Management System covered approximately 45,250 budgeted positions. Of those positions not in special appointment status, approximately 0.4 percent are in the executive service, 4.1 percent are in the management service, 7.0 percent are in the professional service, and 76.5 percent are in the skilled service. Approximately 8.8 percent of the positions covered under the State Personnel Management System are in the special appointment status. Although they are positions within the personnel system, special appointments may have separate recruitment and salary programs. Special appointments positions consist of the following:

- positions filled by individuals appointed by the Governor that are not provided by the State Constitution;
- positions filled by individuals appointed directly by the Board of Public Works;
- positions that perform significant policy roles or directly support members of the executive service;
- positions in the Government House;
- positions in the Governor's Office; and
- any positions specified by law as special appointments.

The following positions are excluded from the State Personnel Management System:

- any position to which an individual is elected by popular vote;
- any position to which an individual's election or appointment is provided for by the Constitution of Maryland;
- any position in a unit of the executive branch with an independent personnel system; and
- any position in the legislative and judicial branches.

Employment in the State Personnel Management System is governed by Title 7 of the State Personnel and Pensions Article. The recruitment and selection provisions apply primarily to skilled service and professional service employees. There is shared responsibility for recruitment and selection between executive branch agencies and the Department of Budget and Management for positions primarily in the skilled service,

while agencies have responsibility for their specialized recruitment needs. Although the State has a decentralized, agency-level hiring process, the Department of Budget and Management maintains a list of eligible candidates for high volume positions. The department, if requested, will also provide recruitment assistance to agencies for specific positions. In addition, the Office of Personnel Services and Benefits within the department maintains a unit to aid small agencies with their ongoing recruitment and other personnel needs.

Recruitment

If a need is identified by an agency or a position is open, the agency must develop a "position selection plan." Such a plan must include (1) a description of the duties for which the position is responsible; (2) minimum qualifications of the position; (3) any limitations on selection for the position; and (4) the process for submitting and reviewing applications as well as applicable time frames, if appropriate. Agencies may either select candidates from existing lists of eligible candidates or recruit for the position. If the agency decides to recruit for the position, recruitment must proceed based on the position selection plan. Job announcements for positions must include position descriptions, minimum qualifications, descriptions of the tests that will be used, and deadlines and locations for submitting applications. Job announcements should be made available to the public, within the agency, and to other State agencies at least two weeks before the application deadline. Department regulations allow applications to be rejected if received beyond the advertised closing date or if the minimum qualifications for the position are not met.

Exhibit 3.1 indicates the number of applications received, applicants tested, and appointments made for fiscal 1995 through 2005 by the Department of Budget and Management. The significant decrease in applications received and applicants tested from 1997 to 1998 can be attributed to the decentralization of the recruitment process to the various agencies and the administrative reorganization related to that move. The growth in applications and testing since then is attributed to a tighter labor market and the more recent on-line automation of the application process for many jobs. As mentioned above, the Department of Budget and Management's recruitment function is limited to positions in the skilled service and professional service. The department is not actively involved in recruiting management service, executive service, and special appointment employees. In order to ensure that an agency's recruitment, examination, and certification procedures are being properly performed, the Office of Personnel Services and Benefits performs periodic compliance audits of individual agencies.

Exhibit 3.1
State Employment Applications, Testing, and Appointments
Skilled and Professional Services
Fiscal 1995-2005

Fiscal Year	Applications Received	Applicants Tested	Appointments
1995	63,998	52,708	6,965
1996	64,225	38,077	5,285
1997	63,867	32,513	5,021
1998	33,636	13,458	6,382
1999	37,900	19,100	5,069
2000	46,697	31,300	5,275
2001	55,770	50,945	5,768
2002	31,700	20,972	5,191
2003	32,271	28,062	4,115
2004	41,784	36,334	3,972
2005	48,591	43,838	5,354

Source: Department of Budget and Management

Selection, Credits, and Examination for Candidates

Once the closing date for a position announcement passes, agencies review the applications for completeness and to ensure that applicants meet the minimum qualifications. Agencies must notify applicants in writing if they are rejected because they did not meet the minimum qualifications. If a test is required, applicants must be notified at least 10 days before the testing date. If fewer than 10 but more than 2 applicants meet the minimum qualifications for a position, the appointing authority may select from this group without further selection testing, or readvertise the vacancy.

Agencies are required to develop appropriate selection processes to rate applicants. If a test is necessary, it must be administered free of charge to all qualified applicants. An applicant may be disqualified from taking a test for supplying false information on the application. If a test is taken, certain applicants may receive credits that can be applied to the applicants' test scores to establish placement on the list of

eligible candidates. Before a credit can be applied, applicants should at least exceed the minimum passing score. Current State employees can receive a quarter point for each year of State service up to a maximum of five points for 20 years of service. State residents are entitled to five points toward their scores. There are also credits available for residents in counties adjacent to counties with high unemployment rates that also have prisons. As a result of reforms made to the personnel system (Chapter 347 of 1996), the absolute hiring preference for veterans was eliminated. However, the points a veteran who is not disabled receives was increased from 5 to 10, and the 10 point preference given to a disabled veteran, the spouse of a disabled veteran, and the surviving spouse of a deceased veteran was retained.

After the application of the selection criteria, certain applicants will be identified as candidates for the position. A candidate who is a veteran must be identified as such on any lists. Rather than hiring a candidate with the highest combined score, agencies now "broad band" or place most candidates in the following categories: best qualified, better qualified, qualified, or unsatisfactory. In certain circumstances, candidates may be placed in the following additional categories: certified by the Division of Rehabilitative Services, eligible for reinstatement after layoff or separation, eligible for reinstatement, or eligible for transfer. Upon request, the agency must notify a candidate of the candidate's standing on the list. Agencies are required to file their lists of eligible candidates with the Department of Budget and Management for use by other agencies. The department is required to share its lists of eligible candidates with all requesting agencies.

The agencies may interview candidates within each category, as long as at least three candidates are interviewed. The agencies also have the flexibility, depending on the number of available candidates, to appoint candidates from lower rated categories. Specifically, Section 7-209(a) of the State Personnel and Pensions Article provides that:

- If there are at least five candidates rated best qualified, the appointment must be from that rating category.

- If there are fewer than five candidates rated best qualified, the appointment must be from the candidates in the best qualified and better qualified categories.

- If there are fewer than five candidates rated best qualified and better qualified, the appointment must be from candidates in best qualified, better qualified, and qualified categories.

Probation

The last step of the hiring process is probation. While on probation, employees must demonstrate their ability to perform the duties of the job for which they were hired. All employees in the skilled service and the professional service must complete a six-month probation period after initial appointment, reinstatement, or competitive promotion. Employees in salary grade seven or higher may have their probation extended up to six more months, while employees in salary grades one through six may have their probation extended up to three months. Employees reinstated into the same classification, after already serving probation, within one year after leaving State service do not have to serve another probationary period.

At the start of probation, a supervisor must give a new employee a written position description that describes the duties and functions of the position. At the end of the first 90 days of probation, the employee receives a written evaluation by the supervisor, and if probation is extended, the employee must receive an evaluation at the end of the initial probation and at the midpoint of the extended period. An employee on initial probation may be disciplined or terminated, with limited appeal rights. During fiscal 2005, 135 employees were terminated while on probation within the State Personnel Management System. An employee on probation because of reinstatement or promotion may not be terminated because of performance; rather, the employee may be returned to the employee's former position, reassigned, or demoted. A more detailed explanation of appeals for disciplinary actions follows later in this chapter.

Employee Performance Appraisals

All employees in the skilled service, the professional service, and the management service must have their performance evaluated every six months. The evaluation process is designed to facilitate communication between employees and supervisors. The components of the appraisal process include preliminary assessment by a supervisor, self-appraisal by the employee, a meeting between the supervisor and employee on the appraisal, and the development of a final appraisal. Employees are evaluated based on behavioral elements associated with their service category and on performance standards associated with their position. In the appraisal an employee may be rated as "outstanding," "exceeds standards," "meets standards," "needs improvement," or "unsatisfactory." An employee's appraisal may also include ways to enhance the employee's performance, and should include recommendations for training or other methods to increase the employee's skills. In addition to the downward evaluation process, if a supervisor is responsible for five or more employees, the employees through an anonymous survey may upwardly evaluate the supervisor's performance. The survey

results will be used in the evaluation of the supervisor. Supervisors are also required to attend training on how to effectively administer performance appraisals.

Performance-based Pay

Personnel reform (Chapter 347 of 1996) provided for the implementation of a pay-for-performance plan for skilled, professional, and management service employees. There was some interest in shifting away from the grade and step system toward a minimum/maximum salary system, which would provide more flexibility in determining individual salaries. However, the State continues to utilize a step and grade system for these groups of employees.

The Department of Budget and Management, within its current compensation structure, has developed three strategies to reward satisfactory service to the State, based on the results of employee performance appraisals. First, in order to advance from one step to the next within a grade, an employee must be rated as "meets standards" in the evaluation. Therefore, movement up a step is designed to reward satisfactory service.

Second, if an employee is rated as "needs improvement" or "unsatisfactory," the employee is either given six months or three months, respectively, to improve. If there is not satisfactory improvement, the employee will be terminated. In fiscal 2005, 340 employees within the State Personnel and Management System were terminated outside of the probationary period.

The third method by which the State rewards performance is through bonuses. Although not available to all employees, retention and other bonus strategies are being employed in agencies for which maintenance of a full or at least adequate workforce has become an issue. For example, employees holding Correctional Officer II, Sergeant, Lieutenant, Captain, and Major positions working in Public Safety and Correctional Services will be eligible for a $500 lump-sum bonus if they have fewer than five unscheduled absences over a 12-month period ending in fiscal 2007. This bonus is not considered regular compensation and will not be reflected in the base salary of the employee. These more targeted bonus programs replace a comprehensive program that was discontinued after fiscal 2002; in that program, if an employee was rated "outstanding" or "exceeds standards" the employee was given a bonus of $1,000 or $500, respectively. However, due to budget constraints and questions over the efficacy of these bonuses as incentives for high performance, the more comprehensive program was discontinued.

Transfer of Employees into State Service

Subtitle 6 of Title 7 of the State Personnel and Pensions Article governs the transfer of employees into the State Personnel Management System when the State acquires a private institution or public entity. The statute requires that these employees must be employed in positions similar to the positions held at the time of acquisition and may retain their seniority. Within one year after the acquisition, the Department of Budget and Management must classify each position. Employees in these positions are required to serve a standard probation period. Once the employees are classified, they can continue to hold their positions without further examination and have all the rights associated with that class of positions.

Compensation of Employees

Title 8 of the State Personnel and Pensions Article governs the compensation of State employees subject to the authority of the Secretary of Budget and Management. There are two basic pay plans for the State, the standard pay plan and the executive pay plan, both of which are administered by the Secretary. The Maryland Department of Transportation has its own pay plans that utilize the State Personnel Management System salary schedules. In addition to the regular pay provisions, which will be described in this section, certain State employees in the State Personnel and Management System are also entitled to "shift differential pay" and "hazardous duty pay."

Standard Pay Plan

The standard pay plan does not apply to positions provided for by the State Constitution; positions based, by law, on judicial pay; or positions set by a unit with independent salary setting authority. In fiscal 2001, it applied to about 46,000 full-time equivalent positions in the State system and 6,300 in the Department of Transportation personnel system. In developing rates of pay, the Secretary must give consideration to prevailing rates of pay for comparable services in private and public employment, experience, living costs, other benefits received by employees, and the State's financial condition and policies. All pay plans are subject to the limitations of the State budget.

Generally, the standard pay plan for graded State employees is revised each year to reflect adjustments passed by the General Assembly and becomes effective July 1, although general salary increases may not become effective until a later date. In fiscal 2007, the salary schedule has 26 grades and 21 steps within each grade (base plus steps 1-20) and is the pay plan for the vast majority of employees. In fiscal 2007, the budget bill provides that positions previously paid within grades 1 through 4 be

reclassified to grade 5 or above. The salary schedule in effect beginning on July 1, 2006, is shown in Appendix 4.

Although the standard salary schedule covers most State employees, there are five additional schedules used by the State system, which are technically considered under the "standard" salary schedule moniker. These additional schedules cover Park Rangers (used for command and management positions), Natural Resources Police, State Police, Deputy Fire Marshals, and Physicians.

Adjustments/Amendments to the Standard Pay Plan

The most significant and costly element of pay plan adjustments is usually the general salary increase, which affects virtually all State employees. Only those employees whose pay rates are specifically set by statute or who are otherwise excluded from participation are not affected.

In recent years, general salary increases have been provided by various methods. Appendix 5 is a history of State general salary increases for fiscal 1999 through 2007. The fiscal 2007 budget includes general salary increase funding for a third consecutive year. It provides funds to give employees making $45,000 or less at the end of fiscal 2006 a $900 increase and those making $70,000 or more at the end of fiscal 2006 a $1,400 increase. Employees making between $45,000 and $70,000 receive a 2 percent increase. The fiscal 2007 budget also provides that no one will be paid under grade 5 on the standard salary schedule in fiscal 2007. General salary increases in fiscal 2005 through 2007 follow two years in which neither general salary increases nor increment (merit) increases were paid.

Maryland State Police, Natural Resources Police, and Park Rangers' salaries have increased at a faster rate than other employees. From fiscal 1999 through 2007, various classifications paid on the two salary schedules covering these three categories have received four additional increases, as demonstrated in Appendix 5. These increases were primarily intended to increase the salaries of these groups so that they reached comparability with the salaries paid in police forces in the counties and large communities with which the State competes for police officers. In fiscal 2007, State police working primarily for the Department of General Services and the Department of Health and Mental Hygiene will also receive additional increases.

In addition to general pay increases, Section 8-105 of the State Personnel and Pensions Article provides for salary adjustment procedures. The Secretary of Budget and Management, with the approval of the Governor, may amend the pay plan to increase pay rates for specific classifications of positions in order to recruit or retain competent

personnel or to ensure that pay rates adequately compensate the skills, knowledge, effort, responsibility, and working conditions of employees in the class. An amendment may not take effect unless sufficient funds are available in the budget to cover the resulting pay rates. Amendments to the pay plan must be reported to the General Assembly by the fifteenth day of the next regular session, and the General Assembly may reject the amendments. If an amendment is rejected, the appropriate salary reduction becomes effective in the next fiscal year.

Executive Pay Plan

The executive pay plan was created in 1989 (Chapter 831) to provide a more rational framework for compensating management positions in State government. At that time, most managers received flat rate salaries that were adjusted on an individual basis from time to time. Before the 2000 session, the executive pay plan was structurally similar to the standard salary schedule. In order to compensate for what had become an inadequate standard pay plan, many managers who were not in the executive service were moved into the executive pay plan to provide for competitive compensation levels.

Significant changes in both the structure and coverage of the plan were made in 2000 when it was converted from an 11-grade, 7-step structure to an 8-grade structure with minimum and maximum rates. Further, two-thirds of the management service employees who had been in the plan were moved back to the standard salary schedule.

Before conversion to the new pay plan in fiscal 2001, approximately 573 positions were in the executive plan (including those working in the Department of Transportation); after the fiscal 2001 conversion, 192 remained. The plan now consists of *executive service* positions that function above the assistant secretary (or its equivalent) level. *Management service* employees were moved to the then new 26-grade extended standard salary schedule, which was expanded four grades to accommodate them.

The executive pay plan has eight salary ranges, as demonstrated in Exhibit 3.2. The bandwidth, or percentage distance between the minimum and maximum salary at each grade, is 33.4 to 33.7 percent, slightly narrower than in the past because of recent flat general salary increases added to the schedule. The executive pay plan is increased by the same percentage or dollar increase awarded to comparably paid positions on the standard salary schedule. As with the standard and other salary schedules, there are a number of executive service employees paid flat rate salaries. These employees are technically considered to be in the executive pay plan. Salaries for these employees are determined through the State budget. Increases for these and other executive pay plan positions are covered in Section 8-108 of the State Personnel and Pensions Article.

Exhibit 3.2
Executive Pay Plan
Fiscal 2007
Effective July 1, 2006

Scale	Minimum	Midpoint	Maximum
ES4	$71,710	$83,662	$95,614
ES5	77,047	89,917	102,787
ES6	82,814	96,674	110,534
ES7	89,042	103,973	118,903
ES8	95,767	111,855	127,942
ES9	103,033	120,369	137,705
ES10	110,876	129,561	148,245
ES11	119,352	139,492	159,632

Source: Department of Legislative Services

Administrative procedures pertaining to the executive pay plan include:

- Merit increases are limited by and awarded out of a merit pool. For fiscal 2007, the pool is 3 percent of the total salary for all executive salary schedule positions, not including the salary of the agency head. The pool does not increase or decrease if positions or employees are added to or removed from the executive pay plan during the fiscal year. Funds necessary to cover the merit increases come from existing agency funds.

- An agency head may award a merit increase to an employee in the plan at any time on or after July 1. It may be in the form of a one-time bonus or a salary increase. Base pay plus the merit increase may not exceed the maximum for the relevant grade.

- The total of all merit increases may not exceed the total of the pool within each agency. The cost of all increases is calculated on an annualized basis, regardless of the effective date of the increase for each employee.

- Employees coming into the plan during the fiscal year are eligible for a merit increase after six months of service during the fiscal year.

- Agencies placing new employees into a position in the plan are required to obtain approval from the Department of Budget and Management for the proposed, initial pay rate if it is at midpoint or above.

These changes attempt to implement a pure pay-for-performance system for the limited number of employees that remain in the executive pay plan.

Gubernatorial Compensation

The Constitution of Maryland provides that every four years the Governor's Salary Commission must recommend salaries for the Governor and Lieutenant Governor that will apply to the next term of office. In January 2006, the commission proposed increases to the salary of the Governor, Lieutenant Governor, and the salaries of constitutional officers which include the Comptroller, Treasurer, Attorney General, and Secretary of State. The recommended increases for the Governor and Lieutenant Governor were proposed during the 2006 session as Senate Joint Resolution 2 which was amended by the General Assembly to reject the proposed increases. Legislation which would have increased the salaries of the constitutional officers was also rejected by the General Assembly during the 2006 session. As a result, salaries for calendar 2007 through 2010 will remain as follows:

Governor	$150,000
Lieutenant Governor	$125,000
Comptroller	$125,000
Treasurer	$125,000
Attorney General	$125,000
Secretary of State	$87,000

Overtime Compensation

State employees who are not exempt from the federal Fair Labor Standards Act are eligible to receive cash payments for overtime work. Generally, overtime payments are calculated based on (1) straight time for time worked up to and including 40 hours per week; and (2) time and one-half the regular hourly rate for time worked in excess of 40 hours per week. Employees of a hospital or domiciliary care facility for the aged, ill, or disabled earn overtime compensation based on a two-week work period. Law enforcement and civilian employees of the Maryland State Police who participate in a modified workday program earn overtime compensation based on the work period that is in excess of the established workday.

State employees who are exempt from the federal Fair Labor Standards Act (*i.e.*, executive, administrative, and professional employees) are not eligible to receive cash overtime payments. However, most agencies allow exempt employees to accrue compensatory leave for working overtime. Compensatory leave polices vary widely among agencies in the executive branch in terms of how compensatory leave can be earned and used. In all cases, however, employees fall into one of three broad classifications: (1) employees not exempt from the federal Fair Labor Standards Act; (2) employees exempt from the Act, including employees in the executive pay plan in grades ES4 and ES5; and (3) employees in the executive pay plan in grades ES6 through ES11.

The Department of Budget and Management has adopted compensatory time regulations consistent with the federal Fair Labor Standards Act. The regulations provide that (1) an employee may elect to receive compensatory time rather than cash payments prior to the performance of work; (2) compensatory time must equal one hour for each hour of overtime work for which the employee otherwise would receive the employee's regular hourly rate of pay, and 1.5 hours for each hour of overtime work for which the employee would otherwise receive one and one-half time the employee's regular hourly rate of pay; (3) an employee may carry no more than 240 hours of compensatory time (480 hours for employees who work in a public safety activity, emergency response activity, or seasonal activity) and must be permitted to use it within a reasonable period; and (4) monetary payments must be made for unused compensatory leave under certain circumstances.

Employees who are exempt from the federal Fair Labor Standards Acts guidelines, and therefore may not receive payment for overtime work, may be granted compensatory time. Concerning compensatory leave for executive positions, an employee who is included in the executive pay plan is not entitled to accrue any compensatory time other than for a legal State holiday on which the individual works at least five hours.

Employee Rights and Protections

As discussed in Chapter 2 of this volume, the State personnel laws are based on merit system principles and are intended to treat State employees in a fair manner with respect to their employment. The purpose cited in statute for these protections is to maintain efficient and effective operations of State government.

Equal Opportunity Program

State law prohibits discrimination and harassment in State employment. Title 5, Subtitle 2 of the Personnel and Pensions Article establishes the State's Equal

Employment Opportunity Program, the purpose of which is to protect employees and applicants for State employment from illegal employment discrimination. The statute also provides a means for internal resolution of employment discrimination complaints. The Secretary of Budget and Management is responsible for development and implementation of the State's Equal Employment Opportunity Program in a manner consistent with applicable federal and State laws.

Maryland's Equal Employment Opportunity Program provides for the following:

- inclusion of all employees in the executive branch, including those in independent personnel systems, and applicants for the skilled service, the professional service, and the management service or applicants in comparable positions in independent personnel systems;

- reporting on the Equal Employment Opportunity Program to the Legislative Joint Committee on Fair Practices, which oversees the State's Equal Employment Opportunity practices;

- appointment of a statewide equal employment opportunity coordinator for the purpose of administering and enforcing the program, and investigating and resolving complaints stemming from violations of Title 5;

- appointment of a fair practices officer or an equal employment opportunity officer at each executive agency whose duties include all aspects of implementing and administering the State's Equal Employment Opportunity Program;

- establishment of an Equal Employment Opportunity complaint procedure where the Secretary has the authority to take action upon a finding of discrimination;

- use of discipline, which may include dismissal, if a person violates anti-discrimination policies; and

- allowing State Personnel Management System employees in the skilled, professional, or management services the option of either pursuing an allegation of employment discrimination under (1) the statutory grievance procedures; or (2) filing a complaint with the statewide Equal Employment Opportunity coordinator. (These actions do not preclude an employee from filing a complaint to the Maryland Human Relations Commission, the federal Equal Opportunity Commission, or the courts.)

The statute sets up a "fast track" internal procedure for resolving Equal Employment Opportunity complaints. After an employee or applicant knows or should know of an alleged violation, the person has 30 days to file a complaint with the agency head. The agency fair practice officer then investigates, and the agency head must make a decision in the next 30 days. If the complainant is not satisfied, the person has 10 days to appeal the decision to the Secretary who refers the matter to the statewide Equal Employment Opportunity coordinator. The statewide coordinator has 30 days to review the complaint, conduct an investigation, and make a recommendation to the Secretary or a designee as to whether a violation occurred. The Secretary or the Secretary's designee is required to make a decision within the 30 days and if a violation has occurred, the decision must also include recommendations for appropriate remedial action.

Whistleblower Law

As with the State Equal Employment Opportunity Program, the Maryland Whistleblower Law applies to all employees in the executive branch, including those in independent personnel systems. The law essentially prevents a supervisor, manager, or agency head from taking, or refusing to take, personnel actions as a reprisal against an employee who discloses information that the employee believes shows an abuse of authority, gross mismanagement, or a gross waste of money; poses a danger to the public health or safety; or constitutes a violation of law.

The statute sets forth the process for filing complaints. After a possible violation, an employee has six months to file a complaint with the Department of Budget and Management, which must investigate the allegation and issue a written decision within the next 60 days on whether a violation has occurred. The decision is required to also include appropriate remedial action if a violation has occurred. Finally, if the employee is not satisfied with the department's decision, the employee has 10 days to appeal to the Office of Administrative Hearings for a final and binding decision.

State Substance Abuse Policy

State law does not explicitly establish the State substance abuse policy; instead, it provides that the policy will be established by executive order. However, the law does provide that the consumption of alcohol in the workplace is a violation of the State substance abuse policy, and violators may be subject to disciplinary action. In addition, an agency may not consider probation before judgment for a substance abuse offense to be a conviction for purposes of the State substance abuse policy. However, appropriate disciplinary action may be imposed against an employee if the employee receives probation before judgment in a substance abuse offense and the appointing authority can demonstrate a relationship between that offense and the employee's job responsibilities.

In 1991, the Governor issued Executive Order 01.01.1999.16, "State of Maryland Substance Abuse Policy," which assured the State's compliance with the federal Drug-Free Workplace Act and established State policy on the issue of drugs and alcohol and the workplace. The Department of Budget and Management coordinates policies and practices regarding State employee drug use and testing. The State uses a two-tiered approach to drug and alcohol abuse, depending on whether or not the employee is in a "sensitive" classification.

A sensitive employee:

- convicted of any controlled dangerous substance offense will be terminated;
- who tests positive for a controlled dangerous substance as the result of a random drug test will be suspended for 15 work days and be required to successfully participate in a drug treatment program;
- who abuses a legally prescribed drug or an over-the-counter drug will, on the first offense, be suspended for five work days and be required to successfully participate in a drug treatment program;
- if convicted of an at-the-workplace alcohol driving offense or found under the influence of alcohol while at the workplace will be suspended for 15 days and be required to successfully participate in an alcohol treatment program; and
- if convicted of an off-the-workplace alcohol driving offense be referred to an employee assistance program for the first conviction and be subject to any other appropriate disciplinary action, for the second conviction be suspended for at least five days and be subject to first conviction actions, and for the third conviction be terminated.

Employees in positions not defined as sensitive are subject to disciplinary action if found working under the influence of alcohol, the inappropriate influence of prescription or over-the-counter drugs, or the influence of a controlled dangerous substance. Any employee charged with a drunk driving or a controlled substance offense is required to report a finding of guilty, acceptance of a plea bargain, or probation within five working days. In addition, the appointing authority will refer the use of a controlled dangerous substance or an alcohol offense at the workplace to the appropriate law enforcement agency.

The State uses a two-tiered approach to drug testing: (1) employees in sensitive classifications or sensitive positions are subject to random testing (as well as testing

based on reasonable suspicion or an incident triggering factor); and (2) all other employees are subject to drug testing if the employer has "reasonable suspicion to believe that the employee has illegally used drugs."[1]

The Department of Budget and Management defines a "sensitive classification" as any classification in which one of the following conditions exist:

- an employee has a significant degree of responsibility for the safety of others, and there is a potential that impaired performance of the employee could result in death of or injury to the employee or others;
- an employee is required to carry a firearm;
- an employee is directly involved in efforts to interdict the flow of narcotics; or
- an employee is directly involved with narcotics law enforcement.

A "sensitive position" means a position not in a sensitive classification for which an appointing authority has determined that any one of the conditions listed above exist. The Department of Budget and Management conducts random, unannounced urine testing of employees in these positions. Agencies must inform applicants for sensitive classifications and positions that testing for illegal use of drugs is required.

Grievance Procedures in State Personnel Management System

Title 12 of the State Personnel and Pensions Article sets forth the grievance procedures for all State Personnel Management System employees, unless otherwise specified, in the executive branch. A grievance is defined in statute as "a dispute between an employee and the employee's employer about the interpretation of and application to the employee of: (1) a personnel policy or regulation adopted by the secretary; or (2) any other policy or regulation over which management has control." The statute also specifies that the following items are not grievable:

- a pay grade or range for a class;

[1] In an opinion dated May 5, 1989, the Attorney General ruled that the former Department of Personnel had the authority to implement a drug testing program and could legally subject employees in sensitive classifications to random drug testing. However, the Attorney General also stated "... there is nothing in the Supreme Court's decisions [Skinner v. Railway Labor Executives' Association, et al. and National Treasury Employees Union et al. v. von Raab] to suggest that employees outside of these job categories [sensitive classifications] may be subject to drug testing without individualized suspicion...."

- the amount or the effective date of a statewide pay increase;
- the establishment of a class;
- the assignment of a class to a service category;
- the establishment of classification standards; or
- an oral reprimand or counseling.

Employees not covered by Title 12 include gubernatorial appointees; executive service employees; temporary employees; attorneys in the Attorney General's Office and the Public Defender's Office; employees subject to collective bargaining agreements that contain other grievance procedures; student employees; Maryland State Police officers; inmates employed by the State; employees and faculty members subject to a contract or regulation governing tenure; Baltimore City Community College employees; and administrative law judges in the Office of Administrative Hearings. These employees must have a separate but similar grievance procedure. Failure to appeal a decision to the next step in the process described in the subsequent section means that the employee accepts the decision.

Grievance Procedure

STEP 1 Initiation of Grievance Proceeding:

- Grievances must be initiated by the employee, in writing, within 20 days of the alleged action (or employee's knowledge of alleged action) to the appointing authority. Before filing, the employee must talk to the employee's supervisor about the dispute.
- Within 10 days after receipt of a grievance, the appointing authority (or representative) must hold a conference with the employee (or representative) and render a written decision within 10 days after the conference.

STEP 2 Appeal to the Administrative Head of Department or Unit:

- If the employee is not satisfied with the decision, the employee must appeal within 10 days to the head of the employee's department or unit.

- Within 10 days of receipt of the written appeal, the department or unit head must hold a conference with the employee and render a decision within the next 10 days.

STEP 3 Appeal to the Secretary of Budget and Management:

- If the employee is not satisfied with the department or unit head's decision, the employee can submit the grievance within 10 days to the Secretary of Budget and Management.

- The Secretary has 30 days to try to mediate a resolution.

- If the Secretary cannot reach a resolution, the grievance is forwarded to the Office of Administrative Hearings, which, at the end of a hearing record, has 45 days to issue a final administrative decision.

If the employee is not satisfied with the decision rendered during STEP 3, the employee may appeal to the circuit court.

Peer Review and Other Appeal Procedures

The statute allows agencies to establish peer review panels as an alternate grievance procedure for employees. These panels will review grievances according to established procedures, and the panel's decision will be the final administrative decision. Employees may also appeal performance evaluations of "satisfactory" or better only to the appointing authority, and if necessary, to the agency head. The decision of the agency head is final.

Remedies Available to Grievants

Remedies available to grievants include restoring any rights, pay, status, or benefits that were lost because of the contested procedure and as applied by the appropriate decision maker in the grievance procedure. A decision maker may, if appropriate, order the appointing authority to grant back pay. If the grievance was over a reclassification, back pay may be awarded to the employee for a period up to one year prior to the initial filing of the grievance. Back pay orders are at the discretion of the Secretary and the Office of Administrative Hearings and must be carried out by the appointing authority.

Sovereign Immunity and Satisfaction of Awards

Title 14 of the State Personnel and Pensions Article provides that the defense of sovereign immunity is not available to the State, unless otherwise specifically provided by the laws of Maryland, in any administrative, arbitration, or judicial proceeding involving an employee grievance or hearing that is held under (1) Division I of the article or regulation adopted under it; or (2) a personnel policy or regulation that governs classified employees of the University System of Maryland or Morgan State University. Furthermore, the Governor must provide in the annual State budget adequate funds for the satisfaction of any final monetary or benefit award judgment that has been rendered in favor of the person against the State in any administrative, arbitration, or judicial proceeding involving an employee grievance.

Disciplinary Actions, Layoffs, and Employment Terminations

Title 11 of the State Personnel and Pensions Article sets forth the State's policy regarding disciplinary actions, layoffs, and employment terminations.

Disciplinary Actions

Provisions relating to discipline apply to all State Personnel Management System employees. In addition, the appointing authority has the burden of proof by a preponderance of the evidence in a disciplinary action, and the standard must be applied during appeals. Some of the allowed disciplinary actions are set forth below:

- a written reprimand;
- forfeiture of up to 15 workdays of accrued annual leave;
- suspension without pay;
- denial of a pay increase;
- demotion; or
- termination with or without prejudice, with the approval of the agency head, depending on the severity of the offense.

Certain acts by an employee, such as intentionally injuring another person and conviction of a felony, can result in automatic termination of employment. Otherwise

there are two categories of discipline: conduct-related discipline and performance-related discipline. The former may result from employee misconduct stemming from either an action or inaction of the employee that violates a statute, regulation, policy, directive, or order. Examples of behavior resulting in conduct-related discipline include but are not limited to:

- being negligent in the performance of duties;
- engaging in intentional misconduct, without justification, that injures another person;
- stealing State property; and
- using leave contrary to law or policy.

Performance-related discipline may result from inefficient or incompetent job performance or a lack of qualifications for the position.

Before taking a disciplinary action, the appointing authority has 30 days to investigate the alleged misconduct, meet with the employee, consider mitigating evidence, impose the discipline, and advise the employee of appeal rights. The appointing authority has only five days from the employee's last shift to complete this process if the employee is to be suspended without pay. An employee may appeal a disciplinary action. The following outlines the disciplinary appeals process:

- Employees in the skilled service and the professional service have 15 days to file an appeal to the head of the principal unit. If the employee is on initial probation, the employee bears the burden of proof on appeal and may only appeal on the grounds that the action was illegal or unconstitutional. The appeal should explain issues of fact and law that warrant rescinding the action. Upon receipt of the appeal, the agency has 15 days to address, point-by-point, the issues in the appeal.
- After receiving the decision of the agency head, the employee has 10 days to appeal to the Secretary of Budget and Management. If no settlement is reached after 30 days, the appeal is referred to the Office of Administrative Hearings.
- The Office of Administrative Hearings has 30 days to schedule a hearing and notify the parties of the hearing date, and must dispose of the appeal according to the provisions of the Administrative Procedure Act. At the close of the hearing, the office has 45 days to issue a decision. The decision of the office is the final administrative decision.

As mentioned above, terminating an employee in the skilled service or professional service requires the approval of the agency head. Terminated employees become "former employees," and with the exception of special appointment employees, may appeal the decision. At each stage in the appeals process, the decision maker can uphold the disciplinary action, or rescind or modify the action and restore lost time, compensation, status, or benefits. As with the grievance procedure, if the agency has a peer review panel, the employee may bypass the above process and file a disciplinary appeal with the peer review panel.

Employees in the management service, the executive service, or special appointments may appeal a disciplinary action to the agency head. Employees in these services have the burden of proof in an appeal and may only appeal on the grounds that the action was illegal or unconstitutional. The decision of the agency head is the final administrative decision. Exhibit 3.3 lists the number of cases heard and decided by administrative law judges and the number of cases resolved within the Employer/Employee Relations Division of the Department of Budget and Management in fiscal 2005 and 2006. These actions include dismissals, suspensions, rejections on probation, and grievances.

The Maryland Department of Transportation and Morgan State University are not covered under this process. Instead, they have a process where disciplinary action cases go the Office of Administrative Hearings first and then go to the Department of Budget and Management on appeal. These appeals are called "exception hearings," the fiscal 2005 and 2006 results of which are shown in Appendix 6.

Exhibit 3.3
Disciplinary Actions and Grievances
Fiscal 2005-2006

	Cases Forwarded to the Office of Administrative Hearings		Cases Resolved by the Employer/Employee Relations Division	
	2005	**2006**	**2005**	**2006**
Reprimand	65	97	111	160
Disciplinary Loss of Leave	17	24	12	18
Disciplinary Suspension	45	67	42	51
Denial of Increment	3	5	2	5
Involuntary Demotion	1	8	4	1
Termination on Probation	6	13	12	16
Termination	50	53	31	21
Grievances	110	105	76	92
Total	**297**	**372**	**290**	**364**

Source: Department of Budget and Management

Layoffs

Only an employee in the skilled service or professional service who is not a special appointment can be "laid off" from the employee's position if that position is abolished or discontinued because of lack of work or a change in the organization. Employees must be notified at least 60 days prior to the effective date of the layoff. Employees with the fewest seniority points in a class will be laid off first. Seniority points are accumulated based on the number of months the employee worked for the State, unit, and in the current job series. An employee targeted for layoff may displace another employee with fewer seniority points in the same job series or classification held by the employee at any time during the three years preceding the layoff.

Separations

All regular State Personnel Management System employees may be separated or terminated from State service. Separation occurs if the appropriation for the employee's position in the State budget is omitted by the Governor, struck by the General Assembly, or reduced by the Governor through a submission to the Board of Public Works. Separations cannot be appealed, but the separated employee has the same reinstatement rights as a laid off employee.

Reinstatements

Employees who are reinstated to State service will receive credit for the previous time employed to determine the employee's rate of annual leave earnings and seniority rights. Reinstated employees are also entitled to unused accumulated sick leave. The reinstatement period for former nontemporary employees is three years. In addition, a State employee who transfers to a position in another unit of State government, regardless of the personnel system, transfers without loss of leave or credit earned for State employment. An employee who returns to State service in a position with an independent personnel system is entitled to the reinstatement rights of that system.

As mentioned above, laid off and separated employees have identical reinstatement rights. Reinstatements for these former employees are done through seniority point order. In other words, the former employee with the most seniority points will be the first employee reinstated to a class or job series from which the employee was laid off or separated, or to any lower classification in the same job series within the principal department or other independent unit from which the layoff or separation occurred.

Contractual Employment in State Government

State policies concerning the hiring of contractual employees are in Title 13 of the State Personnel and Pensions Article and COMAR 17.04.03.13. The statute provides that no agency can execute or renew a contract for the employment of a contractual employee unless the Secretary of the Department of Budget and Management certifies that (1) the service cannot be rendered by assignment or hiring of a nontemporary employee; (2) the service is needed for a limited, infrequent, or unusual time, or needs to be established quickly; and (3) the rate of pay is equivalent to that of existing employees with similar duties. Certain contracts, however, are exempt from the certification process, such as contracts for college faculty; for student, inmate, and patient labor; for direct emergency services; or by independent agencies. The Secretary may not continue certification of contractual services if the services encompass a permanent function or have no specific expiration date.

Except for those contracts exempt from certification, the Department of Budget and Management reviews each contractual employment request. During this review process, the department informs the contracting agency if the work should be assigned to a budgeted position or if a regular position should be requested through the budget process. Hiring contractual employees allows agencies to save money since contractual employees do not receive benefits (paid leave, holiday pay, health benefits, or pension benefits) that regular employees receive. Appendix 7 shows the trends for State contractual employment from fiscal 2001 to 2006.

During the 1996 session, the General Assembly was concerned about whether long-term contractual employment was in the best interest of either the State or contractual employees. Therefore, the State Personnel Management System Reform Act of 1996 required the Department of Budget and Management to study the issue of long-term contractual employment. The department's study, completed in December 1997, presented recommendations for the cost neutral reduction in the number of long-term contractual employees.

The report suggested that cost neutral conversion of contractual positions could be accomplished with or without applying conversion ratios, and need not result in an expansion of the total workforce. The recommended policy and implementation framework allows for the appropriate utilization of budgeted positions for continuing functions, while providing flexibility at the agency level to define the extent of convertible positions as well as a workable time frame for reducing long-term contractual employment levels.

The Department of Budget and Management is implementing the majority of its recommendations through the budget process. Concerning the recommended statutory change, during the 1998 session the General Assembly passed legislation (Chapter 510 of 1998) authorizing the Department of Budget and Management to convert contractual employees to regular positions after six months of satisfactory job performance if (1) there is a continuing need for the function to be performed; (2) the agency can document a competitive hiring process; (3) the budgeted position was not available at the time the contractual employee was hired; and (4) the employee meets the minimum qualifications for the budgeted position. Exhibit 3.4 lists the number of contractual conversions from fiscal 2001 to 2005.

Exhibit 3.4
Contractual Conversions in State Agencies
Fiscal 2001-2005

Fiscal Year	Number of Employees
2001	1,053
2002	843
2003	432
2004	401
2005	658

Source: Department of Budget and Management

The fiscal 2007 budget bill (Chapter 216 of 2006) provides for the creation of regular State positions if an equivalent 1.25 FTE contractual positions are eliminated, with the approval of the Board of Public Works, as it has for a number of years.

Chapter 4. Leave Policies and Benefits

Regular State employees receive benefits in addition to monetary compensation. These benefits can be placed into three categories, leave, fringe benefits, and employee programs.

Leave

Unless indicated otherwise, the leave policies and other benefits described in this chapter generally apply to employees in the State Personnel Management System. Most policies and benefits do not apply to temporary employees such as contractual or emergency employees. Units of the executive branch with independent personnel systems, and the legislative and judicial branches, generally have adopted similar policies and benefits. Leave includes paid leave (*e.g.*, annual or sick leave) and unpaid leave (*e.g.*, leave of absence). Family leave may fall within either; therefore, it is described under a separate heading.

Paid Leave

Title 9 of the State Personnel and Pensions Article governs most leave policies, including the rate of leave accrual, circumstances under which leave can be taken, and the disposition of accrued but unused leave. The Secretary of the Department of Budget and Management is responsible for administering leave policies for State Personnel Management System employees.

Holidays

Regular State Personnel Management System employees are entitled to paid time off for observance of the holidays listed in Exhibit 4.1 and or any other day the President or the Governor designates for the general cessation of business. If a legal holiday falls on a Saturday, it is observed on the preceding Friday; if a holiday falls on a Sunday, it is observed on the following Monday. Employees who work in agencies with 24 hours a day/seven days a week service may have their holidays rescheduled to accommodate the agencies' service needs. Also, a unit that is authorized to establish its own holiday schedule may allow different variations of holidays observed. For example, the Department of Transportation's personnel system has one less holiday (the Friday after Thanksgiving) than the State Personnel Management System.

Employees who work on a holiday are entitled to compensatory time on at least an hour for hour basis but must use the compensatory time within one year after having

Exhibit 4.1
Paid Holidays – SPMS Employees

New Year's Day	January 1
Martin Luther King, Jr.'s Day	January 15 unless another day is designated by the U.S. Congress
Presidents' Day	3rd Monday in February
Memorial Day	May 30 unless another day is designated by the U.S. Congress
Independence Day	July 4
Labor Day	First Monday in September
Columbus Day	October 12 unless another day is designated by the U.S. Congress
Election Day	Days of general elections (not primary elections), normally the first Tuesday in November in even numbered years
Veterans' Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Fourth Friday in November
Christmas Day	December 25

SPMS: State Personnel Management System

Source: Department of Legislative Services

accrued the time. Employees who are eligible for overtime, and who work on prescheduled holidays, are also paid for the holiday hours scheduled at the normal hourly rate plus time and one-half payment for any hours actually worked. In addition, employees in the executive pay plan at ES 6 or higher must work at least five hours on a holiday to earn one day of compensatory time.

Annual Leave

State Personnel Management System employees are entitled to annual leave with pay for any purpose. The employee's supervisor must approve such leave in advance. Employees may not use annual leave until six months of service are completed. Current law provides annual leave based upon an employee's years of State service as shown in Exhibit 4.2.

Exhibit 4.2
Annual Leave – SPMS Employees

Years of Service	Annual Leave
Less than 5 years of service	10 workdays per year
5 to less than 10 years of service	15 workdays per year
10 to less than 20 years of service	20 workdays per year
20+ years of service	25 workdays per year

SPMS: State Personnel Management System

Source: Department of Legislative Services

The law further provides that up to 50 days of unused annual leave may be carried over into any new calendar year. At the end of the year, any unused leave in excess of 50 days is forfeited, and, unless the employee objects, is placed into the State Employees Leave Bank. At any time an employee may donate annual leave to the State Employees Leave Bank or to another employee.

All employees except those covered under collective bargaining agreements (such as those governing the Mass Transit Administration employees) and those whose State employment is terminated for a cause involving moral turpitude may elect to receive the following compensation in lieu of unused annual leave upon termination from State service, one-tenth of the employee's current biweekly amount of compensation multiplied by (1) the number of days of earned and unused annual leave accumulated at the end of the previous calendar year (maximum of 50 working days); plus (2) the number of days of annual leave unused during the current calendar year.

In addition to the payment of annual leave upon termination, an appointing authority may request the agency head to compensate an employee for any unused annual

leave – in excess of the maximum 50 days carryover – if the employee has been denied the opportunity to use such leave. Finally, employees who return to State service with an authorized status of reinstatement are entitled to earn leave at the rate in effect at the time of the employee's separation or at the time of the employee's return to State employment, whichever rate is higher.

Personal Leave

Six days of personal leave are credited to State employees at the beginning of each calendar year. Newly hired employees receive a prorated number of personal days depending on the employees' starting date. If the employee is hired in January or February, the employee receives six days; in March or April, five days; in May or June, four days; and in July or later, three days. Personal leave can be used for any purpose after notice to the employee's immediate supervisor. A request to use personal leave to observe a religious holiday may not be denied unless the employee's unit provides a service continuously on a seven-day-a-week basis, there is a critical shortage of staff in the unit, and no reasonable accommodations to the employee's request can be made. Employees may not accumulate personal leave. Any unused personal leave at the end of the calendar year is forfeited, and, unless the employee objects, is placed into the State Employees Leave Bank. At any time an employee may donate personal leave to the State Employees Leave Bank or to another employee.

The number of personal days credited to employees in agencies in the executive branch with independent personnel systems and other branches of government may vary. For example, the Department of Transportation provides its employees with seven personal days. Like the State Personnel Management System, the number of personal leave days in an employee's first year may be reduced, employees hired from July 1 to November 30 are provided three days of personal leave; and employees hired after November 30 receive only one day.

Sick Leave

State Personnel Management System regular employees are entitled to sick leave with pay. State employees earn sick leave at the rate of 15 days a year, prorated based on when the employee begins State service. Sick leave can be used for an illness, disability, or medical appointment of the employee; an illness, disability, death, or medical appointment in the employee's immediate family; or the birth or adoption of an employee's child. If an employee is absent five or more consecutive days due to personal illness or an illness in the immediate family, the employee must present an original certificate of illness or disability signed by one of the following licensed or certified medical providers; (1) physician; (2) physical therapist; (3) clinical psychologist;

(4) dentist or oral surgeon; (5) chiropractor; (6) podiatrist; (7) nurse practitioner; (8) nurse midwife; (9) licensed certified social worker-clinical; (10) optometrist; (11) accredited Christian Science practitioner; or (12) a health care provider, as defined by the federal Family Medical Leave Act.

As mentioned above, sick leave may be used during the period immediately following the birth of an employee's child or the placement of a child with an employee for adoption. With the approval of the head of the employee's principal department, an employee who is primarily responsible for the care and nurturing of the child may use, without certification of illness or disability, up to 30 days of accrued sick leave. With approval, two employees who are responsible for the care and nurturing of the child may use, without certification of illness or disability, up to 40 days of accrued sick leave, not to exceed 30 days for one employee, to care for the child. The number of allowable sick days for these purposes varies for employees in executive branch agencies, agencies with independent personnel systems, and other branches of government. For example, the Department of Transportation's personnel system provides that 20 days of accrued sick leave may be used for adoption of a child or for care of an employee's newborn.

Employees are entitled to accumulate an unlimited number of unused sick leave days during their State service tenure and may carry all sick leave over into subsequent calendar years. Upon termination from State service for reasons other than retirement, an employee forfeits any accumulated sick leave. Forfeited sick leave, unless the employee objects, is placed into the State Leave Bank. At any time an employee may donate sick leave to the State Employees Leave Bank or to another employee, provided that the employee's sick leave balance does not fall below 240 hours.

Employees who retire with a full or early service retirement may convert unused sick leave to creditable service when determining retirement benefits. For this purpose, 22 days of sick leave equals one month of creditable service.

State Employees' Leave Bank and Employee-to-employee Donations

The leave bank is made up of forfeited or donated annual, personal, and sick leave. Employees are members of the leave bank if they donate or forfeit leave. An employee may be granted leave from the bank after exhausting all forms of leave because of a serious and prolonged medical condition, and providing a certificate of illness or disability. In addition, an employee may be granted leave from the bank to provide direct care to an immediate family member who has suffered a catastrophic illness or injury.

State employees may also donate annual, personal, and sick leave directly to another State employee who has exhausted all available leave because of a serious and

prolonged medical condition. Leave may only be donated for a medical condition that exists at the time of the donation. The Secretary of Budget and Management administers the leave bank and leave donation program and determines an employee's eligibility to receive leave from these sources. State agencies with independent personnel systems and the legislative and judicial branches may also participate in these programs.

Work-related Accident Leave

A regular employee is eligible for work-related accident leave with sick pay if the employee sustains an accidental personal injury in the actual performance of job duties that is compensable under the Maryland Workers' Compensation Law. Work-related accident leave is available from the first day of physician-certified disability until the earlier of (1) the day the employee is able to return to work, as certified by a physician; or (2) six months from the day of the disability. An additional six months of leave may be granted for a certified continued disability (by a physician selected or approved by the appointing authority) when the Workers' Compensation Commission has not reached a decision on the claim.

Payment for work-related accident leave is based on two-thirds of an employee's regular pay and constitutes a separate benefit on account of accident disability (it is not a continuation of salary). An employee continues seniority and leave accruals based on the employee's regular pay and maintains all health care benefits; however, the employee may not receive temporary total disability benefits under the Maryland Workers' Compensation Act while receiving payments for this leave.

The allowance for work-related accident leave may vary for employees in agencies in the executive branch with independent personnel systems and other branches of government, but the policies are generally similar to the State Personnel Management System.

Compensatory Leave

Compensatory leave is paid leave for time worked above the employee's normal work week or on holidays. Compensatory leave may be used for any purpose. Policies concerning how compensatory leave can be earned and used vary among executive agencies and branches of State government. Some employees have a choice between cash overtime payments and compensatory leave, while others are only eligible for compensatory leave. In most cases compensatory leave is forfeited if it is not used within one year of the date on which it was earned. All employees except those covered under collective bargaining agreements are allowed to receive compensation for up to two days

of unused compensatory leave earned during the calendar year in which the employee terminates State employment.

Military Administrative Leave

State employees on active military duty on or after July 1, 2003, are eligible for military administrative leave. Employees electing this benefit are entitled to leave equal to an amount sufficient to compensate them for the difference between the employees' active duty base salary paid by the federal government and the employees' State base salary.

Other Paid Leave

Other types of leave may be authorized by statute, regulation, or the Governor, if the leave is consistent with statute. These types of leave include:

Bereavement Leave: Up to five days of sick leave or three days of bereavement leave may be charged in the event of the death of an employee's spouse, child, parent, brother, sister, grandchild, or grandparent. Additionally, one day may be charged to sick leave in the event of the death of an aunt, uncle, nephew, niece, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

Organ Donation Leave: Each year, an employee may use seven days of paid leave if the employee donates bone marrow and up to 30 days of paid leave if the employee donates an organ.

Disaster Service Leave: This leave is available to all State employees who are certified by the American Red Cross as a disaster service volunteer. This leave may be used if the American Red Cross requests the services of an employee during a disaster that is designated as at least a Level II disaster and that occurs in Maryland or a state contiguous to Maryland. Employees may use up to 15 days of disaster service leave in any 12-month period.

Military Leave: This leave is available to employees who must meet certain military obligations other than the normal weekend drill common in most military branches. The limit on military leave is 15 days a year.

Jury Service Leave: This leave is available if an employee is called to jury service and lasts until the juror's obligation is fulfilled.

Legal Action Leave: This leave is available to an employee who is summoned to appear in court, before a grand jury, or for a disposition, provided the employee is neither a paid witness nor a party to the action.

Disciplinary Action Leave: This leave is used to remove an employee from the workplace if the employee is incapable of improving the employee's duties due to extraordinary circumstances or poses a threat to self, another person, or State property.

Examinations/Interviews for State Positions: An employee is eligible for leave to take examinations or go on interviews for State positions. There is no limit to the number of occurrences; however, the maximum leave for each occurrence is four hours.

Release Time for Union Activities: The State provides paid leave to allow release time for union activities and events during normal work hours. The minimum release time for negotiations, grievances, conventions, and other events is one hour, and the total release time for union representatives or stewards is limited to one day for every 15 dues paying members of the union.

Positive Tuberculin Skin Test: An employee may also receive paid leave following a positive tuberculin skin test, not to exceed 90 days.

Religious Observances: An employee may elect to work overtime to earn compensatory time for a religious observance absence.

Unpaid Leave

Several types of unpaid leave may be authorized for State employees, as described below.

Leave of Absence

The Secretary of Budget and Management may grant unpaid leaves of absences that do not exceed two years. A leave of absence without pay may be used by an employee who is (1) a member of the armed forces and is called upon for active service; (2) injured in the line of duty and has exhausted all paid leave; or (3) temporarily incapacitated due to physical or mental illness. An employee is eligible, with approval from the appointing authority, for a leave of absence without pay for a period not to exceed 30 calendar days. For longer periods, a leave of absence request requires the additional approval of the Secretary of Budget and Management. Except in the case of injury or disability of the employee or immediate family member, or entrance into the armed forces, the Secretary may not grant more than 30 days leave until the employee has completed the employee's original probationary period.

If an employee returns to State service within two years, the employee is eligible for reinstatement. However, the leave period for entry into the armed services is the initial tour of duty. The employee may be restored to the employee's former position if a vacancy exists. If no vacancy exists, the employee's name will be placed on the reinstatement list for the employee's former classification.

Emergency Release Time

Established under a 1981 executive order, emergency release time is unpaid leave granted to protect employees against unsafe conditions during emergency situations such as blizzards, hurricanes, civil disorders, physical plant hazards, fire, or war. The secretaries of General Services, Budget and Management, and Transportation, in consultation, may grant emergency leave to affected employees. An employee required to work during an emergency is credited with compensatory leave.

Family Leave

In addition to the guaranteed use of sick leave after the birth of a child, the federal Family and Medical Leave Act of 1993 imposes benefit requirements on public agencies (state, local, and federal); local public and private education agencies; and businesses that employ 50 or more employees. The Act allows employees to take up to 12 weeks of unpaid or paid leave during any 12-month period for the birth, adoption, or foster-parent placement of a child; for a serious health condition of a child, spouse, or parent; or for an employee's own serious health condition. Employers are required to maintain the same health care coverage at the same rate as for employees on other types of leave. Upon return, employees are restored to their original or an equivalent position.

Certain public employees are not covered under the Act, including employees of the legislative body of a state or political subdivision who are not employed by the legislative library; elected officials of a state or a political subdivision, their personal staffs, employees appointed by an elected official to a policymaking level, and employees appointed in an advisory capacity to an elected official; and employees employed for less than one year. The Act does not supersede any provision of any state or local law that provides greater leave rights.

Fringe Benefits

Fringe benefits are direct employer subsidies on behalf of an employee. Traditional fringe benefits include contributions to an employee's health care or retirement plan. Together, fringe benefits and salary make up an employee's compensation package. As an employer, the State provides five major benefits that

involve a direct subsidy on behalf of employees: health insurance plans and other related benefits; Social Security; pension/retirement contributions; Workers' Compensation; and unemployment insurance. In fiscal 2007, these fringe benefits represent approximately 36 percent of a regular employee's salary. Other less traditional benefits involving various levels of subsidy include a State match to the deferred compensation program, performance and retention bonuses, tuition waivers, and employee transit expenditures. In fiscal 2007, these less-traditional fringe benefits represent approximately 1 percent of a regular employee's salary.

Health Insurance Plans and Other Related Benefits

Title 2, Subtitle 5 of the State Personnel and Pensions Article authorizes the Secretary of Budget and Management to develop and administer a State Employee and Retiree Health and Welfare Benefits Program. All executive, judicial, and legislative branch agencies may participate in the program.

The benefits described below are available to regular full-time employees, part-time employees who work more than 50 percent of the workweek, and certain retirees who have qualified for retiree health care as described later in this chapter. In addition, health benefits and some other benefits are available to contractual employees (and part-time employees working less than 50 percent of the workweek) provided the employees pay all the costs of the plan.

Health Insurance Plans

In fiscal 2007, the State offered its employees the option of selecting a preferred provider organization (PPO), a point-of-service plan (POS), or a health maintenance organization (HMO). All employees are required to pay a portion of the premium or the self-funded cost to enroll in one of the offered health plans. Employees pay 15 percent of HMO premiums, 17 percent of POS costs, and 20 percent of PPO costs. Costs range from the lowest cost HMO, to mid-range POS plans, to the highest cost PPO plans.

The benefits offered are standardized within each type of program (PPO, POS, and HMO). Some of the benefits that all medical plans provide include:

- physician care;
- hospitalization;
- surgery;

- maternity benefits/newborn care;
- diagnostic lab and x-ray;
- acupuncture services for chronic pain management;
- routine vision exams;
- prescription eyeglasses and contacts;
- whole blood charges;
- durable medical supplies; and
- ambulance and emergency room service.

The PPO plan allows an employee to choose any doctor for services. The State is self-insured for this plan, pays an administrative fee to the providers, and assumes the risk for all costs. If the doctor is part of the State's network of participating physicians, a copayment is required. If the doctor is outside of the network, the employee pays the entire fee and submits a claim for reimbursement, which is applied to a required deductible. Then, after the deductible is exceeded, the plan pays 80 percent of the cost.

The POS plan is similar to an HMO in that the employee's choice of providers is somewhat limited. However, employees are given the option of choosing out-of-network services without a referral but must then pay a deductible (not required with in-network services). The State pays fixed administrative fees and capitated payments and is self-insured for all other costs. When using services within the plan, a copayment is required. If the employee receives treatment out of the network, the employee pays the entire fee and submits a claim for reimbursement, which is applied to a required deductible. After the deductible is exceeded, the plan pays 80 percent of the cost.

For the HMO plan, the State pays a fixed fee, and the HMOs assume the risk for all costs. Employees must choose a primary care physician, and all medical services are received from this provider or referred specialists. When receiving a service, a copayment is required for primary and specialist care office visits.

Other Related Benefits

Dental Insurance Plans: The State offers dental insurance plans that are available to all employees who are eligible for health insurance benefits with the State.

Three such plans are available in calendar 2006, two dental health maintenance organizations (DHMOs) and one dental PPO plan. The structure and funding of benefits is similar to health insurance HMOs and point-of-service plans. Employees are required to pay 50 percent of the premium or the self-funded cost to enroll in one of the plans.

The available coverage from and requirements of the two types of plans vary. DHMOs cover preventive and diagnostic dental care in full, while restorative and other major services are offered at a reduced cost. Orthodontic services are available for both adults and children. There are no deductibles and no annual maximum allowable amounts. Employees are required to select a primary dental office, which will arrange for all dental care. Most care is provided within the primary office itself; referrals are required for specialist services. The PPO option does not require the selection of a primary dental office. Orthodontic services are available for children only. Dental care under this plan may be provided by a dentist of the employees' choice; however, benefit coverage amounts are higher for in-network dentists. There is a $1,500 per participant annual maximum benefit amount for basic restorative and other major services.

Mental Health/Substance Abuse Program: The State offers mental health/substance abuse coverage to State employees and their dependents who enroll in any kind of health coverage. For the PPO and POS plans, the mental health benefit is administered by a separate provider, while HMOs provide their own mental health services. For the PPO and POS plans, the State is self-insured and pays an administrative fee. For HMOs, the State pays a fixed fee, and the HMOs assume the risks for all costs.

Prescription Program: The State offers a self-funded prescription drug program to State employees and their dependents who enroll in any kind of health coverage. As with the State health plans, employees must pay a portion of the cost of providing coverage (20 percent in fiscal 2007). A separate copayment is required for each individual prescription written for 1 – 45 days. Copayments vary depending on whether the prescription is a generic ($5 copayment), preferred brand-name drug ($15 copayment), or non-preferred brand-name drug ($25 copayment). Drugs are determined to be "preferred" through an evaluation by the prescription drug benefit manager's panel of physicians and pharmacists. Drugs are evaluated based on safety, side effects, efficacy, ease of dosage, and cost. There is a mandatory generic requirement which means that if a generic drug is available and a brand name drug is chosen instead, the employee has to pay the difference between the cost of filling the generic and the brand-name prescription. For fiscal 2007, there is a $700 maximum annual out-of-pocket expenditure per family for allowable prescription costs.

Flexible Spending Accounts: Employees have the option of establishing a Flexible Spending Account to set aside pre-tax dollars to pay for eligible health-related

expenses that are not covered by existing State health plans or to pay for eligible dependent day care expenses. Employees then are "reimbursed" from these accounts for eligible expenses they incur during the year for which the account is established. Internal Revenue Service rules require that employees must continue to contribute a preselected amount to the health care or dependent care account throughout the year. Any money left over in the account at the end of the year is forfeited. In fiscal 2005, 5,903 employees established either a health care or a dependent care account.

Other Benefit Plans: While the State subsidizes the health care, prescription drug, and dental plans, it also offers other plans that it does not subsidize. An employee who elects to participate in one of these plans pays the full premium. Additional benefits offered by the State include term life insurance and a personal accidental death and dismemberment plan, which are offered to employees and their dependents who are eligible for health benefits. Term life insurance premiums are paid on a pre-tax basis for up to $50,000 worth of coverage. Accidental death and dismemberment insurance premiums are paid in total on a pre-tax basis.

Enrollment and Funding

The administration of the Maryland State Employees Health Benefits Program has been moved from one agency to another over the years. In the mid-1960s, when the State first provided a subsidy for employees' health insurance, the program was administered by the Office of the State Treasurer. In the early 1970s, the responsibility was transferred to the former Department of Personnel. In October 1993, because of a significant increase in program costs and problems with program administration, this responsibility was transferred to the then Department of Budget and Fiscal Planning, now the Department of Budget and Management.

Exhibit 4.3 provides fiscal year enrollment data for employee and retiree health insurance plans. The overall increase in enrollment can be attributed to the growth in the number of State positions. For active employees, there has been a small average annual increase in enrollment in both PPOs and HMOs since fiscal 2002, while the average annual enrollment has decreased during the same time period in POS plans. From fiscal 2005 to 2006, this trend is illustrated by an overall increase in enrollment of about 1,300. Approximately 1,000 more employees chose the PPO plans and about 750 more chose the HMO plans, while about 425 fewer employees chose the POS option. This recent shift away from POS coverage is likely due to the slightly higher share of POS copremium costs borne by employees. Copremiums for POS plans increased from 15 to 17 percent beginning in fiscal 2006.

Exhibit 4.3
Employee Participation in Health and Life Insurance Plans
Fiscal 2003-2006

	Actual 2003	Actual 2004	Actual 2005	Estimated 2006	Average Annual Change 2003-2006
PPO	28,121	28,041	28,476	29,462	1.6%
POS	28,988	27,856	26,625	26,197	-3.3%
HMO	12,931	13,318	13,700	14,451	3.8%
Total Health Plan	**70,040**	**69,215**	**68,801**	**70,110**	**0.0%**
Prescription	66,847	65,920	65,133	65,991	-0.4%
Dental	58,314	58,329	56,999	60,212	1.1%
Term Life	40,209	40,596	41,432	42,322	1.7%
Accidental Death	35,250	35,064	35,299	35,704	0.4%

Retiree Participation in Health and Life Insurance Plans
Fiscal 2003-2006

	Actual 2003	Actual 2004	Actual 2005	Estimated 2006	Average Annual Change 2002-2006
PPO	20,382	21,042	21,780	22,344	3.1%
POS	7,014	7,387	7,738	7,924	4.2%
HMO	3,002	3,110	3,238	3,328	3.5%
Total Health Plan	**30,398**	**31,539**	**32,756**	**33,596**	**3.4%**
Prescription	30,167	31,289	32,443	33,224	3.3%
Dental	14,435	15,763	16,475	17,880	7.4%
Term Life	3,450	4,170	4,907	5,658	17.9%

Source: Department of Budget and Management, Office of Personnel Services and Benefits Annual Report, Fiscal 2001

Exhibit 4.4 shows the health insurance account activity for fiscal 2003 through 2005. Receipts received from agencies, employees, retirees, and other sources (satellite participants in the health insurance program) have increased steadily, a result of both increased enrollment and health insurance cost inflation. From fiscal 2004 to 2005 alone,

Exhibit 4.4
Summary of Health Insurance Reimbursable Fund
Fiscal 2003-2005
($ in Millions)

	Actual 2003	Actual 2004	Actual 2005	Change 2004-2005	Average Annual Change 2003-2005
Balance, Beginning of Year	**$64.1**	**$80.2**	**$84.0**	**4.7%**	**14.5%**
State Agency Receipts	562.8	621.0	687.3	10.7%	10.5%
Employee Receipts	100.1	109.7	119.0	8.5%	9.0%
Retiree Receipts	38.3	39.8	45.4	14.1%	8.9%
Other Receipts	28.4	34.5	38.3	11.0%	16.1%
Total Receipts	**$729.6**	**$805.0**	**$890.0**	**10.6%**	**10.4%**
Subtotal Receipts and Balance	**$793.7**	**$885.2**	**$974.0**	**10.0%**	**10.8%**
Payments	$713.5	$801.2	$880.4	9.9%	11.1%
Ending Balance	**$80.2**	**$84.0**	**$93.6**	**11.4%**	**8.0%**
Change in Fund Balance	$16.1	$3.8	$9.6	152.6%	-22.8%

Source: Department of Budget and Management

while total enrollment increased by 0.8 percent, receipts increased by 10.6 percent, and payments to providers and insurance companies increased by 9.9 percent.

Of ongoing concern is the disproportionate share of increased health benefit costs represented by prescription drug insurance, as illustrated in Exhibit 4.5. From fiscal 2001 to 2005, for example, payments to the State's pharmacy benefit manager increased an average 15.2 percent, while payments to other providers and insurance companies increased an average 10.4 percent.

Exhibit 4.5
Payments for Prescription Coverage and Other Health Coverage
Fiscal 2001-2005
($ in Millions)

	Actual 2001	Actual 2005	Average Annual % Change 2001-2005
Prescription Payments	$172.2	$303.4	15.2%
Other Payments	381.6	567.6	10.4%
Total Payments	**$553.8**	**$871.1**	**12.0%**
% of Prescription Payments to Total	31.1%	34.9%	

Source: Department of Budget and Management

Reasons for this disproportionate increase include:

- the increasing sophistication and effectiveness of drugs that tend to drive up costs;
- the use of more aggressive diagnostic standards by physicians;
- the increased use of preventive treatments;
- the use of more aggressive marketing efforts by pharmaceutical companies, including direct-to-consumer advertising;
- the high cost associated with new drugs;
- a growing population;
- the use of drugs in combination therapies to address major health problems such as HIV; and
- longer life expectancy.

There have also been a number of employee health and prescription insurance plan policy changes initiated by the Department of Budget and Management. Beginning in

January 2005, the Department of Budget and Management implemented a number of changes to the State employee health plans including:

- increasing primary doctor's office visit copayments from $5 to $15 for POS and HMO plans and increasing specialist doctor's office visit copayments from $10 or $20 to $25 for all types of plans;

- increasing emergency room hospital charge copayments from $25 to $50 if emergency criteria are not met and implementing physician's charge copayments of $50 per emergency room visit; and

- providing coverage for up to 50 rather than 100 visits per year of physical therapy.

Program restructuring implemented by the Department of Budget and Management and authorized by the General Assembly for fiscal 2006 (Chapter 444 of 2005) included:

- increasing the point-of-service health insurance copremiums from 15 to 17 percent of the total cost;

- increasing prescription copayments to $5 for generic drugs, $15 for preferred brand name drugs, and $25 for non-preferred brand name drugs from $3, $5, and $10 for the three existing tiers;

- implementing a $700 spending cap per family for prescriptions;

- requiring two copayments instead of one copayment for 90 days of medication;

- implementing a 30-day maximum for the first fill of a new drug;

- requiring prior authorization for certain medications; and

- implementing a number of other changes such as required step therapy, managed quantities of drugs, and voluntary mail order and specialty drug pharmacies.

Claims costs from the first half of fiscal 2006 compared to claims costs made during the first half of fiscal 2005 suggest that prescription cost increases are slowing, demonstrated in Exhibit 4.6. These costs, representing both the State's and the participants' share, are increasing at a rate of 6.7 percent for health coverage and 24.3 percent for dental coverage. Prescription claims costs are decreasing by 16.2 percent as a result of increases in copayment charges in fiscal 2006. Overall, the

Exhibit 4.6
Total Claims for Health, Prescription, and Dental Benefit
July – December, Fiscal 2005 and 2006
($ in Millions)

	FY 2005	FY 2006	Change FY 05-06
Preferred Provider Organizations	$138.1	$144.8	4.9%
Point-of-service Plans	89.7	89.8	0.0%
Health Maintenance Organization Plans	36.8	47.8	30.1%
Mental Health/Substance Abuse Plans	6.1	6.4	6.4%
Medical Subtotal	**$270.6**	**$288.9**	**6.7%**
Prescription Plan	146.5	122.7	-16.2%
Dental Plans	12.1	15.0	24.3%
Total	**$429.2**	**$426.6**	**-0.6%**

Source: Department of Budget and Management

insurance package costs 0.6 percent less in the first half of fiscal 2006 than it did in the first half of fiscal 2005. It is unclear whether this trend will continue as the effects of programmatic charges such as the $700 family cap on copayments cannot be seen until the full year of data is available.

Retiree Health Insurance

In addition to the cost of employee health benefits, another issue of ongoing concern to the General Assembly is the cost of retiree health insurance. This issue includes both the increasing cost of retiree health benefits payments each year as well as new accounting rules that will require the State to address the liabilities for future retiree health care costs. When State-eligible employees retire, they may continue to receive State health insurance benefits. To be eligible, a retiree must have:

- ended State service with at least 10 years of creditable service and within 5 years of retirement age;

- ended State service with at least 16 years of service;

- ended State service on or before June 30, 1984;
- retired directly from the State with at least 5 years of service; or
- retired directly from State service with a disability.

If a retiree has less than 16 years of State service, the benefit is prorated. The State subsidy for health insurance is determined by the amount of creditable service the retired State employee earned. With five years of creditable service, a retired State employee is entitled to 5/16 of the State subsidy provided to active employees. For each additional year of creditable service, an additional 1/16 of the subsidy is earned until, with 16 years of creditable service, the retired State employee is entitled to full subsidy which is equal to the same State health insurance subsidy as provided to active employees.

Health insurance for retirees is one of the fastest growing areas in the State budget due to aging populations, longer life spans, and increasing health care costs. As illustrated in Exhibit 4.7, retiree health insurance enrollment as a percentage of active employee enrollment has increased from 42.0 percent in 2002 to 47.9 percent in 2006. In the same time period, retiree enrollment in the prescription plan has increased from 43.2 percent of active employee enrollment to 50.3 percent.

Exhibit 4.7
Retiree Health Plan Enrollment
as a Percentage of Active Employee Enrollment
Fiscal 2002-2006
($ in Millions)

Plan Type	Actual 2002	Actual 2003	Actual 2004	Actual 2005	Estimated 2006	Average Annual Change 2002-2006
Health	42.0%	43.4%	45.6%	47.6%	47.9%	3.4%
Prescription	43.2%	45.1%	47.5%	49.8%	50.3%	3.9%
Dental	22.8%	24.8%	27.0%	28.9%	29.7%	6.9%
Term Life	7.2%	8.6%	10.3%	11.8%	13.4%	16.7%

Source: Department of Budget and Management

While the number of retired enrollees is increasing faster than the number of active employee enrollees, retiree claims costs are also higher on per enrollee basis, particularly in the area of prescription claims costs, as shown in Exhibit 4.8. In fiscal 2005, the total health package costs $8,490 per active employee and $9,030 per retiree; further, prescription claims are $2,466 per active employee and $4,401 per retiree. Unlike the State Retirement and Pension System, which is funded on an actuarial basis, retirees' health insurance is currently funded on a pay-as-you-go basis.

Exhibit 4.8
Health, Prescription, Mental Health, and Dental Claims
Costs on a Per Enrollee Basis
Fiscal 2005

	Active Employees		
	Claims	**Enrollment**	**Per Enrollee**
PPO	$177,404,970	28,476	$6,230
POS	141,898,598	26,625	5,330
HMO	69,705,813	13,700	5,088
Mental Health*	9,333,069	55,101	169
Subtotal Health Plan	**$389,009,381**	**68,801**	**$5,654**
Prescription	160,639,423	65,133	2,466
Dental	21,040,925	56,999	369
Total	**$570,689,729**		**$8,490**

	Retirees		
	Claims	**Enrollment**	**Per Enrollee**
PPO	$93,550,453	21,780	$4,295
POS	35,898,954	7,738	4,639
HMO	11,267,000	3,238	3,480
Mental Health*	2,727,263	29,518	92
Subtotal Health Plan	**$140,716,407**	**32,443**	**$4,337**
Prescription	142,790,172	32,443	4,401
Dental	4,796,492	16,475	291
Total	**$288,303,071**		**$9,030**

*Separate mental health coverage is required for enrollees in POS and PPO plans; mental health coverage is included in HMO plans.

Source: Department of Budget and Management

Beginning in fiscal 2008, Governmental Accounting Standards Board (GASB) Statement No. 45 will require the State to apply an accounting methodology similar to the one used for pension liabilities to Other Post Employment Benefits, including retiree health benefits. To address the issues raised by application of this new standard, the General Assembly assembled the Task Force to Study Retiree Health Care Funding Options (Chapter 298 of 2005). The task force conducted an actuarial valuation of retiree health care liabilities which revealed that the actuarial accrued liability for Maryland retiree health benefits is approximately $20.4 billion. Under the Governmental Accounting Standards Board standards, this would require an annual required contribution of between $1.0 and $1.4 billion in addition to current pay-as-you-go retiree health care costs.

The State will need to develop a plan to recognize this unfunded accrued liability consistent with the new GASB standards. To that end, the 2005 task force recommended that the State begin to set aside funds in fiscal 2007 so that in fiscal 2008, a small part of the liabilities can be funded. The task force also recommended the creation of a 2-year 14-member blue ribbon commission to study all the issues involved and to make recommendations regarding strategies for funding both the current and future liabilities for retiree health care (Chapter 433 of 2006). While giving special consideration to retirees who are already receiving benefits and those individuals who have already vested, the Blue Ribbon Commission to Study Retiree Health Care Funding Options is required to:

- contract with an actuarial firm to conduct up to two actuarial valuations a year of the State's liability with respect to funding retiree health insurance;
- review the State's legal obligation to provide retiree health benefits;
- study the factors contributing to the rising cost of retiree health benefits;
- review current benefit levels for State employees and retirees;
- review the eligibility requirements for retiree health benefits;
- review alternatives for providing health benefits to State retirees; and
- recommend a multiyear plan to fully fund State obligations for retiree health benefits.

Social Security

Since 1956, State employees (with the exception of the Maryland State Police) have been participants in the Social Security system and the State pays the employer's share of the cost. Social Security costs are determined by multiplying individual salaries up to the Social Security wage base ($90,000 for calendar 2005 and $94,200 for calendar 2006) by 6.2 percent for the employee and the employer. Both the State and the employees are also subject to a 1.45 percent Medicare cost, which is not subject to a wage base.

Pension/Retirement Contributions

See the second part of this volume for an explanation of the pension and retirement benefits provided to State employees.

Workers' Compensation

The purpose of the Workers' Compensation program is to assure that workers who sustain "accidental injuries out of and in the course of employment" are entitled to prompt payments for medical services and compensation without resorting to lawsuits. Questions of fault on the part of the employee or employer are excluded under the State Workers' Compensation Law.

Under the Workers' Compensation Law, an employee has the burden of proving that the injury was job-related and disabling. The injury is presumed not to be caused by the willful intention of the employee, and the burden to prove otherwise rests with the employer.

Compensation benefits are paid by six classifications of disability: (1) temporary total disability; (2) permanent total disability; (3) death; (4) serious disability; (5) permanent partial disability; and (6) temporary partial disability. The State's Workers' Compensation program is self-insured and administered through the Injured Workers' Insurance Fund.

Unemployment Insurance

Title 8 of the Labor and Employment Article provides unemployment insurance coverage for employees in both the public and private sector. For fiscal 2007, State agencies were required to budget $.33 for every $100 of payroll for unemployment insurance costs. In fiscal 2005 and 2006, agencies budgeted $.18 and $.33 for every $100 of payroll, respectively.

Employee Programs

Employee programs are designed and often paid for by the State for the benefit of the employees. Examples include the Employee Assistance Program, the Employee Wellness Program, the Deferred Compensation Program, and the Employee Transit Benefit. These programs are voluntary and can benefit both the employer and employee by improving productivity and job satisfaction.

The Department of Budget and Management administers various other programs and miscellaneous benefits that are intended to assist employees for the mutual benefit of employer and employee.

Employee Assistance Program

The Employee Assistance Program provides "confidential and professional assessment and referral services to State employees who are experiencing personal problems which may or may not be affecting their work performance." Such problems may include substance abuse, emotional problems, stress, family/marital problems, and legal problems. Employees in nonsensitive positions who test positive for illegal drug use will be referred to the program as part of the State's efforts to rehabilitate such employees. Exhibit 4.9 below illustrates the number of program referrals from fiscal 1996 to 2005.

Exhibit 4.9
Employee Assistance Program Referrals
Fiscal 1996-2005

Fiscal Year	No. of Referrals	Fiscal Year	No. of Referrals
1996	550	2001	293
1997	497	2002	194
1998	432	2003	251
1999	366	2004	324
2000	387	2005	256

Source: Department of Budget and Management

Deferred Compensation Plan

The State allows employees to participate in a deferred compensation plan whereby an employee can defer a portion of current income (along with the payment of taxes on that income) until a later date, normally when the employee is retired. (See the second part of this volume on the Maryland State Retirement and Pension System for more information.)

Employee Transit Benefit

The Maryland Transit Administration provides free services for State employees. Beginning in fiscal 2003, free ridership has been available to all employees except those employees of the legislative and judicial branches, higher education agencies, and local election boards.

Employee Training and Awards Programs

Title 10 of the State Personnel and Pensions Article established several programs to facilitate human resource management and development.

Employee Training Programs

The Department of Budget and Management is responsible for managing and developing training programs for State Personnel Management System employees and coordinating in-service and out-service training programs for State agencies. The purpose of training is to develop the capabilities of State employees; train employees to efficiently perform their duties; attract qualified persons to State employment; and help managers and supervisors become knowledgeable and proficient in the application of laws, rules, and guidelines.

Incentive Awards Programs

All principal units in the executive branch, including units with independent personnel systems, may participate in the Innovative Idea Program and the Incentive Performance Awards Program. Only executive service employees are not entitled to these awards.

Innovative Idea Program: An employee, through an invention or innovative suggestion that increases revenues, saves money, improves service quality, or is of some other significant benefit, may receive a financial reward from the employee's agency. All ideas are subject to department review, and awards may range from $300 to $1,000.

In addition to the departmental award, the employee's recognized innovative idea may receive an additional award – not to exceed $20,000 or paid administrative leave not to exceed 20 workdays – from the Governor's awards panel.

Incentive Performance Awards Program: This program grants an award for extraordinary performance in the public interest in connection with an employee's job performance. For extraordinary service, an employee may receive cash of not more than $300, a gift of not more than $300 in value, paid administrative leave of not more than three days, or any combination of cash, gift, and leave of not more than $300 in value. An incentive performance award for outstanding service in connection with State employment over a sustained period or a special State project may be awarded for exceptional performance that exceeds the knowledge, skill, or ability required by the employee's position or exceptionally meritorious acts or services in the public interest. An award for outstanding service may not exceed $3,000.

Targeted Retention Bonus Strategies: The Department of Budget and Management implemented two major programs in fiscal 2007 designed to aid in the retention of employees in two critical areas. Employees in Correctional Officer II, Sergeant, Lieutenant, Captain, and Major classifications within the Department of Public Safety and Correctional Services will receive a $500 lump-sum bonus if they have fewer than five unscheduled absences over a 12-month period. Likewise, registered nurses working in the Department of Health and Mental Hygiene will receive a $3,000 lump-sum bonus for fewer than five unscheduled absences.

Teleworking Program

The General Assembly passed legislation during the 1998 session that reestablished a Telecommuting Pilot Program. The Department of Budget and Management has established a telework policy that allows eligible employees to periodically work from home, a satellite office, or a telework center. Each executive branch agency must try to meet a goal of allowing at least 10 percent of eligible employees to telework.

Day Care Services

The State operates three day care centers housed in three separate State agencies. The Maryland Department of the Environment's day care center in Baltimore City has a capacity of 70 children; the Department of Housing and Community Development's day care center in Crownsville has a capacity of 101 children; and the Department of Natural Resources' facility in Annapolis has a capacity of 103 children. All facilities are open to

the children of State and non-state employees, although State employees are charged a lower rate. The facilities can accommodate infants, toddlers, and preschool children.

Miscellaneous Benefits

In addition to the programs listed above, survivors of employees in the executive branch, including units with independent personnel systems, are entitled to death benefits when an employee is killed in the line of duty. Other miscellaneous benefits provided by State agencies include periodic and ongoing programs such as smoking cessation, stress management, and public employee recognition week.

Chapter 5. Collective Bargaining

History of Collective Bargaining in Maryland

During the 1996 session, several bills were introduced that would have granted collective bargaining rights to State employees, including, for the first time, one from a Maryland Governor. Neither house of the General Assembly passed any of these bills that session. In May 1996, however, Governor Parris Glendening issued an executive order implementing collective bargaining for certain State employees.

In 1999, Governor Glendening's legislative package included comprehensive collective bargaining legislation. Chapter 298 of 1999 established statutory collective bargaining rights for employees in the principal departments of the executive branch and created an administrative process for collective bargaining. As introduced, the legislation would have gone beyond the procedures for collective bargaining established under the executive order by extending collective bargaining rights to nonfaculty employees of public institutions of higher education, creating procedures for resolving impasses, and requiring State employees to pay a fee to their unit's exclusive bargaining representative. As enacted, however, Chapter 298 simply codified much of the bargaining process set up by the Governor's executive order.

Two years later, in an effort again initiated by Governor Glendening, Chapter 341 of 2001 expanded collective bargaining for State employees to include certain employees of the University System of Maryland and its constituent institutions, Morgan State University, St. Mary's College, and Baltimore City Community College. Faculty, administrators, supervisors, managers, contractual and temporary personnel, and certain other employees were not granted collective bargaining rights.

From enactment in 1999 through 2005, there were no changes to the laws governing collective bargaining for most State employees. However, Chapter 62 of 2006 revised various sections of the collective bargaining law. The most significant changes included allowing the voluntary adjustment of disputes arising from the implementation of a collective bargaining agreement; making the State Labor Relations Board an independent unit of State government; codifying unfair labor practices; allowing exclusive bargaining representatives to access specific employee information; and allowing nonbinding fact-finding in the event of an impasse during collective bargaining negotiations.

Collective Bargaining in State Government

Approximately 33,000 State employees are covered by collective bargaining in 2006. While most executive branch employees have collective bargaining rights, special appointees, the Governor's personal staff, and elected officials do not. Generally, employees of all executive branch agencies, the Maryland State Department of Education, and the Maryland Transit Administration have collective bargaining rights (about 2,500 employees of the Maryland Transit Administration were already covered by collective bargaining prior to 1996). Except for higher education employees, who are discussed later in this chapter, covered employees are divided into nine bargaining units. The State Labor Relations Board conducts the elections in which employees chose their exclusive bargaining representative. Exhibit 5.1 contains a list of the bargaining units and their exclusive representatives.

Exhibit 5.1
Bargaining Units and Representatives
2006

Unit	Title	Exclusive Representative	No. of Employees
A	Labor and Trades	AFSCME (American Federation of State, County, and Municipal Employees)	1,861
B	Administrative, Technical, and Clerical	AFSCME	6,612
C	Regulatory, Inspection, and Licensure	AFSCME	520
D	Health and Human Service Nonprofessionals	AFSCME	2,415
E	Health Care Professionals	AFT – Healthcare Maryland	2,032
F	Social and Human Service Professionals	AFSCME	4,253
G	Engineering, Scientific and Administrative Professionals	Maryland Professional Employees Council	4,730
H	Public Safety and Security	AFSCME/Teamsters	8,788
I	Sworn Police Officers	State Law Enforcement Officers Labor Alliance	1,799
	Total		**33,010**

Source: Department of Budget and Management

State employees may be represented by other employee organizations for purposes other than collective bargaining. Examples of existing employee organizations that have not been designated exclusive bargaining representatives are the Maryland Classified Employees Association, the Maryland Troopers Association, and the Maryland Correctional Union.

The Department of Budget and Management represents the State in negotiations with each unit's bargaining representative. These negotiations may include any matters relating to wages, hours, and terms and conditions of employment. The Governor is not required to negotiate any matter that is inconsistent with State law; however, the Governor can negotiate items that require a statutory change or an appropriation as long as the parties understand that the item cannot become effective until the General Assembly takes action. The General Assembly, however, is not bound by the agreement. The collective bargaining statute does not provide for binding arbitration; instead, the State and bargaining representatives must meet and confer about negotiable terms. However, if no agreement is reached for the next fiscal year by October 25, a fact finder may be appointed.

After negotiations have concluded, a memorandum of understanding is prepared which delineates all agreements the bargaining parties have reached. Upon approval by the Governor and a majority of the employees in the bargaining unit, the terms of the memorandum are agreed. A memorandum of understanding may be effective for a period of one to three years.

The statute also prohibits certain activities. Employees may not strike nor may the State engage in a lockout. If a strike or a lockout occurs or appears imminent, the State or employee organization may petition the circuit court for relief.

Negotiations between the Governor and the bargaining units have resulted in a number of benefits for employees that required General Assembly approval. For example, the General Assembly passed legislation authorizing a sick leave incentive program, increasing death benefits for the survivors of employees killed in the line of duty, and requiring overtime payments to certain employees required to work on prescheduled holidays. All these changes were collectively bargained.

Collective Bargaining in Higher Education

Approximately 12,000 State higher education employees on 16 campuses have also been granted certain collective bargaining rights. Each University System of Maryland institution, including constituent institutions, is required to create bargaining

units for exempt employees, non-exempt employees, and sworn police officers. The potential exists for the establishment of up to 51 bargaining units (17 institutions times three units each), but constituent institutions of the University System of Maryland are allowed to cooperate with each other for the purposes of collective bargaining. Similar to the system established for State employees, the affected higher education parties may bargain over wages, hours, and other terms and conditions of employment. The employer's representative and the employees' exclusive representative have the authority to "meet and confer" and execute a memorandum of understanding incorporating all matters of agreement reached. As with regular State employees, there is a provision for nonbinding fact-finding. To the extent that the matters of agreement require legislative approval, these matters must be recommended to the General Assembly, which is not bound by the agreement.

To oversee the process and resolve collective bargaining disputes, an independent Higher Education Labor Relations Board oversees collective bargaining for State institutions of higher education. Prior to the establishment of collective bargaining for State higher education employees, there was a statutory requirement that these employees receive the same compensation and benefits package as State employees. This requirement no longer exists and each group of State employees must negotiate their own compensation and benefits independently.

Since enactment in 2001, most of the bargaining units for State higher education employees have elected an exclusive representative. There are currently 33 bargaining units from 15 public higher education institutions certified as "eligible for exclusive representative election" by the board based on their draft regulations and policies. Exhibit 5.2 contains a list of the institutions, bargaining units, and exclusive representatives. In order to be certified, an employee organization must submit a petition showing that at least 30 percent of the eligible employees in a bargaining unit wish to be represented by the petitioning organization. Other employee organizations may participate in the election if they prove that 10 percent of the eligible employees in the bargaining unit wish to be represented by them. Once the board certifies a petition, an election by secret ballot must be held within 90 days.

Negotiations between the system institution designees and exclusive bargaining representatives are ongoing, and, in at least one instance of collective bargaining, resulted in legislation that was introduced and passed by the General Assembly. Chapter 113 of 2005 moved all of Baltimore City Community College employees into the college's independent personnel system. Prior to 2005, some Baltimore City Community College employees were in the college's personnel system while others were State employees.

Exhibit 5.2
Unions Certified for Exclusive Representative Election by the State Higher Education Labor Relations Board and Number of Employees in Each Bargaining Unit
2006

Institution	Exempt Employees	No. of Employees	Nonexempt Employees	No. of Employees	Sworn Police Officers	No. of Employees
Bowie State University	AFSCME	69	AFSCME	84	MCEA	7
Coppin State College	AFSCME	49	AFSCME	87	AFSCME	9
Frostburg State Univ.	AFSCME	63	AFSCME	256	MCEA	14
Salisbury University			MCEA	291	MCEA	16
University of Baltimore			AFSCME	132	AFSCME	9
UMCP	UPU/AFSCME	1,019	AFSCME	1,750	FOP	57
UMBC			AFSCME	372	FOP	21
UMUC			AFSCME	140		
UMCES			MCEA	58		
UMES	AFSCME	82	AFSCME	198	AFSCME	7
Morgan State University			AFSCME	205	MCEA	31
St. Mary's College	AFSCME	103	AFSCME	97	AFSCME	5
BCCC	AFSCME	112	AFSCME	135	AFSCME	8
UMB			AFSCME	1,015		
Towson					FOP	28

MCEA: Maryland Classified Employees Association, Inc.
AFSCME: American Federation of State, County, and Municipal Employees.
UPU: University Professionals Union (AFSCME subset)
FOP: Fraternal Order of Police.

Source: State Higher Education Labor Relations Board

Chapter 6. Personnel Policies and Practices in the Legislative Branch

This chapter reviews the compensation and personnel policies of the legislative branch of State government. As a separate branch of State government, the legislature has the authority to establish its own personnel policies and procedures. It also has independent salary setting authority and control over the number of regular and contractual workers employed by the General Assembly and the Department of Legislative Services. All employees in the legislative branch are treated similarly to special appointments in the State Personnel Management System in that they do not have the civil service protections that cover most executive branch employees. Although the employees are not governed by State Personnel Management System, many of the personnel policies adopted by the legislative branch are similar to those in the executive branch.

Compensation

Members of the General Assembly

A constitutional amendment, approved by the voters in 1970, created the nine-member General Assembly Compensation Commission. The commission includes five persons appointed by the Governor, two appointed by the President of the Senate, and two appointed by the Speaker of the House of Delegates. Members of the General Assembly and State and local government officers and employees are not eligible for appointment to the commission.

The constitution requires that the commission submit salary, expense allowance, and pension recommendations to the General Assembly by formal resolution within 15 days after the beginning of the last session in a four-year term. Rates of compensation and pensions are to be uniform for all members of the legislature, except that the officers of the Senate and House of Delegates may receive higher compensation. Any item in the commission resolution may only be reduced or rejected by the General Assembly through a joint resolution. Unless modified by the General Assembly, commission recommendations become effective for the next four-year term.

In January 2006, the commission recommended that salaries remain at 2006 levels for each year of the next term of office – $43,500 for members and $56,500 for presiding officers. The commission also recommended changes to the pension and travel expenses for members. The General Assembly rejected the commission's recommendations relating to pensions and travel expenses. As a result, there will be no changes in the

salary or other compensation for the members of the General Assembly; the compensation for members for the 2007 to 2010 term will remain the same as approved for the prior term. Chapter 11 of this volume describes the details of Legislative Pension Plan. For additional information on compensation for members of the General Assembly, see *Legislators' Handbook*, Volume I of the Legislative Handbook Series.

Staff

Regular full-time and part-time employees of the General Assembly and its staff agency, the Department of Legislative Services, are governed by a separate pay plan and are not subject to the pay plan governing executive branch employees. Their employment is at the will of their employer. Because the legislative branch has independent salary setting authority, the President of the Senate and Speaker of the House of Delegates must approve the job classifications and salary schedules of legislative staff. Employees in the Department of Legislative Services are in a classification plan that places employees in three career fields: skilled support, professional, and management personnel. Within each field are several position classifications that may contain more than one level (*e.g.*, Policy Analyst I, Senior Analyst II). Legislative Services uses a pay-for-performance system with fairly broad pay scales in each level.

Personnel Policies and Procedures

Legislative employees are not governed by the personnel procedures set forth in the State Personnel and Pensions Article, although the policies of the legislative branch are often equivalent. The General Assembly and the Department of Legislative Services have their own policies for recruiting, hiring, promoting, disciplining, laying off and firing employees, and resolving employee grievances. Furthermore, the legislative branch has developed independent policies governing employee performance and behavior. For example, the legislature has its own substance abuse, smoking, and sexual harassment policies. Leave policies and benefits are virtually identical for legislative and executive branch employees. Legislative employees accrue annual and sick leave on the same basis as other State employees and are entitled to the same health and retirement benefits.

One area in which the two branches do differ is in the accrual of compensatory leave for Fair Labor Standards Act exempt employees. While most exempt employees in the executive branch earn compensatory leave on an hour-per-hour basis for any work beyond normal work hours, exempt employees in the legislative branch may only accrue compensatory leave for work performed on weekends and State holidays.

Chapter 7. Personnel Policies and Practices in the Judicial Branch

This chapter reviews the compensation and other personnel policies of the judicial branch of State government. Like the legislature, the judiciary has the authority to develop and administer its own personnel policies and regulations. Many of these policies are similar (if not identical) to those in the executive branch, especially with regard to leave and benefits.

Judicial Compensation

The Judicial Compensation Commission was created by the General Assembly in 1980. The commission reviews judicial salaries and pensions and makes recommendations to the Governor and the General Assembly. Salary proposals are introduced as joint resolutions and may be adopted, altered, or rejected by the General Assembly within 50 days after introduction. If the General Assembly fails to act within 50 days, the commission's proposals are adopted. Judicial salaries are also adjusted in accordance with Section 1-702 and 1-703 of the Courts and Judicial Proceedings Article. Section 1-702 provides that the Chief Judge of the District Court receives a salary equivalent to the salary paid to an associate judge of the Court of Special Appeals. Section 1-703 provides that general State employee salary increases apply to judges.

In January 2005, the commission recommended that judges' salaries for fiscal 2006 through 2009 be increased by (1) $30,000 for judges on the Court of Appeals; (2) $25,000 for judges on the Court of Special Appeals and the Chief Judge of the District Court; (3) $20,000 for the circuit court judges; and (4) $15,000 for District Court judges. The proposed increases were to be phased in as follows: 15 percent in fiscal 2006; 25 percent in fiscal 2007; 30 percent in fiscal 2008; and 30 percent in fiscal 2009. Since the General Assembly did not pass an amended version of either of the judicial compensation joint resolutions within 50 days after introduction, the full salary increases as recommended by the commission will be implemented by operation of law. Exhibit 7.1 lists the new salary levels for judges from fiscal 2006 through 2009.

The commission also recommended that judges not receive a cost-of-living adjustment in any year in which they receive salary increases recommended by the commission. A provision prohibiting judicial cost-of-living adjustments in any year in which judges' salaries are increased in accordance with a resolution from the commission was included in the Budget Reconciliation and Financing Act of 2005.

Exhibit 7.1
Judicial Salaries
Fiscal 2006-2009

	FY 2006	FY 2007	FY 2008	FY 2009
Court of Appeals				
Chief Judge	155,852	163,352	172,352	181,352
Judge	136,852	144,352	153,352	162,352
Court of Special Appeals				
Chief Judge	131,302	137,552	145,052	152,552
Judge	128,302	134,552	142,052	149,552
Circuit Court				
Judge	123,352	128,352	134,352	140,352
District Court				
Chief Judge	128,302	134,552	142,052	149,552
Judge	114,502	118,502	122,752	127,252

Source: Department of Legislative Services

Additional Judges

The Chief Judge is required to certify the need for new judges. The General Assembly then must pass legislation creating the new judgeships. The request for additional judges is based upon weighted caseload statistics. Use of the weighted methodology is intended to provide a more accurate assessment of the amount of judicial time required to process caseloads. The case weights represent the average bench and non-bench time required to reach a disposition in each case. Factors such as leave, the frequency of hearings and trials, and the amount of time Judicial Masters spend on certain cases are taken into consideration when determining case weights. Once the weights are calculated, the number of available judge minutes is divided by the case weight to determine the number of cases a single judge should reasonably be able to handle during the year, thus determining the workload standard. Actual filings are then applied to the standard to determine the need for judges. However, it should be noted that the weighted caseload statistics are only the starting point for the certification of a need for new judges. Other factors, such as available space in the courthouse, are also taken into consideration before the Chief Judge certifies the need.

In November 2004, the Chief Judge requested 13 new judgeships for fiscal 2006 that were approved by the General Assembly. These were the first new judgeships

created since fiscal 2000. Exhibits 7.2 and 7.3 show the number of judgeships in the District Courts and circuit courts, respectively, from fiscal 2003 to 2007.

Exhibit 7.2
District Court Judgeships
Fiscal 2003-2007

	2003-2005	2006-2007
Chief Judge	1	1
District 1		
Baltimore City	26	27
District 2		
Dorchester	1	1
Somerset	1	1
Wicomico	2	2
Worcester	1	2
District 3		
Caroline	1	1
Cecil	2	2
Kent	1	1
Queen Anne's	1	1
Talbot	1	1
District 4		
Calvert	1	2
Charles	2	2
St. Mary's	1	1
District 5-10		
Prince George's	13	15
Montgomery	11	11
Anne Arundel	8	9
Baltimore	13	13
Harford	4	4
Carroll	2	2
Howard	5	5
District 11-12		
Frederick	3	3
Washington	2	2
Allegany	2	2
Garrett	1	1
State	**106**	**112**

Source: Department of Legislative Services

Exhibit 7.3
Circuit Court Judgeships
Fiscal 2003-2007

	2003-2005	2006-2007
First Circuit		
Dorchester	1	1
Somerset	1	1
Wicomico	3	3
Worcester	2	3
Second Circuit		
Caroline	1	1
Cecil	3	3
Kent	1	1
Queen Anne's	1	1
Talbot	1	1
Third Circuit		
Baltimore	16	17
Harford	5	5
Fourth Circuit		
Allegany	2	2
Garrett	1	1
Washington	4	5
Fifth Circuit		
Anne Arundel	10	11
Carroll	3	3
Howard	5	5
Sixth Circuit		
Frederick	4	4
Montgomery	20	21
Seventh Circuit		
Calvert	2	2
Charles	4	4
Prince George's	23	23
St. Mary's	3	3
Eighth Circuit		
Baltimore City	30	32
State	**146**	**153**

Source: Department of Legislative Services

Clerks of the Court

There are 24 circuit court clerk offices in Maryland, each administered by a locally elected Clerk of the Circuit Court. Each clerk's office is responsible for managing court cases, recording land records, and issuing licenses as well as related financial and administrative functions. Clerks of the court are subject to and governed in accordance with the rules of the Court of Appeals. In addition, the appointment and removal of personnel in the clerks' offices are subject to rules adopted by the Court of Appeals. The Chief Judge has authority over compensation for positions in the clerks' offices (other than the elected clerk). The maximum salary of clerks of the court increased to $98,500 annually pursuant to legislation passed in the 2005 session. The actual salary paid to an individual clerk, up to the maximum, is determined by the Board of Public Works.

District Court Employees

Clerical, administrative, and constabular employees of the District Court were originally included in the State Personnel Management System because the judiciary did not have a personnel system. When the judiciary developed its own personnel system, these employees remained with the State system although they were subject to the judiciary's hiring, termination, and grievance provisions. During the 1998 session, however, the General Assembly passed legislation that removed these employees from the State system and placed them fully under the judicial branch. In addition, the Secretary of Budget and Management no longer has salary setting authority over the District Court commissioners. District Court commissioners' salaries are now set by the Chief Judge of the Court of Appeals.

Personnel Policies and Procedures

As noted above, the judiciary is not governed by the State Personnel Management Systems' procedures; it has its own policies for recruitment, hiring, grievances, and terminations. In most cases where it has independent salary setting authority, it likewise has the power to establish job classifications and salary scales. Such action, of course, must receive budgetary approval by the General Assembly. Currently, judicial employees are entitled to the same leave provisions and health and retirement benefits as State employees in the executive and legislative branches.

Chapter 8. Introduction to the State Retirement and Pension System

The State Retirement and Pension System of Maryland provides retirement allowances and other benefits to State employees, teachers, police officers, judges, legislators, and employees of participating governmental units. As of June 30, 2005, the system had 188,050 active members, 100,196 retirees and beneficiaries, and 47,664 vested former members.

Board of Trustees

The responsibility for the administration and operation of the system is vested in the 14-member Board of Trustees of the Maryland State Retirement and Pension Systems. Under current law, 3 of the 14 board members are ex officio members that include (1) the State Comptroller; (2) the State Treasurer; and (3) the Secretary of Budget and Management. Six members are appointed by the Governor to four-year terms, including one representative of participating local governmental units and five representatives of the general public who must be private citizens knowledgeable in the administration and operation of pension systems. Lastly, the law requires that five trustees be elected by members and retirees of specific retirement systems as follows:

- one trustee elected by the active members of the Employees' Retirement System, the Employees' Pension System, the Correctional Officers' System, the Legislative Pension Plan, the Local Fire and Police System, and the Law Enforcement Officers' Pension Plan;

- one trustee elected by retired members of the Employees' Retirement System, the Employees' Pension System, the Correctional Officers' System, the Legislative Pension Plan, the Local Fire and Police System, and the Law Enforcement Officers' Pension Plan;

- one trustee elected by the active members of the Teachers' Retirement System and the Teachers' Pension System;

- one trustee elected by retired members of the Teachers' Retirement System and the Teachers' Pension System; and

- one trustee elected by both the active members and the retirees of the State Police Retirement System.

The membership of the board of trustees as of June 30, 2006, is shown in Appendix 8.

In addition to having total and final responsibility for establishing and directing the system's investment program, the board has all administrative and fiduciary responsibility for the proper operation of the various plans and their subsystems. The board is responsible for seeing that the assets of the systems are held exclusively for the purpose of providing benefits for the participants in the systems. As fiduciaries, the members must exercise the care, skill, prudence, and diligence of a "prudent person" in seeing that the assets of the system are utilized in accordance with the law for the exclusive purpose of providing benefits for the participants.

The board is required to appoint an investment committee that must include three members of the public who have a background of experience in management and control of large investments. With the exception of the three public members, the members of the investment committee must be appointed from the board's own membership. As of June 30, 2006, there were 13 members of the investment committee, 10 of whom were board members. The statutory duty of the investment committee is to advise the board on (1) matters pertaining to the investment program; (2) compliance of investment programs with board policy; (3) preparation of an investments operation manual; and (4) bonding requirements of employees of the Maryland State Retirement Agency.

By law, the board of trustees must appoint one or more medical boards consisting of three members and not more than three alternates. There are currently two medical boards that meet on alternate weeks. The medical boards investigate the applications of members seeking disability retirement and submit written reports, with conclusions and recommendations, to the board of trustees.

In addition, the board appoints an actuary. Currently, actuarial services are provided by contract with The Segal Company, a national actuarial firm. In July 2002, the board contracted with Ennis Knupp, an outside investment consultant, to assist the chief investment officer and the investment staff in developing reasonable asset allocation targets and investment category benchmarks. It was further anticipated that as the investment consultant, Ennis Knupp would assist the board in its search for outside investment managers.

Although not statutorily required, the board has established a seven-member administrative committee drawn entirely from its own membership. This committee reviews various issues which the full board deems to require detailed study and makes recommendations to the full board. Similarly, the board has appointed its own membership to a five-member audit committee, a four-member corporate governance

committee, and a four-member real estate subcommittee to deal with complex audit, corporate governance, and real estate investment issues.

Maryland State Retirement Agency

The Maryland State Retirement Agency, which operates under the supervision of the board of trustees, is responsible for carrying out all administrative duties and business of the system. In fiscal 2006, the agency operated with a budget of $20.3 million and 172 regular positions.

The agency is comprised of the Executive Director's Office and five divisions: (1) Administrative Division; (2) Finance Division; (3) Investment Division; (4) Internal Audit Division; and (5) Information Services Division.

The Executive Director's Office is responsible for the administration and oversight of the system including administrative and investment policy, legislation and legal liaison, and financial affairs. The board of trustees appoints the executive director who serves at the pleasure of the board. The executive director is in charge of the agency and is responsible for compiling a comprehensive annual budget for submission to the board. In addition, the director has powers and duties as delegated by the board of trustees. By custom, the executive director also serves as secretary of the board of trustees.

The Administrative Division is responsible for the payment of benefits, administration of employee contributions, and individual and group membership counseling. The retirement administrator is responsible for the operations of the division.

The Finance Division is responsible for accounting and financial reporting, budget administration, and procurement. Under the leadership of the chief financial officer, the division prepares a Comprehensive Annual Financial Report of the Maryland State Retirement and Pension Systems and develops the annual budget for the retirement agency. The budget is submitted to the board of trustees, which in turns submits the budget to the Governor. After review through the executive budget process, the budget request is submitted to the General Assembly for review and appropriation. The agency's budget is funded with special funds from the investment earnings of the system's portfolio.

The Investment Division is responsible for the management, control, and investment of the system's Retirement Accumulation and Annuity Savings funds. The board of trustees appoints a chief investment officer who supervises and monitors the external asset managers and makes recommendations to the investment committee regarding investment policy and strategy. The division maintains the equity and bond

index funds, the self-liquidating bonds, and the reinvestment reserve. In addition, the division is responsible for the board's cash management program, the tracking of all investments, and providing staff support to the investment committee.

The Internal Audit Division ensures agency compliance with State laws, rules, and regulations, as well as ensuring employer compliance with agency reporting policies. The chief internal auditor is the director of the division.

The Information Services Division is responsible for the design and implementation of new automated management information systems and for enhancements to existing systems. The director of the division is the information systems officer.

Legal services for the system are provided by State assistant attorneys general assigned from the State Attorney General's Office.

Joint Committee on Pensions

Since 1975, the General Assembly has exercised oversight of the State Retirement and Pension System through annual ad hoc interim joint committees. Joint Resolution 27 of 1975 established a Pension Study Commission composed of four senators, four delegates, four members of the executive branch, and three employee organization representatives. This commission reported its findings in 1978, and its recommended legislation was enacted in 1979. Beginning in 1980, the President of the Senate and the Speaker of the House of Delegates each appoint members to an interim Joint Committee on Pensions. Traditionally, the members of the joint committee are members of the two standing committees that handle pension legislation during the legislative session.

Currently, these standing committees are the Senate Budget and Taxation Committee and the House Committee on Appropriations. Within each standing committee there is a subcommittee on pensions and a subcommittee chair. The two subcommittee chairs are co-chairmen of the Joint Committee on Pensions. Most major pension legislation is introduced through this joint committee, including legislation requested by the State Retirement and Pension System Board of Trustees.

Chapter 9. Historical Background

Origin

The genesis of the State Retirement and Pension System is found in the Baltimore City Employees' Retirement System, which was established by the city in 1924. This pension system was based on concepts promulgated by Mr. George B. Buck of New York.

Mr. Buck's concepts were that people could receive an income in retirement if they contributed a portion of their earnings during their careers. This amount would be matched by the employer. Mr. Buck, trained in the life insurance actuarial discipline, had refined his concepts to the point whereby a contribution of 4 to 6 percent of pay by the employee would provide an annuity of 1/140 for each year of active service, and a similar contribution by the employer would provide a similar pension. Therefore, upon retirement the employee would receive a retirement allowance of 1/70 (1/140 + 1/140) for each year of service. Thus, an employee who worked 35 years could retire at half pay (35/70), if interest earnings met assumptions.

In addition to city employees, the Baltimore City Employees' Retirement System included city public school teachers, probably due to its unique education department arrangement. In 1927 legislation was enacted (Chapter 344) establishing the Maryland State Teachers' Retirement System that expanded the same benefit to county school teachers throughout the State.

In 1941, the State Employees' Retirement System was established (Chapter 377), which mirrored, in most instances, the Teachers' Retirement System. At the time of establishment it was exclusively for State employees. However, in 1945, "municipal corporations" (defined as a county, incorporated municipality, special taxing district, or other political subdivision) were allowed to participate in the system if they paid all their respective costs. Thus, local government employees also were allowed to be members of this system (Chapter 969).

In 1956, elections were held to determine if Maryland public employees wanted to participate in the federal Social Security program. The members of the employees' and teachers' systems elected to participate in Social Security, while the members of the State Police system did not. Thus, all regular State employees and all teachers in the State became members of the Social Security system with the State paying the employer's cost for both groups.

In 1966, legislation was enacted that provided for retirement allowances to be paid to legislators under certain conditions (Chapter 281). This Legislative Pension Plan was established as a subsystem within the Employees' Retirement System. In 1970, legislation was passed (Chapter 576) and ratified by the voters as a constitutional amendment establishing a General Assembly Compensation Commission. In 1971, this commission redesigned the Legislative Pension Plan. Since that time the plan has been amended in various ways by the commission at its quadrennial meetings. The legislative plan continues to be administered as a subsystem of the Employees' Retirement System.

In 1971, legislation was enacted that established within the Employees' Retirement System special retirement benefits for former governors and their surviving spouses (Chapter 239).

In 1974, a hodgepodge of State and local retirement provisions for judges was replaced with the State Judicial Pension Plan (Chapter 483), and cellblock correctional officers were permitted to retire with a limited number of years of service (20 years). Legislation enacted in 1974 and 1982 created the Correctional Officers' Retirement System.

In 1975, the Optional Retirement Program for professional employees of public higher education institutions was established (Chapter 556). Whereas all the other State systems are defined benefit plans, this plan is a defined contribution plan. By arrangement with the State's higher education establishment, the original carrier of the plan was the Teachers Insurance Annuity Association and College Retirement Equities Fund. In 1993, authorization was provided for the addition of up to four more vendors for the Optional Retirement Program (Chapter 428). The retirement agency conducted a competitive search for additional vendors for the Optional Retirement Program. Three additional vendors were selected including VALIC, American Century, and Aetna Life. These vendors began offering investment products July 1, 1995.

In 1979, legislation was enacted that established the Employees' Pension System and the Teachers' Pension System (Chapters 23 and 24, respectively). All employees or teachers hired after January 1, 1980, were required to become members of these systems. Members of the older Employees' Retirement System and the Teachers' Retirement System have the option of transferring to these newer systems. In effect, the older retirement systems' membership was closed. Until 1998, members of these systems made contributions only on that portion of their salary above the Social Security Wage Base, and the benefits paid upon retirement were integrated with Social Security benefits.

In 1998, legislation was enacted that modified and increased the benefit formula for all active Employees' Pension System and Teachers' Pension System members except

employees of participating local governments and members who transfer from the old retirement systems after April 1, 1998 (Chapter 530). In addition to increasing the benefit formula, the 1998 legislation required member contributions of 2 percent of earnable compensation, eliminated the 5 percent contribution on compensation above the Social Security Wage Base, and established a defined contribution program for State members of the Employees' Pension System except members who transfer from the Employees' Retirement System to the Employees' Pension System after April 1, 1998. The defined contribution program is optional for all eligible employees and became effective July 1, 1999. Under the program, the State matches deferred compensation contributions up to a maximum of $600 annually (this amount was reduced in fiscal 2003 through 2006 but was restored to $600 per year in fiscal 2007).

Follow-up legislation was enacted in 1999 that provided local government units participating in the Maryland State Retirement and Pension System on July 1, 1999, with the opportunity to offer the 1998 pension enhancement to their members of the Employees' Pension System (Chapter 176). While this opportunity for the participating local governmental units to offer this enhancement to their employees was optional, once the election was made, it was irrevocable. Participating local governmental units that joined the Maryland State Retirement and Pension System after July 1, 1999, but before July 1, 2006, did so under the 1998 enhanced benefit structure.

In 2006, the General Assembly again enhanced pension benefits for all members of the Teachers' Pension System and the Employees' Pension System. Members of Selection C (the bifurcated option) of the now-closed Employees' Retirement System and Teachers' Retirement System also benefit from the enhanced benefits, although other Teachers' Retirement System and Employees' Retirement System members are not affected (Chapter 110). The legislation also allows the participating local governmental units that participate in Employees' Pension System the option of electing to participate in the enhanced benefits by June 30, 2007. Participating local governmental units who join the Maryland State Retirement and Pension System after July 1, 2006, do so under the 2006 enhanced benefit structure.

The 2006 pension enhancement increased the statutory benefit multiplier used to calculate a retiree's annual payment from 1.4 to 1.8 percent and applied the higher multiplier retroactively to service credit earned by current members of the Teachers' and Employees' Pension System since July 1, 1998. In addition, the enhancement increased member contributions from 2 to 5 percent of the member's annual compensation. However, this increase is scheduled to be phased in over a three-year period for all teachers, State employees, and employees of participating local governments that opt for the enhanced benefit (3 percent on July 1, 2006; 4 percent on July 1, 2007; and 5 percent on July 1, 2008 and thereafter).

The State Police Retirement System was established in 1949 (Chapter 349). At its inception, the system allowed retirement at an earlier age with less service than the Employees' Retirement System (25 years of service instead of 30 years), and provided a somewhat higher benefit level. In 1999, the years of service which a member of the State Police Retirement System must attain in order to be eligible for a normal service retirement allowance was reduced from 25 to 22 years (Chapters 122 and 123). Additionally, Chapters 122 and 123 increased the benefit formula for all active State Police Retirement System members, slightly increased employee contributions, and created a Deferred Retirement Option Program.

The Natural Resources Law Enforcement Officers' Pension Plan was created in 1989. Participation is mandatory for Natural Resources law enforcement officers hired after July 1, 1990, and optional for those officers hired prior to that date (Chapter 479). In 1996, this plan was renamed the Law Enforcement Officers' Pension System as other groups of law enforcement officers were authorized to become members. The plan has since been amended to include law enforcement officers from numerous groups throughout the State. As of June 30, 2006, membership in the Law Enforcement Officers' Pension System is comprised of the:

- Law enforcement officers of the Investigative Unit of the Comptroller's Office
- Maryland Transportation Authority police (including the Maryland Port Administration police officers)
- Baltimore City Sheriffs and Deputy Sheriffs
- State Fire Marshal and Deputy Fire Marshals
- University System of Maryland police officers
- Morgan State University police officers
- Baltimore/Washington International Thurgood Marshall Airport Fire and Rescue Department personnel
- Department of General Services, Department of Health and Mental Hygiene, Motor Vehicle Administration, and Department of Labor, Licensing, and Regulation police officers
- Firefighters for the Martin State Airport employed by the Military Department

- Police officers employed by the Division of Rehabilitation Services in the Department of Education who are certified in accordance with the Maryland Police and Correctional Training Commissions

- Firefighters or paramedics employed by the Salisbury Fire Department

- Aviators employed by the Department of State Police to operate an aircraft for the State Emergency Medical System

- Maryland Transit Administration police

Additionally, enabling legislation was enacted in 1998 (Chapter 494) to permit a county or municipal corporation to participate in the Law Enforcement Officers' Pension System if the local law enforcement officers elect to participate and the county or municipal corporation elects to pay the costs of participation.

The Local Fire and Police Pension System was also created in 1989. This system permits its members to retire with unreduced benefits after 25 years of service or at age 62. If a local government elects to participate, participation is mandatory for those municipal law enforcement officers hired after the election and optional for those hired prior to the election (Chapter 580). However, in 2004, Chapter 537 provided that the Local Fire and Police Pension System was closed to new membership. As an alternative, local firefighters may elect to participate in the Law Enforcement Officers' Pension System if the county or municipal corporation elects to pay the costs of participation.

In 1996, an early retirement incentive program was established for State employee members of the Employees' Retirement System and the Employees' Pension System (Chapter 353). As a result, 2,275 employees filed for early retirement, including 1,247 members of the Employees' Retirement System and 1,028 members of the Employees' Pension System.

Administrative History

The Teachers' Retirement System was established in 1927 under an independent and autonomous five-member board of trustees. When the Employees' Retirement System was established in 1941, it too was set up under a five-member board of trustees which was expanded to seven members in 1947. In 1949, the State Police Retirement System was established under a five-member independent and autonomous board of trustees which was expanded to seven members in 1970.

When subsequent systems were established by law, they were placed under one of the three existing boards. The Gubernatorial Plan, the Legislative Pension Plan, the Correctional Officers' Retirement System, the Judges' Retirement System, and the Employees' Pension System were placed under the board of trustees for the Employees' Retirement System; whereas the Teachers' Pension System was placed under the board of trustees for the Teachers' Retirement System.

Until 1974, each of the boards had its own staff handling all aspects of its own plan. However, all the boards shared an individual as their secretary, who also served as the staff director. In 1974, the three staffs were combined in a functional arrangement as one staff under the secretary, who was also an assistant secretary of personnel. This had come about by Chapter 98 of 1970, which created the Department of Personnel and placed the three boards of trustees under the Secretary of Personnel.

In 1982, legislation was enacted that substantially revised the organization of the boards of trustees (Chapter 506). It removed all the boards from the Department of Personnel and merged them into a single independent board. The previous 19 positions on the three boards held by 13 different persons were combined into one 13-member Board of Trustees of the Maryland State Retirement and Pension System. Pursuant to legislation approved in 1983, two private citizens, who may not be members or beneficiaries of the systems, were added to the board (Chapter 552). The abolishment of the Department of Personnel in 1996 (and the position of Secretary of Personnel) reduced the board to 14 members.

After a series of financial scandals and controversies plagued the board in 2001 and 2002, the General Assembly responded by restructuring the board in 2003 to include more members with investment expertise and to provide external investment advisors to the board (Chapter 403). Chapter 403 made several changes to the composition and governance of the board, including:

- removing the Secretary of State Police and the State Superintendent of Schools as ex official members and one of the two State Police trustees and filling these vacancies with three members of the public appointed by the Governor to serve as investment experts;

- requiring appointed or elected trustees to attend at least 80 percent of the board's monthly meetings or face removal from the board; and

- providing that the board is not responsible for considering benefit enhancements or reviewing the benefit structures for any of the several systems, except for the purpose of making technical corrections.

Financial and Actuarial History

Prior to 1980, the State maintained four principal retirement plans: (1) the Employees' Retirement System; (2) the Teachers' Retirement System; (3) the State Police Retirement System; and (4) the Judicial Pension Plan. Only a portion of each of these systems was actuarially advance funded, except for the Judicial Pension Plan which was entirely financed on a pay-as-you-go basis. In response to concerns about the retirement systems' deteriorating financial status, the General Assembly established the Joint Committee on Pensions in 1975 to review and evaluate the financial and actuarial condition of the various plans. The committee's most significant finding was that unless major changes were made to the funding and benefit structures of the plans, the State would face a future of ever increasing pension costs both in terms of total dollars and as a percentage of payroll. The long range forecast indicated that under the system's then existing benefit structure and funding policy, the annual costs would be in excess of $2.5 billion in the year 2026.

In 1979, after four years of work, legislation was enacted providing for full actuarial advance funding of the four existing retirement plans and for establishment of two new, fully funded plans – the Employees' Pension System and the Teachers' Pension System. The employees' and teachers' retirement systems, the two largest plans, were closed to new members as of January 1, 1980, and all employees and teachers hired on or after that date were required to join one of the new pension systems as a condition of employment.

However, despite the enactment of these major changes, a variety of factors led to the continued deterioration of the financial and actuarial condition of the systems in general, and the older retirement systems in particular. The State's contribution rate as a percentage of payroll steadily increased in the early 1980s, as did the percentage of the State's general fund budget that was appropriated for retirement purposes.

Consequently, in 1984, the General Assembly passed legislation (proposed by the Joint Committee on Pensions) that modified the benefit and contribution structure of the old employees' and teachers' retirement systems by providing that their members would receive benefits for service prior to July 1, 1984, calculated under the old systems, and benefits for service after that date under the new systems, unless members elected either (1) to receive benefits under the old systems but subject to a limitation of 5 percent (compounded) on the annual post-retirement cost-of-living adjustment (COLA); or (2) to receive benefits under the old systems without limitation on the COLA, but with a 2 percent increase in their contribution (generally from 5 to 7 percent of salary).

At the same time, legislation was enacted that (1) changed the actuarial cost method for funding the systems; (2) combined the employees' retirement and pension systems only for purposes of establishing a single annual employer contribution rate for all State employees; (3) combined the teachers' retirement and pension systems only for purposes of establishing a single annual employer contribution rate for all teachers; and (4) made certain other changes relating to the technical methods and procedures used for determining the ongoing costs of the systems. These changes were effected to afford greater stability and predictability in the State's annual contribution rates to the various plans. In addition, the legislation codified the State practice of providing health insurance for retired State employees.

With the implementation of these changes, the financial and actuarial condition of this system steadily improved. The State's overall contribution rate for the system decreased from 17.6 percent of payroll in fiscal 1985 to 9.18 percent for fiscal 2007. The market value of the system's assets increased from $2.3 billion in fiscal 1980 to over $32.1 billion at the end of fiscal 2005. Moreover, for the first time in the history of the system, at the end of fiscal 2000 (approximately 20 years ahead of statutory schedule), the system was fully funded on an actuarial basis with an overall funding ratio of assets to liabilities of 101 percent, although that funding level has since declined to 91.2 percent at the end of fiscal 2005. In order to reduce future volatility in the State's overall contribution rate, several further adjustments to the actuarial methodology have been made; these changes are discussed in Chapter 12, which covers the pensions plan's actuarial aspects.

Chapter 10. System Membership

Membership in the State Retirement and Pension System is required of all persons compensated by the State, all local employees of governmental units that participate in the employees' systems, and all local employees holding a position eligible to be in the teachers' systems. Only members of the General Assembly, officials in the Governor's Office, certain elected State officials, and higher education employees may choose not to participate in the State Retirement and Pension System.

The State Retirement and Pension System serves four classes of members. Active members are employees who are compensated for work being performed and for whom the State and governmental units are making contributions based on their earnings. Vested deferred members are former employees who have left the system with enough years of eligibility service to be vested and to whom the State or a governmental unit has an obligation to provide retirement benefits when the members reach the eligible retirement age. Finally, there are inactive status members. For reporting purposes these members do not currently have enough eligibility service to be vested and are not on active payroll status. However, based on future service with a participating employer, the State or a governmental unit could be obligated to provide retirement benefits. In addition to active, vested, and inactive members, all the systems have beneficiaries. By law, beneficiaries are persons in receipt of a pension, an annuity, a retirement allowance, or other benefit. A beneficiary may be a retired member of one of the systems or a survivor of the retired member for whom a provision was made by the member.

Exhibit 10.1 details the membership of the State Retirement and Pension System as of June 30, 2005, including active and vested members and beneficiaries. Exhibit 10.2 provides a 10-year history of active membership and Exhibit 10.3 provides a 10-year history of beneficiaries.

Exhibit 10.1
Membership as of June 30, 2005

System Sub-system	Active Members	Vested Former Members	Subtotal: Active and Former Vested Members	Beneficiaries	Total
Employees' Retirement					
State – Regular	2,587	*	*	**	
Correctional Officers	6,530	*	*	**	
Legislators	184	*	*	217	
Governmental Units	568	124	692	4,866	5,558
Subtotal	**9,869**	**1,291**	**11,160**	**24,633**	**35,793**
Employees' Pension					
State – Regular	53,384	20,210	73,594	18,029	91,623
Governmental Units	23,403	5,848	29,251	6,496	35,747
Subtotal	**76,787**	**26,058**	**102,845**	**24,525**	**127,370**
Teachers' Retirement	6,255	1,351	7,606	30,921	38,527
Teachers' Pension	91,535	18,792	110,327	17,170	127,497
State Police Retirement	1,439	47	1,486	1,909	3,395
Law Enforcement Officers' Pension	1,826	104	1,930	708	2,638
Local Fire and Police Pension	57	6	63	14	77
Judges' Retirement	282	15	297	316	613
Total	**188,050**	**47,664**	**235,714**	**100,196**	**335,910**

*Individual data not available. However, as of June 30, 2005, 1,167 vested former members of the Employees' Retirement System were State employees, correctional officers, or legislators.

**Individual data not available. However, as of June 30, 2005, 19,756 retirees of the Employees' Retirement System were State employees or correctional officers.

Source: Maryland State Retirement and Pension System

Exhibit 10.2
Active and Former
Vested Membership Data by System
Fiscal 1996-2005

June 30	Total All Systems	Teachers' Retirement	Teachers' Pension	Employees' Retirement*	Employees' Pension	Judges' Retirement	State Police Retirement	Law Enforcement Officers	Local Fire & Police
2005	235,714	7,606	110,327	11,160	102,845	297	1,486	1,930	63
2004	232,772	8,675	107,092	11,800	101,581	297	1,489	1,756	82
2003	235,594	9,776	106,383	12,696	103,151	300	1,583	1,543	162
2002	234,478	10,913	103,483	13,053	103,429	291	1,616	1,476	217
2001	227,799	12,126	98,508	13,312	100,420	294	1,602	1,367	170
2000	222,100	13,491	94,154	13,614	97,517	296	1,658	1,166	204
1999	214,339	14,949	88,882	14,034	93,414	296	1,676	892	196
1998	208,139	16,311	83,877	14,521	90,515	289	1,659	776	191
1997	202,568	17,681	78,659	14,912	88,918	282	1,610	328	178
1996	201,832	18,981	74,673	16,326	89,567	277	1,564	304	140

*Includes members of the Maryland General Assembly and correctional officers

Source: *Comprehensive Annual Financial Report*, Maryland State Retirement and Pension System, June 30, 2005

Exhibit 10.3
Retiree and Beneficiary Data by System

June 30	Total All Systems	Teachers' Retirement	Teachers' Pension	Employees' Retirement*	Employees' Pension	Judges' Retirement	State Police Retirement	Law Enforcement Officers	Local Fire & Police
2005	100,196	30,921	17,170	24,633	24,525	316	1,909	708	14
2004	94,880	30,598	15,093	24,559	21,913	309	1,790	581	37
2003	90,803	30,305	13,370	24,662	19,929	306	1,695	503	33
2002	87,367	29,989	11,931	24,904	18,205	311	1,598	403	26
2001	84,185	29,599	10,527	25,212	16,702	297	1,518	309	21
2000	80,773	29,061	9,084	25,489	15,241	285	1,388	206	19
1999	77,478	28,383	7,674	25,730	13,937	284	1,286	170	14
1998	74,339	27,841	6,499	25,827	12,513	275	1,234	139	11
1997	71,488	27,330	5,481	25,882	11,221	273	1,175	117	9
1996	67,062	26,794	4,530	24,946	9,307	260	1,112	104	9

*Includes members of the Maryland General Assembly and correctional officers

Source: *Comprehensive Annual Financial Report*, Maryland State Retirement and Pension System, June 30, 2005

Participating Governmental Units

Governmental units were first allowed to participate in the State system in 1945. A governmental unit is defined as a county, an incorporated town or municipality, a special taxing district, or another political subdivision of the State. This definition includes public library associations, fire departments, any public board or commission created by the General Assembly, and certain other multiple-jurisdictional bodies.

To be eligible to participate in the State employees' systems, the governmental unit's legislative or other policymaking body must approve the participation and at least 60 percent of its eligible employees must elect to participate. All eligible employees of that governmental unit must participate in the State employees' systems. The participating governmental unit is responsible for making all required plan contributions.

If a governmental unit withdraws from the State employees' systems, participating employees may elect to remain in the State system or transfer into a new system established by the governmental unit. Special funding and cost provisions are applied to governmental units that withdraw from the State's systems.

As of June 30, 2005, 112 units of local government participate in the State employees' systems as governmental units. A list of participating governmental units is set forth in Exhibit 10.4. In addition, 32 governmental units formerly participated in the State employees' systems. A list of withdrawn participating governmental units is shown in Exhibit 10.5.

Beginning July 1, 1989, governmental units were entitled to elect to participate in the Local Fire and Police System. If a governmental unit elected to participate, membership was mandatory for those law enforcement officers hired after such an election and optional for those officers hired prior to the election. However, in 2004, Chapter 534 provided that the Local Fire and Police Pension System was closed to new membership. As of June 30, 2005, two governmental units remain in the system: the Town of Hurlock and the City of Cumberland.

Beginning October 1, 1998, governmental units representing law enforcement officers may also elect to enroll eligible employees in the Law Enforcement Officers' Pension System if at least 60 percent of the unit's officers choose to participate. In 2004, with the close of the Local Fire and Police Plan, the group of employees of governmental units eligible to participate in the Law Enforcement Officers' Pension System expanded to include local firefighters. If a governmental unit participates in the Law Enforcement Officers' Pension System, membership is mandatory for those municipal law enforcement officers or firefighters hired after such an election and optional for those

officers or firefighters hired prior to the election. To be eligible, officers or firefighters hired prior to the election must opt into the Law Enforcement Officers' Pension System within six months from the date the employer participates. As of July 1, 2006, 14 governmental units have chosen to participate in the Law Enforcement Officers Pension System. In addition, one governmental unit formerly participated in the Law Enforcement Officers' Pension System.

Beginning July 1, 2006, governmental units representing correctional officers may elect to enroll eligible employees in the Correctional Officers' Retirement System if at least 60 percent of the unit's officers choose to participate. If a governmental unit participates in the Correctional Officers' Retirement System, membership is mandatory for those municipal correctional officers hired after such an election and optional for those officers hired prior to the election. To be eligible, officers hired prior to the election must opt into the Correctional Officers' Retirement System within six months from the date the employer participates.

Exhibit 10.4
Governmental Units Participating in the
Employees' Retirement and Pension System
As of June 30, 2005

Allegany Community College

Allegany County Board of Education

Allegany County Commission

Allegany County Housing Authority

Allegany County Library

Allegany County Transit Authority

Annapolis, City of

Anne Arundel County Board of Education

Anne Arundel County Community College

Anne Arundel County Economic Opportunity Commission

Berlin, Town of

Brunswick, Town of

Calvert County Board of Education

Cambridge, City of

Caroline County Board of Education

Carroll County Board of Education

Carroll County Public Library

Carroll Soil Conservation District

Catoctin & Fredrick Soil Conservation District

Cecil County Board of Education

Cecil County Commission

Cecil County Library

Charles County Community College

Chesapeake Bay Commission

Chestertown, Town of

Cheverly, Town of

Cresaptown Civic Improvement Association

Crisfield, City of

Crisfield Housing Authority

Cumberland, City of

Cumberland, City of – Police Department

Denton, Town of

Exhibit 10.4 (cont.)
Governmental Units Participating in the Employees' Retirement and Pension System

District Heights, City of

Dorchester County Board of Education

Dorchester County Commission

Dorchester County Roads Board

Eastern Shore Regional Library

Frederick County Board of Education

Fruitland, City of

Garrett County Board of Education

Garrett County Community Action Committee

Garrett County Office for Children, Youth, and Family

Greenbelt, City of

Hagerstown, City of

Hagerstown Junior College

Hancock, Town of

Harford Community College

Harford County Board of Education

Harford County Government

Harford County Library

Housing Authority of Cambridge

Howard Community College

Howard County Board of Education

Howard County Community Action Committee

Hurlock, Town of

Hyattsville, City of

Kent County Board of Education

Kent County Commissioners

LaPlata, Town of

Lower Shore Private Industry Council

Manchester, Town of

Maryland Health & Higher Education Facilities Authority

Middletown, Town of

Montgomery College

Mount Airy, Town of

Mount Rainier, City of

New Carrollton, City of

North Beach, Town of

Northeast Maryland Waste Disposal Authority

Oakland, Town of

Oxford, Town of

Pocomoke City

Preston, Town of

Prince George's Community College

Prince George's County Board of Education

Prince George's County Crossing Guards

Prince George's County Government

Prince George's County Memorial Library

Princess Anne, Town of

Queen Anne's County Board of Education

Queen Anne's County Commission

Regional Educational Service Agency of Appalachian Maryland

Rockhall, Town of

St. Mary's County Board of Education

St. Mary's County Commission

St. Mary's County Metropolitan Commission

Salisbury, City of

Shore up!

Snow Hill, Town of

Somerset County Board of Education

Somerset County Commission

Exhibit 10.4 (cont.)
Governmental Units Participating in the Employees' Retirement and Pension System

Somerset County Sanitary District, Inc.

Southern Maryland Tri-County Community Action Committee

St. Michaels, Commissioners of

Takoma Park, City of

Talbot County Board of Education

Talbot County Council

Taneytown, Town of

Thurmont, Town of

Tri-County Council of Western Maryland

Upper Marlboro, Town of

Walkersville, Town of

Washington County Board of Education

Washington County Board of License Commission

Washington County Library

Westminister, City of

Worcester County Board of Education

Worcester County Commission

Worcester County Liquor Board

Wor-Wic Tech Community College

Source: Maryland State Retirement Agency

Exhibit 10.5
Withdrawn Governmental Units
as of June 30, 2005

Anne Arundel County Government

Baltimore Metropolitan Council

Bethesda Fire Department

Calvert County Government

Caroline County Roads Board

Carroll County Government

Chevy Chase Fire Department

Elkton, Town of

Frederick County Government

Garrett County Commission

Garrett County Roads Board

Harford County Liquor Board

Health Systems Agency of Western Maryland

Howard County Economic Development Authority

Howard County Government

Interstate Commission on the Potomac River Basin

Lexington Market Authority

Maryland Environmental Services

Maryland National Capital Park & Planning Commission

Montgomery County Board of Education

Montgomery County Government

Montgomery County Public Library

Rockville, City of

St. Mary's Nursing Home

University of Maryland Medical System

Washington County Commission

Washington County License Commissioners

Washington County Roads Board

Washington County Sanitary District

Washington Suburban Sanitary Commission

Wicomico County Department of Recreation and Parks

Wicomico County Roads Board

Source: Maryland State Retirement Agency

Chapter 11. Plan Summaries

As of July 1, 2006, the State Retirement and Pension System of Maryland maintained 10 principal retirement plans: (1) the Teachers' Retirement System; (2) the Teachers' Pension System; (3) the Employees' Retirement System; (4) the Employees' Pension System; (5) the State Police Retirement System; (6) the Correctional Officers' Retirement System; (7) the Law Enforcement Officers' Pension System; (8) the Local Fire and Police Pension System; (9) the Judges' Retirement System; and (10) the Optional Retirement Program. In addition, the system administers a pension plan for Governors and other constitutional officers and a Legislative Pension Plan.

This chapter includes a discussion of each plan administered by the system including a summary of the following components:

- membership and composite information;
- member contributions;
- full service retirement eligibility and allowances;
- early retirement allowances;
- cost-of-living adjustments;
- death benefits;
- optional forms of payment;
- ordinary disability allowances;
- accidental disability allowances;
- post retirement health insurance; and
- vesting.

Appendix 9 provides a comparison of the major plan components.

Teachers' Retirement System

The Teachers' Retirement System was established on August 1, 1927, to provide benefits for State and local teachers and certain employees of the boards of education, public libraries, and community colleges. Until January 1, 1980, membership in the system was a condition of employment for eligible employees. Effective January 1, 1980, the Teachers' Retirement System was closed to new membership when the State established the Teachers' Pension System. Prior to January 1, 2005, Teachers' Retirement System members were eligible to transfer to the Teachers' Pension System and receive a return of all accumulated contributions with interest. Those individuals who chose to transfer after April 1, 1998, are not eligible to receive the benefit enhancements to the Teachers' Pension System enacted in 1998 and 2006. Exhibit 11.1 summarizes membership in the Teachers' Retirement System, as of June 30, 2005.

Exhibit 11.1
Membership in the Teachers' Retirement System
as of June 30, 2005

Membership:	
Active Members	6,255
Deferred Vested Members	1,351
Retirees and Beneficiaries	30,921
Composite:	
Average Age – Active Members	56.8 Years
Average Years of Service – Active Members	29.9 Years
Average Annual Salary – Active Members	$74,291
Average Age – Retirees and Beneficiaries	72.8 Years
Average Annual Benefit – Retirees and Beneficiaries	$26,066

Source: Maryland State Retirement Agency

Due to a deterioration in the financial and actuarial condition of the system, legislation was enacted in 1984 to modify the benefit and contribution structure of the system. As a result of the 1984 legislation, Teachers' Retirement System members who wanted to remain in the system were required to make one of three choices: (1) Selection A – pay additional employee contributions for an unlimited cost-of-living adjustment (COLA); (2) Selection B – receive a limited cost-of-living adjustment; or (3) Selection C – receive a benefit based on a combined formula from both the Teachers' Retirement System and the new Teachers' Pension System. At retirement, a Selection C benefit is

calculated as a Teachers' Retirement System benefit for service credits accrued prior to the election of Selection C and as a Teachers' Pension System benefit for service credits accrued after the election.

Member Contributions

Teachers' Retirement System members who elected Selection A contribute 7 percent of earnable compensation in return for unlimited annual COLAs after retirement. Selection B members contribute 5 percent of earnable compensation in return for COLAs which are limited to 5 percent annually after retirement.

Beginning July 1, 2006, member contributions for Selection C members increased from 2 to 5 percent of the member's annual earnable compensation, to be phased in over a three-year period (3 percent on July 1, 2006; 4 percent on July 1, 2007; and 5 percent on July 1, 2008, and thereafter). In return for this contribution, Selection C members receive a two-part COLA based on the amount of service credits accrued prior to the election of Selection C and the amount of service credits accrued after the election. For the service credits accrued prior to the member choosing Selection C, the COLA is unlimited unless the member chose Selection B prior to Selection C, in which case the COLA is limited to 5 percent. For service credits accrued after the member chose Selection C, the COLA is limited to 3 percent.

Teachers' Retirement System members who separate from service prior to accumulating five years of creditable service receive refunds of their accumulated contributions plus interest. Members with more than five years of creditable service are vested in the system and thus eligible to receive benefits upon reaching the normal retirement age.

Full Service Retirement Eligibility and Allowances

Teachers' Retirement System members are eligible for a full service retirement allowance upon attaining age 60 or after 30 years of eligibility service regardless of age. The benefit formula for full service retirement for Selection A and B members is calculated as 1/55 (1.8 percent) of the highest three years' average final salary multiplied by the number of years of accumulated creditable service.

1.8% x Average Final Salary x Years of Creditable Service

Selection C members receive a retirement allowance that utilizes the benefit formulas from both the Teachers' Retirement System and the Teachers' Pension System. At retirement, this two-part benefit is calculated as a Teachers' Retirement System

benefit for service credits accrued prior to the election of Selection C and as a Teachers' Pension System benefit for service credits accrued after the election.

If all required contributions are not made, the member's retirement allowance is reduced to reflect the actuarial equivalent of the unpaid contributions plus interest to the date of retirement.

Early Retirement

Teachers' Retirement System members are eligible for early retirement after accumulating at least 25 years of eligibility service prior to age 60. For Selection A and B members, the early retirement allowance is equal to the full service retirement allowance reduced by 0.5 percent for each month by which the member's retirement date precedes the normal retirement date. The maximum reduction for early retirement is 30 percent.

Selection C members receive an early retirement benefit that utilizes the early retirement benefit formulas from both the Teachers' Retirement System and Teachers' Pension System. At retirement, this two-part benefit is calculated as a Teachers' Retirement System early retirement benefit for service credits accrued prior to the election of Selection C and as a Teachers' Pension System early retirement benefit for service credits accrued after the election. However, the maximum reduction under the Teachers' Pension System part of the calculation is 42 percent.

Cost-of-living Adjustments

Retirement allowances are adjusted each year based on the consumer price index for all urban consumers as published by the U.S. Bureau of Labor Statistics. COLAs are effective July 1 of each year and are applied to all allowances payable for the year. The amount of a beneficiary's COLA depends on the member's selection made on July 1, 1984. Selection A members receive an unlimited annual COLA based on the consumer price index. The COLA for Selection B members is limited to not more than 5 percent annually. The COLA for members who chose Selection C is computed in two parts. For the service credits accrued prior to the member choosing Selection C, the COLA is unlimited unless the member chose Selection B prior to Selection C, in which case the COLA is limited to 5 percent. For service credits accrued after the member chose Selection C, the COLA is limited to 3 percent.

Death Benefits

A death benefit is paid if a Teachers' Retirement System member is killed in the line of duty or dies after completing one year of eligibility service. The benefit provided upon death is a lump sum payment equal to the member's annual earnable compensation at the time of death plus all accumulated contributions. A surviving spouse may elect to receive a 100 percent survivor annuity rather than a lump sum payment if the spouse is the sole primary designated beneficiary and the member was eligible to retire or was at least 55 years of age with at least 15 years of eligibility service. A 100 percent survivor annuity means that upon the death of the retiree the entire monthly payment continues to be paid to the beneficiary for the remainder of the beneficiary's life.

Optional Forms of Payment

A retirement reserve is established for each member who retires. This reserve is the amount needed, with interest, to pay for the member's normal retirement allowance. When an option is chosen, the retirement reserve does not change. However, the member's normal service retirement allowance is reduced by an actuarially determined factor to provide a potential death benefit for the member's designated beneficiary. There are six optional forms of payment:

- Option 1 provides a cash payout to the designated beneficiary or the retiree's estate in an amount equal to the excess of the present value of the retirement allowance at the date of retirement minus the total amount of payments (less COLAs) made to the date of death. The amount remaining in the retirement reserve is paid to the designated beneficiary or estate as a one-time lump sum payment.

- Option 2 provides a 100 percent joint and survivor annuity, which means that upon the death of the retiree the entire monthly payment continues to be paid to the beneficiary for the remainder of the beneficiary's life.

- Option 3 provides for a 50 percent joint and survivor annuity, which means that upon the death of the retiree half of the monthly benefit continues to be paid to the beneficiary for the remainder of the beneficiary's life.

- Option 4 guarantees a minimum return of the members' accumulated contributions by providing that if the retiree dies prior to receiving all employee contributions with interest, the balance will be paid in a lump sum to the designated beneficiary.

- Option 5 provides a 100 percent survivor pop-up. Upon the death of the retiree, the designated beneficiary is paid the retiree's entire allowance for the remainder of the beneficiary's life. However, if the beneficiary predeceases the retiree, the retiree may designate a new beneficiary or else the retirement allowance will pop up to the retiree's maximum allowance, in which case all payments cease at the death of the retiree.

- Option 6 provides a 50 percent survivor pop-up. Upon the death of the retiree, the designated beneficiary is paid one-half of the retiree's allowance for the remainder of the beneficiary's life. However, if the designated beneficiary predeceases the retiree, the retiree may designate a new beneficiary or else the retirement allowance will pop up to the retiree's maximum allowance, in which case all payments cease at the death of the retiree.

Ordinary Disability Retirement Allowances

A member is eligible for an ordinary disability retirement allowance after completing five years of eligibility service and after receiving certification from the medical board that the member is permanently incapable of performing the necessary functions of the job. The disability retirement allowance for Selection A and B members is equal to the greater of (1) a normal service retirement allowance [1/55 (1.8 percent) of the highest three years' average final salary]; or (2) either 25 percent of the member's average final salary or, if the member is under the normal retirement age (60 years), 1.8 percent of the average final salary for each year of creditable service that the member would have received had the member continued to work until age 60, whichever is less. For Selection C members, the disability retirement allowance is the greater of (1) an ordinary disability retirement allowance calculated using the Teachers' Retirement System formula given above; or (2) an ordinary disability retirement allowance calculated using the Teachers' Pension System formula.

Accidental Disability Retirement Allowances

If during the course of job performance, a member becomes totally and permanently disabled as the direct result of an accidental injury, the member is eligible to receive an accidental disability retirement allowance. Prior to receiving this benefit, the medical board must certify that the member is, in fact, totally and permanently disabled. The accidental disability allowance is equal to the lesser of (1) the sum of an annuity determined as the actuarial value of the member's accumulated contributions and two-thirds (66.7 percent) of the member's average final salary; or (2) the member's average final salary.

Disability retirement allowances for Teachers' Retirement System members who are State employees are generally reduced by workers' compensation benefits paid after retirement if, and to the extent that, such benefits are for the same injury and the same period of time for which the retirement benefits are paid. However, a workers' compensation benefit reduction cannot reduce any retirement allowance to less than the amount necessary to cover the retiree's monthly health insurance premiums. Disability retirement allowances for Teachers' Retirement System members who are employees of participating governmental units are not reduced by workers' compensation benefits. Instead, the offset is taken against any workers' compensation benefits payable for the same injury and the same period of time for which the retirement benefits are paid.

Post Retirement Health Insurance

Members employed by the State may participate in the State Employee and Retiree Health and Welfare Benefits Program after retirement. Eligibility for post-retirement health benefits is discussed in Chapter 4 of this handbook.

Members employed by a participating governmental unit are entitled to the post retirement health insurance provided by that particular employer.

Vesting

Members are vested in the system after five years of service. They may begin to draw a deferred retirement allowance at age 60 if they leave State employment before retirement. However, members who withdraw their contributions after leaving service are no longer entitled to a vested benefit. The vested benefit is equal to the normal retirement allowance computed on the basis of the member's accumulated creditable service and average final salary at the point of separation. If a vested member dies prior to age 60 and before withdrawing his or her accumulated contributions plus interest, the accumulated contributions with interest are paid to the designated beneficiary.

Teachers' Pension System

The Teachers' Pension System was established on January 1, 1980, with participation a condition of employment for all State and local teachers and certain employees of the boards of education, public libraries, and community colleges hired after December 31, 1979 (unless those employees elected to participate in an optional retirement program). All Teachers' Pension System members, except for those who transfer from the Teachers' Retirement System after April 1, 1998, receive the enhanced benefits enacted in 1998 and 2006. Membership in the Teachers' Pension System is summarized in Exhibit 11.2.

Exhibit 11.2
Membership in the Teachers' Pension System
as of June 30, 2005

Membership:	
Active Members	91,535
Deferred Vested Members	18,792
Retirees and Beneficiaries	17,170
Composite:	
Average Age – Active Members	43.7 Years
Average Years of Service – Active Members	10.6 Years
Average Annual Salary – Active Members	$50,152
Average Age – Retirees and Beneficiaries	65.7 Years
Average Annual Benefit – Retirees and Beneficiaries	$14,171

Source: Maryland State Retirement Agency

Member Contributions

The 2006 pension enhancement legislation provided for an increase in member contributions from 2 to 5 percent of the member's annual compensation that will be phased in over a three-year period (3 percent on July 1, 2006; 4 percent on July 1, 2007; and 5 percent on July 1, 2008, and thereafter). Teachers' Pension System members who transferred from Teachers' Retirement System after April 1, 1998, are required to contribute 5 percent of earnable compensation in excess of the Social Security Wage Base.

Teachers' Pension System members who separate from service prior to accumulating five years of creditable service receive refunds of their accumulated contributions, if any, plus interest. Members with more than five years of creditable service are vested in the system, and they are eligible to receive benefits at some point in the future.

Full Service Retirement Eligibility and Allowances

Members are eligible for a full service retirement allowance upon accumulating 30 years of eligible service, regardless of age. Absent 30 years of eligibility service, members must meet one of the following conditions to be eligible for full service retirement allowance:

- age 62 with five years of eligibility service;
- age 63 with four years of eligibility service;
- age 64 with three years of eligibility service; or
- age 65 or older and two years of eligibility service.

As a result of the enactment of Chapter 110 of 2006, the full service retirement allowance for Teachers' Pension System members is equal to 1.8 percent of average final salary earned after July 1, 1998, plus the greater of 1.2 percent of average final salary for each year of service earned prior to July 1, 1998. The average final salary is based on a member's highest three consecutive years of compensation.

(1.8% x Average Final Salary x Years of Creditable Service after July 1, 1998) + the greater of (1.2% x Average Final Salary x Years of Creditable Service prior to July 1, 1998 or the Teachers' Pension System Retirement Allowance for Creditable Service prior to July 1, 1998)

However, for members who transferred to the Teachers' Pension System from the Teachers' Retirement System after April 1, 1998, the full service retirement allowance is 0.8 percent of the highest three consecutive years' average final salary up to the Social Security Integration Level, plus 1.5 percent of average final salary in excess of the Social Security Integration Level, multiplied by the number of years of accumulated creditable service. For the purpose of computing pension allowances, the Social Security Integration Level is the average of the Social Security Wage Base for the 35 years immediately prior to the year of retirement.

(0.8% x Average Final Salary up to the Social Security Integration Level + 1.5% x Average Final Salary in excess of the Social Security Integration Level) x Years of Creditable Service

For all members of the Teachers' Pension System, if all required contributions are not made prior to retirement, the member's retirement allowance is reduced to reflect the actuarial equivalent of the unpaid contributions plus interest to the date of retirement.

Early Retirement

Teachers' Pension System members are eligible for early retirement if they are at least 55 years of age with at least 15 years of eligibility service. The early retirement allowance is equal to the full service pension allowance reduced by 0.5 percent for each month by which the retirement date precedes the date on which the member reaches age 62. The maximum reduction for early retirement is 42 percent.

Cost-of-living Adjustments

Teachers' Pension System members receive a cost-of-living adjustment based on the consumer price index for all urban consumers as published by the U.S. Bureau of Labor Statistics. COLAs are effective July 1 of each year. The maximum COLA for Teachers' Pension System members is 3 percent, compounded annually.

Death Benefits

A death benefit is paid if a Teachers' Pension System member is killed in the line of duty or dies after completing one year of eligibility service. The benefit provided upon death is a lump sum payment equal to the member's annual earnable compensation at the time of death plus all accumulated contributions. A surviving spouse may elect to receive a 100 percent survivor annuity rather than a lump sum payment if the spouse is the sole primary designated beneficiary and the member was eligible to retire, had at least 25 years of eligibility service, or was at least 55 years of age with at least 15 years of eligibility service. A 100 percent survivor annuity means that upon the death of the retiree the entire monthly payment continues to be paid to the beneficiary for the remainder of the beneficiary's life.

Optional Forms of Payment

A retirement reserve is established for each member who retires. This reserve is the amount needed, with interest, to pay for the member's normal retirement allowance. When an option is chosen, the retirement reserve does not change. However, the member's normal service retirement allowance is reduced by an actuarially determined factor to provide a potential death benefit for the member's designated beneficiary. There are six optional forms of payment; these options are the same as those discussed under "optional forms of payment" in the preceding discussion of the Teachers' Retirement System.

Ordinary Disability Retirement Allowances

A member is eligible for an ordinary disability retirement allowance after completing five years of eligibility service and after receiving certification from the medical board that the member is permanently incapable of performing the necessary functions of the job. The disability retirement allowance is equal to the full service pension allowance if the member is at least 62 years of age on the date of retirement. Otherwise, the allowance equals the full service pension allowance computed as though the member had continued to accrue service credits until age 62 without any change in the rate of earnable compensation.

Accidental Disability Retirement Allowances

If during the course of job performance, a member becomes totally and permanently disabled as the direct result of an accidental injury, the member is eligible to receive an accidental disability retirement allowance. Prior to receiving this benefit, the medical board must certify that the member is, in fact, totally and permanently disabled. The accidental disability allowance is equal to the lesser of (1) the sum of an annuity determined as the actuarial value of the member's accumulated contributions and two thirds (66.7 percent) of the member's average final salary; or (2) the member's average final salary.

Teachers' Pension System members who apply for disability retirement within two years of transfer from the Teachers' Retirement System receive disability benefits as provided under the Teachers Retirement System, reduced by the amount that the member received in refunded contributions.

Disability retirement allowances for Teachers' Pension System members who are State employees are generally reduced by workers' compensation benefits paid after retirement if, and to the extent that, such benefits are for the same injury and the same period of time for which the retirement benefits are paid. However, a workers' compensation benefit reduction cannot reduce any retirement allowance to less than the amount necessary to cover the retiree's monthly health insurance premiums. Disability retirement allowances for Teachers' Pension System members who are employees of participating governmental units are not reduced by workers' compensation benefits. Instead, the offset is taken against workers' compensation benefits for all employees of participating governmental units.

Post Retirement Health Insurance

Members employed by the State may participate in the State Employee and Retiree Health and Welfare Benefits Program after retirement. The eligibility criteria for such benefits are discussed in Chapter 4 of this handbook.

Members employed by a participating governmental unit are entitled to the post retirement health insurance provided by that particular employer.

Vesting

Members are vested in the system after five years of service. They may begin to draw a deferred retirement allowance at age 62 if they leave State service before retirement. The vested benefit is equal to the normal retirement allowance computed on the basis of the member's accumulated creditable service and average final salary at the point of separation.

A Teachers' Pension System member may be eligible for a reduced deferred allowance upon attaining age 55 if the member has at least 15 years of eligibility service. If a vested member retires before age 62, the vested allowance is reduced by 0.5 percent for each month by which the member's retirement date precedes the date on which the member turns 62.

Teachers' Pension System members who elect to withdraw their accumulated contributions remain eligible to receive the employer-provided share of the vested benefit. If vested members do not withdraw their contributions and die before age 62, their accumulated contributions plus interest are paid to the designated beneficiaries.

Employees' Retirement System

The Employees' Retirement System was established on October 1, 1941, and provides benefits for State employees, participating local employees, and certain elected and appointed officials. Until January 1, 1980, membership in the system was a condition of employment for eligible employees. Effective January 1, 1980, the Employees' Retirement System was closed to new membership when the State established the Employees' Pension System. Prior to January 1, 2005, Employees' Retirement System members were eligible to transfer to the Employees' Pension System and receive a return of all accumulated contributions with interest. Those individuals who chose to transfer after April 1, 1998, are not eligible to receive either the 1998 or 2006 enhanced Employees' Pension System benefit. Exhibit 11.3 illustrates membership in the Employees' Retirement System, as of June 30, 2005.

Exhibit 11.3
Membership in the Employees' Retirement System
as of June 30, 2005*

Membership:	
Active Members	9,869
Deferred Vested Members	1,291
Retirees and Beneficiaries	24,633
Composite:	
Average Age – Active Members	45.1 Years
Average Years of Service – Active Members	16.2 Years
Average Annual Salary – Active Members	$42,934
Average Age – Retirees and Beneficiaries	73.7 Years
Average Annual Benefit – Retirees and Beneficiaries	$15,025

*Includes Members of the Maryland General Assembly and Correctional Officers

Source: Maryland State Retirement Agency

Due to a deterioration in the financial and actuarial condition of the system, legislation was enacted in 1984 to modify the benefit and contribution structure of the system. As a result of the 1984 legislation, Employees' Retirement System members who wanted to remain in the system were required to make one of three choices: (1) Selection A – pay additional employee contributions for an unlimited COLA; (2) Selection B – receive a limited COLA; or (3) Selection C – receive a benefit based on a combined formula from both the Employees' Retirement System and the new Employees' Pension System. At retirement, a Selection C benefit is calculated as an Employees' Retirement System benefit for service credits accrued prior to the election of Selection C and as an Employees Pensions System benefit for service credits accrued after the election.

Member Contributions

Employees' Retirement System members who elected Selection A contribute 7 percent of earnable compensation in return for unlimited annual COLAs after retirement. Selection B members contribute 5 percent of earnable compensation in return for COLAs which are limited to 5 percent annually after retirement.

Beginning July 1, 2006, member contributions for Selection C members will be increased from 2 to 5 percent of the member's annual earnable compensation, to be

phased in over a three-year period (3 percent on July 1, 2006; 4 percent on July 1, 2007; and 5 percent on July 1, 2008, and thereafter). In return for this contribution, Selection C members receive a two-part COLA based on the amount of service credits accrued prior to the election of Selection C and the amount of service credits accrued after the election. For the service credits accrued prior to the member choosing Selection C, the COLA is unlimited unless the member chose Selection B prior to Selection C, in which case the COLA is limited to 5 percent. For service credits accrued after the member chose Selection C, the COLA is limited to 3 percent.

Members who separate from service prior to accumulating five years of creditable service receive refunds of their accumulated contributions plus interest. Members with more than five years of creditable service are vested in the system and thus eligible to receive retirement benefits upon reaching the normal retirement age.

Full Service Retirement Eligibility and Allowances

Members are eligible for a full service retirement allowance upon attaining age 60 or after 30 years of eligibility service regardless of age. The benefit formula for full service retirement for Selection A and B members is calculated as 1/55 (1.8 percent) of the highest three years' average final salary multiplied by the number of years of creditable service.

1.8% x Average Final Salary x Years of Creditable Service.

Selection C members receive a retirement allowance that utilizes the benefit formulas from both the Employees' Retirement System and the Employees' Pension System. At retirement, this two-part benefit is calculated as an Employees' Retirement System benefit for service credits accrued prior to the election of Selection C and as an Employees' Pension System benefit for service credits accrued after the election.

If all required contributions are not made, the member's retirement allowance is reduced to reflect the actuarial equivalent of the unpaid contributions plus interest to the date of retirement.

Early Retirement

Employees' Retirement System members are eligible for early retirement after accumulating at least 25 years of eligibility service prior to age 60. For Selection A and B members, the early retirement allowance is equal to the full-service retirement

allowance reduced by 0.5 percent for each month by which the member's retirement date precedes the normal retirement date. The maximum reduction for early retirement is 30 percent.

Selection C members receive an early retirement benefit that utilizes the early retirement benefit formulas from both the Employees' Retirement System and the Employees' Pension System. At retirement, this two-part benefit is calculated as an Employees' Retirement System early retirement benefit for service credits accrued prior to the election of Selection C and as an Employees' Pension System early retirement benefit for service credits accrued after the election. However, the maximum reduction under the Employees' Pension System part of the calculation is 42 percent.

Cost-of-living Adjustments

Retirement allowances are adjusted each year based on the consumer price index for all urban consumers as published by the U.S. Bureau of Labor Statistics. COLAs are effective July 1 of each year and are applied to all allowances payable for the year. The amount of a beneficiary's COLA depends on the member's selection made on July 1, 1984. Selection A members receive an unlimited annual COLA based on the consumer price index. The COLA for Selection B members is limited to not more than 5 percent annually. The COLA for members who chose Selection C is computed in two parts. For the service credits accrued prior to the member choosing Selection C, the COLA is unlimited unless the member chose Selection B prior to Selection C, in which case the COLA is limited to 5 percent. For service credits accrued after the member chose Selection C, the COLA is limited to 3 percent.

Death Benefits

A death benefit is paid if an Employees' Retirement System member is killed in the line of duty or dies after completing one year of eligibility service. The benefit provided upon death is a lump sum payment equal to the member's annual earnable compensation at the time of death plus all accumulated contributions. A surviving spouse may elect to receive a 100 percent survivor annuity rather than a lump sum payment if the spouse is the sole primary designated beneficiary and the member was eligible to retire or was at least 55 years of age with at least 15 years of eligibility service. A 100 percent survivor annuity means that upon the death of the retiree the entire monthly payment continues to be paid to the beneficiary for the remainder of the beneficiary's life.

Optional Forms of Payment

A retirement reserve is established for each member who retires. This reserve is the amount needed, with interest, to pay for the member's normal retirement allowance. When an option is chosen, the retirement reserve does not change. However, the member's normal service retirement allowance is reduced by an actuarially determined factor to provide a potential death benefit for the member's designated beneficiary. There are six optional forms of payment; the details of these options are discussed under "Optional Forms of Payment" in the preceding discussion of the Teachers' Retirement System.

Ordinary Disability Retirement Allowances

A member is eligible for an ordinary disability retirement allowance after completing five years of eligibility service and after receiving certification from the medical board that the member is permanently incapable of performing the necessary functions of the job. The disability retirement allowance is equal to the greater of (1) a normal service retirement allowance [1/55 (1.8 percent) of the highest three years' average final salary]; or (2) either 25 percent of the member's average final salary or, if the member is under the normal retirement age (60 years), 1.8 percent of the average final salary for each year of creditable service that the member would have received had the member continued to work until age 60, whichever is less. For Selection C members, the disability retirement allowance is the greater of (1) an ordinary disability retirement allowance calculated using the Employees' Retirement System formula given above; or (2) an ordinary disability retirement allowance calculated using the Employees' Pension System formula.

Accidental Disability Retirement Allowances

If during the course of job performance, a member becomes totally and permanently disabled as the direct result of an accidental injury, the member is eligible to receive an accidental disability retirement allowance. Prior to receiving this benefit, the medical board must certify that the member is, in fact, totally and permanently disabled. The accidental disability allowance is equal to the lesser of (1) the sum of an annuity determined as the actuarial value of the member's accumulated contributions and two thirds (66.7 percent) of the member's average final salary; or (2) the member's average final salary.

Disability retirement allowances for Employees' Retirement System members who are State employees are generally reduced by workers' compensation benefits paid after retirement if, and to the extent that, such benefits are for the same injury and the same

period of time for which the retirement benefits are paid. However, a workers' compensation benefit reduction cannot reduce any retirement allowance to less than the amount necessary to cover the retiree's monthly health insurance premiums. Disability retirement allowances for Employees' Retirement System members who are employees of participating governmental units are not reduced by workers' compensation benefits. Instead, the offset is taken against any workers' compensation benefits payable for the same injury and the same period of time for which the retirement benefits are paid.

Post Retirement Health Insurance

Members employed by the State may participate in the State Employee and Retiree Health and Welfare Benefits Program after retirement. The eligibility criteria for such benefits are discussed in Chapter 4 of this handbook.

Members employed by a participating governmental unit are entitled to the post retirement health insurance provided by that particular employer.

Vesting

Members are vested in the system after five years. They may begin to draw a deferred retirement allowance at age 60 if they leave State service before retirement. However, members who withdraw their contributions after leaving service are no longer entitled to a vested benefit. The vested benefit is equal to the normal retirement allowance computed on the basis of the member's accumulated creditable service and average final salary at the point of separation. If a vested member dies prior to age 60 and before withdrawing his or her accumulated contributions plus interest, the accumulated contributions with interest are paid to the designated beneficiary.

Employees' Pension System

The Employees' Pension System was established on January 1, 1980, with participation a condition of employment for all State employees (other than those eligible for participation in another system) hired after December 31, 1979. As of July 1, 1998, Employees' Pension System members who were State employees, except for those who transfer from the Employees' Retirement System after April 1, 1998, became eligible for the enhanced Employees' Pension System enacted in 1998. As of July 1, 1999, Employees' Pension System members who were employees of governmental units also received the enhanced Employees' Pension System benefit retroactive to July 1, 1998, provided the participating governmental unit elected participation in the Employees' Pension System enhancement. State Employees' Pension System employees who transferred from Employees' Retirement System after April 1, 1998, and employees of

participating governmental units that did not elect the enhancement receive the pre-1998 Employees' Pension System benefit formula.

As of July 1, 2006, Employees' Pension System members who are State employees, except for those who transfer from the Employees' Retirement System after April 1, 1998, are again eligible for an enhanced pension benefit. In addition, local governmental units who are participating in the Employees' Pension System on June 20, 2006, have the option of electing to participate in the enhanced benefits if such an election is made by June 30, 2007. Participating local governmental units who join the Maryland State Retirement and Pension System after July 1, 2006, do so under the 2006 enhanced benefit structure. Exhibit 11.4 summarizes membership in the Employees' Pension System, as of June 30, 2005.

Exhibit 11.4
Membership in the Employees' Pension System
as of June 30, 2005

Membership:	
Active Members	76,787
Deferred Vested Members	26,058
Beneficiaries	24,525
Composite:	
Average Age – Active Members	46.8 Years
Average Years of Service – Active Members	11.8 Years
Average Annual Salary – Active Members	$41,509
Average Age – Retirees and Beneficiaries	66.2 Years
Average Annual Benefit – Retirees and Beneficiaries	$8,318

Source: Maryland State Retirement Agency

Member Contributions

The 2006 pension enhancement legislation provided for an increase in member contributions from 2 to 5 percent of the member's annual compensation that will be phased in over a three-year period (3 percent on July 1, 2006; 4 percent on July 1, 2007; and 5 percent on July 1, 2008, and thereafter). Employees' Pension System members who do not receive the enhanced benefit are required to contribute 5 percent of earnable compensation in excess of the Social Security Wage Base.

Employees' Pension System members who separate from service prior to accumulating five years of creditable service receive refunds of their accumulated contributions, if any, plus interest. Members with more than five years of creditable service are vested in the system, and thus eligible to receive benefits at some point in the future.

Full Service Retirement Eligibility and Allowances

Members are eligible for a full service retirement allowance upon accumulating 30 years of eligible service regardless of age. Absent 30 years of eligibility service, members must meet one of the following conditions to be eligible for a full-service retirement allowance:

- age 62 with five years of eligibility service;
- age 63 with four years of eligibility service;
- age 64 with three years of eligibility service; or
- age 65 or older and two years of eligibility service.

As a result of the enactment of Chapter 110 of 2006, the full service retirement allowance for Employees' Pension System members is equal to 1.8 percent of average final salary earned after July 1, 1998, plus the greater of 1.2 percent of average final salary for each year of service earned prior to July 1, 1998 or the Employees' Pension System benefit described below for service earned prior to July 1, 1998. The average final salary is based on a member's highest three consecutive years of compensation.

(1.8% x Average Final Salary x Years of Creditable Service after July 1, 1998) + the greater of (1.2% x Average Final Salary x Years of Creditable Service prior to July 1, 1998 or the Employees' Pension System Retirement Allowance for Creditable Service prior to July 1, 1998)

The full service retirement allowance for Employees' Pension System members who do not receive the enhanced Employees' Pension System formula is 0.8 percent of the highest three consecutive years' average final salary up to the Social Security Integration Level, plus 1.5 percent of average final salary in excess of the Social Security Integration Level, multiplied by the number of years of accumulated creditable service. For the purpose of computing pension allowances, the Social Security Integration Level is the average of the Social Security Wage Bases for the 35 years immediately prior to the year of retirement.

(0.8% x Average Final Salary up to the Social Security Integration Level + 1.5% x Average Final Salary in excess of the Social Security Integration Level) x Years of Creditable Service

For all members of the Employees' Pension System, if all required contributions are not made prior to retirement, the member's retirement allowance is reduced to reflect the actuarial equivalent of the unpaid contributions plus interest to the date of retirement.

Early Retirement

Employees' Pension System members are eligible for an early service retirement if they are at least 55 years of age with at least 15 years of eligibility service. The early service retirement allowance is equal to the full service pension allowance reduced by 0.5 percent for each month by which the retirement date precedes the date on which the member reaches age 62. The maximum reduction for early service is 42 percent.

Cost-of-living Adjustments

Employees' Pension System members receive a COLA based on the consumer price index for all urban consumers as published by the U.S. Bureau of Labor Statistics. COLAs are effective July 1 of each year. The maximum COLA for Employees' Pension System members is 3 percent, compounded annually. Employees' Pension System members who do not receive the enhanced Employees' Pension System formula receive a simple, rather than compounded, COLA limited to 3 percent per year.

Death Benefits

A death benefit is paid if an Employees' Pension System member is killed in the line of duty or dies after completing one year of eligibility service. The benefit provided upon death is a lump sum payment equal to the member's annual earnable compensation at the time of death plus all accumulated contributions. A surviving spouse may elect to receive a 100 percent survivor annuity rather than a lump sum payment if the spouse is the sole primary designated beneficiary and the member was eligible to retire, had at least 25 years of eligibility service, or was at least 55 years of age with at least 15 years of eligibility service. A 100 percent survivor annuity means that upon the death of the retiree the entire monthly payment continues to be paid to the beneficiary for the remainder of the beneficiary's life.

Optional Forms of Payment

A retirement reserve is established for each member who retires. This reserve is the amount needed, with interest, to pay for the member's normal retirement allowance. When an option is chosen, the retirement reserve does not change. However, the member's normal service retirement allowance is reduced by an actuarially determined factor to provide a potential death benefit for the member's designated beneficiary. There are six optional forms of payment; the details of these options are the same as those discussed under "Optional Forms of Retirement" in the preceding discussion of the Teachers' Retirement System.

Ordinary Disability Retirement Allowances

A member is eligible for an ordinary disability retirement allowance after completing five years of eligibility service and after receiving certification from the medical board that the member is permanently incapable of performing the necessary functions of the job. The disability retirement allowance is equal to the full service pension allowance if the member is at least 62 years of age on the date of retirement. Otherwise, the allowance equals the full service pension allowance computed as though the member had continued to accrue service credits until age 62 without any change in the rate of earnable compensation.

Accidental Disability Retirement Allowances

If during the course of job performance, a member becomes totally and permanently disabled as the direct result of an accidental injury, the member is eligible to receive an accidental disability retirement allowance. Prior to receiving this benefit, the medical board must certify that the member is, in fact, totally and permanently disabled. The accidental disability allowance is equal to the lesser of (1) the sum of an annuity determined as the actuarial value of the member's accumulated contributions and two-thirds (66.7 percent) of the member's average final salary; or (2) the member's average final salary.

Employees' Pension System members who apply for disability retirement within two years of transfer from the Employees' Retirement System receive disability benefits as provided under the Employees' Retirement System, reduced by the amount that the member received in refunded contributions.

Disability retirement allowances for Employees' Pension System members who are State employees are generally reduced by workers' compensation benefits paid after retirement if, and to the extent that, such benefits are for the same injury and the same

period of time for which the retirement benefits are paid. However, workers' compensation benefit reduction cannot reduce any retirement allowance to less than the amount necessary to cover the retiree's monthly health insurance premiums. Disability retirement allowances for Employees' Pension System members who are employees of participating governmental units are not reduced by workers' compensation benefits. Instead, the offset is taken against workers' compensation benefits for all employees of participating governmental units.

Post Retirement Health Insurance

Members employed by the State may participate in the State Employee and Retiree Health and Welfare Benefits Program after retirement. This program and its eligibility requirements are discussed in Chapter 4 of this handbook.

Members employed by a participating governmental unit are entitled to the post retirement health insurance provided by that particular employer.

Vesting

Members are vested in the system after five years of service. They begin to draw a deferred retirement allowance at age 62 if they leave State service prior to retirement. The vested benefit is equal to the normal retirement allowance computed on the basis of the member's accumulated creditable service and average final salary at the point of separation.

An Employees' Pension System member may be eligible for a reduced deferred allowance upon attaining age 55 if the member has at least 15 years of eligibility service. If a vested member retires before age 62, the vested allowance is reduced by 0.5 percent for each month by which the member's retirement date precedes the date on which the member turns 62.

Employees' Pension System members who elect to withdraw their accumulated contributions remain eligible to receive the employer-provided share of the vested benefit. If vested members do not withdraw their contributions and die before age 62, their accumulated contributions plus interest are paid to the designated beneficiaries.

State Police Retirement System

The State Police Retirement System was established on July 1, 1949, participation a condition of employment for all uniformed officers of the Maryland State Police. The Superintendent of the Maryland State Police may elect membership in either the State

Police Retirement System or the Employees' Pension System. Exhibit 11.5 illustrates membership in the State Police Retirement System, as of June 30, 2005.

Exhibit 11.5
Membership in the State Police Retirement System
as of June 30, 2005

Membership:	
Active Members	1,439
Deferred Vested Members	47
Retirees and Beneficiaries	1,909
Composite:	
Average Age – Active Members	35.3 Years
Average Years of Service – Active Members	10.9 Years
Average Annual Salary – Active Members	$53,934
Average Age – Retirees and Beneficiaries	58.8 Years
Average Annual Benefit – Retirees and Beneficiaries	$36,005

Source: Maryland State Retirement Agency

Member Contributions

State Police Retirement System members are required to contribute 8 percent of annual earnable compensation during employment.

Full Service Retirement Eligibility and Allowances

State Police Retirement System members are eligible for a full service retirement allowance at age 50 or after accumulating 22 years of eligibility service regardless of age. Except for the Superintendent, all members must retire by age 60. The benefit formula for full service retirement equals 2.55 percent of the member's highest three years' average final salary multiplied by the number of years of creditable service. However, the retirement allowance may not exceed 71.4 percent of the member's average final compensation.

(2.55% x Average Final Salary) x Years of Creditable Service

If all required contributions are not made, the member's retirement allowance is reduced to reflect the actuarial equivalent of the unpaid contributions plus interest to the date of retirement.

Early Retirement

State Police Retirement System members are not eligible for early retirement.

Cost-of-living Adjustments

State Police Retirement System retirement allowances are adjusted each year based on the consumer price index for all urban consumers as published by the U.S. Bureau of Labor Statistics. COLAs are effective July 1 of each year and are applied to all allowances payable for the year.

Death Benefits

An ordinary death benefit is paid if the member has accumulated at least one but less than two years of eligibility service prior to the date of death. The ordinary death benefit equals the member's annual earnable compensation at the time of death plus all accumulated member contributions.

A special death benefit is paid if an active member dies after completing at least two years of eligibility service prior to the date of death and does not die in the line of duty. This special death benefit equals 50 percent of the member's annual earnable compensation at the time of death, which is paid as an annuity to the surviving spouse, plus a return of all accumulated member contributions. If the deceased member is not survived by a spouse, the member's children or dependent parents, if any, continue to receive the annuity until the youngest child reaches age 18 or for the life of each dependent parent.

If an active member dies while in the line of duty, a special death benefit equal to two-thirds of the member's final average compensation is paid as an annuity to the surviving spouse, plus a return of all accumulated member contributions. If the deceased member is not survived by a spouse, the member's children or dependent parents, if any, continue to receive the annuity until the youngest child reaches age 18 or for the life of each dependent parent.

If a retired member dies, a special death benefit is paid if the retired member was receiving a service retirement allowance or a disability allowance. This special death benefit equals 50 percent of the member's retirement allowance and is paid as an annuity

to the surviving spouse. If the member is not survived by a spouse, the member's children, if any, will receive the annuity until the youngest child reaches age 18.

Optional Forms of Payment

Generally, State Police Retirement System retirement allowances are paid as a 50 percent joint and survivor annuity to the retiree's spouse, or if there is no spouse, to the retiree's children under the age of 18. If the retiree does not have a living spouse or an eligible child, the retiree may select any one of six payment options. These options are the same as the options discussed under "Optional Forms of Payment" in the preceding discussion of the Teachers' Retirement System.

Ordinary Disability Retirement Allowances

A member of the State Police Retirement System is eligible for an ordinary disability retirement allowance after completing five years of eligibility service and after receiving certification from the medical board that the member is permanently incapable of performing the necessary functions of the job. The ordinary disability retirement allowance is equal to the greater of (1) a full service retirement allowance computed on the basis of the member's accumulated creditable service and average final salary; or (2) 35 percent of the member's average final salary.

Special Disability Retirement Allowances

If a member of the State Police Retirement System becomes totally and permanently incapacitated for duty as a result of an injury arising out of or in the actual performance of the job, the member is eligible for a special disability retirement allowance. The special disability retirement allowance is equal to the lesser of (1) the member's average final salary; or (2) the sum of an annual annuity determined as the actuarial value of the member's accumulated contributions and two-thirds of the member's average final salary.

Disability retirement allowances are generally reduced by workers' compensation benefits paid after retirement if, and to the extent that, such benefits are for the same injury and the same period of time for which the retirement benefits are paid. A workers' compensation benefit reduction cannot reduce any retirement allowance to less than the amount necessary to cover the retiree's monthly health insurance premiums.

Post Retirement Health Insurance

Members may participate in the State Employee and Retiree Health and Welfare Benefits Program after retirement. The eligibility criteria are discussed in Chapter 4 of this handbook.

Deferred Retirement Option Program

State Police Retirement System members are eligible to participate in a Deferred Retirement Option Program. To participate, a member must have at least 22 years of creditable service, but less than 28 years, and be under the age of 60. The maximum period of participation is four years. During the Deferred Retirement Option Program period, a member is deemed retired and the retirement allowance is placed in an account earning 6 percent interest. At the end of the Deferred Retirement Option Program period, the lump sum held in the Deferred Retirement Option Program account is paid to the members who must then end employment and fully retire.

Vesting

State Police Retirement System members are vested in the system after five years of service. They may begin to draw a deferred retirement allowance at age 50 if they leave State service before retirement. The vested benefit is equal to the normal retirement allowance computed on the basis of the member's accumulated creditable service and average final salary at the point of separation.

In lieu of receiving an accrued vested retirement allowance, State Police Retirement System members may withdraw their accumulated contributions within two years of separation. If a member dies prior to age 50 and before withdrawing his or her accumulated contributions, the accumulated contributions with interest are paid to the designated beneficiary.

If a State Police Retirement System member leaves State service prior to accumulating five years of creditable service, the member receives a refund of his or her accumulated contributions plus interest.

Correctional Officers' Retirement System

Through legislation enacted in 1974 and 1982, the State established special benefits for Grade I – VI correctional officers who serve in the cellblocks at State penal institutions and for security attendants at the Clifton T. Perkins Hospital Center.

Chapter 340 of 2006 made correctional dietary, supply, and maintenance officers eligible to receive these special benefits. For actuarial purposes, the Correctional Officers' Retirement System is a subsystem of the Employees' Retirement System. Membership in the subsystem is a condition of employment for eligible correctional officers and security attendants. As of June 30, 2005, there were 6,530 active members in the Correctional Officers' Retirement System. (Membership and composite information for the Employees' Retirement System includes Correctional Officers' Retirement System members.)

Member Contributions

Members are required to contribute 5 percent of earnable compensation.

Full Service Retirement Eligibility and Allowances

Correctional Officers' Retirement System members are eligible for a full service retirement allowance after 20 years of creditable service regardless of age. The last five years of service must be as an eligible correctional officer, security attendant, or a combination of these positions. The benefit formula for full service retirement is calculated as 1.8 percent of the highest three years' average final salary multiplied by the number of years of creditable service.

1.8% x Average Final Salary x Years of Creditable Service

Early Retirement

Correctional Officers' Retirement System members are not eligible for early retirement.

Cost-of-living Adjustments

Correctional Officers' Retirement System members are entitled to unlimited annual COLAs based on the consumer price index for all urban consumers as published by the U.S. Bureau of Labor Statistics. COLAs are effective July 1 of each year and are applied to all allowances payable for the year.

Death Benefits

An ordinary death benefit is paid if the member dies after completing one year of eligibility service. The benefit provided upon death is a lump sum payment equal to the

member's annual earnable compensation at the time of death plus all accumulated contributions. A surviving spouse may elect to receive a 100 percent survivor annuity rather than a lump sum payment if the spouse is the sole primary designated beneficiary and the member was eligible to retire or was at least 55 years of age with at least 15 years of eligibility service. A 100 percent survivor annuity means that upon the death of the retiree the entire monthly payment continues to be paid to the beneficiary for the remainder of the beneficiary's life.

If an active member dies while in the line of duty, a special death benefit equal to two-thirds of the member's final average compensation is paid as an annuity to the surviving spouse, plus a return of all accumulated member contributions. If the deceased member is not survived by a spouse, the member's children or dependent parents, if any, continue to receive the annuity until the youngest child reaches age 18 or for the life of each dependent parent.

Optional Forms of Payment

A retirement reserve is established for each member who retires. This reserve is the amount needed, with interest, to pay for the member's normal retirement allowance. When an option is chosen, the retirement reserve does not change. However, the member's normal service retirement allowance is reduced by an actuarially determined factor to provide a potential death benefit for the member's designated beneficiary. There are six optional forms of payment; the details of these options are the same as those discussed under "Optional Forms of Payment" in the preceding discussion of the Teachers' Retirement System.

Ordinary Disability Retirement Allowances

A member is eligible for an ordinary disability retirement allowance after completing five years of eligibility service and after receiving certification from the medical board that the member is permanently incapable of performing the necessary functions of the job. The disability retirement allowance is equal to the greater of (1) a normal service retirement allowance [1/55 (1.8 percent) of the highest three years' average final salary]; or (2) either 25 percent of the member's average final salary or, if the member is under the normal retirement age (55 or 60 years), 1.8 percent of the average final salary for each year of creditable service that the member would have received had the member continued to work until normal retirement age, whichever is less.

Accidental Disability Retirement Allowances

If during the course of job performance, a Correctional Officers' Retirement System member becomes totally and permanently disabled as the direct result of an accidental injury, the member is eligible to receive an accidental disability retirement allowance. Prior to receiving this benefit, the medical board must certify that the member is, in fact, totally and permanently disabled. The accidental disability allowance is equal to the lesser of (1) the sum of an annuity determined as the actuarial value of the member's accumulated contributions and two-thirds (66.7 percent) of the member's average final salary or; (2) the member's average final salary.

Disability retirement allowances for Correctional Officers' Retirement System members are generally reduced by workers' compensation benefits paid after retirement if, and to the extent that, such benefits are for the same injury and the same period of time for which the retirement benefits are paid. However, a workers' compensation benefit reduction cannot reduce any retirement allowance to less than the amount necessary to cover the retiree's monthly health insurance premiums.

Post Retirement Health Insurance

Correctional Officers' Retirement System members may participate in the State Employee and Retiree Health and Welfare Benefits Program after retirement. The criteria for participation in the retiree health program are discussed in Chapter 4 of this handbook.

Vesting

Correctional Officers' Retirement System members who are correctional officers qualify for a vested benefit at age 55 with at least five years of creditable service. A security attendant at Clifton T. Perkins is eligible to collect a vested benefit at age 60 with at least five years of creditable service. However, members who withdraw their contributions after leaving service are no longer entitled to a vested benefit. The vested benefit is equal to the normal retirement allowance computed on the basis of the member's accumulated creditable service and average final salary at the point of separation. If a vested member dies prior to age 55 or 60 and before withdrawing his or her accumulated contributions plus interest, the accumulated contributions with interest are paid to the designated beneficiary.

Law Enforcement Officers' Pension System

The Law Enforcement Officers Pension System was established on July 1, 1990, with participation a condition of employment for the following public safety employees:

- Department of Natural Resources police and rangers
- Maryland Investigative Services Unit officers (Comptroller's Office)
- Maryland Transportation Authority police officers
- Baltimore City sheriffs and deputy sheriffs
- University of Maryland police officers
- Morgan State University police officers
- State Fire Marshal and deputy State fire marshals
- Maryland Aviation Administration Fire Rescue Service officers
- Department of General Services police officers
- Department of Health and Mental Hygiene police officers
- Motor Vehicle Administration police officers
- Department of Labor, Licensing, and Regulation police officers
- Martin State Airport firefighters
- State Department of Education Division of Rehabilitation Services police officers
- Department of State Police aviators operating aircrafts for the State Emergency Medical System
- Maryland Transit Administration police

- Law enforcement officers and firefighters of an electing governmental unit (Participation is optional for law enforcement officers hired prior to their unit's participation date.)

Exhibit 11.6 summarizes membership in the Law Enforcement Officers' Pension System, as of June 30, 2005.

Exhibit 11.6
Membership in the Law Enforcement Officers' Pension System
as of June 30, 2005

Membership:	
Active Members	1,826
Deferred Vested Members	104
Retirees and Beneficiaries	708
Composite:	
Average Age – Active Members	39.5 Years
Average Years of Service – Active Members	10.7 Years
Average Annual Salary – Active Members	$48,700
Average Age – Retirees and Beneficiaries	56.7 Years
Average Annual Benefit – Retirees and Beneficiaries	$27,534

Source: Maryland State Retirement Agency

The Law Enforcement Officers' Pension System consists of two components – a retirement plan (modeled after the Employees' Retirement System) and a pension plan (modeled after the Employees' Pension System). Retirement plan provisions are applicable to those officers who transferred into the Law Enforcement Officers' Pension System from the Employees' Retirement System. Pension plan provisions are applicable to all other Law Enforcement Officers' Pension System members.

Member Contributions

Member contributions are based on a member's participation in either the pension plan or the retirement plan component. The retirement plan provisions apply to Law Enforcement Officers' Pension System members who transferred from the Employees' Retirement System and did not elect to participate in the pension plan by December 31, 2000. Members in the retirement plan were required to make one of two

choices: (1) Selection A – pay additional employee contributions for an unlimited COLA; or (2) Selection B – receive a limited COLA.

Former Employees' Retirement System members who elected Selection A (unlimited COLAs) contribute 7 percent of earnable compensation if enrolled in the Employees' Retirement System on or after July 1, 1973. Those members enrolled in the Employees' Retirement System before July 1, 1973, contribute the lesser of (1) 7 percent of earnable compensation; or (2) 2 percent more than the rate of contribution in effect on the date of enrollment in the Employees' Retirement System.

Former Employees' Retirement System members who elected Selection B (COLAs limited to 5 percent annually after retirement) contribute 5 percent of earnable compensation if enrolled in the Employees' Retirement System on or after July 1, 1973. Those members enrolled in the Employees' Retirement System before July 1, 1973, contribute the lesser of (1) 5 percent in earnable compensation; or (2) the rate of contribution in effect on the date of enrollment in the Employees' Retirement System.

All other Law Enforcement Officers' Pension System members are subject to the pension plan provisions and contribute 4 percent of earnable compensation.

Law Enforcement Officers' Pension System members who separate from service prior to accumulating five years of creditable service receive refunds of their accumulated contributions, if any, plus interest. Members with more than five years of creditable service are vested in the system, and thus eligible to receive benefits upon reaching the normal retirement age.

Full Service Retirement Eligibility and Allowances

Law Enforcement Officers' Pension System members are eligible for a full service retirement allowance upon at age 50 or after 25 years of eligibility service, regardless of age.

The full service retirement allowance for retirement plan participants is calculated as 2.3 percent of the highest three years' average final salary for the first 30 years of creditable service, plus 1/100 (1 percent) of average final salary for each additional year.

Retirement Plan Participants:

(2.3% x Average Final Salary x First 30 Years of Creditable Service) + (1% x Average Final Salary x Each Additional Year After 30)

The full service retirement allowance for pension plan participants is calculated as 2.0 percent of average final salary up to a maximum benefit of 60 percent (30 years of creditable service).

Pension Plan Participants:

(2% x Average Final Salary x Years of Creditable Service (Up to 30 Maximum)

If all required contributions are not made, the member's retirement allowance is reduced by the actuarial equivalent of the total unpaid contributions plus interest to the date of retirement.

Early Retirement

Law Enforcement Officers' Pension System members are not eligible for early retirement.

Cost-of-living Adjustments

Retirement allowances are adjusted each year based on the consumer price index for all urban consumers as published by the U.S. Bureau of Labor Statistics. COLAs are effective July 1 of each year and are applied to all allowances payable for the year. The amount of a beneficiary's COLA depends on the member's status as a retirement plan participant or a pension plan participant.

The COLA for a retirement plan participant depends on the member's selection. Selection A members receive an unlimited annual COLA based on the consumer price index. The COLA for Selection B members is limited to no more than 5 percent annually.

The COLA for a pension plan participant is limited to 3 percent annually after retirement.

Death Benefits

An ordinary death benefit is paid if the member has accumulated at least one but less than two years of eligibility service prior to the date of death. The ordinary death benefit equals the member's annual earnable compensation at the time of death plus all accumulated member contributions.

A special death benefit is paid if an active member has completed at least two years of eligibility service prior to the date of death and did not die in the line of duty. The special death benefit equals 50 percent of the applicable ordinary disability allowance, which is paid as an annuity to the surviving spouse. If the deceased member is not survived by a spouse, the member's children, if any, will continue to receive the annuity until the youngest child reaches age 18.

If an active member dies in the line of duty, the member receives a special death benefit equal to two-thirds of the member's average final compensation, which is paid as an annuity to the surviving spouse. If the deceased member is not survived by a spouse, the member's children, if any, will continue to receive the annuity until the youngest child reaches age 18.

If a retired member dies, a special death benefit is paid if the retired member was receiving a service retirement allowance or a disability allowance. This special death benefit equals 50 percent of the retirees' retirement allowance, and is paid as an annuity to the surviving spouse. If the member is not survived by a spouse, the member's children, if any, will receive the annuity until the youngest child reaches age 18.

Optional Forms of Payment

Generally, a Law Enforcement Officers' Pension System retirement allowance is paid as a 50 percent joint and survivor annuity to the retiree's spouse, or if there is no spouse to the retiree's children under the age of 18. If the retiree does not have a living spouse or an eligible child, the retiree may select any one of six payment options; the details of these options are the same as those discussed under "Optional Forms of Payment" in the preceding discussion of the Teachers' Retirement System.

Ordinary Disability Retirement Allowances

A member is eligible for an ordinary disability retirement allowance after completing five years of eligibility service and after receiving certification from the medical board that the member is permanently incapable of performing the necessary

functions of the job. The amount of the disability allowance depends on the member's status as a retirement plan participant or a pension plan participant.

The ordinary disability allowance for a Law Enforcement Officers' Pension System member subject to the retirement plan provisions equals the greater of (1) the normal service retirement allowance; or (2) 25 percent of average final salary. For a pension plan participant, the ordinary disability allowance equals the full service pension allowance if the member is at least 50 years of age on the date of retirement. Otherwise, the allowance equals the full service pension allowance computed as though the member had continued to work until age 50 with no change in earnable compensation.

Accidental Disability Retirement Allowances

If during the course of job performance, a Law Enforcement Officers' Pension System member becomes totally and permanently disabled as the direct result of an accidental injury, the member is eligible to receive an accidental disability retirement allowance. Prior to receiving this benefit, the medical board must certify that the member is, in fact, totally and permanently disabled. The accidental disability allowance is equal to the lesser of (1) the sum of an annuity determined as the actuarial value of the member's accumulated contributions and two-thirds (66.7 percent) of the member's average final salary; or (2) the member's average final salary.

Accidental disability retirement allowances for Law Enforcement Officers' Pension System members who are State employees are generally reduced by workers' compensation benefits paid after retirement if, and to the extent that, such benefits are for the same injury and the same period of time for which retirement benefits are paid. However, a workers' compensation benefit reduction cannot reduce any retirement allowance to less than the amount necessary to cover the retiree's monthly health insurance premiums. Accidental disability retirement allowances for Law Enforcement Officers' Pension System members who are employees of participating governmental units are not reduced by workers' compensation benefits. Instead, the offset is taken against any workers' compensation benefits payable for the same injury and the same period of time for which the retirement benefits are paid.

Post Retirement Health Insurance

Members employed by the State may participate in the State Employee and Retiree Health and Welfare Benefits Program after retirement. The criteria for participation in the retiree health insurance program are discussed in Chapter 4 of this handbook.

Members employed by a participating governmental unit are entitled to the post retirement health insurance provided by that particular employer.

Deferred Retirement Option Program

Members are eligible to participate in a Deferred Retirement Option Program. To participate, a Law Enforcement Officers' Pension System member must have at least 25 years of creditable service, but less than 30 years. The maximum period of participation is 5 years. During the Deferred Retirement Option Program period, a member is deemed retired and the retirement allowance is placed in an account earning 6 percent interest. At the end of the Deferred Retirement Option Program period, the lump sum held in the Deferred Retirement Option Program account is paid to the members who must end employment and fully retire.

Vesting

Law Enforcement Officers' Pension System members are vested in the system after five years of service. They may begin to draw a deferred retirement allowance at age 50 if they leave State service before retirement. The vested benefit is equal to the normal retirement allowance computed on the basis of the member's accumulated creditable service and average final salary at the point of separation.

Local Fire and Police System

The Local Fire and Police System was established on July 1, 1990, to provide benefits for all law enforcement officers and fire fighters employed by participating governmental units. Effective January 1, 2005, the Local Fire and Police System is closed to new membership. As a result, law enforcement officers and fire fighters employed by participating governmental units are now eligible to participate in the Law Enforcement Officers' Pension System. Prior to its closure, membership in the Local Fire and Police System was mandatory for all officers and fire fighters hired after the unit's participation date and optional for officers and fire fighters hired prior to the unit's participation date. Exhibit 11.7 summarizes membership in the Local Fire and Police System, as of June 30, 2005.

The Local Fire and Police System consist of two components – a retirement plan (modeled after the Employees' Retirement System) and a pension plan (modeled after the Employees' Pension System). Retirement plan provisions are applicable to those officers and fire fighters who transferred into Local Fire and Police System from the Employees' Retirement System, and the pension plan provisions are applicable to all other officers and fire fighters.

Exhibit 11.7
Membership in the Local Fire and Police System
as of June 30, 2005

Membership:	
Active Members	57
Deferred Vested Members	6
Retirees and Beneficiaries	14
Composite:	
Average Age – Active Members	37.0 Years
Average Years of Service – Active Members	10.4 Years
Average Annual Salary – Active Members	$36,586
Average Age – Retirees and Beneficiaries	57.9 Years
Average Annual Benefit – Retirees and Beneficiaries	$14,694

Source: Maryland State Retirement Agency

Member Contributions

Member contributions are based on the member's participation in either the pension plan or the retirement plan component. Members subject to the retirement plan provisions contribute 7 percent of annual earnable compensation. Members subject to pension plan provisions contribute 5 percent of earnable compensation in excess of the Social Security Wage Base.

Local Fire and Police System members who separate from service prior to accumulating five years of creditable service receive refunds of their accumulated contributions, if any, plus interest. Members with more than five years of creditable service are vested in the system, and thus are eligible to receive benefits upon reaching the normal retirement age.

Full Service Retirement Eligibility and Allowances

Local Fire and Police System members subject to the retirement plan provisions are eligible for a full service allowance after 25 years of eligibility service or upon attaining age 60, regardless of the length of service. Members subject to the pension plan provisions are eligible for a full service retirement allowance after 25 years of eligibility service or upon attaining age 62, regardless of the length of service.

The full service retirement allowance for retirement plan participants is calculated as 1/50 (2.0 percent) of the highest three years' average final salary for the first 30 years of creditable service, plus 1/100 (1 percent) of average final salary for each additional year.

Retirement Plan Participants:
(2% x Average Final Salary x First 30 Years of Creditable Service) + (1% x Average Final Salary x Each Additional Year)

The full service retirement allowance for pension plan participants is calculated as 1.0 percent of average final salary up to the Social Security Integration Level and 1.5 percent of average final salary in excess of the Social Security Integration Level, multiplied by the number of years of accumulated creditable service.

Pension Plan Participants:
(1% x Average Final Salary up to the Social Security Integration Level) + (1.5% x Average Final Salary in excess of the Social Security Integration Level) x Years of Creditable Service

Additionally, pension plan members whose employers do not contribute to Social Security receive a full service retirement allowance equal to 1.5 percent of average final compensation multiplied by the number of years of accumulated creditable service.

If all required contributions are not made, the member's retirement allowances is reduced by the actuarial equivalent of the total unpaid contributions plus interest to the date of retirement.

Early Retirement

Local Fire and Police System members are not eligible for early retirement.

Cost-of-living Adjustments

Retirement allowances are adjusted each year based on the consumer price index for all urban consumers as published by the U.S. Bureau of Labor Statistics. COLAs are effective July 1 of each year and are applied to all allowances payable for the year. COLAs for retirement plan participants are unlimited. COLAs for pension plan participants are limited to 3 percent annually after retirement.

Death Benefits

A death benefit is paid if the member has accumulated at least one year of eligibility service prior to the date of death or died in the line of duty. The ordinary death benefit equals the member's annual earnable compensation at the time of death plus all accumulated member contributions. Under certain circumstances, a surviving spouse may elect to receive a lump sum payment or a monthly annuity.

Optional Forms of Payment

A retirement reserve is established for each member who retires. This reserve is the amount needed, with interest, to pay for the member's normal retirement allowance. When an option is chosen, the retirement reserve does not change. However, the member's normal service retirement allowance is reduced by an actuarially determined factor to provide a potential death benefit for the member's designated beneficiary. There are six optional forms of payment; the details of these options are the same as those discussed under "Optional Forms of Payment" in the preceding discussion of the Teachers' Retirement System.

Ordinary Disability Retirement Allowances

A member is eligible for an ordinary disability retirement allowance after completing five years of eligibility service and after receiving certification from the medical board that the member is permanently incapable of performing the necessary functions of the job. The amount of the disability allowance depends on the member's status as a retirement plan participant or a pension plan participant.

The ordinary disability retirement allowance for a Local Fire and Police System member subject to the retirement plan provisions equals the greater of (1) the member's normal service retirement allowance; or (2) 25 percent of the member's average final salary. For a pension plan participant, the ordinary disability allowance equals the normal service retirement allowance if the member is at least 62 years of age on the date of retirement. Otherwise, the allowance equals the normal service retirement allowance computed as though the member had continued to work until age 62 with no change in earnable compensation.

Accidental Disability Retirement Allowances

If during the course of job performance, a Local Fire and Police System member becomes totally and permanently disabled as the direct result of an accidental injury, the member is eligible to receive an accidental disability retirement allowance. Prior to

receiving this benefit, the medical board must certify that the member is, in fact, totally and permanently disabled. The accidental disability allowance is equal to the lesser of (1) the sum of an annuity determined as the actuarial value of the member's accumulated contributions and two-thirds (66.7 percent) of the member's average final salary; or (2) the member's average final salary.

Disability retirement allowances for Local Fire and Police System members are not reduced by workers' compensation benefits. Instead the offset is taken against workers' compensation benefits payable for the same injury and the same period of time for which the retirement benefits are paid.

Post Retirement Health Insurance

Members of the Local Fire and Police System are entitled to the post retirement health insurance provided by their local employer.

Vesting

Local Fire and Police System members are vested in the system after five years of service. They may begin to draw a deferred retirement allowance at age 62 if they leave State service prior to retirement. The vested benefit is equal to the normal retirement or pension allowance computed on the basis of the member's accumulated creditable service and average final salary at the point of separation.

Vested Local Fire and Police System pension plan participants may be eligible to receive an early vested allowance after attaining age 55 with at least 15 years of eligibility service. The early vested allowance is equal to the normal retirement allowance computed on the basis of the member's accumulated creditable service and average final salary at the point of separation and reduced by 0.5 percent for each month by which the allowance commences prior to the date on which the member attains age 62.

Local Fire and Police System retirement plan participants may elect to withdraw their accumulated contributions within two years of separation, in lieu of receiving an accrued vested retirement allowance. Local Fire and Police System pension plan participants may also elect to withdraw their accumulated contributions. However, these pension plan participants remain eligible to receive the employer-provided share of the vested benefit. If a vested member dies prior to age 62 and before withdrawing his or her accumulated contributions, the accumulated contributions with interest are paid to the designated beneficiary.

Judges' Retirement System

The Judges' Retirement System was established on June 30, 1969, with membership a condition of employment for all judges of the District Court, the circuit courts, the Court of Appeals, and the Special Court of Appeals. Full-time masters in chancery and masters in juvenile causes appointed prior to June 30, 1969, and Workers' Compensation Commission judges are also members of the system. Exhibit 11.8 summarizes membership in the Judges' Retirement System, as of June 30, 2005.

Exhibit 11.8
Membership in the Judges' Retirement System
as of June 30, 2005

Membership:	
Active Members	282
Deferred Vested Members	15
Retirees and Beneficiaries	316
Composite:	
Average Age – Active Members	56.6 Years
Average Years of Service – Active Members	9.9 Years
Average Annual Salary – Active Members	$120,206
Average Age – Retirees and Beneficiaries	77.6 Years
Average Annual Benefit – Retirees and Beneficiaries	$58,455

Source: Maryland State Retirement Agency

Member Contributions

Members contribute 6 percent of annual earnable compensation during their first 16 years of service. No contributions are required after 16 years of service.

Within six months after terminating service, but before receiving a retirement allowance, former members may elect to withdraw all accumulated member contributions. However, members who withdraw their contributions after leaving service are no longer entitled to a vested benefit.

Full Service Retirement Eligibility and Allowances

Members are eligible for full service retirement allowances at age 60, or upon retirement by order of the Court of Appeals, with at least 16 years of eligibility service. All members must retire by age 70. Except for masters in chancery or masters in juvenile causes, the full service retirement allowance equals two-thirds of the annual earnable compensation paid to an active judge holding a comparable position. The annual retirement allowance is prorated for members retiring with less than 16 years of eligibility service.

66.7% of Annual Earnable Compensation Paid to an Active Judge

Early Retirement

Members are not eligible for early retirement.

Cost-of-living Adjustments

Retirement allowances increase whenever there is a salary adjustment for sitting judges. This linking of post-retirement adjustments to active salaries is regarded as an unlimited compound COLA.

Death Benefits

A death benefit is paid if a member, former member, or retiree dies regardless of age or length of service. The death benefit equals 50 percent of the full service retirement allowance, which is paid as an annuity to the surviving spouse. If the deceased member is not survived by a spouse, the members' children, if any, continue to receive an annuity until the youngest child reaches age 18. In the event a deceased member, former member, or retiree is not survived by a spouse or a minor child, then all accumulated member contributions plus interest are refunded to the estate.

Optional Forms of Payment

Generally, a Judges' Retirement System retirement allowance is paid as a 50 percent joint and survivor annuity to the retiree's spouse, or if there is no spouse, to the retiree's children under the age of 18. If the retiree does not have a living spouse or an eligible child, the retiree may select one of six payment options; the details of these options are discussed under "Optional Forms of Payment" in the preceding discussion of the Teachers' Retirement System.

Disability Retirement Allowances

Judges' Retirement System members are eligible for a disability retirement allowance upon receiving certification from the medical board that the member is permanently incapable of performing the necessary job functions. The disability retirement allowance is equal to the full service retirement allowance based on the member's actual length of service. However, if a member has at least three years of eligibility service, the disability benefit will be no less than one-third of the member's annual earnable compensation at the time of retirement.

Post Retirement Health Insurance

Members of the Judges' Retirement System employed by the State may participate in the State Employee and Retiree Health and Welfare Benefits Program after retirement. The criteria for participation in retiree health insurance are discussed in Chapter 4 of this handbook.

Vesting

Members are immediately vested in the system. Members leaving the bench before age 60 are eligible to receive their service retirement allowance upon attaining age 60. The vested allowance equals the normal service retirement allowance computed on the basis of the member's accumulated creditable service and the salary of active judges holding comparable positions. However, members who withdraw their contributions after leaving service are no longer entitled to a vested benefit.

The Optional Retirement Program

In 1975, the State established the Optional Retirement Program, which is a defined contribution plan for professional employees of public higher education institutions. Professional staff must elect to participate in this optional program or one of the State's defined benefit systems. As of August 31, 2006, 10,679 professional employees are participating in the optional program.

The optional program is a contract between the participant and the selected vendor. There are currently three plan vendors: (1) TIAA/CREF; (2) VALIC; and (3) Fidelity. By the terms of the plan, the State contributes a defined percentage of pay in the name of the participant to the vendor (currently 7.25 percent of salary). These contributions are held in an annuity fund until the participant retires, at which time they are paid out to the participant as a retirement allowance.

The four vendors may also offer supplemental retirement accounts, in accordance with § 401(a), § 403(b), or § 457 of the federal Internal Revenue Code, to Optional Retirement Program participants.

Legislative Pension Plan

In 1966, legislation was enacted that provided for retirement allowances to be paid to legislators under certain conditions. This Legislative Pension Plan was established as a subsystem within the Employees' Retirement System. In 1970, a constitutional amendment was approved by the voters that created a nine-member General Assembly Compensation Commission and specified that the commission must submit salary, expense allowance, and pension recommendations to the legislature every four years. As a result of this constitutional amendment, the Legislative Pension Plan was redesigned but continues to be administered as a subsystem of the Employees' Retirement System.

The General Assembly Compensation Commission is comprised of five persons appointed by the Governor, two appointed by the President of the Senate, and two appointed by the Speaker of the House of Delegates. Appointees serve a four-year term. Members of the General Assembly and State and local government officers and employees are not eligible for appointment to the commission. The commission's recommendations must be submitted by means of a formal resolution to the General Assembly within 15 days after the beginning of the last regular legislative session in a four-year term of office. Through a joint resolution, the General Assembly may reduce or reject the recommendations included in the commission's resolution but may not increase those recommendations. Unless modified by the General Assembly, the commission's resolution has the force of law and takes effect at the beginning of the next General Assembly term. The most recent commission resolution was submitted in January 2006 for the 2007 – 2010 General Assembly term. The resolution included changes to the Legislative Pension Plan; however, the General Assembly rejected those changes in Senate Joint Resolution 2, and the provisions of the Legislative Pension Plan remain as described below. Membership and composite information for the Employees' Retirement System includes Legislative Pension Plan members.

Member Contributions

Legislative Pension Plan members must contribute 5 percent of earnable compensation for the first 22 years and 3 months of service, after which there is no contribution requirement.

Full Service Retirement Eligibility and Allowances

Members are eligible for a full service retirement allowance at age 60. The benefit formula for full service retirement is calculated as 3 percent of the salary of an active legislator in a similar position for each year of service. The maximum allowance is two-thirds of the current legislative salary payable to an active legislator.

3% x the Salary Paid to an Active Legislator in a Similar Position x Number of Years of Service

Early Retirement

Members are eligible for early retirement at age 50. The early retirement allowance is equal to the full service retirement allowance reduced by 6 percent for each year by which the member's retirement date precedes the date on which the member reaches age 60. The maximum reduction for early retirement is 60 percent.

Cost-of-living Adjustments

Retirement allowances increase whenever there is a salary adjustment for sitting legislators. This linking of post-retirement adjustments to active salaries is regarded as an unlimited compound COLA.

Death Benefits

Upon the death of an active legislator with less than eight years of service, the surviving spouse, or the designated beneficiary if there is no surviving spouse, receives a death benefit consisting of one year's salary plus a return of the member's accumulated contributions with interest. If there is no spouse and the member has designated multiple beneficiaries, then the beneficiaries share equally the lump sum payment.

Upon the death of a member with at least eight years of service, the surviving spouse, or the designated beneficiary if there is no surviving spouse, has the option of receiving either the death benefit described above or a survivor's benefit that is equal to 50 percent of the retirement allowance accrued to the date of death. Payment to the surviving spouse begins at the member's death. Payment to the designated beneficiary begins when the beneficiary attains age 60. A designated beneficiary may receive an early benefit at age 50 subject to an actuarial reduction of 0.5 percent per month for each month that the allowance is received prior to age 60. If there is no spouse and the

member has designated multiple beneficiaries, then the beneficiaries share equally the lump sum payment.

Optional Forms of Payment

Rather than the full-service retirement allowance and the 50 percent survivor allowance, members may elect one of the following optional retirement benefits:

- Option A provides a 100 percent joint and survivor annuity, which means that upon the death of the retiree the entire monthly payment continues to be paid to the surviving spouse or designated beneficiary for the remainder of the beneficiary's life.

- Option B provides a 10-year certain plan. When a member dies, the monthly allowance continues for the remainder of the 10-year period beginning on the date of the death or retirement of the member, whichever occurs first; and

- Option C permits an alternative monthly allowance to a surviving spouse or beneficiary that is actuarially equivalent to the retirement allowance and approved by the board of trustees.

Disability Retirement Allowances

A member with at least eight years of creditable service is eligible for a disability retirement allowance if the medical board certifies that the legislator is mentally or physically incapacitated for further performance of legislative duty and such incapacity is likely to be permanent. The disability retirement allowance is equal to the full service retirement allowance.

Post Retirement Health Insurance

Members of the Legislative Pension Plan may participate in the State Employee's Health Insurance Program after eight years of service, regardless of whether they retire directly from State service or terminate service prior to retirement.

The proportion of the State subsidy for health insurance to which a retired legislator may be entitled is determined by the amount of creditable service the retired legislator earned. For example, with nine years of creditable service, a retired member is entitled to 9/16 of the State subsidy provided to active employees. For each additional year of creditable service, an additional 1/16 of the subsidy is earned until, with 16 years

of creditable service, the retired member is entitled to the same State health insurance subsidy as provided to active State employees.

Vesting

Members of the Legislative Pension Plan are vested in the system after eight years of service and may begin to draw a full retirement allowance at age 60. Members with less than eight years of service credit may also become vested by paying the employer and employee contributions for the remaining amount of time they need to reach eight years. By doing so, a legislator is eligible for a retirement allowance equal to 24 percent of the current salary for an active legislator, payable at age 60 (or a reduced benefit upon attaining age 50).

A legislator with less than eight years of service who resigns to become a judge or an official included in the Judicial Pension Plan vests upon resignation. Legislators who withdraw their contributions after leaving service are no longer entitled to a vested benefit.

Retirement Provisions for Governors, Lieutenant Governors, and Constitutional Officers

The Governor's Retirement Plan is a non-contributory plan that provides a pension benefit beginning at age 55. If a Governor serves one term, the pension plan benefit is equal to one-third of the annual salary received by the current Governor in office. If a Governor serves two terms, the benefit is equal to one-half of the annual salary received by the current Governor in office. The retirement allowance for members of the Governor's Retirement Plan increases whenever there is a salary adjustment for the current Governor. This linking of post-retirement adjustments to active salaries is regarded as an unlimited compound cost-of-living adjustment.

If a Governor leaves office due to a disability, the retirement allowance begins immediately and continues through the period of disability. A surviving spouse receives 50 percent of the retirement benefit that the Governor received or would have received.

Lieutenant Governors and other constitutional officers participate in the Employees' Pension System unless the individual served the State prior to January 1, 1980, and elected to remain in the Employees' Retirement System. All provisions of the Employees' Pension System and the Employees' Retirement System apply to participating constitutional officers with two exceptions: (1) constitutional officers have immediate vesting rights; and (2) constitutional officers receive a minimum benefit equal to 10 percent of the salary received in the last term of service.

Chapter 12. Actuarial Aspects

The ultimate cost of any retirement system includes the benefits paid to participants and the expenses incurred for administration. These benefit costs can extend over several decades. For example, a retirement system's liabilities and obligations to a member can extend over the 30 years that the member works plus the 20-30 years that the member is retired. Therefore, a retirement system must have a long-term funding plan that provides for the system's ultimate cost.

Funding Method

There are three basic methods by which retirement systems are funded. They are as follows:

Pay-As-You-Go Funding: The employer funds retirement benefits as they come due by using pension contributions from active employees to pay for benefits of current retirees, with the employer making up any shortfall. No provisions are made to fund retirement benefits when the liabilities are incurred (*i.e.*, during an employee's career), so there is no pension "trust fund" to administer. For example, Social Security is a pay-as-you-go system that uses proceeds from the Social Security payroll tax paid by current employees to pay benefits for current retirees. Although this method produces a low cash outlay in the system's early years before many employees transition to retirement, the liabilities continue to accumulate. As a result, the employer's cash outlay increases dramatically as the system matures and retirement benefits exceed contributions from current employees.

Terminal Funding: At the time of retirement, the employer purchases an annuity to provide the retiree with an income during the remainder of the retiree's life. Again, this method produces a low cash outlay in the early years of a system. However, as the system matures, the employer's cash outlay increases and becomes volatile.

Advance Funding: The employer funds retirement benefits as the liability is incurred by making periodic payments to a fund that is invested to provide future retirement benefits. While this method produces a higher cash outlay in the early years of a system than pay-as-you-go funding, its ultimate cost is less because the obligations and liabilities of the system are partially offset by investment income earned by the pension trust fund. The success of advance funding depends in large part on the accuracy of the actuarial assumptions that are used to project future

benefit obligations, and hence determine the current payments that are made toward those future obligations. If actual experience deviates from those assumptions, the contributions made in the present day may not be sufficient to pay for future benefits. With the enactment of the federal Employee Retirement Income Security Act (ERISA) in 1974, all private defined benefit plans must be advance funded. Public pension plans are exempt from ERISA, but many model their finances on ERISA's requirements.

When the General Assembly established the Teachers' Retirement System, the Employees' Retirement System, and the State Police Retirement System, it intended to advance fund all of these systems. However, in the years between 1962 and 1974, the State granted various benefit enhancements that were not advance funded. Consequently, in 1979, the General Assembly reiterated its intent to advance fund all retirement benefits through the enactment of Chapters 23 and 24. Since that time, all of the State's systems are funded utilizing an advance funding method.

The system currently uses the entry age normal cost method with projection to determine the actuarial accrued liability on which future employer contribution rates will be based. Under this funding method, the total contribution rate consists of two elements, the normal cost rate and the unfunded actuarial liability rate. The normal cost represents the value of retirement benefits earned by employees in the current year, assuming all assumptions are precisely accurate, there are no changes in the plan over the lifetime of the employee, and all of the employee's service is accrued after the establishment of the plan. The accrued liability represents the value of retirement benefits earned in prior years, and includes:

- the liability for benefits earned by employees under pre-existing pension plans before the establishment of the current plan;
- the total liability associated with any retroactive benefit enhancement; and
- the net effect of any previous actuarial gains and losses resulting from deviations from assumptions, or changes in assumptions.

After calculating the normal cost and the accrued liability, the actuary determines the annual contribution that, if all assumptions hold, is sufficient to pay the entire normal cost and the amortized portion of the accrued liability. Under the provisions of ERISA, private plans must amortize their accrued liability as annual level dollar amounts over a period of no more than 40 years. Actuarial gains and losses must be amortized over a period of no more than 5 years, while benefit improvements and changes in actuarial assumptions must be amortized over periods of no more than 30 or 10 years, respectively. While Maryland is exempt from ERISA requirements, the State applies ERISA's

principles to the administration of its plan. Thus, the unfunded actuarial accrued liability is being amortized, as a level percentage of payroll, in two distinct pieces. The unfunded actuarial accrued liability that existed as of the June 30, 2000, actuarial valuation is being amortized over the remaining 19-year period to June 20, 2020. The new layer of unfunded actuarial accrued liability that arises each year is amortized over a 25-year period from the date it is incurred. For instance, the unfunded liability generated by the retroactive pension enhancement in Chapter 110 of 2006 will be amortized over 25 years beginning July 1, 2006.

Actuarial Assumptions

As indicated above, advance funding is dependent on the accuracy of actuarial determinations based on a variety of demographic and economic assumptions, including:

- *Mortality* – the number of deaths at various ages that are expected to occur annually;
- *Disability* – the number of employees who will retire on some type of disability allowance rather than on a normal service allowance;
- *Turnover* – the number of employees who leave service prior to retirement, either before eligibility for deferred benefits, or after eligibility;
- *Retirement Age* – the age that participants will elect to retire;
- *Future Salary Increases* – an estimate of future salaries for plan participants;
- *Cost-of-living Increases* – an assumption concerning retirees' post retirement cost-of-living increases; and
- *Investment Return* – the rate of return on the system's investment portfolio.

The assumptions used for the actuarial valuation of the State's system are recommended by the State's actuary and adopted by the board of trustees based upon periodic analysis of the system's experience. Differences between assumed and actual experience (actuarial gains and losses) affect the system's unfunded actuarial liabilities. Therefore, these actuarial assumptions should be subjected to a periodic "experience investigation," which is a comparison of actual experience with the actuarial assumptions used. The variation of an assumption from actual experience can lead to a gain or loss that must be amortized over time. However, gains and losses often offset each other, and thus do not drastically affect annual costs in the aggregate. Maryland law requires an experience investigation at least once in each five-year period. The next experience study

will be based on actuarial results from the five years through June 30, 2007. Any changes to actuarial assumptions will be reflected in the fiscal 2009 contribution rates.

Following the 2002 actuarial experience study, the State Retirement and Pension Systems Board of Trustees adjusted many of the system's economic and actuarial assumptions. As of June 30, 2006, the following significant assumptions are in place:

- a rate of return on investments of 7.75 percent compounded annually (adopted June 30, 2003);
- projected salary increases of 4 percent compounded annually, attributable to inflation (adopted June 30, 2003);
- additional projected salary increases ranging from 0.94 percent to 6.82 percent per year depending on the system (adopted June 30, 1982);
- post-retirement cost-of-living increases of 3 percent per year (adopted June 30, 2003); and
- rates of mortality, termination of service disablement and retirement based on actual experience during the period from 1981 through 2002 (adjusted June 30, 2003).

Actuarial Funding and the "Corridor" Funding Method

Advance funded systems like the State Retirement and Pension System seek to achieve full actuarial status, or 100 percent funded status, whereby the system's actuarial value of assets equals or exceeds its actuarial liabilities (current and future retiree benefits). As shown in Exhibit 12.1, the State Retirement and Pension System achieved full actuarial funding status in the year 2000 following nearly a decade of better-than-expected investment returns. However, negative investment returns in 2001 and 2002 resulted in a dramatic increase in the system's unfunded liabilities, which put upward pressure on State contribution rates. This prompted the State to revise its approach to move the system back toward full actuarial funding.

Exhibit 12.1 depicts the volatility in the State's total actuarial liabilities, the actuarial value of the assets, and the unfunded actuarial liabilities from fiscal 1991 through 2005. Appendix 10 illustrates the impact of that volatility on the employer contribution rate of each pension subsystem. Contribution rates declined significantly as the system's funding level improved throughout the late 1990s but began increasing as the system's funding status deteriorated in 2001.

Exhibit 12.1
State Retirement and Pension System of Maryland
Actuarial Funding Status
Fiscal 1991-2005
($ in Billions)

Fiscal Year	Total Actuarial Liabilities	Percent Change	Actuarial Value of Assets	Percent Change	Unfunded Actuarial Liabilities	Unfunded Liabilities as a % of Total Liabilities
1991	$19.77	10.0%	$13.40	8.2%	$6.36	32.2%
1992	$20.00	1.2%	$14.38	7.3%	$5.62	28.1%
1993	$21.18	5.9%	$15.68	9.0%	$5.49	25.9%
1994	$21.88	3.3%	$16.27	3.8%	$5.60	25.6%
1995	$23.09	5.5%	$17.67	8.6%	$5.43	23.6%
1996	$24.24	5.0%	$19.46	10.1%	$4.79	19.8%
1997	$25.38	4.7%	$21.92	12.6%	$3.46	13.6%
1998	$27.42	8.0%	$24.85	13.4%	$2.57	9.4%
1999	$28.48	3.8%	$27.65	11.3%	$0.83	2.9%
2000	$30.28	6.3%	$30.65	10.9%	($0.37)	(1.2%)
2001	$32.47	7.2%	$31.91	4.1%	$0.56	1.7%
2002	$34.13	5.1%	$32.32	1.3%	$1.80	5.3%
2003	$34.97	2.5%	$32.63	1.0%	$2.34	6.7%
2004	$36.33	3.9%	$33.48	2.6%	$2.84	7.8%
2005	$39.13	7.7%	$34.52	3.1%	$4.61	11.8%

Source: State Retirement and Pension System Comprehensive Annual Financial Reports

Faced with the prospect of dramatic increases in State contribution rates in 2002, the State adopted a proposal to reduce the volatility of its contribution rates while still maintaining advance funding of its pension liabilities. Under the new approach, which was incorporated into the Budget Reconciliation and Financing Act of 2002 (Chapter 440), the rates for the largest systems – the employees' and teachers' systems – remained fixed at the fiscal 2002 certified rate as long as their funding levels remained in a "corridor" of actuarial funding from 90 to 110 percent.

Under the corridor funding method, contribution rates for plans that fall out of their corridors increase by an amount equal to one-fifth of the difference between the prior year's rate and the "true" actuarial rate necessary to fully fund the systems. This has the effect of stretching out any increase in State contribution rates over five years. Any benefit enhancements or other changes to either plan would require adjustments to the fixed rate. At the time the corridor method was implemented, the employees' systems were 102.2 percent funded, and the teachers' systems were 93.5 percent funded. The employees' systems fell out of their corridor in fiscal 2005, followed by the teachers' systems in 2006.

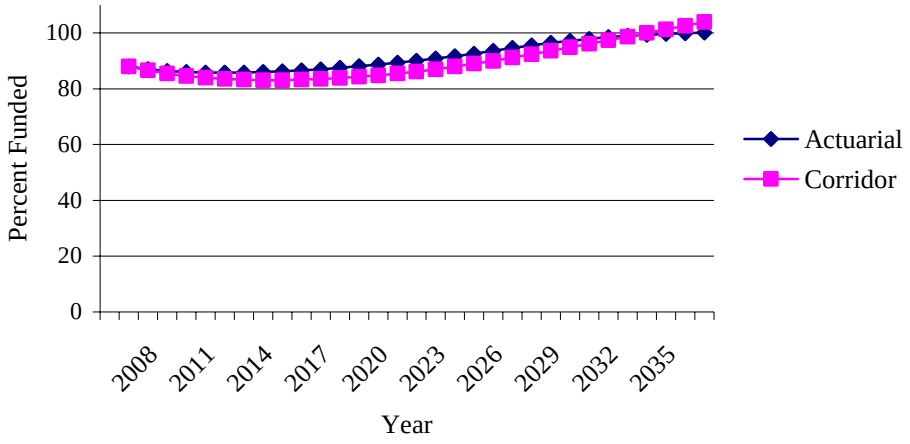
The three smaller plans, the State Police Retirement System, the Judges' Retirement System, and the Law Enforcement Officers' Pension System, and the municipal pool of participating local units, have remained under the prior methodology, whereby the contribution rate is reset by the board of trustees and the actuary each year. The decision to exclude the smaller systems reflected concerns by the actuary and the board of trustees about the relative funding levels of these systems (the State Police Retirement System was 131 percent funded, while the Law Enforcement Officers' Pension System was 57 percent funded). These smaller systems are more volatile and would be harder to keep within corridors.

In the long term, the corridor approach creates greater stability and predictability in budgeting but carries potential risks as well. As long as the employees' and teachers' systems stayed within their corridors, pension contributions increased only as a factor of payroll growth. Under the prior methodology, two consecutive years of poor investment performance would have caused the contribution rate to spike up at the same time that the State was experiencing declining tax revenues. The corridor method insulated the State from having to dramatically increase its pension contribution when it could least afford to do so.

With both the employees' and the teachers' systems having fallen out of their corridor, attention has shifted from the corridor method's short-term benefits to its potential long-term fiscal effects. As Exhibit 12.2 shows, the plans' funded status under the corridor method will fall somewhat below where it would have been in the absence of the corridor method before recovering in later years. The reason for this is that the contribution rates initially do not increase by the full amount necessary to cover the cost of the unfunded liabilities. However, funding levels are not expected to fall below the 80 percent funding level at any time under either funding method. Moreover, under both methods, the plans are projected to reach full actuarial funding in 2035.

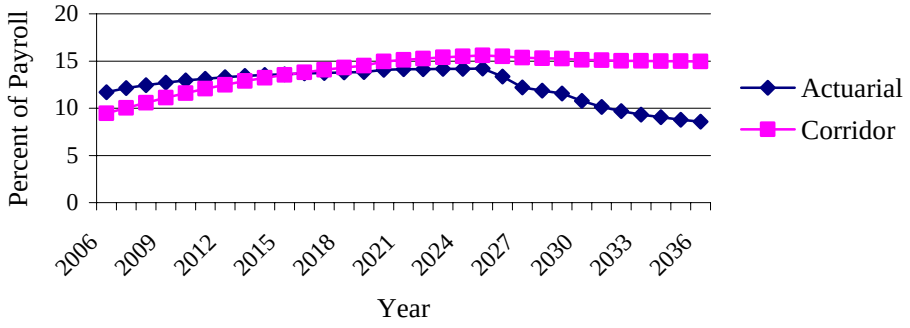
Exhibit 12.3 shows the effects of the corridor method on the combined State contribution rate for the teachers' and employees' plans. Until the year 2016, the corridor rates are below the full funding rates. Afterwards, the corridor rates are substantially greater than the full funding rates to make up lost ground and get the systems to full funding. In essence, the corridor method is buying time for the State Retirement and Pension System to improve its investment performance after a series of very poor years. If it is not able to do so, State pension contribution rates could put significant strain on the State budget in the coming years.

Exhibit 12.2
Projected Funding Ratio
Actuarial vs. Corridor Funding



Source: State Retirement Pension System

Exhibit 12.3
Projected Employer Contribution Rates
Actuarial vs. Corridor Funding



Source: State Retirement Pension System

Chapter 13. Investment Overview

The Board of Trustees of the State Retirement and Pension System is responsible for the system's investment portfolio that, as of May 31, 2006, had a market value of $34.3 billion. The portfolio is Maryland's largest public pool of capital. The State Retirement Agency's investment division is responsible for the day-to-day management of the portfolio in accordance with the policies and objectives established by the board. The chief investment officer, in consultation with the board's outside investment consultant, supervises and monitors the external asset managers and makes recommendations to the board's investment committee regarding investment policy and strategy. All investment funds are managed by external fund managers under the supervision of the chief investment officer and the investment division.

The portfolio began in 1927 with the establishment of the Teachers' Retirement System. Its investments were essentially limited to bonds and real estate until 1965, when the General Assembly authorized investments of up to 25 percent of the system's assets in equities. In 1980, legislation was enacted (Chapter 290) that changed the investment standards from those used by domestic life insurance companies (bonds and real estate) to the "prudent person" standard. As a result, the board of trustees is charged with the responsibility of managing the assets of the system solely in the interests of participants and with the care, skill, and diligence that a prudent person would exercise in the conduct of similar affairs. This standard encourages the diversification of investments among various asset classes to avoid adverse experience, maximize returns, and provide financial stability. The board is required to adopt an investment operations manual setting forth the goals and objectives of the investment program and defining the policies that govern the selection and retention of investments. The only statutory limitation on the board's investment program is that not more than 25 percent of the assets held in common stock may be held in nondividend paying common stocks.

Investment Advisors

Beginning in 2002, the board retained the services of external investment consultants to help it navigate a market environment that has grown increasingly complex, challenging, and competitive. In June 2002, the board selected Ennis Knupp & Associates to act as its general investment consultant. Ennis Knupp provides a broad array of investment consulting services to the board and staff, including asset liability studies, asset allocation advice, and periodic performance review of the system's outside investment managers. Ennis Knupp also provides general information regarding investment trends and developments.

Recently, the system has also hired specialty consultants in the areas of private equity and real estate. In 2004, the board selected Altius Associates Limited to act as the system's private equity consultant. In 2005, it contracted with Pension Consulting Alliance, Inc. to serve as its real estate consultant. In addition to providing advisory, reporting, and analytical services, these two specialty consultants help the system identify and conduct comprehensive due diligence on prospective investments.

External Manager Oversight

With all system assets managed by external managers according to rules established in statute and by the board, oversight of those managers is a key function of the board and investment division staff. Through its manager compliance program, the board seeks to minimize loss due to failings in the external managers' business processes, information systems, or internal controls. Through annual planning processes, the board determines resource needs on an on-going basis while tracking progress and ensuring that each manager is meeting the system's objectives and expectations.

A central tool in the agency's oversight of external managers is the external manager Watch List maintained by investment division staff. The Watch List provides the investment committee and the board with additional information about managers that are not meeting agency expectations. Managers may be added to the Watch List for any of the following reasons:

- organizational issues (change in ownership, team composition, or business organization);
- performance issues (one-, three-, and five-year performance below benchmarks, below peers, or inconsistent with manager's style and risk control); and
- other matters (in general, failure to comply with terms of the contract or to provide adequate client service).

Managers may remain on the Watch List indefinitely, and may be terminated at any time, whether or not they have been placed on the Watch List.

Asset Allocation

Before fiscal 1987, the board's investment strategy for the allocation of system assets called for a 60 percent investment in equities and a 40 percent investment in fixed income securities. However, this asset allocation shifted dramatically in the fall of 1987 when the board of trustees used $2.3 billion from the sale of equities and $1.8 billion

from the sale of fixed income securities to acquire nearly $4.0 billion in additional fixed income securities. These bonds were then "dedicated" to paying the benefits of retirees who were retired as of June 30, 1987. The State's actuary had projected the cash flow required to pay the benefits of these retirees out to the year 2062. By establishing the Dedicated Bond Fund, the system matched the schedule of interest earnings and bond maturity dates to the schedule of these projected benefits. As a result, the system's unfunded liability decreased by approximately $1.4 billion in fiscal 1990, which was largely responsible for the 1.4 percent decrease in the State's overall contribution rate to the systems (from 15.6 percent in fiscal 1989 to 14.2 percent in fiscal 1990). At the end of fiscal 1990, the board added approximately $800 million in additional bonds to the fund, which was dedicated to paying the benefits of retirees who had retired as of June 30, 1989. As part of a restructuring of the system's fixed income program in the first quarter of 2003, the Dedicated Bond Fund was closed and its fixed income securities were transferred to an indexed bond portfolio.

During the late 1990s, when equities were realizing dramatic gains, the board shifted substantial funds from fixed income securities to equities to address what it perceived to be an "under-weighting" of equities in the system's portfolio. As a result, equity investments totaled 69.2 percent of the system's assets on June 30, 2002, while fixed income investments totaled just 22.1 percent. Following the precipitous decline in the equity markets in 2001 and 2002, the board reversed course, adopting a new asset allocation policy in 2002 that established asset allocation targets based on three competing liability oriented objectives as follows:

- achieving and maintaining a fully-funded pension plan;
- minimizing contribution volatility year to year; and
- achieving surplus assets.

The board initially established an equity allocation target of 60 percent, resulting in a gradual diminution in the system's reliance on equity investments, though they still represented a substantial majority of system assets. The equity allocation target was subsequently raised to 65 percent, with sub-asset targets for domestic, global, international, and private equity. The global equity sub-asset target (10 percent) did not take effect until fiscal 2006, resulting in a reduction of the domestic equity target from 48 to 40 percent. As of June 30, 2005, equity totaled 65.3 percent of the system's assets.

Tactical Asset Allocation

In 2004, the board approved a tactical asset allocation program that gives investment division staff the flexibility to deviate slightly from the strategic asset allocation targets without board approval. The purpose of the program is to allow the system to take advantage of short-term market fluctuations. The policy initially allowed actual asset allocations in U.S. equity, international equity, and fixed income to deviate from the strategic targets by 2 percent. In 2006, the board extended the tactical asset allocation program to include global equity and real return strategies, two new asset/ sub-asset classes that were added to the strategic targets in 2005. Also in 2006, the board authorized investment division staff to transfer up to 2 percent of its fixed income holdings into money market accounts to take advantage of rising interest rates.

Exhibit 13.1 illustrates both the board's target and actual asset allocation for fiscal 2005 (before the global equity sub-asset target took effect). For comparison purposes, Exhibit 13.1 also provides actual system asset allocation for fiscal 2001 and the average asset allocation for public pension plans with assets greater than $1 billion, as surveyed by Wilshire Associates for calendar 2005.

Exhibit 13.1
Target and Actual Asset Allocation

	FY 2005 Target Allocation	FY 2005 Actual Allocation	FY 2001 Actual Allocation	2005 Wilshire Average*
Equities				
Domestic	48%	48.8%	48.3%	-
International	15%	15.9%	17.5%	-
Private Equity	2%	0.5%	0.2%	3.0%
Equity Total	65.0%	65.3%	66.0%	64.6%
Real Estate	5.0%	5.1%	5.0%	0.8%
Fixed Income	30%	29.7	27.5	25.9%
Cash	-	-	-	3.3%
Total	**100.0%**	**100.0%**	**100.0%**	**100.0%**

Note: Totals may not sum to 100 due to rounding.

*Wilshire Associates survey data for calendar 2005.

Source: Maryland State Retirement Agency

Equities

Exhibit 13.2 outlines the performance of the system's equity portfolio for fiscal 2005 and provides 3-, 5-, and 10-year time weighted total returns. The system held $20.9 billion in equity investments as of June 30, 2005. With 35.0 percent of total assets, passively managed U.S. equities by far accounted for the largest single sector of the system's portfolio, followed by actively managed U.S. equities, accounting for 13.7 percent. Passively managed assets are invested in funds that track broad market indices such as the Standard & Poors 500 or the Russell 3000. Actively managed assets are invested by managers who seek to beat broad market indices by accepting greater investment risks.

One-year rates of return for passively managed U.S. equities (7.7 percent) exceeded those of actively managed U.S. equities (5.3 percent), but the reverse is true for longer term (3-, 5-, and 10-year) returns. Although the five active managers of international equity have a much larger share of the system's assets (12.1 percent) than the one passive international equity manager (3.8 percent), one-year rates of return for passively managed international equities (15.0 percent) exceed those of the active managers (14.0 percent). Long-term returns are not available for passively managed international equities. All equity sectors achieved positive one- and three-year rates of return, with private and international equity offering the most robust one-year returns.

Excluding private equity, which is discussed below, as of June 30, 2005, the board had hired 17 external equity investment managers. Exhibit 13.2 also details the time weighted total returns for each external equity investment manager from the manager's date of inception. In addition, the benchmark return since the manager's date of inception is also provided.

Fixed Income Securities

Exhibit 13.3 sets forth the system's fixed income performance for fiscal 2005 and provides 3-, 5-, and 10-year time weighted total returns and the time weighted return for each external fixed income investment manager from the manager's date of inception with the system. The system held $9.5 billion in fixed income investments as of June 30, 2002. The 2003 restructuring of the fixed income portfolio that closed the Dedicated Bond Fund also ended the State Retirement Agency's management of more than half of the system's fixed income portfolio, so all fixed income assets were moved to external management.

As of June 30, 2005, actively managed fixed income assets represented 18.3 percent of the system's portfolio, while passively managed fixed income assets

represented 11.3 percent of the portfolio. Based on one-year returns (only one-year returns are available for the passively managed fixed income assets), active fixed income managers outperformed the passively managed fixed income assets (8.5 percent vs. 6.8 percent). Overall, during fiscal 2005 the system's fixed income securities returned 7.8 percent. As of June 30, 2005, the board employed six external fixed income investment managers, all but one of which was hired since 2003.

Real Estate Holdings

Exhibit 13.4 sets forth the performance of the system's real estate managers for fiscal 2005 and provides 3-, 5-, and 10-year time weighted total returns to June 30, 2005, and the time weighted return for each external fixed income investment manager from the manager's date of inception with the system to June 30, 2005. The system held $1.6 billion in real estate investments as of June 30, 2005. Although the primary focus of the direct investment program has been on the acquisition of neighborhood/community shopping centers and suburban office buildings located in Maryland, the board is looking to increase its holdings in multi-family residential properties and industrial properties.

Of the three major asset classes in the system's portfolio (equity, fixed income, and real estate), real estate investments were by far the strongest performing asset class in fiscal 2005. The system's real estate investments returned 27.5 percent for the fiscal year. Contributing to the favorable results was the continuing strong real estate market and significant investments in Real Estate Investment Trusts (52 percent of the system's total real estate portfolio), which returned 36.4 percent. As of June 30, 2005, the board had seven external real estate investment managers; all but one of those managers had served the system for five or more years.

Exhibit 13.2
Equity Performance Comparisons
as of June 30, 2005

	June 30, 2005		Time Weighted Total Returns to June 30, 2005					
	Millions	**% Total**	**1 Year**	**3 Years**	**5 Years**	**10 Years**	**Inception**	**Benchmark Since Inception**
U.S. EQUITY								
(Passive management)								
SSGA Russell 3000 Index *(5/01/03)*	$10,494.9	32.7%	8.1%	-	-	-	16.7%	16.8%
SSGA Equity Growth *(4/01/99)*	$737.8	2.3%	1.9%	6.6%	-7.7%	-	-3.0%	-3.2%
U.S. Equity Passive Subtotal:	**$11,232.7**	**35.0%**	**7.7%**	**9.5%**	**-2.7%**	-	-	-
Russell 3000			8.1%	-	-	-	-	-
S&P 500/BARRA Growth			1.6%	6.4%	-7.9-	-	-	-
(Active management)								
Legg Mason *(3/01/98)*	$841.8	2.6%	7.2%	16.8%	3.7%	-	8.7%	3.3%
S&P 500			6.3%	8.28%	-2.4%	-	-	-
Edgar Lomax *(11/30/99)*	$253.4	0.8%	13.0%	7.6%	8.8%	-	5.6%	5.1%
Russell 1000 Value			14.1%	11.0%	6.6%	-	-	-
Robert Torray *(12/01/99)*	$512.1	1.6%	-0.7%	7.4%	4.9%	-	4.3%	-1.2%
Relational *(1/1/98)*	$275.0	0.86%	9.7%	15.3%	20.7%	-	14.2%	4.3%
S&P 500			6.3%	8.3%	-2.4%	-	-	-
Ariel Capital *(11/01/01)*	$325.6	1.0%	10.1%	10.5%	-	-	13.1%	17.6%
Russell Mid-Cap Value			-	-	-	-	-	-
Wellington *(10/1/03)*	$895.1	2.8%	1.3%	-	-	-	13.5%	8.5%
Russell 1000 Growth			1.7%			-	-	-
Capital Guardian *(10/1/03)*	$494.9	1.5%	5.4%	-	-	-	13.2%	13.7%

Exhibit 13.2 (cont.)
Equity Performance Comparisons
as of June 30, 2005

	June 30, 2005		Time Weighted Total Returns to June 30, 2005					
	Millions	**% Total**	**1 Year**	**3 Years**	**5 Years**	**10 Years**	**Inception**	**Benchmark Since Inception**
Russell 1000			7.9%			-	-	-
Dimensional Fund Advisors *(7/1/83)*	$556.7	1.7%	9.9%	17.7%	12.8%	15.2%	12.5%	9.6%
Russell 2000			-7.1%	3.2%	5.9%	10.2%	-	-
Brown Investment Advisory *(3/1/97)*	$95.7	0.3%	0.6%	12.8%	-5.7%	-	4.5%	3.8%
Ru 2000 Gwth			4.3%	11.4%	-4.5%	-	-	-
T. R. Price *(3/1/97)*	$149.6	0.5%	12.2%	14.6%	16.1%	-	13.9%	12.4%
RU 2000 Value			14.4%	14.2%	16.1%	-	-	-
U.S. Equity Active Subtotal:	**$4,399.8**	**13.7%**	**5.32%**	**10.3%**	**2.8%**	**10.1%**		
INTERNATIONAL EQUITY								
(*Passive management*)								
SSGA International Fund *(5/1/03)*	$1.227.6	3.8%	15.0%	-	-	-	26.1%	25.4%
International Equity Passive Subtotal:	**$1.227.6**	**3.8%**	**15.0%**	**-**	**-**	**-**		
MSCI EAFE			13.6%	-	-	-	-	-
MSCI AC WORLD, ex US			16.5%	-	-	-	-	-
(Active management)								
Artisan Partners *(11/1/03)*	$647.5	2.0%	11.6%	-	-	-	16.2%	18.6%
Cap Guardian *(5/1/00)*	$1,241.4	3.9%	14.5%	11.1%	-1.4%	-	-1.2%	0.2%
Temporary EAFE *(11/1/04)*	$869.7	2.7%	-	-	-	-	10.9%	10.2%
Templeton *(8/31/93)*	$1,122.3	3.5%	15.1%	11.7%	3.5%	9.4%	9.8%	5.4%
International Equity Active Subtotal:	**$3,880.9**	**12.1%**	**13.8%**	**10.3%**	**-1.1%**	**7.0%**	**-**	**-**
MSCI AC WORLD, ex US			16.5%	13.6%	0.4%	-	-	-
MSCI ACWI ex US FREE			16.5%	13.1%	0%	5.5%	-	-
PRIVATE EQUITY								
Harbourvest Partners *(7/1/99)*	$18.8	0.1%	10.6%	-11.1%	-10.3%		-4.0%	
Harbourvest Buyout *(10/1/99)*	$36.1	0.1%	33.1%	8.9%	-2.1%		3.2%	
Abbott Capital *(11/1/99)*	$34.9	0.1%	35.9%	9.1%	-5.9%		1.1%	
Adams St. Partners *(11/1/99)*	$59.8	0.2%	10.7%	3.5%	0.8%		0.7%	
Other Private Equity *(5/1/05)*	$15.5	0.1%	-	-	-			
Private Equity Subtotal	**$162.5**	**0.5%**	**20.9%**	**3.2%**	**-1.8%**	**3.1%**	**2.7%**	**16.4%**
Russell 3000 + 400 BPS			12.3%	14.0%	3.3%	14.8%		
S & P 500 + 500 BPS			11.5%	13.9%	3.4%	15.8%		
Total Equity	**$20,930.0**	**65.3%**	**8.8%**	**9.7%**	**-1.4%**	**8.1%**		

* Inception Date

Source: Maryland State Retirement Agency, July 2006

Exhibit 13.3
Fixed Income Performance Comparisons
as of June 30, 2005

	June 30, 2005		Time Weighted Total Returns to June 30, 2005					
	Millions	% Total	1 Year	3 Years	5 Years	10 Years	Inception	Benchmark Since Inception
DOMESTIC MANAGERS								
(Passive Management)								
SSGA Bond Index *(5/1/03)*	$3,633.4	11.3%	6.8%	-	-	-	4.0%	4.0%
LB Aggregate			6.8%	-	-	-	-	-
Passive Management Subtotal:	**$3,633.4**	**11.3%**	**6.8%**	**-**	**-**	**-**	**-**	**-**
(*Active Management)*								
PIMCO *(6/1/84)*	$1,790.9	5.6%	8.0%	7.0%	8.2%	8.1%	10.4%	9.4%
PIMCO Custom Index			7.4%	6.1%	7.6%	6.9%	-	-
Payden & Rygel *(9/1/03)*	$1,006.0	3.1%	5.9%	-	-	-	5.4%	6.0%
Bridgewater *(12/1/03)*	$1,139.0	3.6%	9.5%	-	-	-	6.8%	5.5%
Western *(9/01/03)*	$1,909.5	6.0%	9.9%	-	-	-	8.3%	6.0%
LB U.S Universal Index			7.4%	-	-	-	-	-
Western Asset-Israel BD *(5/1/05)*	$19.9	0.1%	-	-	-	-	-	-
Active Management Subtotal:	**$5,865.3**	**18.3%**	**8.5%**	**8.2%**	**8.3%**	**7.5%**	**-**	**-**
Total Fixed Income	**$9,502.9**	**29.7%**	**7.8%**	**6.8%**	**7.4%**	**7.1%**	**-**	**-**

Source: Maryland State Retirement Agency

Exhibit 13.4
Real Estate Funds and Direct Estate
as June 30, 2005

	June 30, 2002		Time Weighted Total Returns to June 30, 2002					
	Millions	% Total	1 Year	3 Years	5 Years	10 Years	Inception	Benchmark Since Inception
DIRECT INVESTMENTS								
La Salle Advisors *(3/1/94)*	$397.5	1.2%	14.6%	12.6%	12.5%	11.6%	11.7%	10.4%
Lubert -Adler *(4/30/01)*	$54.7	0.2%	66.3%	31.3%	-	-	21.8%	20.7%
ABR Realty *(1/1/03)*	$26.1	0.1%	13.8%	-	-	-	9.7%	29.8%
COMMINGLED ASSETS								
JP Morgan *(1/1/87)*	$275.0	0.9%	18.4%	11.8%	10.9%	12.2%	8.1%	7.5%
Prudential/Cigna *(1/1/87)*	$30.3	0.1%	35.3%	15.3%	12.2%	12.9%	7.7%	7.5%
NCREIF Property Index			15.5%	10.7%	10.1%	11.0%	-	-
Commingled Assets Subtotal:	**$305.3**	**1.0%**	**18.3%**	**11.1%**	**10.0%**	**11.4%**	**-**	**-**
REAL ESTATE INVESTMENT TRUSTS (REITS)								
La Salle REIT *(4/1/93)*	$857.0	2.7%	36.4%	22.0%	20.2%	15.6%	13.3%	12.7%
LaSalle REIT Benchmark			34.3%	21.4%	20.5%	15.0%	-	-
REITS Subtotal:	**$857.0**	**2.7%**	**36.4%**	**22.0%**	**20.2%**	**15.6%**	**-**	**-**
Cash	$3.0	0.0%						
Total Real Estate	**$1,643.5**	**5.1%**	**27.5%**	**17.1%**	**15.6%**	**13.2%**	**-**	**-**

*Inception Date
Source: Maryland State Retirement Agency

Private Equity

Beginning in fiscal 2000, the system embarked on a program to commit $250 million in private equity investments, which include venture capital. These investments account for 0.2 percent of plan assets and are listed in Exhibit 13.5. The exhibit also lists the managers of the "funds of funds" and their performance through June 30, 2005.

Exhibit 13.5
Private Equity Funds of Funds Program
as of June 30, 2005
($ in Millions)

	Allocation	Funded to 6/30/05	Market Value at 6/30/02	% Funded	Inc. Date
Abbott Capital – Fund III	$50.0	$42.5	$40.8	85.0%	9/30/99
Adams Street Partners	$100.0	$82.1	$76.9	83.4%	9/30/99
Harbor Vest Partners VI					
Partnership Fund	$40.0	$30.0	$21.3	75.0%	5/31/99
Buyout Fund	$60.0	$45.0	$47.3	75.0%	8/31/99
Total Private Equity	**$250.0**	**$199.6**	**$186.5**	**80.4%**	

Source: Maryland State Retirement Agency

The use of "funds of funds" allowed the system to gain rapid and diversified entry to the potentially very lucrative private equity asset class before the system had sufficient expertise to manage direct investments in individual private equity funds. After retaining Altius as its private equity advisor, the board authorized Altius to pursue direct investments in individual private equity funds. Direct investments were capped at 50 percent of the system's private equity program. Direct investment in private equity funds will provide the system with fee savings compared with funds of funds, and also allow it to customize and focus its private equity program.

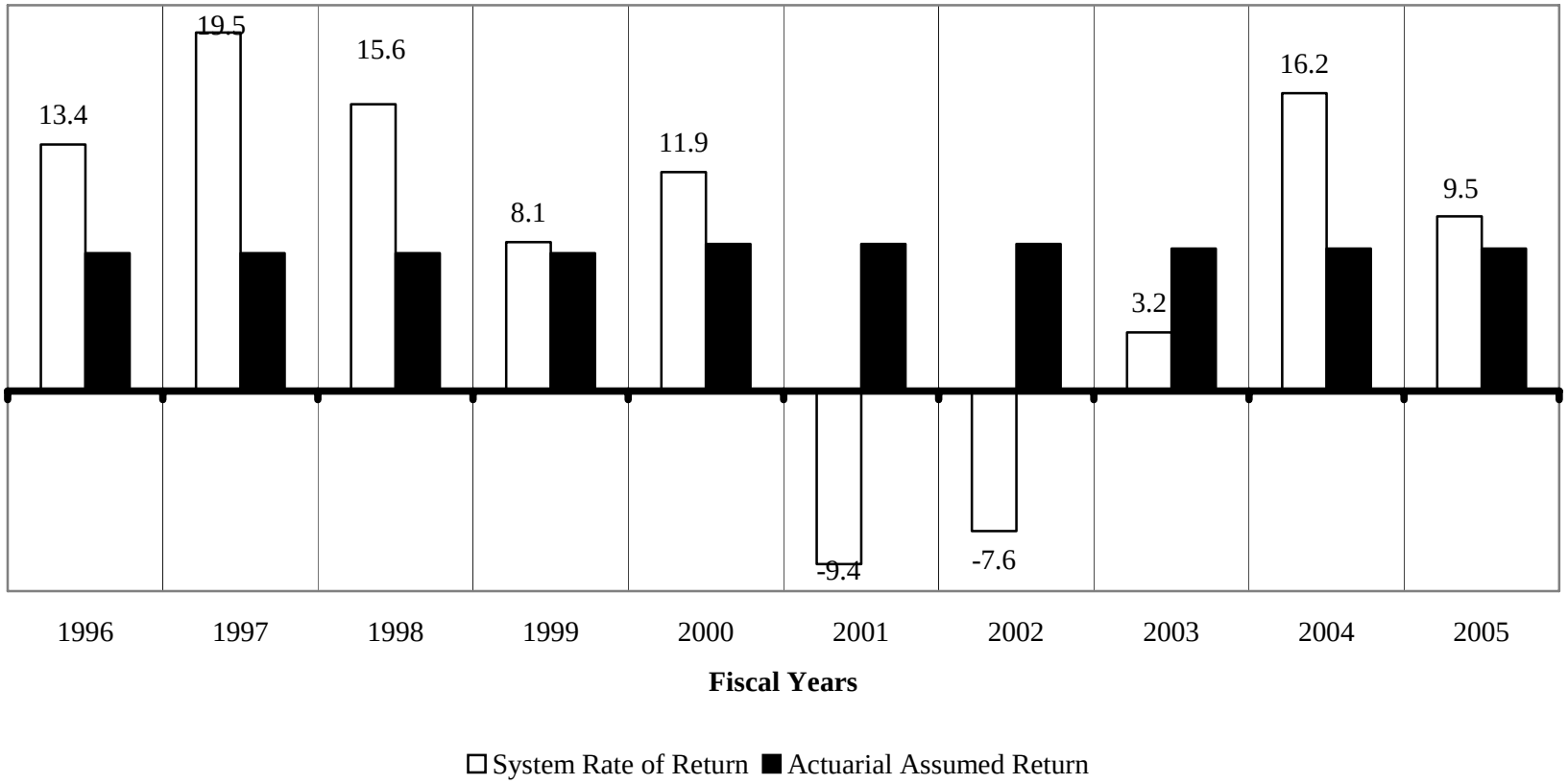
From October 1, 2004 through September 30, 2005, Altius advised the system to invest in 12 private equity funds. In October 2005, the board lifted the cap on direct investments, so that 100 percent of the system's private equity holdings can be made directly into private equity funds. Performance data on these funds are not available due to their recent addition to the system's private equity portfolio.

Investment Performance Overall

Exhibits 13.6 and 13.7 illustrate the systems' 10-year history of total annualized returns and the 10-year growth of the investment portfolio, respectively, from fiscal 1996 through 2005. As indicated in Exhibits 13.6 and 13.7, the system experienced its first negative return in 10 years at the close of fiscal 2001 with a reported loss of 9.4 percent, and the first decrease in market value of its assets since 1996, sustaining a loss of $3.6 billion. These losses continued through fiscal 2002, when the system again reported a loss of 7.6 percent and a further decrease in market value of its assets of $3 billion. The 7.6 percent loss experienced by the system was 15.6 percentage points below the system's actuarial target of 8 percent. (Prior to fiscal 1999, the system's actuarial target was 7.5 percent.)

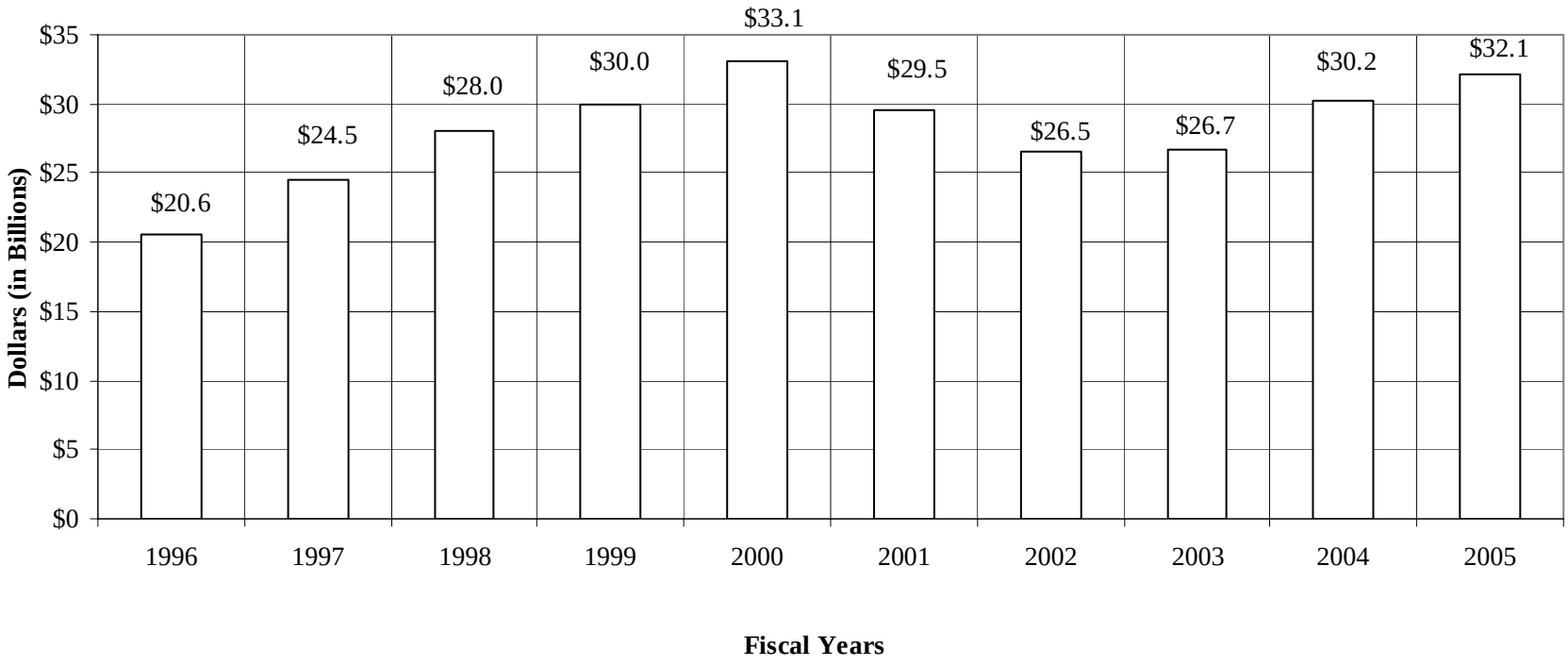
It was not until 2004 when the system's annual investment returns exceed the new actuarial target of 7.75 percent, which was revised downward from 8.0 percent after the three years of poor performance. Exhibit 13.8 details the management and performance of the portfolio by asset class for fiscal 2005, including the 3-, 5-, 7-, and 10-year time-weighted total returns. Despite strong portfolio performance in 2004 and 2005, the losses in fiscal 2001 and 2002 bring the 5- and 10-year portfolio returns below the 7.75 percent actuarial target. Appendix 11 sets forth the fees paid to external investment managers in fiscal 2002.

Exhibit 13.6
Ten-year History of Time Weighted Annual Returns



Source: State Retirement and Pension System of Maryland

Exhibit 13.7
Ten-year Growth of Investment Portfolio



Source: State Retirement and Pension System of Maryland

Exhibit 13.8
Annualized Rates of Return by Asset Class
as of June 30, 2005

	1 Year	3 Years	5 Years	10 Years
Equity	8.8%	9.7%	-1.4%	8.1%
Fixed Income	7.8%	6.9%	7.4%	7.1%
Real Estate	27.5%	17.1%	15.6%	13.2%
Private Equity	20.9%	3.2%	-1.8%	3.1%
Total Fund	**9.5%**	**9.5%**	**1.9%**	**7.6%**

Source: Maryland State Retirement Agency

Chapter 14. Maryland Teachers' and State Employees' Supplemental Retirement Plans

The State of Maryland has authorized four different deferred compensation programs for its employees in accordance with federal income tax laws and regulations. While these programs are not part of the State Retirement and Pension System, they provide an increasingly important supplemental benefit for employees who elect to participate. As of July 1, 2006, the deferred compensation programs authorized by the State were the:

- Deferred Compensation Program operated pursuant to Internal Revenue Code (IRC) Section 457;
- Tax-Deferred Annuity Program for Educational Employees under IRC Section 403(b);
- Savings and Investment Program under IRC Section 401(k); and
- Employer Matching Plan operated under IRC Section 401(a).

The federal rules regarding each of these plans are listed in Appendix 12.

Administration

Prior to 1985, responsibility for the administration of the various programs was scattered among several State agencies. The 457 program was the responsibility of a seven-member Board of Trustees of the State Employees Deferred Compensation Plan. The 403(b) program was the responsibility of the Board of Trustees of the Maryland State Retirement and Pension Systems, and the 401(k) program was the responsibility of the Department of Personnel.

Since enactment of Chapter 741 of 1985, responsibility for the administration of the 457, 403(b), and 401(k) plans has been vested in a single nine-member Board of Trustees of the Maryland Teachers' and State Employees' Supplemental Retirement Plans. In 1998, Chapter 530 allocated the additional responsibility of administering the 401(a) plan to the board. The board members are appointed by the Governor to staggered four-year terms. Three members must be appointed from the following State departments and offices:

- Department of Budget and Management

- Department of Education
- Office of the Comptroller
- Office of the Treasurer
- State Retirement Agency
- Maryland Higher Education Commission

In addition, three members must be appointed from those eligible to participate in the programs, and three must be members of the public who are not eligible to participate, including one who has experience with deferred compensation and salary reduction plans. The composition of the board of trustees as of June 30, 2006, is shown in Appendix 13; at the time, the board had two vacancies.

The board's operating budget for fiscal 2005 was $1,339,000, which was financed by a 0.07 percent fee on the assets of the participants in all of the programs (the fee has since been reduced to 0.05 percent). In addition to a 14-member staff, the board contracts for outside investment advisory services. As of August 1, 2006, investment advisory services are provided by Mercer Investment Consulting. The actual hands-on administration, including participation and investment carrier coordination, is performed by Nationwide Retirement Solutions, Inc.

457 Program – Deferred Compensation

The 457 program has the largest amount of assets of the three deferred compensation programs at this time. Participation is open to (1) officers and employees of the State; (2) members of the General Assembly; (3) judges, clerks, and employees of the various courts; (4) registers and other employees of the Office of the Register of Wills; and (5) part-time and contractual State employees. Participants may defer up to 100 percent of adjusted gross salary annually, not to exceed $15,000 in 2006, which is accomplished through pre-tax payroll deductions. Participants over the age of 50 may contribute an additional $5,000 in "catch-up" contributions. In fiscal 2005, the average asset value per account was $37,596. Exhibit 14.1 sets forth asset, deferral, and participant data for fiscal 2001 through 2005.

Exhibit 14.1
457 – Assets, Deferrals, and Participants
Fiscal 2001-2005
($ in Millions)

	2001	2002	2003	2004	2005
Plan Assets	$1,082.0	$966.3	$983.0	$1,083.8	$1,126.6
Deferrals	$33.5	$38.1	$49.2	$55.5	$54.8
Number of Participants	27,561	28,574	28,453	28,387	28,942

Source: Maryland Supplemental Retirement Plans, Department of Legislative Services

403(b) Program – Tax Sheltered Annuities

Participation in the 403(b) program is limited to employees of the State, local governments, or local boards of education who perform services in or for educational entities. The maximum deferral for 2006 is the lesser of $15,000 annually, or 100 percent of annual adjusted gross salary; as with the 457 plan, participants over the age of 50 may defer an additional $5,000 in catch-up contributions. The board assumed administrative control over this program from the State Retirement and Pension System in October 1986, at which time there were 41 participants with $559,000 in deferrals. As of June 30, 2005, the plan had grown to 1,209 participants and $2.9 million in deferrals. In fiscal 2005, the average asset value per account was $55,622. Exhibit 14.2 sets forth asset, deferral, and participant data for fiscal 2001 through 2005.

Exhibit 14.2
403(b) – Assets, Deferrals, and Participants
Fiscal 2001-2005
($ in Millions)

	2001	2002	2003	2004	2005
Plan Assets	$65.4	$57.0	$56.6	$63.4	$67.2
Deferrals	$2.9	$3.1	$2.8	$2.7	$2.9
Number of Participants	1,350	1,365	1,279	1,231	1,209

Source: Maryland Supplemental Retirement Plans, Department of Legislative Services

401(k) Program – Savings and Investment

Participation is the 401(k) program, which became operational on January 1, 1990, is open to all State officers and employees. Similar to the 457 and 403(b) plans, the maximum annual deferral is 100 percent of adjusted gross salary annually and limits participants' deferrals to $15,000 for 2006, except for those over the age of 50, who can contribute an additional $5,000 annually.

A separate 401(k) account established in 1991 to receive transfer refunds from State employees who were members of the old employees' and teachers' retirement systems and received a return of their accumulated contributions with interest was merged with the original 401(k) deferral plan in December 2002.

In fiscal 2005, the average asset value per account in the 401(k) plan was $20,607. Exhibit 14.3 sets forth asset, deferral, and participant data for fiscal 2001 through 2005.

Exhibit 14.3
401(k) – Assets, Deferrals, and Participants
Fiscal 2001-2005
($ in Millions)

	2001	2002	2003	2004	2005
Plan Assets	$430.2	$430.5	$505.6	$641.6	$733.6
Deferrals	$72.4	$77.5	$82.2	$85.1	$84.6
Number of Participants	35,382	37,175	37,086	35,746	35,601

Source: Maryland Supplemental Retirement Plans, Department of Legislative Services

401(a) Program – Employer Matching Plan

Participation in this plan, which became operational on July 1, 1999, is open to all State employee members of the Employees' Pension System and certain members of the Employees' Retirement System. Chapter 530 of 1998 provides that the State is required to contribute a dollar-for-dollar amount not to exceed $600 for each participant who actively defers to one of the three plans described above. For fiscal 2003, the match was reduced to $500 due to fiscal constraints. The match was subsequently eliminated entirely for fiscal 2004 and 2005 due to the continuing fiscal challenges facing the State. The match was restored to a $400 amount in fiscal 2006 and the full statutory amount of $600 in fiscal 2007.

The presence or absence of the employer match program has a modest but noticeable effect on the number of participants who actively defer to one or more of the three payroll deferral programs. After steadily increasing since the inception of the match program, the percentage of accounts that had active deferrals fell from 68.2 percent in fiscal 2003, before the suspension of the match, to 66.0 percent in fiscal 2005. Six months into fiscal 2006, when the match was restored to $400, the percentage of accounts with active deferrals rose back to 67.9 percent.

Exhibit 14.4 sets forth asset, deferral, and participant data for fiscal 2001 through 2005.

Exhibit 14.4
401(a) – Assets, Deferrals, and Participants
Fiscal 2000-2005
($ in Millions)

	2001	2002	2003	2004	2005
Plan Assets	$39.7	$53.2	$69.4	$78.1	$80.3
Deferrals	$20.0	$20.8	$14.1	*	*
# of Participants	37,725	38,298	39,143	38,001	36,748

* No match was provided by the State in fiscal 2004 and 2005.

Source: Maryland Supplemental Retirement Plans, Department of Legislative Services

Investment Options

Participants in the 457, 401(k), and 401(a) program have the option of investing in fixed rate investment contracts. The fixed rate investment contracts are bid quarterly and have a blended interest rate that is established each quarter. These are contracts with insurance or investment management companies whereby the companies promise a fixed interest rate for a specified term. In addition, participants in the 403(b) program, who are excluded from the fixed-rate contract pool, may invest in a money market fund, the Vanguard Prime Money Market Fund.

Participants in all four payroll deferral plans may take advantage of various mutual fund options. There has been considerable change in the available options: 7 of the 17 funds currently available to participants are new since 2002. As of June 30, 2006, the following mutual funds were available to participants in all four payroll deferral plans:

- Bonds
  - Federated U.S. Government Securities Fund: 2–5 Years
  - PIMCO Total Return Fund

- Balanced
  - Fidelity Puritan Fund
  - DWS Value Builder Fund

- Large-cap Stocks
  - Legg Mason Value Trust Fund
  - Vanguard Institutional Index Fund
  - Growth Fund of America
  - Washington Mutual Investors Fund
  - Neuberger Berman Partners Fund

- Mid-cap Stocks
  - Dreyfus Mid Cap Index Fund
  - Delaware Group Trend Fund
  - Lord Abbett Mid Cap Value Fund
  - Van Kampen Mid Cap Growth Fund

- Small-cap Stocks
  - T. Rowe Price Small Cap Stock Fund
  - Delaware Trend Fund
  - Mainstay Small Cap Opportunity Fund

- International Stocks
  - EuroPacific Growth Fund

Program Administration and Fees

Since January 1, 2003, Nationwide Retirement Solutions, Inc. has served as the plan administrator for all of the supplemental plans. Prior to that time, the plan administrator was PEBSCO. Nationwide is under contract to administer the supplemental plans through calendar 2007. Each participant in a plan is assessed an annual asset fee of 0.28 percent (0.23 percent to Nationwide and .05 percent to the board, which was reduced from 0.07 percent on January 1, 2006), not to exceed $1,800. In addition to these annual asset fees, the board charged an $8 fee on each supplemental account in April 2002 and a $6 per-account fee in March 2003. Exhibit 14.5 provides a detailed summary of Nationwide and board fees for each of the plans for fiscal 2001 through 2005.

Exhibit 14.5
All Plans – Fees Paid to Nationwide and the Board
Fiscal 2001-2005
($ in Thousands)

	2001	2002	2003[2]	2004	2005
Nationwide/PEBSCO Fees					
457	$2,514.9	$2,350.4	$1,883.0	$2,029.7	$2,202.4
403(b)	187.2	170.0	124.8	142.4	149.0
401(k)[1]	807.5	901.9	1,070.1	1,344.7	1,602.6
401(a)	107.7	133.6	204.9	174.1	179.8
Total	**$3,617.3**	**$3,555.9**	**$3,242.5**	**$3,690.9**	**$4,135.8**
Board Fees					
457	$630.4	$541.8	$736.5	$1,077.5	$935.3
403(b)	46.2	35.8	42.6	63.3	55.4
401(k)	338.3	332.3	410.3	611.7	590.9
401(a)	21.0	28.4	51.3	81.4	70.2
Other Fees/Rev./Adj.	327.5	448.3	386.1	0	68.1
Total	**$1,363.3**	**$1,386.6**	**$1,626.8**	**$1,833.9**	**$1,719.9**

[1]401(k) transfer accounts did not pay Nationwide fees when they were managed by the Maryland Supplemental Retirement Plans. After January 2003, when the transfer accounts were merged with the deferral accounts and managed by Nationwide, they began paying regular fees to Nationwide.

[2]Nationwide contract began January 1, 2003. Prior contract for plan administration was with PEBSCO.

Source: Maryland Supplemental Retirement Plan, Department of Legislative Services

All Plans – Assets, Deferrals, Participants, and Fees

Exhibit 14.6 provides a summary of the plans' assets, deferrals, and average account values for fiscal 2001 through 2005.

Exhibit 14.6
All Plans – Assets, Deferrals, and Average Account Values
Fiscal 2001-2005

	2001	2002	2003	2004	2005	% Change 2004-2005	% Change 2001-2005
Plan Assets			**($ in Millions)**				
457	$1,082.0	$966.3	$983.0	$1,083.8	$1,126.6	3.9%	4.1%
403(b)	65.4	57.0	56.6	63.4	67.2	6.0%	2.8%
401(k)	430.2	430.5	505.6	641.1	733.6	14.4%	70.9%
401(a)	39.7	53.2	69.4	78.1	80.3	2.8%	102.3%
Total	**$1,617.3**	**$1,507.0**	**$1,614.6**	**$1,866.4**	**$2,007.8**	**7.6%**	**24.1%**
Deferrals			**($ in Millions)**				
457	$33.5	$38.1	$49.2	$55.5	$54.8	-1.2%	63.6%
403(b)	2.9	3.1	2.8	2.7	2.9	4.9%	0%
401(k)	72.4	77.5	82.2	85.1	84.6	-0.6%	16.9%
401(a)	20.0	20.8	14.1	0	0	0%	100.0%
Total	**$128.1**	**$139.5**	**$148.3**	**$143.3**	**$142.2**	**-0.7%**	**11.0%**
Average Account Values			**(in Actual $)**				
457	$37,522.0	$32,253	$33,036	$36,783	$37,596	2.2%	0.2%
403(b)	48,428.0	41,742	44,229	51,518	55,622	8.0%	14.9%
401(k)	12,158	11,580	13,634	17,934	20,607	14.9%	69.5%
401(a)	1,053.0	1,389	1,773	2,056	2,186	6.3%	107.6%

Source: Maryland Supplemental Retirement Plans, Department of Legislative Services

Chapter 15. Overview of Procurement

Introduction to the Procurement Process

The procurement process is the State's system for acquiring supplies, services, or leases for real or personal property. The procurement process may include some or all of the following: identifying a need, specifying the requirements to fulfill the need, identifying potential vendors, soliciting bids and proposals, evaluating bids and proposals, awarding contracts, tracking progress and ensuring compliance, taking delivery, inspecting and inventorying deliveries, and paying the vendor. The procurement process is designed to (1) ensure that State contract awards are based on technical merit and price after effective competition between vendors; and (2) immunize the system from improper influence.

The State's contracting and procurement process results in a significant amount of dollars being awarded to the private sector for goods and services each year. In a March 2006 study prepared by the NERA Economic Consulting (NERA) for the Maryland Department of Transportation, the total dollar value of contracts awarded by the major State agencies between 2000 and 2004 was almost $8.6 billion. The contract dollars awarded by agency as documented in the NERA report is shown in Appendix 14, and the contract dollars awarded by calendar year for the years 2000 through 2004 from the same report are shown below in Exhibit 15.1.

Exhibit 15.1
Total State Contract Dollars Awarded by Calendar Year
(2000-2004)

Year of Contract Award	Contract Dollars Awarded
2000	$1,596,940,110
2001	2,413,140,356
2002	2,225,879,805
2003	1,427,855,785
2004	907,047,004
Total	**$8,570,863,059**

Source: *Race, Sex, and Business Enterprise: Evidence from the State of Maryland*, NERA Economic Consulting (March 7, 2006)

Purposes of the Procurement Law

The procurement law was enacted to ensure that State contracts are immune from inappropriate influences and are awarded on the basis of technical merit and price after effective competition between vendors. Specifically, the purposes and policies of the procurement law include:

- providing for increased confidence in State procurement;
- ensuring fair and equitable treatment of all persons who deal with the State procurement system;
- providing safeguards for maintaining a State procurement system of quality and integrity;
- fostering effective broad-based competition in the State through support of the free enterprise system;
- promoting increased long-term economic efficiency and responsibility in the State by encouraging the use of recycled materials;
- providing increased economy in the State procurement system;
- getting the maximum benefit from the purchasing power of the State;
- simplifying, clarifying, and modernizing State procurement law;
- allowing the continued development of procurement regulations, policies, and practices in the State; and
- promoting development of uniform State procurement procedures to the extent possible.

The procurement law applies to (1) expenditures by agencies under procurement contracts; (2) procurements by agencies on behalf of other governmental agencies or other entities; and (3) procurements by agencies for services to benefit specific categories of individuals, even though the procurement contract does not involve a State expenditure and does not produce State revenue.

Origins of the Current Maryland Procurement Law

As a result of an intensive procurement study conducted by the State from 1977 through 1980, the procurement law was enacted in 1980, effective July 1981. This initial incarnation of the Maryland procurement law generally was patterned after the Model Procurement Code developed by the American Bar Association. Currently, Maryland's procurement law is found in Division II, Titles 11 through 19 of the State Finance and Procurement Article.

Exemptions from the Procurement Law

The procurement law applies to the executive branch agencies of Maryland government; it does not apply to the legislative or judicial branches; a multistate or multicounty government agency; or other political subdivisions in the State.

Although the procurement law applies broadly to numerous agencies in the executive branch, for various policy reasons certain types of procurement and certain agencies are exempt from its provisions. For example, a transaction is exempt when an agency procures from another State agency, a political subdivision in the State or one of its agencies, a government (including the government of another state, the United States, or another country), or one of its agencies or political subdivisions, or a multistate or multicounty governmental agency. Additionally, procurements in support of enterprise activities for the purpose of direct resale, or remanufacture and subsequent resale, are exempt.

When the procurement law became effective in 1981, there were few exemptions; however, they have substantially increased over time. In 1986, after an intensive review that spanned several years, the General Assembly identified a total of 14 agencies that, at least in part, were determined to be inappropriate for inclusion in the general procurement process because the agencies performed specialized functions. Accordingly, legislation was enacted to provide limited or full exemptions for each of these agencies, but required most of the agencies' procurement processes to comply with the underlying purposes of the procurement law. As of 2006, the number of exemptions for specific agencies has increased to 28.

Exhibit 15.2 identifies the 28 agencies now exempt from the Maryland procurement law, cites the statutory provision that describes the exemption, and references the original enactment that established the exemption. For a full understanding of the nature of the exemption, however, Exhibit 15.2 should be read in conjunction with the statutory provision granting the exemption because many of the

agencies are exempt only in certain situations. For example, the Maryland State Arts Council is exempt only when the procurement is for the support of the arts.

Although the entities identified in Exhibit 15.2 are generally exempt from the procurement law, many are still required to comply with provisions of law that address:

- fraud in procurement (SFP, § 11-205);
- Board of Public Works approval for designated contracts (SFP, § 12-204);
- supervision of capital expenditures and real property leases (SFP, Title 12, Subtitle 2);
- required clauses regarding nondiscrimination (SFP, § 13-219);
- disclosures to the Secretary of State (SFP, § 13-221);
- policies and procedures for exempt agencies (SFP, Title 12, Subtitle 4);
- debarment of contractors (SFP, Title 16); and
- special provisions regarding State and local subdivisions (SFP, Title 17).

Furthermore, minority business participation requirements apply to most exempt entities

Exhibit 15.2
Agencies Exempt from the Maryland Procurement Law

Agency	Statutory Exemption	Enabling Legislation
Blind Industries and Services of Maryland	SFP, § 11-203(a)(1)(i)	Chapter 608 of 1982
Canal Place Authority	FI, § 13-1027(2)	Chapter 544 of 1993
College Savings Plan of Maryland	SFP, § 11-203(f)	Chapter 208 of 2004
Department of Business and Economic Development	SFP, § 11-203(a)(1)(xiv)	Chapter 555 of 1993
Enterprise Fund	Article 83A, § 5-503(d)	Chapter 305 of 2000
Maryland Automobile Insurance Fund	SFP, § 11-203(a)(1)(x)	Chapter 840 of 1986
Maryland Developmental Disabilities Administration of the Department of Health and Mental Hygiene	SFP, § 11-203(a)(1)(xix)	Chapter 471 of 2003
Maryland Economic Development Corporation	Article 83A, § 5-214	Chapter 498 of 1984
Maryland Energy Administration	SFP, § 11-203(a)(1)(xviii)	Chapter 412 of 2003
Maryland Environmental Service	NR, § 3-103(g)(2)	Chapter 196 of 1993 (replacement) [Chapter 840 of 1986 (repealed)]
Maryland Food Center Authority	SFP, § 11-203(a)(1)(vi)	Chapters 650 and 675 of 1983
Maryland Health and Higher Educational Facilities Authority	SFP, § 11-203(a)(1)(iii)	Chapter 840 of 1986
Maryland Health Insurance Plan (within the Maryland Insurance Administration)	SFP, § 11-203(a)(1)(xvii)	Chapter 153 of 2002
Maryland Historical Trust	SFP, § 11-203(a)(1)(xi)	Chapter 840 of 1986
Maryland Industrial Training Program or the Partnership for Workforce Quality Program in the Department of Business and Economic Development	SFP, § 11-203(a)(1)(v)	Chapter 840 of 1986
Maryland Public Broadcasting Commission	SFP, § 11-203(a)(1)(vii)	Chapter 840 of 1986
Maryland Stadium Authority	SFP, § 11-203(c)	Chapter 123 of 1987
Maryland State Arts Council	SFP, § 11-203(a)(1)(ii)	Chapter 292 of 1984
Maryland State Lottery Agency	SFP, § 11-203(a)(1)(xvi)	Chapter 548 of 1997
Maryland State Planning Council on Developmental Disabilities	SFP, § 11-203(a)(1)(ix)	Chapter 292 of 1984
Maryland Technology Development Corporation	Article 83A, § 5-2A-08	Chapter 661 of 1998
Maryland Venture Capital Trust	Article 83A, § 5-308(a)(2)	Chapter 222 of 1990
Morgan State University	ED, § 14-109(a)(1) SFP, § 11-203(e)(2)	Chapter 485 of 2004 Chapter 273 of 2004
Rural Maryland Council (Forum for Rural Maryland)	SFP, § 11-203(a)(1)(xv)	Chapter 119 of 1995
St. Mary's College of Maryland	SFP, § 11-203(e)(2)	Chapter 255 of 2006
State Retirement and Pension System	SFP, § 11-203(d)	Chapter 840 of 1986 Chapter 544 of 1994 Chapter 520 of 1999
University of Maryland (University College)	SFP, § 11-203(a)(1)(xii)	Chapter 555 of 1983
University System of Maryland	SFP, § 11-203(e)(2)	Chapter 515 of 1999

ED: Education
FI: Financial Institutions
NR: Natural Resources
SFP: State Finance and Procurement Article

Source: Department of Legislative Services

Chapter 16. Organization of State Procurement

Board of Public Works

The Board of Public Works, as currently constituted, was first created by the Maryland Constitution of 1864 and consists of the Governor, the Comptroller, and the Treasurer. It derives its ultimate authority from the Maryland Constitution and is responsible for the expenditure of all capital appropriations and the superintendence of nearly all State public works projects. Each year it deals with hundreds of millions of dollars. The board is constitutionally required to meet four times each year and is authorized to meet more often when necessary. In practice, the board usually meets once every two weeks.

The 1981 revision of the procurement law centralized full authority over all State procurement in the Board of Public Works. The board was given "power and authority over the procurement, management, and control of all supplies, services, construction, and other items procured by the State." At the same time, however, the General Assembly authorized the board to delegate any of its procurement authority that it determines to be appropriate for delegation and required board approval for specified procurement actions. The board implements the procurement law by setting policy, adopting regulations, and establishing internal procedures. The board, however, does not have authority over capital expenditures by the Department of Transportation or the Maryland Transportation Authority in connection with State roads, bridges, or highways.

Primary Procurement Units

State law establishes nine primary procurement units with exclusive jurisdiction over specified procurements, subject to the authority of the board. The nine primary procurement units are:

- State Treasurer
- Department of Budget and Management
- Department of General Services
- Department of Transportation and the Maryland Transportation Authority
- University System of Maryland
- Maryland Port Commission

- Department of Public Safety and Correctional Services
- Morgan State University
- St. Mary's College of Maryland

In addition, three of the nine agencies are authorized to control and supervise the procurement of specified goods or services for other agencies: the State Treasurer (for banking and financial services, insurance, and insurance services), the Department of Budget and Management (for information technology, services, and motor vehicle leases), and the Department of General Services (for real property, other supplies, construction, and construction related services). These agencies are referred to as control agencies. Exhibit 16.1 illustrates the type of procurement authority granted to agencies.

Exhibit 16.1
Type of Procurement Authority Granted to Agencies

Agency	Type of Authority
State Treasurer	Primary Procurement Unit and Control Agency
Department of Budget and Management	Primary Procurement Unit and Control Agency
Department of General Services	Primary Procurement Unit and Control Agency
Department of Transportation and Maryland Transportation Authority	Primary Procurement Unit
University System of Maryland	Primary Procurement Unit
Maryland Port Commission	Primary Procurement Unit
Department of Public Safety and Correctional Services	Primary Procurement Unit
Morgan State University	Primary Procurement Unit
St. Mary's College of Maryland	Primary Procurement Unit

Source: Department of Legislative Services

In general, the board authorizes primary procurement agencies to enter into procurement contracts not exceeding $200,000 without board approval. Any procurement contract over this amount must be submitted to the board for approval.

Agencies also may modify specified contracts before requiring board approval but must report most of these contracts that exceed $25,000 to the board in the agencies' Procurement Agency Action Reports.

Exhibit 16.2 lists the areas of procurement authority for each agency and the amount of funds that can be spent before obtaining board approval. The exhibit also shows if a control agency sub-delegated its authority to another agency.

Exhibit 16.2
Areas of Procurement Authority

State Treasurer Delegation – COMAR 21.02.01.04E

May Engage in or Control Procurement of:	Delegation Level
Banking, investment, and other financial services contracts	Unlimited
Contracts for insurance and insurance-related services	Unlimited

Department of Budget and Management Delegation – COMAR 21.02.01.04A

May Engage in or Control Procurement of:	Delegation Level
Service contracts (except architectural/engineering services)	$200,000 or less
Information technology contracts	$200,000 or less
Contract modifications	Unlimited, subject to specified restrictions
Sole source contracts	$100,000 or less
Contracts in which only one bid or offer received	$50,000 or less
State-supplied employee housing under State Finance and Procurement Article, § 10-305(c)	Unlimited
Purchase and lease of motor vehicles	Unlimited

Department of Budget and Management – Sub-Delegation

The Department of Budget and Management has sub-delegated its authority to approve contracts for services and information technology (except for telecommunications over which the department retains approval authority) as follows:

Agency	Delegation Level
Maryland Public Television	$2,500
All agencies not otherwise listed	$25,000
• Department of Transportation • Department of General Services • Department of Human Resources • Department of Labor, Licensing, and Regulation for information technology services only • Department of Business and Economic Development for information technology services only • Department of Natural Resources • Division of Vocational Rehabilitation (Maryland State Department of Education) for vehicle conversions and dwellings to accommodate disabled individuals for employment readiness	$50,000 – When procurement by competitive sealed bidding; more than one bid received ; and low bidder is awardee
• All agencies [except Maryland Public Television]: annual renewals of software licensing or maintenance agreements • All agencies [except Maryland Public Television]: awards to preferred providers (Preferred providers are State Use Industries, Blind Industries and Services of Maryland, and sheltered workshops) • State Police: helicopter maintenance including sole source contracts • Department of Health and Mental Hygiene: all procurement methods	$100,000

Department of General Services Delegation – COMAR 21.02.01.04B

May Engage in or Control Procurement of:	Delegation Level
Commodities and supplies	Unlimited
Capital construction	$200,000 or less
Capital construction-related service	$200,000 or less
Architectural/engineering	$200,000 or less

May Engage in or Control Procurement of:	Delegation Level
Maintenance	$200,000 or less
Capital equipment	$50,000 or less
Contract modifications	Unlimited, subject to specified restrictions
Invoices necessary to administer capital improvement contracts	Unlimited
Sole source contracts	$50,000 or less
Contracts in which only one bid or offer received	$50,000 or less

Department of General Services – Sub-Delegation

The Department of General Services has sub-delegated its authority to approve contracts as follows:

Agency	Delegation Level
• Baltimore City Community College • Department of Budget and Management • Department of Business and Economic Development • Eastern Correctional Institution • Department of the Environment • Executive Department • Department of Health and Mental Hygiene • Department of Housing and Community Development • Department of Juvenile Services • Department of Labor, Licensing, and Regulation • Department of the Military • Department of Planning • Public Service Commission • State Retirement and Pension System • Department of Veterans' Affairs • Workers' Compensation Commission • Department of Agriculture • Department of Natural Resources • Department of State Police	$10,000
• Department of Human Resources • Department of Transportation and modals if using eMaryland Marketplace • Maryland Public Television	$25,000

Department of Transportation/Maryland Transportation Authority Delegation – COMAR 21.02.01.04C

May Engage in Procurement of:	Delegation Level
Transportation-related construction	$200,000 or less
Capital construction-related service	$200,000 or less
Architectural and engineering	$200,000 or less
Maintenance	$200,000 or less
Capital equipment	$50,000 or less
Contract modifications	Unlimited, subject to specified restrictions
Sole source contracts	$50,000 or less
Contracts in which only one bid or offer received	$50,000 or less

Maryland Port Commission Delegation – COMAR 21.02.01.04F

May Engage in Procurement of:	Delegation Level
Construction contracts for port facilities	$200,000 or less
Construction-related service contracts for port facilities	$200,000 or less
Port-related architectural/engineering services	$200,000 or less
Capital equipment	$50,000 or less
Services including information technology services but excluding banking, insurance, and financial services	$200,000 or less
Contract modifications	Unlimited, subject to specified restrictions
Port-related maintenance	$200,000 or less
Commodities and supplies • Including motor vehicles and information technology supplies • Excluding general-obligation-bond funded insurance and insurance-related services and commodities and supplies	Unlimited
Sole source contracts	$50,000 or less
Contracts in which only one bid or offer received	$50,000 or less
Leases of real property for port-related activities if lease payments are not made from the general fund	$50,000 or less per year

Department of Public Safety and Correctional Services Delegation – COMAR 21.02.01.04H

May Engage in Procurement of:	Delegation Level
Capital construction contracts	$200,000 or less
Capital construction-related services contracts	$200,000 or less
Architectural/engineering contracts based on Department of General Services selections	$200,000 or less
Capital equipment contracts in support of construction and construction-related services	$50,000 or less
Commodities and supplies in support of construction and construction-related services	Unlimited
Modifications to the above contracts	Unlimited, subject to specified restrictions
Invoices necessary to administer capital improvement contracts	Unlimited
Sole source contracts in support of construction and construction related services	$50,000 or less
Contracts in support of construction and construction-related services in which only one bid or offer received	$50,000 or less

Source: *Report to the Governor and the General Assembly on Delegation of Procurement Authority by the Board of Public Works and Safeguards and Accountability Measures Within the State Procurement System, December 1, 2004*

Components of the State Procurement Process

Procurement Advisory Council

The Procurement Advisory Council was created to provide oversight of the State procurement process. The council is composed of 10 members representing various State departments, a representative of local government with expertise in State procurement matters, and two members of the general public, at least one of whom has expertise in State procurement matters. The Secretary of the Board of Public Works is the chair of the council.

The council is required to meet at least quarterly and has several important functions, including:

- ensuring that the State's procurement system uses the most advanced procurement methods and management techniques;
- effecting and enhancing communication among State agencies on procurement matters;
- providing a forum for the discussion of specific procurement issues and problems that arise;
- advising the Board of Public Works on problems in the procurement process and making recommendations for improvement of the process; and
- reviewing existing procurement regulations.

Procurement Advisor

The procurement advisor is appointed by the Board of Public Works and serves at the pleasure of the board. The procurement advisor is the principal staff to the Procurement Advisory Council and has numerous duties, including:

- examining all procurements that are subject to review by the board and making recommendations to the board as to the appropriateness and legality of each procurement;
- preventing, detecting, and investigating allegations of fraud, waste, and abuse, and fostering competition in the expenditure of State funds in the procurement of supplies, services, or construction;
- conducting investigations into procurement policies, practices, and procedures;
- assisting agencies and the public with questions regarding procurement policy; and
- establishing policies for effective training of State procurement officials.

General Counsel to the Procurement Advisory Council

The general counsel to the Procurement Advisory Council is appointed by the Board of Public Works and serves at the pleasure of the board. The general counsel provides independent legal advice to the board and makes recommendations to the board as to the legal sufficiency of the procurements that are subject to review by the board.

The general counsel has numerous other duties that include assisting the procurement advisor in investigations and responding to complaints concerning abuse or alleged violations of the procurement law and regulations, and reviewing regulations proposed by the board for legality.

Chapter 17. Source Selection

Methods

Maryland uses numerous methods for awarding procurement contracts. The General Assembly has established the general public policy that competitive sealed bidding is the preferred method. A competitive sealed proposal, however, is the preferred method for awarding a contract for human, social, cultural, or educational services, or for the lease of real property. Noncompetitive negotiation, sole source procurement, emergency or expedited procurement, small procurement, intergovernmental cooperative purchasing agreement, auction bids, and unsolicited proposals are other procurement methods.

Competitive Sealed Bidding

Competitive sealed bidding is a process under which a State agency solicits sealed bids to complete a project from vendors and awards the contract to the most responsible bidder. In competitive sealed bidding, a procurement officer issues an invitation for bids, which generally includes the contract specifications and whether it will be awarded based on the lowest bid price, the lowest evaluated bid price, or, for certain contracts, the bid most favorable to the State. If the contract is based on the lowest evaluated bid price, the invitation for bids must include the objective measurable criteria for determining the lowest bid price. The invitation for bids should also include any designated small business preference.

If the preparation of specifications is impractical, the invitation for bids may include a request for unpriced technical offers or samples. The invitation for bids may direct bidders to submit price bids with the technical offer or sample or after the agency evaluates the offer or sample. An agency may not open price bids until after evaluating the offer or sample. An agency also may only consider price bids from bidders that submit acceptable offers or samples. This method is called multi-step sealed bidding.

In general, agencies are required to give reasonable public notice of an invitation for bids at least 10 days before bid opening. If the amount of the bid is expected to exceed $25,000 and at least part of the procurement contract will be performed in Maryland or Washington, DC, the public notice must be published at least 20 days before bid opening. Notice of invitation for bids must be published on eMaryland Marketplace.

A procurement officer must award the contract to the bidder who submits a responsive bid either at the lowest bid price or, if the invitation for bids so provides, to

the lowest evaluated bid price. If, after competitive sealed bids have been opened, a procurement officer determines that only one responsible bidder has submitted a responsive bid, the agency may negotiate the contract with that bidder under the procedure for sole source procurements. Further, a procurement officer may award a contract based on revised bids if, after competitive sealed bids have been opened (1) all bids are rejected; (2) all bid prices exceed the funds available; or (3) the procurement officer, with approval from the agency head, determines that all bids are unreasonable and the delay from issuing a new invitation for bids would be fiscally disadvantageous or otherwise not in the best interest of the State. An agency must publish notice of an award within 30 days after the execution and approval of a contract in excess of $25,000. Notice of award must be published on eMaryland Marketplace.

Competitive Sealed Proposals

Procurement by competitive sealed proposal is a process under which a State agency solicits sealed proposals to complete a project from vendors and awards the contract to the most responsible offeror. An agency may use competitive sealed proposals if (1) the procurement is for human, social, cultural, or educational services; (2) the agency determines that specifications cannot be prepared that would allow an award based on the lowest bid price, the lowest evaluated bid price, or, for certain contracts, the bid most favorable to the State; or (3) the agency determines that the use of this method is sufficiently compelling to override the general public policy favoring competitive sealed bidding and competitive sealed bidding is not practical or advantageous to the State.

A procurement officer using competitive sealed proposals must begin by issuing a request for proposals. A request for proposals must include a statement of the scope of the contract (including the expected minority business enterprise participation), factors to be used in evaluating proposals (including price), and the relative importance of each factor. Any restrictions on revocability must be specified in the request for proposals. The public notice requirements for this procurement method and awards under this method are the same as for an invitation for bids.

After receipt of proposals, but before contract award, an agency may discuss the proposal with an offeror to obtain the best price for the State or to ensure full understanding of the proposal or request for proposal. If discussions occur, the agency must allow each responsible offeror that it considers to be a possible awardee the opportunity to participate. The agency must treat these responsible offerors fairly and equally and may allow an offeror to revise the proposal by submitting a best and final offer. An agency may conduct more than one series of discussions and requests for best and final offers. A procurement officer must award the contract to the responsible offeror

that submits the proposal or best and final offer determined to be the most advantageous to the State, considering the evaluation factors in the request for proposals.

Noncompetitive Negotiation

Noncompetitive negotiation is the process by which an agency may award a procurement contract for specified human, social, or educational services if the agency head determines, on the basis of continuing discussion or past experience, that an award under this process will serve the best interests of the State. Under this process, an agency may conduct discussions with any responsible service provider that has submitted an expression of interest. Specifically, a procurement officer may use this method only if (1) the procurement is for human, social, or educational services to be provided directly to individuals with disabilities, or who are aged, indigent, disadvantaged, unemployed, mentally or physically ill, handicapped, displaced, or minors; (2) the procurement is one of a class for which the Department of Budget and Management has approved this method; and (3) the agency determines that at least two sources are available, but the absence of effective competition makes it unreasonable to expect bids or proposals from the available sources.

If procurement is based on noncompetitive negotiation, an agency must publish a request for general expressions of interest. The request should state the general requirement for services, request interested service providers to respond in writing, and be published in the same manner as an invitation for bids or request for proposals. Notice of an award must be published on eMaryland Marketplace.

Sole Source Procurement

Procurement by the sole source method is a process under which an agency awards a contract to a vendor without competition. An agency may use the sole source method if the agency determines that there is only one available responsible source. An agency also may use this method with the prior written approval of the Attorney General to obtain services that require confidentiality in connection with threatened or pending litigation, appraisal of real property for State acquisition, or collective bargaining. An agency may not use this method under the latter circumstances if the agency reasonably anticipates a continuing need for the services. Notice of an award must be published on eMaryland Marketplace.

Unsolicited Proposals

Unsolicited proposals can offer State agencies access to unique and innovative ideas developed outside of the State or local government. A procurement officer may

enter into a procurement contract based on an unsolicited proposal if the unsolicited proposal (1) is for the delivery of educational services, health or social services, or business and economic development services; (2) is in writing; (3) shows a novel or innovative concept application, approach, or method or novel capability of the offeror; (4) has not been previously submitted by another person; and (5) meets a need or is otherwise advantageous to the agency.

An agency must forward unsolicited proposals to an interagency panel consisting of representatives appointed by the Governor. The interagency panel must determine within 30 days whether an unsolicited proposal is legally sufficient by a majority vote of the panel.

The term of a contract awarded for an unsolicited proposal may not exceed two years, and State expenditures may not exceed $1,000,000 annually. A contracting agency must publish a notice of the intent to award the contract at least 30 days before execution and award in an appropriate local newspaper and on eMaryland Marketplace. Additionally, a contracting agency must publish notice of the award on eMaryland Marketplace within 30 days after contract execution and approval.

This procurement method terminates on September 30, 2008, unless otherwise extended by law.

Emergency Procurement

An emergency procurement is a procurement that an agency may make by any method considered most appropriate to mitigate or avoid serious damage to public health, safety, or welfare. The agency must obtain as much competition as possible and limit, both in type and quantity, the items procured to those necessary for the mitigation or avoidance. After awarding the contract, the procurement officer must submit written justification to the Board of Public Works for the use of the emergency procurement procedure.

With the approval of the board, the Maryland Port Commission or the Maryland Aviation Administration may make an expedited procurement if the agency and the board find that (1) urgent circumstances require prompt action; (2) an expedited procurement best serves the public interest; and (3) the need for the expedited procurement outweighs the benefits of using competitive sealed bids or competitive sealed proposals. The agency must obtain as much competition as reasonably possible.

Notice of an award for these procurements must be published on eMaryland Marketplace. Real Property leased under these procurement processes must be leased for the minimum practicable period of time.

Small Procurement

A small procurement is one in which an agency spends $25,000 or less or, in certain circumstances, a vendor receives annual revenues of $25,000 or less. An agency may make small procurements in accordance with regulations adopted by primary procurement agencies. A procurement may not be artificially divided into a small procurement. In all small procurements, competition should be sought to the extent practical.

Auction Bids

A procurement made by auction bid is a process under which an agency may accept multiple price bids from the same vendor until the time when, or event on which, bidding ends. A primary procurement agency may use auction bids to procure services, equipment, or supplies if the agency determines that auction bids are in the State's best interest. The agency may not use auction bids for construction or information technology services contracts. An invitation for auction bids must include contract specifications, whether the contract will be awarded based on lowest bid price or lowest evaluated bid price (including any objective measurable criteria), any small business preference, and the dates and times when bidding will begin and end. An invitation for auction bids may include a request for technical offers or samples before submission of price bids.

A bidder may submit multiple price bids in response to an invitation for auction bids. If a person submits multiple bids, an agency must judge each bid independently. The amount of any price bid, but not the identity of the bidder, is available for public inspection from the time the bid is received.

An agency must give public notice of an invitation for auction bids in the same manner as required for an invitation for bids. The procurement officer must award the contract to the responsive bidder who submits the lowest bid price, or if applicable, the lowest evaluated bid price.

Notice of a procurement contract awarded on an auction bid basis must be published on eMaryland Marketplace within 30 days after the execution and approval of the contract.

Procedures

Administrative

State law establishes procedures that apply to all types of source selection. A procurement officer must maintain a file on each procurement that includes a substantive record of all inquiries, all written solicitations by an agency, all offers received, all internal and external correspondence, written documentation from the procurement officer describing efforts to confirm the information in the affidavits submitted by the successful bidder or offeror, and the final contract. An agency must draft specifications to encourage maximum practicable competition and may not draft specifications to favor a single prospective bidder or offeror. Further, prospective bidders or offerors of supplies or construction must state whether the procurement will include recycled materials, including the types, amounts, and applications of these materials.

Prequalification

Each of the primary procurement units may provide for the prequalification of persons as prospective responsible bidders or offerors. However, an agency may award a procurement contract to a person who is not prequalified and the agency may determine that a prequalified person is not a responsible bidder or offeror.

Rejection and Cancellation of Bids

A procurement officer must reject a bid or proposal if the procurement officer determines that the bid is nonresponsive or the proposal is unacceptable, or that the bidder or offeror is not responsible. In addition, if, with Board of Public Works approval, an agency determines that it is fiscally advantageous or otherwise in the best interests of the State, the agency may cancel a solicitation, or reject all bids or proposals.

Bid Security

Bid security submitted with a bid helps ensure that, on contract award, the bidder will execute the contract at the bid price. If a successful bidder does not enter into a contract, the bid security will be forfeited. An agency may not require bid security, which may include a surety bond, cash, or other form allowed by regulation, for a procurement expected to be for $100,000 or less. An agency, however, must require a bidder or offeror to provide bid security on a procurement contract for construction if the price is expected to exceed $100,000 or, for smaller contracts, if federal law requires. The amount of bid security required for a procurement contract for construction is at least

5 percent of the bid or price proposal or, if the price is unknown, an amount determined by the agency. An agency may require a bidder or offeror to provide bid security set by the agency on a procurement contract for services, supplies, or construction-related services if the price of the procurement contract is expected to exceed $50,000 or if federal law requires. If a bidder or offeror withdraws a bid or proposal, action may be taken against the bid security unless there is a mistake in the bid or proposal, and the agency allows the bidder or offeror to withdraw before the contract is awarded.

Security

Generally, a procurement officer may not require a contractor to provide a performance bond, payment bond, or other security on a procurement contract for construction, construction-related services, services, or supplies if the price of the procurement contract is for $100,000 or less. However, a procurement officer must require a contractor to provide a performance bond, payment bond, or other security if federal law or a condition of federal assistance requires the security. If the price of a procurement contract for construction exceeds $100,000, a procurement officer must require a contractor to provide security as required under Title 17 of the State Finance and Procurement Article (the "Maryland Little Miller Act"). A procurement officer may also require a contractor to provide a performance bond or other security on a procurement contract for supplies, services, or construction-related services where circumstances warrant security and the price of the procurement contract exceeds $100,000.

Unlawful Conduct and Conflict of Interest

During the procurement process, a bidder or offeror may not knowingly offer or promise future employment, a business opportunity, or money or other gifts, to an agency procurement official. Further, a bidder or offeror may not solicit from an agency employee before contract award any proprietary or source selection information regarding the procurement. In addition, for invitations for bids or requests for proposals that involve the selection of a consultant, the bidder or offeror must provide to the agency an affidavit that discloses any actual or potential conflict of interest of which the bidder or offeror knows, or can reasonably be expected to know.

Chapter 18. Contract Formation

Contract Method and Preference

An agency may enter into a procurement contract based on any method of pricing that will promote the best interests of the State. However, if practicable, an agency must give preference to a fixed-price form of procurement contract. An agency may not enter into a cost-plus-a-percentage-of-cost procurement contract, and a contractor who is subject to a cost-reimbursement contract may not enter into a cost-plus-a-percentage-of-cost subcontract.

An agency may not enter into a cost-reimbursement contract unless the procurement officer determines that a cost-reimbursement contract is likely to be less costly to the State than any other type of contract, or, except for leases of real property, the kind or quality of procurement that the agency requires cannot be obtained practicably under any other type of contract. If an agency enters into a contract that is wholly or partly a cost-reimbursement contract, the procurement officer must first determine that the contractor's accounting system is adequate for the timely development of all necessary cost data and allocates costs in accordance with generally accepted accounting principles. Furthermore, a cost-reimbursement contract must provide that costs, including costs for subcontractors, will be reimbursed only if the costs are allowable and allocable under the contract or by regulation.

A contractor under a cost-reimbursement contract shall give notice to and obtain approval from the agency before the contractor enters into a cost-reimbursement subcontract, or any subcontract involving more than $25,000 or 5 percent of the estimated cost of the procurement contract.

Contract Provisions

State law requires each procurement contract to include a number of specific contract provisions. After the parties enter into a contract, they may include additional clauses in the contract. Each procurement contract shall include clauses covering the following:

- termination for default;
- termination wholly or partly by the State for its convenience if the agency head of the primary procurement unit determines that termination is appropriate;

- variations that occur between estimated and actual quantities of work in a contract;
- liquidated damages, as appropriate;
- specified excuses for nonperformance;
- except for real property leases, the unilateral right of the State to order in writing changes in the work, if the changes are within the scope of the contract, or a temporary stop or delay in performance;
- the obligation of the contractor to comply with political contribution reporting requirements;
- nonvisual access for information technology;
- notice to parties of preexisting regulations;
- for construction contracts, provisions related to modifications and contract claims;
- for a multi-year contract, including a lease of real property, an automatic termination clause that discharges both parties to the contract from future performance of that contract, but not from existing obligations; and
- nondiscrimination requirements and certifications.

Preferences

State law requires that a State or State-aided entity buy supplies and services, if available, from State Use Industries, Blind Industries and Services of Maryland, and sheltered workshops, in that order of priority. Maryland also has preferences for small and minority businesses. In addition, several miscellaneous purchasing preferences exist, including a reciprocal preference for resident bidders competing with bidders from outside the State. Other procurement preferences include those for recycled paper, low noise supplies, coal operated heating systems, and mercury free products.

Small Business Preference Program

For the procurement of supplies, services, and construction-related services by the Department of General Services, the Maryland Department of Transportation, the University System of Maryland, Morgan State University, and the Department of Public

Safety and Correctional Services, a small business may receive up to a 5 percent percentage price preference. This allows a small business to be awarded a contract even if the small business submits a responsive price bid that exceeds the lowest responsive bid by up to 5 percent. To qualify as a small business, a firm must (1) be independently owned and operated; (2) not be a subsidiary of another firm; (3) not be dominant in its field of operation; and (4) not exceed employment and gross sales figures specific to wholesalers, retailers, manufacturers, or to the service or construction industries The agencies are required to compile and maintain a comprehensive bidder's list of small businesses and to adopt other procedures, including procedures related to outreach, to facilitate the involvement of small businesses in the public procurement process.

Minority Business Enterprise Program

In the late 1970s, the General Assembly concluded that under-utilization of minority businesses in State contracting was primarily due to past and present discrimination. More recent studies also have found that marketplace discrimination continues to make it more difficult for minority business enterprises to compete for business from the State and from vendors who do business with the State. They show that prime contractors will use minority business enterprises on public sector projects with minority business enterprise requirements, but they seldom use them on projects without these requirements.

To address these issues, the General Assembly established the Minority Business Enterprise Program, which set goals for agencies to try to achieve greater participation in government contracting by minority business enterprises. The ultimate goal of the program is to develop qualified minority businesses that will be able to do business without the need of the program. In accordance with a U.S. Supreme Court decision, the program is evaluated every five years to determine whether evidence of continuing discrimination exists and supports the reauthorization of the program.

A Minority Business Enterprise is defined as a legal entity, except a joint venture, that is organized to engage in commercial transactions and is at least 51 percent owned, controlled, and managed by socially and economically disadvantaged individuals, as determined by the certifying agency. The law provides that a rebuttable presumption exists that "socially and economically disadvantaged individuals" includes African Americans, Native Americans, Asians, Hispanics, women, and physically or mentally disabled individuals. An individual with a net worth exceeding $1,500,000 may not be found to be economically disadvantaged.

Under this program, each agency must structure construction contract procedures and general procurement contract procedures, respectively, to try to achieve the following results:

- a minimum of 7 percent of the agency's total dollar value of procurement contracts is to be made directly or indirectly from certified Minority Business Enterprises classified by the certification agency as African American-owned businesses;

- a minimum of 10 percent of the agency's total dollar value of procurement contracts is to be made directly or indirectly from certified Minority Business Enterprises classified by the certification agency as women-owned businesses; and

- an overall minimum of 25 percent of the agency's total dollar value of procurement contracts is to be made directly or indirectly from all certified Minority Business Enterprises.

A bidder or offeror may obtain a waiver of Minority Business Enterprise contract goals if:

- the bidder or offeror can show that it was unable to obtain certified Minority Business Enterprise subcontract participation or participation at a reasonable price or in the appropriate classifications; and

- the agency head determines that a waiver serves the public interest.

An agency head may also waive the Minority Business Enterprise requirements for a sole source, expedited, or emergency procurement in which the public interest cannot reasonably accommodate the use of those procedures.

The Maryland Department of Transportation is designated to certify, recertify, and decertify minority business enterprises. That agency must publish and maintain a central directory of certified minority business enterprises. A State agency may not allow a person to participate in a procurement as a certified Minority Business Enterprise unless the Department of Transportation has appropriately certified the person.

The Governor's Office of Minority Affairs implements numerous outreach activities to support the Minority Business Enterprise Program. The office has established many partnerships with State and local governments, private business entities, and business development organizations to support the program. To enhance the development of minority business enterprises, the office of also holds outreach forums

and seminars to publicize government contracting opportunities and to educate minority business enterprises on the State's certification and procurement processes.

Miscellaneous Purchasing Preferences

Resident Bidders

When an agency uses competitive sealed bidding or competitive sealed proposals to award a procurement contract, the agency may give a preference to a resident bidder or offeror who submits the lowest responsive bid if (1) the resident bidder or offeror is a responsible bidder or offeror; (2) a responsible bidder or offeror whose principal office or operation is in another state submits the lowest responsive bid; (3) the state in which the nonresident bidder or offeror's principal office is located or in which the nonresident bidder or offeror has its principal operation gives a preference to its residents; and (4) the preference does not conflict with a federal law or grant affecting the procurement contract. A preference may include a percentage preference or an employee residency requirement. The preference given must be identical to the out-of-state preference.

Paper Procurement by the Department of General Services

To the extent practicable, the Secretary of General Services must buy or approve for purchase only supplies that are produced from recycled paper. Of the total volume of paper that General Services buys, at least 40 percent must be recycled paper.

Low Noise Supplies

To the extent practicable, each State agency must buy or lease for use by the State government the quietest available supplies, which include supplies that are certified as low-noise-emission products under the federal Noise Control Act of 1972.

Coal in Heating Systems

The design of a heating system in a building or facility constructed after July 1, 1986, may not preclude the use of Maryland coal if the State provides at least 50 percent of the money used for construction of the building or facility and if a determination is made that coal products will be used to fuel the heating system. This preference does not apply to a building or facility for which (1) the Maryland Department of the Environment determines that the use of coal products would violate State law; or (2) the Department of General Services or another appropriate agency determines that the use of coal products would not be cost effective.

Biodiesel Fuel for State Vehicle Fleet

Half of all diesel-powered vehicles in the State fleet must use a fuel blend that consists of 5 percent biodiesel. This requirement mostly affects buses operated by the Maryland Transit Authority.

Recycled Products

A price preference, not to exceed 5 percent, exists for the purchase of products made from recycled materials. The Department of General Services, in consultation with other State agencies and interested parties, must establish a list of acceptable products that contain recycled materials. The list must be published for use by State agencies at least twice each year.

Mercury Free Products

All State agencies must give a price preference not exceeding 5 percent to products and equipment that are mercury free or contain the least amount of mercury necessary to meet product or equipment performance standards. An agency also may limit a procurement to mercury free products.

Maryland Food Growers

Maryland food growers or distributors of Maryland grown food may receive a 5 percent price preference if the bid meets all other requirements specified by the procurement.

Steel

State agencies must require a contractor or subcontractor to use or supply only American steel products in the performance of a contract for:

- constructing or maintaining a public work; or
- buying or manufacturing machinery or equipment that is composed of at least 10,000 pounds of steel and is to be installed at a public work site.

An agency, however, does not have to use American steel products if:

- the price of American steel products is not reasonable;

- American steel products are not produced in sufficient quantity to meet the requirements of the contract; or

- the purchase of American steel products would not be consistent with the public interest.

Chapter 19. Dispute Resolution

The dispute resolution process begins when an aggrieved party submits a bid protest or contract claim to a procurement officer, who must review the protest or claim and any other appropriate information, and may conduct discussions or negotiations with interested parties. The procurement officer may negotiate a settlement, or grant or deny whole or partial relief. The procurement officer's decision is then reviewed by the unit and agency head, who may approve, disapprove, modify, or remand the decision. If the protester or claimant is not satisfied by the agency's final decision, the protester or claimant may appeal to the Maryland State Board of Contract Appeals. If either of the parties is not satisfied by the board's decision, the party may appeal to the appropriate court. This chapter discusses this process.

Complaints

Two types of complaints arise under the procurement process. A protest arises out of the formation of a contract and includes disputes related to the qualifications of bidders or offerors or contract award. A contract claim arises out of the contract itself and includes disputes related to performance, breach, modification, or termination of the contract. Different procedures apply to the resolution of protests and contract claims.

Protest

The protest process begins when a prospective or actual bidder or offeror submits a protest to the procurement officer against the award or the proposed award of a contract. A protest must be filed within seven days after the basis for the protest is known or should have been known, with two exceptions. First, if a protest is based on an invitation for bids and the basis for the protest is apparent before the initial bid opening or closing, the protest shall be filed before the initial bid opening or closing, respectively. Second, if a protest is based on competitive sealed proposals and the basis for the protest did not exist in the initial request for proposals, the protest may not be filed later than the next closing date for receipt of proposals following the alleged impropriety.

Contract Complaint

Complaint by Contractor

Contract claims begin with two steps. First, the claimant must submit a notice of a contract claim to the procurement officer within 30 days after the basis for the claim is known or should have been known. Second, unless provided an extension by the

procurement officer or final payment has been made on the contract, a contractor must file the claim within 90 days of filing notice of a construction contract claim and 30 days of filing notice of a contract nonconstruction claim. A claim must be in writing and include:

- an explanation of the claim and pertinent contract provisions;
- the amount of the claim;
- the facts on which the contract claim is based;
- all relevant data and correspondence that may substantiate the contract claim; and
- a certified statement that the claim is made in good faith.

Complaint by Agency

Chapter 373 of 2004 authorized State agencies to assert contract claims against contractors, provided for review of State claims, and specified that State agencies may appeal the final decision to the Maryland State Board of Contract Appeals. In effect, the enactment overturned the Maryland Court of Appeals decision in *University of Maryland v. MFE International/NFP Architects, Inc. 345 MD. 86, 691 A.2d 676 (1997)* that held that the State had no statutory authority to file a contract claim that could be appealed to the Board of Contract Appeals. The Act specified that a claim by an agency must be in writing and include:

- the basis for the contract claim;
- to the extent known, the amount, or the performance or other action, requested by the agency in the contract claim; and
- the date by which the contractor is required to provide a written response to the contract claim.

Procurement Officer's Duties

A procurement officer's duties in the decision making process for procurement disputes depend on the type of complaint filed.

Protests

When a procurement officer receives a protest, the procurement officer:

- must review the substance of the protest;
- may request additional information;
- may conduct discussions or negotiations; and
- unless clearly inappropriate, seek the advice of the Office of the Attorney General.

Requests for Additional Information

If a procurement officer requests additional information from a party, the party has five days after notification of the request to produce the requested information unless the officer specifies another time. Failure to produce the requested information in a timely manner may result in the procurement officer's resolution of the protest without consideration of the requested information.

Discussions or Negotiations

A procurement officer may conduct discussions or negotiations with the interested parties and resolve a protest by agreement with any one or more of the interested parties. The agreement must be in writing and is subject to the approval of the reviewing authority and the Office of the Attorney General.

Recommended Decisions

If discussions and negotiations do not lead to an agreement, the procurement officer must wholly or partly grant or deny the protest and the relief sought. The procurement officer must write the decision as expeditiously as possible and must include in the decision:

- a description of the controversy;
- a statement of the decision and any supporting material; and
- a paragraph stating that the decision is the final action of the agency but that the decision may be appealed to the Maryland State Board of Contract Appeals.

Contract Claim

After a procurement officer receives a contract claim, the procurement officer:

- must investigate and review the facts pertinent to the claim;
- may request additional information or substantiation through appropriate procedure;
- may conduct discussions or negotiations; and
- unless clearly inappropriate, seek the advice of the Office of the Attorney General.

Requests for Additional Information

Unlike for protests, there is not a specific time limit for submitting additionally requested information.

Discussions or Negotiations

A procurement officer may conduct discussions or negotiations with the interested parties and settle a claim by agreement. Like a protest agreement, a contract claim settlement must be in writing and is subject to the approval of the reviewing authority and the Office of the Attorney General. Unlike a protest agreement, however, a contract claim settlement must include a release and be supported by a written statement that the agreement is in the best interest of the State.

Recommended Decisions

If a settlement is not reached, the procurement officer must wholly or partly grant or deny the claim. The procurement officer must include in the decision:

- a description of the claim;
- a reference to pertinent contract provisions;
- a statement of factual agreements and disagreements;
- a statement of the proposed decision and supporting rationale; and

- a paragraph stating that the decision is the final action of the agency but that the decision may be appealed to the Maryland State Board of Contract Appeals.

Duties of the Reviewing Authority

Protest and Contract Complaints

Before the procurement officer's decision on a protest or contract complaint is finalized, it must be approved by the reviewing authority. The reviewing authority is the head of the procurement officer's unit and the head of the agency of which the officer's unit is a part. The reviewing authority may approve, modify, or disapprove the procurement officer's decision. If the reviewing authority disapproves the decision, it may remand it to the procurement officer, but if the reviewing authority approves or modifies the decision, it becomes the final agency action. On receipt of the final agency action, an aggrieved party may appeal to the board. A party to a protest has 10 days to file an appeal, while a party to a contract claim has 30 days to file a notice to appeal.

Construction Contract Complaints

In addition to the duties the reviewing authority has for protest and contract complaints, the reviewing authority must comply with specific notification requirements for construction contract complaints. The reviewing authority must mail or deliver written notification of its final decision to a contractor within:

- 90 days after a procurement officer receives a claim if the claim is an amount for which the board accelerated procedure may be used;

- 180 days after the procurement officer receives a claim in an amount for which the board accelerated procedure may not be used; or

- a longer period that the contractor agrees to in writing.

Failure to make a final decision within these time limits is considered a decision to deny the claim which may be appealed to the board.

If the final decision grants the claim in part and denies the claim in part, the procurement agency must pay the amount granted. However, payment is not an admission of liability and if a subsequent determination modifies the reviewing authority's final decision, the agency may recover the amount paid.

Maryland State Board of Contract Appeals

The Maryland State Board of Contract Appeals is an independent agency in the executive branch that consists of three full-time members qualified to serve in a quasi-judicial capacity and possessing a thorough knowledge of procurement practices and processes. The chairman and other members are appointed by the Governor with the advice and consent of the Senate.

The board adjudicates protest and contract disputes between State agencies and contractors or vendors doing business with the State. Matters involved in protest disputes include the preparation and interpretation of bid specifications, qualification and selection of bidders, the bidding process, and other concerns relating to the formation of a procurement contract. Issues in contract disputes include the quality of performance, compliance with contract provisions, compensation, claims and change orders, and termination. The board may subpoena witnesses and documents and may compel the testimony of witnesses. Board decisions are subject to judicial review, and any aggrieved party, including a State agency, may appeal a final decision. The board does not have jurisdiction over protests relating to architectural and engineering services or contract claims relating to a lease of real property.

Appeals

The board must give priority to an appeal of a final agency decision on a bid protest. Also with respect to an appeal of a bid protest, discovery is limited to document production absent extraordinary circumstances. The board must decide an appeal of a bid protest expeditiously.

The board must make a decision regarding an appeal or a contract claim within 180 days after the day on which all briefs were filed or, if later, the day on which the record was closed. An appellant may elect to use a “small claims” (expedited) appeal for a dispute of $10,000 or less or an “accelerated” appeal for a dispute of $50,000 or less. Appeal procedures are streamlined under these processes, and decisions must be rendered within 120 or 180 days, respectively, of the appellant’s election to use these processes.

Chapter 20. Penalties for Noncompliance

Noncompliance with the State procurement law may result in a contract being found void or voidable, the suspension or debarment of a party to a procurement contract, or a criminal penalty.

Void Contracts

A contract is considered void if it violates the State procurement law. A void contract cannot be enforced. When a contract is found to be void, the contractor must be awarded compensation for actual expenses reasonably incurred under the contract and a reasonable profit if the contractor:

- acted in good faith;
- did not directly contribute to the violation; and
- had no knowledge of the violation before the contract was awarded.

Voidable Contracts

Even though a contract violates the State procurement law, the contract may be enforceable. The Board of Public Works may determine that a contract is voidable, rather than void, if the board determines that:

- all parties acted in good faith;
- enforcement of the procurement contract would not undermine the purposes of the State procurement law; and
- the violation was insignificant or otherwise did not prevent substantial compliance with the State procurement law.

The State agency that entered into the contract must make the affirmative decision to ratify a voidable contract. The agency must determine that the contract is in the best interests of the State before ratifying it. If the agency does not ratify the contract, it may void the contract subject to above-noted payment of expenses and profit.

Debarment

A debarred contractor may not be considered for the award of, be awarded, or perform, directly or indirectly, a contract with the State during the time of debarment. A contractor may be debarred for numerous reasons including:

- conviction for a variety of specified offenses;
- an admission in writing or under oath of an act that constitutes grounds for conviction of certain offenses;
- being a successor, assignee, subsidiary, or affiliate of a debarred person;
- operating in a manner designed to evade or defeat the purpose of the State procurement law;
- debarment on the federal level;
- previous failure to perform procurement contracts;
- being found in a final determination to have discriminated against other entities on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, disability, or any otherwise unlawful form of discrimination; or
- any cause the Board of Public Works determines to be so serious as to affect the integrity of the procurement process

A debarment may occur when the Attorney General initiates a proceeding against a contractor with the Board of Public Works. The board is required to notify a person of the proceedings, and the person is entitled to a hearing before the board if requested within 30 days of receiving the notice. If a person does not make a request within the 30 days, the person waives their right to a hearing and is automatically debarred. A person who is convicted of certain crimes related to bribery is debarred by operation of law.

The Board of Public Works decides whether to debar a contractor by determining if the debarment would serve the integrity of the contracting process and the best interests of the State. In making this determination the board considers:

- the nature and seriousness of the act;
- the time the act occurred;
- to what extent the person cooperated with the authorities and the conditions under which they cooperated; and
- the conduct of the person since the act occurred.

The board is required to provide notice of its determination to the person in question.

The board may debar a business if the board previously debars an officer, director, controlling shareholder, or partner of the business, or an employee involved in the procurement process. The business is debarred as long as the debarred person remains with the business in any of the listed capacities or until the debarment is terminated.

The board may place a person or business on suspension while the debarment proceeding is pending. Suspension means that a person may not be considered for the award of, be awarded, or perform, directly or indirectly, a contract with the State.

A suspension or debarment terminates automatically if the underlying conviction is reversed or voided. The board also may grant a petition for removal of the debarment after specified time periods have elapsed.

Criminal Penalties

Collusion

Collusion occurs when a person acts with another person to defraud the State in connection with the procurement process. A person who acts in collusion is liable for damages equal to three times the value of the loss to the State created by the collusion.

Falsification, Concealment, or Suppression of Material Facts

In connection with a procurement contract, a person may not willfully, falsify, conceal, or suppress a material fact or make false statements of material fact. Additionally, a person may not aid or conspire with an individual in falsifying or concealing a material fact. A person who violates this provision is guilty of a felony and on conviction is subject to a fine not exceeding $20,000 or imprisonment not exceeding five years, or both.

Chapter 21. Miscellaneous Requirements

Certain types of procurement have special requirements. This chapter describes some of these procurements.

Energy Performance Contracts

The State procurement law requires special oversight for energy performance contracts. Before an agency may issue a request for proposals for an energy contract, the agency is required to consult with the Maryland Energy Administration, which is charged with reviewing the request to ensure that it meets with the State energy standards, preserves the State's flexibility to investigate and use economically justifiable new technologies, and is in conformance with the agency's energy conservation plan. In addition, before an agency approves a contract, the Board of Public Works is required to review the contract to ensure that the projected annual energy savings will exceed the projected annual payments to the contractor and that the proposed energy technology is appropriate for the time period provided in the contract.

Architectural and Engineering Services

The procurement of architectural and engineering services is overseen by the General Professional Services Selection Board in the Department of General Services and the Transportation Professional Services Selection Board in the Department of Transportation. Both selection boards are required to ensure that recommendations to the Board of Public Words for architectural and engineering procurements costing more that $200,000 are made on a competitive basis and include an evaluation of the technical proposals and qualifications of at least two firms. Each board has separate regulations and procedures.

General Professional Services Selection Board

The General Professional Services Selection Board (General Selection Board) awards procurements for architectural and engineering services over $200,000 based on an initial technical ranking and a subsequent negotiation for compensation. State agencies, with the exception of transportation units, intending to procure architectural and engineering services that cannot be provided in-house are required to submit a request to procure those services to the General Selection Board. A comprehensive description of the nature and scope of the services to be procured and how further information may be obtained must be published by the General Selection Board. The technical proposals submitted and the qualifications of contractors are then evaluated and the proposals are

ranked. The General Selection Board begins negotiations with the most qualified contractor to enter a contract with fair, competitive, and reasonable compensation. If they cannot come to an agreement, the board must end negotiations with the most qualified contractor and begin negotiations with the next highest ranked contractor.

Transportation Professional Services Selection Board

Architectural and engineering procurements for transportation agencies are awarded by the Transportation Professional Services Selection Board (Transportation Selection Board) based on a multi-tier ranking process. A transportation agency that intends to procure architectural and engineering services that cannot be provided in-house is required to submit a request to procure those services to the Secretary of Transportation. The Secretary must consider whether the project can be performed by in-house resources. If not, the Secretary must certify this fact to the Transportation Selection Board.

The Transportation Selection Board must publish a solicitation of interest generally describing the services to be procured and how further information may be obtained. The transportation agency then evaluates and ranks the respondents to the solicitation, and establishes a reduced candidate list of two or more candidates. The agency then sends a request for technical proposals to the contractors on the reduced candidate list. The agency reviews, evaluates, and ranks the proposals for submission to the agency head. After receiving concurrence from the agency head, the agency begins negotiations with the most qualified contractor to enter a contract with fair, competitive, and reasonable compensation. If the agency and the contractor cannot come to an agreement, the agency must end negotiations with the most qualified contractor and begin negotiations with the next highest ranked contractor. Once the agency comes to an agreement with a contractor, it must submit the agreement and accompanying documentation to the Transportation Selection Board. The Transportation Selection Board must review the agreement, documentation, and selection process and then approve, postpone for cause, or reject the contract award.

Appendix 1
Summary of Personnel Data by Major Areas of Government
Regular Full-time Equivalent Positions
Fiscal 2002-2006 Working Appropriations

Department/Service Area	Actual FY 2002	Actual FY 2003	Actual FY 2004	Actual FY 2005	Wk. Approp. FY 2006
Legislative Branch	730	730	731	740	740
Judicial Branch	3,010	3,224	3,224	3,217	3,291
Executive Branch:					
Legal	1,381	1,397	1,445	1,515	1,563
Executive & Administrative Control	1,619	1,604	1,572	1,570	1,592
Financial & Revenue Administration	2,158	2,098	2,032	2,037	2,023
Budget & Management	524	531	472	474	433
Retirement	194	185	181	180	186
General Services	793	807	728	714	643
Transportation	9,538	9,319	9,096	9,028	9,012
Natural Resources	1,629	1,577	1,454	1,415	1,367
Agriculture	480	460	434	431	428
Health & Mental Hygiene	8,536	8,212	7,710	7,548	7,573
Human Resources	8,273	7,729	7,379	7,289	6,961
Labor, Licensing, & Regulation	1,706	1,617	1,519	1,492	1,460
Public Safety & Correctional Services	11,663	11,563	11,231	11,195	11,279
MSDE and Other Education	1,955	2,019	1,892	1,939	2,136
Housing & Community Development	449	425	393	409	318
Business & Economic Development	324	318	299	299	292
Environment	1,028	1,032	951	952	949
Juvenile Services	2,123	1,996	1,939	1,963	2,081
Police & Fire Marshal	2,590	2,573	2,480	2,475	2,464
Executive Branch Subtotal	**56,961**	**55,460**	**53,205**	**52,923**	**52,756**
Higher Education	21,386	21,403	20,966	21,212	21,699
Total	**82,087**	**80,816**	**78,126**	**78,092**	**78,486**

Source: Department of Budget and Management and Department of Legislative Services

Appendix 2
Salary Setting Authorities and Personnel Systems
Independent of the State Personnel Management System

Independent Salary Setting Authority

Dept./Agency	Authority	Groups Covered
Assessments and Taxation	Tax Property Article § 2-104	Persons transferred from jurisdictions in 1974-6 retain right to remain in local pay and classification systems for present job and for any job to which promoted at any time in the future
Department of Budget and Management	Education Article § 6-302	Teachers employed in Department of Juvenile Justice facilities, hospitals, prisons, and certain vocational rehabilitation programs
Dept. of Business and Economic Development	Article 83A § 2-102	Assistants, professional consultants, and employees of the Secretary's office
Employment Services and Unemployment Insurance	Labor and Employment Article § 8-305	All employees
Health Care Commission	Health General Article §§ 19-106 and 19-107	Executive director
Maryland Automobile Insurance Fund	Insurance Article § 20-204	Executive director, technical, and professional positions
Maryland Energy Administration	State Government Article § 9-2002	All employees
Maryland Public Broadcasting	Education Article § 24-204	All employees except support and custodial staff
Maryland Insurance Administration	Insurance Article § 2-105	Professional, management, and technical employees

Independent Personnel Systems

Dept./Agency	Authority	Groups Covered
Office of People's Counsel	Public Utilities Companies Article § 2-203	Deputy People's Counsel, certain attorneys, and positions unique to the People's Counsel
Public Service Commission	Public Utilities Companies Article § 2-108	Executive director and positions unique to the Public Service Commission
State Board of Physician Quality Assurance	Health Occupations Article § 14-204	All employees hired after 9/1/92
State Racing Commission	Business Regulation Article § 11-206	Stewards and harness judges
Dept. of Legislative Services	State Government, Article § 2-1205	All employees
Judiciary	Declaration of Rights Article 8; Maryland Constitution Article IV	All employees, except judges
Historic St. Mary's City Commission	Education Article § 24-510	All employees
University System of Maryland	Education Article §§ 12-110 and 12-111	All employees, including former Board of Trustees institutions
Morgan State University	Education Article § 14-104	Professional positions, including faculty
St. Mary's College	Education Article § 14-408	All positions
Baltimore City Community College	Education Article § 16-510	All employees
Transportation	Transportation Article § 2-103.4	All employees
Maryland Aviation Administration	Transportation Article § 5-201.1	Management personnel (up to 12)

Independent Personnel Systems

Dept./Agency	Authority	Groups Covered
Maryland Port Administration	Transportation Article § 6-204	Management personnel (up to 12) for private operating companies
Injured Workers Insurance Fund	Labor & Employment Article § 10-113	All professional and technical; all others hired after 7/1/90
Maryland Environmental Service	Natural Resources Article §§ 3-103.1 and 3-103.2	All employees
Maryland Food Center Authority	Article 41 § 13-105	All employees
Maryland Stadium Authority	Financial Institutions Article § 13-708	All employees
Maryland Veterans' Home Commission	State Government Article § 9-927	All employees of the home
Police & Correctional Training Commissions	Correctional Services Article § 8-206	Personnel performing administrative and training management functions
State Soil Conservation Committee	Agriculture Article § 8-203	All employees of the committee except certain clerical employees

Source: Department of Budget and Management

Appendix 3
Creation and Abolition of State Positions through the Budget

I. Position Request

A. The requesting agency normally initiates requests for a position authorization, to be funded through:

1. Regular Budget – may be anticipated in the agency's budget request or incorporated into the agency's budget as part of a program enhancement or new initiative.

2. Supplementary or deficiency budget as an addition to the regular budget.

3. Board of Public Works – if it is within the legislatively prescribed position limit, created with non-State funds, or created through a contractual conversion, the Board of Public Works can approve the creation of positions.

B. The requesting agency needs justification for additional positions. Each requested position is described in terms of:

1. workload;

2. organizational implications;

3. whether it is a statutorily created position;

4. funding; and

5. related costs.

II. Position Approval

A. New position requests are reviewed by the budget analyst for the requesting agency for inclusion in the budget or on the Board of Public Works agenda.

1. Legislative and judicial requests are reviewed for consistency with the Legislative Branch request format, but not for approval/disapproval.

2. Position actions with the nonbudgeted independent agencies, including the Maryland Automobile Insurance Fund, the Food Market Authority, and the Maryland Transportation Authority, are not reviewed by the

Department of Budget and Management, but must be consistent with statute.

3. Executive branch requests for positions are subjected to a full review of the requesting agency's need justification and related position matters including whether:

   a. the workload can be quantified;

   b. the quantity and types of positions are appropriate for the workload to be performed;

   c. existing staff can absorb the proposed workload;

   d. there are excessive vacancies in the program or unit, which may be filled before new positions are created;

   e. the workload is continuing or can be resolved with the use of temporary positions; and

   f. the requested position/positions conform to statute, budget bill language, and the *Joint Chairmen's Report*.

B. Department of Budget and Management Processing of Position Actions

1. The Department of Budget and Management for new positions that have been approved in the budget, assigns each a Position Identification Number (PIN) as an inventory control.

2. Position creations not specified in the annual budget are subject to the Board of Public Works approval, after which they are assigned a PIN by the Department of Budget and Management.

III. Position Maintenance

A. The Department of Budget and Management, Office of Personnel Services and Benefits determines the appropriate job title and pay level for each new position based on each position's assigned duties and responsibilities, consulting with departmental personnel where necessary for clarification. The PIN number is entered into the office's data files along with the approved job title and corresponding pay range, creating a position which then may be filled by an employee. The requesting agency is then notified.

1. The office, subject to approval of the Secretary of Budget and Management, must establish classifications for all positions in the State Personnel Management System.

2. Changes in the duties, if material, may result in an agency requesting a position be abolished and a new position be created. The Office of Budget Analysis, also part of the Department of Budget and Management, controls the need and funding aspects of reorganized positions, while the assignment to a classification is handled within the department's Office of Personnel Services and Benefits.

   However, unless the change involves a large number of employees, agencies are given the discretion to abolish and create positions on their own as the result of changes in duties.

3. The office audits a random sample of positions under its jurisdiction to determine whether the positions are correctly classified and correctly compensated.

B. Position Transfer and Casual Abolition

1. The Office of Budget Analysis effects position transfers based on requests from the State agencies. The Department of Budget and Management reviews requests for the transfer of PINs to reflect inter-agency organizational change. Funds for any transferred PINs remain with the originating agency.

2. Position abolitions are made from time to time outside of the annual budget:

   a. to reflect law changes;

   b. as a result of special or federal fund lapses;

   c. from contractual replacement of State employees;

   d. because of reorganization; and

   e. because of financial difficulties faced by the State.

Source: Department of Legislative Services; Department of Budget and Management

Appendix 4
State of Maryland Salary Schedule
Fiscal 2007
Annual Rates Effective July 1, 2006

GRADE	BASE	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	STEP 7	STEP 6	MIDPOINT STEP 9	STEP 10	STEP 11	STEP 12	STEP 13	STEP 14	THIRD QUARTILE STEP 15	STEP 16	STEP 17	STEP 18	STEP 19	STEP 20
5	$20,364	$21,056	$21,776	$22,525	$23,303	$24,113	$24,534	$24,962	$25,401	$25,848	$26,303	$26,768	$27,242	$27,726	$28,219	$28,722	$29,234	$29,757	$30,290	$30,833	$31,386
6	$21,575	$22,316	$23,085	$23,887	$24,718	$25,585	$26,036	$26,495	$26,964	$27,442	$27,930	$28,428	$28,935	$29,451	$29,979	$30,518	$31,067	$31,627	$32,196	$32,776	$33,367
7	$22,871	$23,664	$24,488	$25,345	$26,237	$27,164	$27,645	$28,137	$28,638	$29,150	$29,672	$30,204	$30,746	$31,299	$31,865	$32,441	$33,028	$33,628	$34,238	$34,860	$35,493
8	$24,258	$25,106	$25,987	$26,904	$27,857	$28,850	$29,364	$29,891	$30,426	$30,974	$31,532	$32,102	$32,683	$33,274	$33,879	$34,496	$35,124	$35,766	$36,418	$37,083	$37,760
9	$25,742	$26,649	$27,592	$28,573	$29,594	$30,655	$31,206	$31,769	$32,343	$32,929	$33,526	$34,136	$34,756	$35,390	$36,038	$36,697	$37,368	$38,054	$38,753	$39,466	$40,192
10	$27,329	$28,300	$29,309	$30,359	$31,451	$32,586	$33,177	$33,778	$34,393	$35,020	$35,659	$36,311	$36,976	$37,654	$38,345	$39,051	$39,770	$40,503	$41,251	$42,014	$42,791
11	$29,026	$30,066	$31,146	$32,269	$33,436	$34,651	$35,284	$35,929	$36,586	$37,256	$37,940	$38,638	$39,349	$40,074	$40,814	$41,570	$42,341	$43,128	$43,929	$44,746	$45,578
12	$30,844	$31,955	$33,111	$34,313	$35,564	$36,863	$37,539	$38,228	$38,932	$39,648	$40,381	$41,127	$41,888	$42,664	$43,456	$44,265	$45,089	$45,929	$46,802	$47,693	$48,599
13	$32,788	$33,977	$35,215	$36,501	$37,836	$39,228	$39,951	$40,688	$41,443	$42,210	$42,993	$43,790	$44,605	$45,436	$46,291	$47,173	$48,072	$48,988	$49,923	$50,877	$51,849
14	$34,870	$36,142	$37,466	$38,841	$40,271	$41,760	$42,535	$43,323	$44,130	$44,951	$45,788	$46,657	$47,547	$48,455	$49,379	$50,322	$51,286	$52,267	$53,269	$54,290	$55,331
15	$37,095	$38,458	$39,873	$41,345	$42,877	$44,470	$45,298	$46,147	$47,027	$47,922	$48,837	$49,769	$50,720	$51,691	$52,680	$53,689	$54,718	$55,768	$56,838	$57,929	$59,041
16	$39,478	$40,935	$42,451	$44,026	$45,665	$47,398	$48,302	$49,224	$50,164	$51,123	$52,101	$53,099	$54,118	$55,156	$56,215	$57,294	$58,397	$59,521	$60,665	$61,832	$63,021
17	$42,026	$43,585	$45,205	$46,911	$48,700	$50,561	$51,527	$52,512	$53,519	$54,546	$55,593	$56,659	$57,749	$58,860	$59,993	$61,147	$62,328	$63,529	$64,755	$66,006	$67,280
18	$44,754	$46,432	$48,202	$50,043	$51,956	$53,946	$54,981	$56,034	$57,112	$58,210	$59,331	$60,473	$61,638	$62,827	$64,039	$65,274	$66,535	$67,821	$69,132	$70,468	$71,822
19	$47,709	$49,530	$51,422	$53,390	$55,437	$57,567	$58,673	$59,803	$60,956	$62,131	$63,328	$64,551	$65,798	$67,069	$68,366	$69,689	$71,039	$72,395	$73,769	$75,170	$76,598
20	$50,893	$52,842	$54,865	$56,973	$59,163	$61,441	$62,626	$63,834	$65,067	$66,323	$67,606	$68,914	$70,248	$71,605	$72,965	$74,354	$75,770	$77,212	$78,684	$80,185	$81,715
21	$54,301	$56,385	$58,554	$60,806	$63,150	$65,588	$66,855	$68,149	$69,468	$70,812	$72,168	$73,541	$74,940	$76,367	$77,824	$79,309	$80,823	$82,368	$83,942	$85,547	$87,183
22	$57,948	$60,177	$62,496	$64,908	$67,416	$70,025	$71,380	$72,738	$74,120	$75,532	$76,970	$78,439	$79,935	$81,464	$83,022	$84,610	$86,232	$87,887	$89,574	$91,294	$93,048
23	$61,850	$64,236	$66,717	$69,298	$71,970	$74,706	$76,128	$77,579	$79,059	$80,568	$82,109	$83,680	$85,282	$86,918	$88,584	$90,284	$92,019	$93,788	$95,594	$97,436	$99,314
24	$66,024	$68,578	$71,233	$73,943	$76,757	$79,685	$81,207	$82,762	$84,345	$85,960	$87,607	$89,288	$91,003	$92,752	$94,536	$96,355	$98,211	$100,105	$102,036	$104,005	$106,013
25	$70,492	$73,188	$75,973	$78,868	$81,881	$85,014	$86,642	$88,305	$90,000	$91,727	$93,490	$95,289	$97,123	$98,996	$100,903	$102,850	$104,835	$106,860	$108,925	$111,031	$113,178
26	$75,195	$78,061	$81,039	$84,140	$87,364	$90,715	$92,457	$94,235	$96,049	$97,899	$99,785	$101,709	$103,672	$105,676	$107,717	$109,799	$111,926	$114,094	$116,305	$118,560	$120,859

Source: Department of Budget and Management

Appendix 5
General Salary Increases, Increments, and Other Compensation
Fiscal 1999-2007

Fiscal Year		State Employees: General Salary Increase	State Employees: Increments	Additional Police, Natural Resources Police, and Park Ranger Salary Increases	Maximum Deferred Compensation Match by State	Pay-for-Performance Bonuses	Annual Salary Review Reclassifications	Other
1999			On time		None	Outstanding: $300		
	7/1/1998	$900		4.0%				
	1/1/1999	$375						
2000			On time		$600	Outstanding: $1,000 Exceeds standards: $500		Salary schedules expand from 6 to 16 steps on 7/1/99[1]
	7/1/1999	$638		4.0%				
	1/1/2000	$637						
2001			On time		$600	Outstanding: $1,000 Exceeds standards: $500		Standard salary schedule expands by 4 grades on 7/1/00[2] and a new physicians' schedule is developed.
	11/15/2000	4.0%						
	1/1/2001						Yes[3]	
2002			On time		$600	Outstanding: $500 Exceeds standards: $250		Salary schedules expand from 16 to 18 steps on 7/1/01[1]
	7/1/2001			$850				
	1/1/2002	4.0%					Yes[4]	
2003		None	None		$500	None		
2004		None	None		None	None		
2005	7/1/2004	$752	On time		None	None	Yes[5]	
2006	7/1/2005	1.5%	On time		$400	None	Yes[6]	
2007	7/1/2006	$900, $1,400, or 2%[7]	On time	2% extra, 9% extra for State police (primarily DGS and DHMH officers)	$600	None	Yes[8]	2 steps on standard salary schedule; 1 step on the physician's salary schedule

[1] The executive pay plan (EPP) and physicians' schedules did not expand.
[2] The standard salary schedule expanded to accommodate management service positions moved off the executive salary schedule.
[3] The following classifications were given upgrades effective January 1, 2001, most of which were in the 1 to 2 grade range: clerical workers, social workers in criminal justice and health services, computer operations and related classifications, professional fiscal and related classifications, election workers (local funds), and assistant superintendents at State hospitals.
[4] Three groups of employees received reclassifications in fiscal 2002: nurses, institutional educators, and addictions counselors who work in local health departments and nonprofits. Statewide increases went to nurse classifications through two grade increases, one on July 1, 2001, and one on January 1, 2002. Institutional educators received increases through an adjustment to their pay plan.
[5] The following classifications are provided upgrades: public defenders, social services attorneys, assistant general counsels (human relations), assistant State prosecutors, direct service workers in the Department of Juvenile Services, property assessors, lab scientists, administrative law judges, and banking financial examiners.
[6] The fiscal 2006 annual salary review provides a one-grade salary adjustment for the Deputy State Fire Marshal classification series.
[7] Fiscal 2007 general salary increases are $900 for employees making less than $45,000 at the end of fiscal 2006, $1,400 for employees making $70,000 or more, and 2% for those remaining.
[8] The fiscal 2007 annual salary review provides reclassifications and other enhancements for: correctional officers and correctional support personnel, registered nurses, licensed practical nurses, direct care assistants, forensic scientists, institutional educators, administrative law judges, and teachers' aides.

DGS: Department of General Services
DHMH: Department of Health and Mental Hygiene
Source: Department of Legislative Services, Department of Budget and Management

Appendix 6
Exceptions Hearing Process
Fiscal 2005 and 2006

	2005	2006
Charges for Termination		
Proposal Upheld	10	10
Proposal Rescinded	0	0
Proposal Remanded	0	0
Total	**10**	**10**
Suspensions		
Proposal Upheld	15	11
Proposal Rescinded	0	0
Proposal Remanded	0	0
Total	**15**	**11**
Suspensions Pending Charges for Termination		
Proposal Upheld	18	12
Proposal Rescinded	0	1
Proposal Remanded	0	0
Total	**18**	**13**
Involuntary Demotions		
Proposal Upheld	1	0
Proposal Rescinded	0	0
Proposal Remanded	0	0
Total	**1**	**0**
Notice of Disqualification from Future Employment		
Proposal Upheld	14	11
Proposal Rescinded	0	0
Proposal Remanded	0	0
Total	**14**	**11**
Rejections on Probation		
Proposal Upheld	8	11
Proposal Rescinded	0	0
Proposal Remanded	0	0
Total	**8**	**11**
Disciplinary Loss of Leave		
Proposal Upheld	3	1
Proposal Rescinded	0	0
Proposal Remanded	0	0
Total	**3**	**1**

Source: Department of Budget and Management

Appendix 7
Contractual Full-time Equivalent Positions
Fiscal 2001-2006 Working Appropriation

Department/Service Area	FY 2001 Actual	FY 2002 Actual	FY 2003 Actual	FY 2004 Actual	FY 2005 Actual	FY 2006 Wkg. App.
Judiciary	365	371	390	390	391	371
Legal	138	99	71	82	64	111
Executive & Administrative Control	239	208	206	205	197	179
Financial & Revenue Administration	28	35	29	32	37	36
Budget & Management	70	33	27	16	18	12
Retirement	28	30	24	21	27	30
General Services	27	35	26	24	19	27
Transportation	155	142	122	110	112	159
Natural Resources	331	332	378	317	356	342
Agriculture	38	36	44	35	41	40
Health & Mental Hygiene	448	409	357	411	440	472
Human Resources	354	111	73	51	57	135
Labor, Licensing, & Regulation	132	176	114	155	182	177
Public Safety & Correctional Services	330	298	281	235	238	462
MSDE and Other Education	203	218	190	188	229	212
Housing & Community Development	52	49	50	49	47	38
Business & Economic Development	54	49	47	37	36	32
Environment	42	32	23	16	14	45
Juvenile Services	317	119	98	306	543	243
Police & Fire Marshal	35	46	32	30	33	45
Subtotal	**3,386**	**2,828**	**2,582**	**2,707**	**3,080**	**3,166**
Higher Education	6,227	6,079	5,700	5,704	6,064	5,892
Total	**9,614**	**8,907**	**8,282**	**8,412**	**9,143**	**9,058**
Non-higher Education Executive Branch Total	**3,021**	**2,457**	**2,192**	**2,317**	**2,689**	**2,795**

MSDE: Maryland State Department of Education

Source: Department of Budget and Management and Department of Legislative Services

Appendix 8
Board of Trustees of the State Retirement and Pension System
as of June 30, 2006

William Donald Schaefer Chairman Comptroller of the Treasury (Ex officio)	Nancy K. Kopp Vice Chairman State Treasurer (Ex officio)	William D. Brown (Member of Teachers' Retirement and Pension Systems)
Sheila Hill (Member of Employees' Retirement and Pension Systems)	F. Patrick Hughes (Governor appointed)	Cecilia Januszkiewicz Secretary, Dept of Budget and Management (Ex officio)
John W. Douglass (Retiree of Employees' Retirement and Pension Systems)	David B. Hamilton (Governor appointed)	James M. Harkins (Governor appointed)
Morris L. Krume (Retiree of State Police Retirement System)	Carl D. Lancaster (Retiree of Teachers' Retirement and Pension Systems)	A. Melissa Moye, Ph. D (Governor appointed)
Pat O'Shea (Governor appointed)	Vacant (Governor appointed)	

Public Advisors to the Investment Committee

Robert W. Schaefer	Wayne H. Shaner	Brian B. Topping

Source: Maryland State Retirement Agency

Appendix 9
Comparison of Maryland State Retirement Plans

	Employees and Teachers[1]	State Police	Correctional Officers' System	Law Enforcement Officers' System	Judges	General Assembly	Governor
Participation	Condition of employment	Condition of employment	Condition of employment	Condition of employment	Condition of employment	Optional	Automatic
Vesting	5 years of service	5 years of service	5 years of service	5 years of service	Immediate	8 years of service	one full term
Employee Contribution	3% of salary (FY 2007) 4% of salary (FY 2008) 5% of salary (FY 2009 & thereafter)	8% of salary	5% of salary	4% of salary	6% of salary (for 16 years)	5% of salary (for 22 years, 3 months)	none
Service Retirement Conditions	Age 62 or 30 years	Age 50 or 22 years of service	20 years service, with at least the last 5 years as correctional officer	Age 50 or 25 years of service	Age 60	Age 60	Age 55
Allowance	1.8% of salary for years service after 7/1/98; plus 1.2% of salary for years service prior to 7/1/98	2.55% per year of service	1.8% per year of service	2.0% per year if subject to the LEOP's modified pension benefit; otherwise 2.3% for first 30 years and 1.0% for each year thereafter	2/3 of active judge salary at 16 years	3% of current legislative salary per year of service	1/3 of current gubernatorial salary for one term; or 1/2 of annual salary for 2 terms
Post Retirement Adjustments	Limited to 3% annual COLA	Unlimited annual COLA	Unlimited annual COLA	Limited to 3% annual COLA	Based on salary of active judges	Based on salary of active legislators	Based on salary of active governor

	Employees and Teachers[1]	State Police	Correctional Officers' System	Law Enforcement Officers' System	Judges	General Assembly	Governor
Ordinary Disability Retirement							
Conditions	Incapacitated for duty after 5 years eligibility service	Incapacitated for duty after 5 years eligibility service	Incapacitated for duty after 5 years eligibility service	Incapacitated for duty after 5 years eligibility service	Incapacitated for duty	Incapacitated for duty after 8 years of creditable service	Not applicable
Allowance	Service retirement projected to age 62	Service retirement with minimum of 35% of salary	Service retirement with minimum of 25% of salary	Service retirement projected to age 50	Service retirement with minimum of 33.3% of salary	Service retirement based on total years of creditable service	Not applicable
Accidental Disability Retirement							
Conditions	Permanently and totally disabled by accident in the performance of duty	Permanently and totally disabled by accident in the performance of duty	Permanently and totally disabled by accident in the performance of duty	Permanently and totally disabled by accident in the performance of duty	Not applicable	Not applicable	Not applicable
Allowance	2/3 of salary plus annuity based on member contributions	2/3 of salary plus annuity based on member contributions	2/3 of salary plus annuity based on member contributions	2/3 of salary plus annuity based on member contributions	Not applicable	Not applicable	Not applicable

[1]Table reflects the provisions of the Employees' Pension System and Teachers' Pension System. The Employees' Retirement System and Teachers' Retirement System, which were closed to new members in 1980, have different plan provisions that are discussed in Chapter 11.

Note: Table reflects abbreviated discussion of plan provisions see; Chapter 11 for fuller discussion of plan provision.

Source: Department of Legislative Services

Appendix 10
State and Participating Municipal Corporations – Contribution Rates by System
Fiscal 1996-2006

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Teachers' Combined	16.2%	16.1%	15.5%	14.0%	12.5%	11.0%	9.4%	9.4%*	9.4%*	9.4%*	9.4%*
Employees' Combined	8.6%	8.5%	8.2%	7.1%	7.2%	5.7%	4.7%	4.7%*	4.7%*	4.7%*	5.8%*
State Police	19.1%	17.7%	13.1%	10.9%	1.3%	8.4%	5.8%	5.8%	7.6%	0%	8.2%
Judges	52.5%	52.6%	52.5%	52.1%	48.2%	46.8%	42.7%	43.9%	43.7%	36.7%	41.1%
Law Enforcement Officers'	35.7%	35.2%	26.3%	25.6%	23.0%	23.4%	32.4%	36.1%	35.1%	37.7%	38.5%
Total State Systems	**13.6%**	**13.5%**	**12.9%**	**11.7%**	**10.7%**	**9.3%**	**8.0%**	**8.0%**	**8.1%**	**8.0%**	**8.5%**
Municipal Retirement	11.6%	10.9%	12.0%	10.9%	8.7%	7.8%	6.8%	7.0%	7.6%	9.9%	9.8%
Municipal Pension	7.4%	7.5%	7.0%	5.9%	3.7%**	2.8%**	1.8%**	2.0%**	2.6%**	4.9%**	4.8%**
Local Fire & Police	16.3%	16.2%	16.3%	16.4%	15.0%	15.0%	14.9%	14.8%	14.3%	20.4%	20.4%

*This rate remained fixed as long as the funding for the teachers' and employees' systems remained within a "corridor" of actuarial funding from 90% to 110%. In 2006, the funding level for the employees' system was out of its corridor, so employer contribution rates increased.

**An additional contribution of 2.42% is charged to all participating municipal corporations that have chosen to offer the 1998 pension enhancement to their Employees' Pension System members. Participating municipal corporations that opt for the Alternate Contributory Pension Selection enacted in Chapter 110 of 2006 will pay an additional contribution of 1.76%.

Source: *Comprehensive Annual Financial Report*, Maryland State Retirement Agency, June 30, 2005; 2005 Actuarial Valuation, State Retirement Agency

Appendix 11
State Retirement and Pension System of Maryland
External Investment Manager Fees Report
Fiscal 2005

External Investment Managers	Market Value ($ in Millions)	Fees Paid in FY 2005	Fees as % of Assets
I. DOMESTIC/INTERNATIONAL EQUITY			
A. Passive Management			
State Street Global Advisors	$13,289.8	$1,346,000	0.01%
B. Active Management			
Capital Guardian	1,731.1	5,552,000	0.32%
Templeton	1,118.9	3,150,000	0.28%
Wellington Management	892.4	2,608,000	0.29%
Legg Mason	839.2	2,364,000	0.28%
Artisan Partners	645.5	2,970,000	0.46%
Dimensional Fund Advisors	555.0	2,371,000	0.43%
Robert Torray & Co.	510.6	1,912,000	0.37%
Ariel Capital Management	324.6	1,094,000	0.34%
Relational Investors	274.2	5,216,000	1.90%
Edgar Lomax	252.6	823,000	0.33%
T. Rowe Price Associates	149.1	868,000	0.58%
Brown Investment Advisory	95.4	576,000	0.60%
Internally Managed	26.5	n/a	n/a
Other (consulting fees and expired contracts)	0.1	3,556,000	n/a
Subtotal	$20,705.0	$34,406,000	0.17%
II. PRIVATE EQUITY			
Adams Street Partners	$59.7	$844,000	1.41%
HarbourVest Partners	54.8	1,000,000	1.82%
Abbott Capital Management	34.8	330,000	0.95%
Lion Capital Fund	5.5	0	0%
Audax Private Equity	4.2	0	0%
Apax Europe VI	1.5	0	0%
Alchemy Partners	0.7	45,000	6.40%
Frazier Healthcare	0.4	0	0%
Advent International Corp.	0.3	0	0%
Subtotal	$161.9	$2,219,000	1.37%
Total Equity	**$20,866.9**	**$36,625,000**	**0.18%**

External Investment Managers	Market Value ($ in Millions)	Fees Paid in FY 2005	Fees as % of Assets
III. FIXED INCOME			
A. Passive Management			
State Street Global Advisors	$3,622.5	$428,000	0.01%
B. Active Management			
Western Asset Management	1,923.5	2,363,000	0.12%
Pacific Investment Management Co.	1,785.6	3,393,000	0.19%
Bridgewater Associates	1,135.6	1,398,000	0.12%
Payden & Rygel	1,003.0	1,179,000	0.12%
Internally Managed	4.2	n/a	n/a
Other (consulting fees and expired contracts)	0	329,000	n/a
Total Fixed Income	**$9,474.5**	**$9,090,000**	**0.10%**
IV. REAL ESTATE FUNDS			
LaSalle Investment Management Securities	$854.4	$1,713,000	0.20%
LaSalle Investment Management, Inc.	396.3	4,082,000	1.03%
J. P. Morgan	274.2	2,035,000	0.74%
Lubert–Adler	54.5	895,000	1.64%
Prudential Investment/CIGNA	30.2	461,000	1.53%
Chesapeake Maryland Limited Partnership	26.0	278,000	1.07%
Internally Managed	3.0	n/a	n/a
Other (consulting fees and expired contracts)	0	41,000	n/a
Total Real Estate	**$1,638.6**	**$9,505,000**	**0.58%**
TOTAL – ALL FEES	**$31,980.0**	**$55,220,000**	**0.17%**

Source: Maryland State Retirement and Pension System, Comprehensive Annual Financial Report, June 30, 2005

Appendix 12
Comparison of Plan Provisions of
457, 401(k), and 403(b) Payroll Deferral Plans

	457 Deferred Compensation Plan	**401(k) Savings and Investment Plan***	**403(b) Tax Deferred Annuity Plan**
Eligibility	All State employees	All State employees	State employees whose work assignments are within State educational institutions
Pre-tax payroll deductions	Yes (but not for FICA)	Yes (but not for FICA)	Yes (but not for FICA)
Minimum contribution	$5 per bi-weekly pay	$5 per bi-weekly pay	$5 per bi-weekly pay
Maximum contribution	Up to 100% of compensation, or $15,000	Up to 100% of compensation, or $15,000	Up to 100% of compensation, or $15,000
Maximum contribution if participating in more than one plan	Up to $30,000 if a member is participating in the 457 and the 401(k) or 403(b) plan	Up to $30,000 if a member is participating in the 401(k) and the 457 or 403(b) plan	Up to $30,000 if a member is participating in the 403(b) and the 401(k) or 457 plan
Eligibility to participate in the 401(a) matching program	Yes, provided the participant is a member of the Employees' Pension System or the Teachers' Pension System	Yes, provided the participant is a member of the Employees' Pension System or the Teachers' Pension System	Yes, provided the participant is a member of the Employees' Pension System or the Teachers' Pension System
"Catch-up" provisions	Yes, within limits	Yes, within limits	Yes, within limits
Fees	Currently, 0.28% of the member's account value per year, not to exceed $1,900/year	Currently, 0.28% of the member's account value per year, not to exceed $1,900/year	Currently, 0.28% of the member's account value per year, not to exceed $1,900/year
Current investment categories	Investment Contract Pool and mutual funds	Investment Contract Pool and mutual funds	Mutual funds

	457 Deferred Compensation Plan	401(k) Savings and Investment Plan*	403(b) Tax Deferred Annuity Plan
Rollover options	(1) From a 457, 401(k), 403(b), or traditional IRA into the member's supplemental retirement account; and (2) To a 457, 401(k), 403(b), or traditional IRA, upon leaving State service	(1) From a 457, 401(k), 403(b), or traditional IRA into the member's supplemental retirement account; and (2) To a 457, 401(k), 403(b), or traditional IRA, upon leaving State service	(1) From a 457, 401(k), 403(b), or traditional IRA into the member's supplemental retirement account; and (2) To a 457, 401(k), 403(b), or traditional IRA, either upon leaving State service or reaching age 59 ½ while member remains in State service
Withdrawal while employed	Age 70 1/2 or older, or qualify for a hardship withdrawal	Age 59 1/2 or older, or qualify for a hardship withdrawal	Age 59 1/2 or older, or qualify for a hardship withdrawal
Penalty for early withdrawals	None.	(1) None, if the member leaves State employment at age 55 or older, or begins withdrawals at age 59 1/2; and (2) Prior to age 55, a 10% federal income tax withholding on most distributions	(1) None, if the member leaves State employment at age 55 or older, or begins withdrawals at age 59 1/2; and (2) Prior to age 55, a 10% federal income tax withholding on most distributions
Loans	Member may borrow up to 50% of the member's account, not to exceed $50,000 – must be repaid within 5 years	Member may borrow up to 50% of the member's account, not to exceed $50,000 – must be repaid within 5 years	Member may borrow up to 50% of the member's account, not to exceed $50,000 – must be repaid within 5 years
Hardship distributions	For unforeseeable emergencies causing financial hardships – no IRS penalty for hardship distributions	For severe emergencies causing financial hardships – a 10% IRS penalty may apply for certain hardship distributions	For severe emergencies causing financial hardships – a 10% IRS penalty may apply for certain hardship distributions

FICA: Federal Insurance Contributions Act
IRA: Individual Retirement Account
IRS: Internal Revenue Service

Source: Maryland Teachers' and Employees' Supplemental Plans, August 2006

Appendix 13
Board of Trustees of the
Maryland Teachers' and State Employees' Supplemental Retirement Plans
as of June 30, 2006

Frederick W. Puddester
Chairman of the Board
Chief Budget Officer,
Johns Hopkins University
(Eligible Participant Member)

Vacant
(Public Member)

Vacant
(403(b) Eligible Participant Member)

Linda L. Tanton
Deputy Comptroller
Office of the Comptroller
(State of Maryland Agency Representative)

Marcia Zercoe
(Public Member)

Dennis J. Bell
Director, Office of Finance
Maryland Transit Administration
(Eligible Participant Member)

Cecilia Januszkiewicz
Secretary, Budget and Management
(State of Maryland Agency Representative)

Nancy K. Kopp
Maryland State Treasurer
(State of Maryland Agency Representative)

William W. Whitescarver
(Public Member)

Source: Maryland Teachers' and Employees' Supplemental Plans

Appendix 14
State Contract Dollars Awarded by Agency
Calendar 2000-2004
($ in Millions)

Agency	Dollar Value of Contracts Awarded
State Highway Administration	$1,580
Department of Budget and Management	1,419
Interagency Committee on Public School Construction	1,231
Maryland Transit Administration	694
University of Maryland, College Park	626
Maryland Aviation Administration	530
Maryland Transportation Authority	462
Department of General Services	440
Maryland Port Administration	424
University of Maryland, Baltimore	351
Maryland State Lottery Agency	150
Motor Vehicle Administration	140
Department of Public Safety and Correctional Services	114
Department of Transportation – Secretary's Office	82
Maryland Stadium Authority	56
Morgan State University	51
Department of Health and Mental Hygiene	45
University of Maryland Baltimore County	40
University of Maryland University College	31
Department of Juvenile Services	24
Department of Human Resources	23
Bowie State University	18
Towson University	17
Frostburg State University	14
Coppin State University	3
University of Baltimore	2
Salisbury University	1
University of Maryland Eastern Shore	1
Total	**$8,600***

*Numbers do not total due to rounding.

Source: *Race, Sex, and Business Enterprise: Evidence from the State of Maryland*, NERA Economic Consulting (March 7, 2006)

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