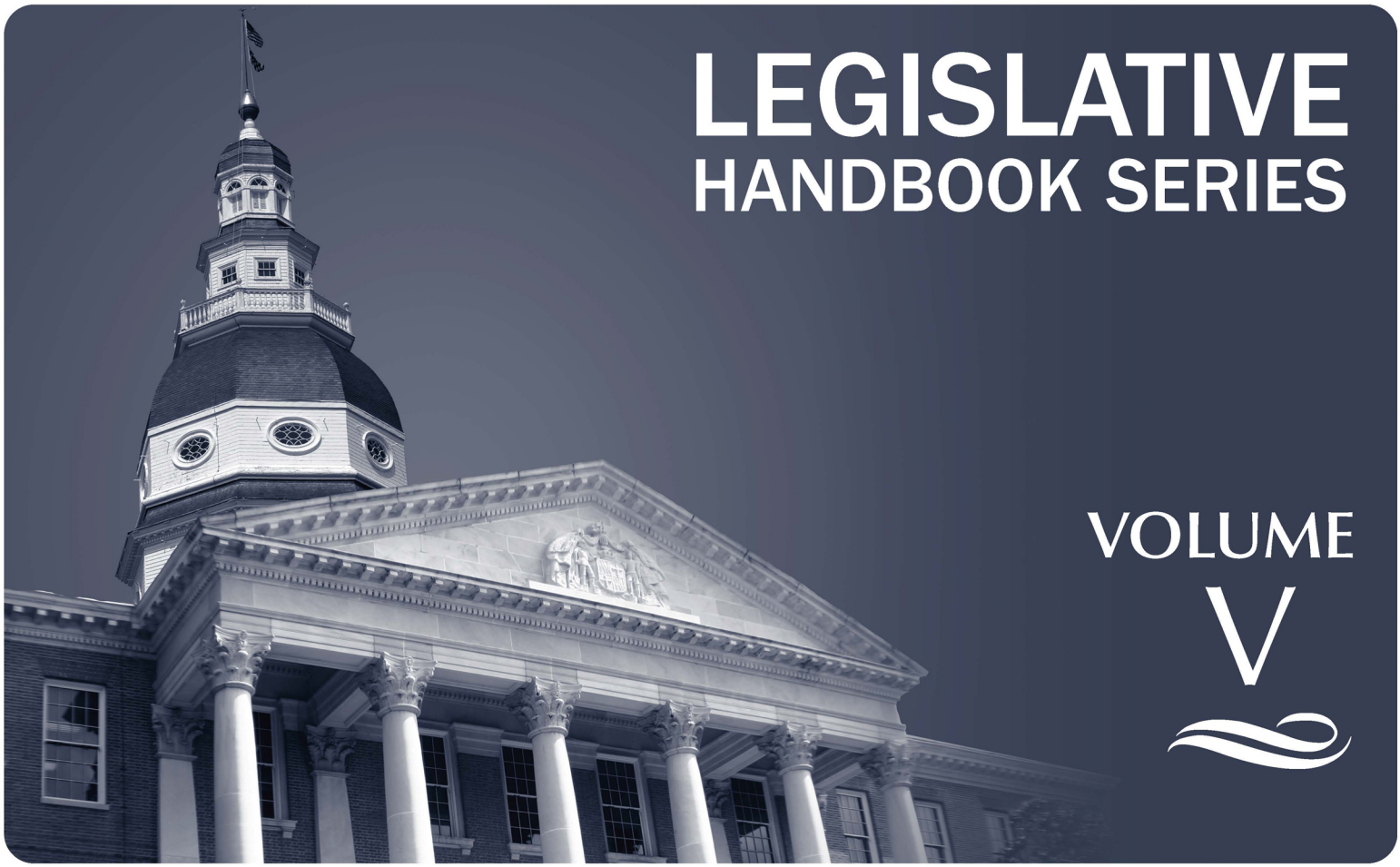

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VOLUME V

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Maryland State Personnel, Pensions, 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 80,800 regular positions. In fiscal 2015, the State will spend $9.2 billion on wages and benefits (including retirement benefits for local school systems), which amounts to 21.6% of the total State operating budget for that year. In addition, there are approximately 382,000 individuals who are enrolled as members of the State Retirement and Pension System (which includes active members, vested former members, and beneficiaries). These numbers include all public school teachers in Maryland. These teachers are employees of local government, but their pension program is administered by the State. In fiscal 2015, the projected payment, including the local share, to the State Retirement and Pension System on behalf of all its members is $1.9 billion. As of June 30, 2014, the State Retirement and Pension System investment portfolio had a market value of $45.4 billion which represents the State's largest public pool of capital.

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 passed 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.

This is the fifth in a series of nine volumes of the 2014 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 Phillip Anthony, Michael Rubenstein, Lisa Simpson, Dana Tagalicod, and Patrick Tracy. Supervision and review of the volume was provided by Patrick Frank, Ted King, and Claire Rossmark. The manuscript was prepared by Kim Landry and Kamar Merritt.

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 2014

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Chapter 1. Profile of Maryland's State Workforce

As of July 1, 2014, Maryland's public employee workforce consists of 80,788 budgeted 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 9,339 full-time equivalent positions are in the other major category – contractual employment. The State will spend just under $7.5 billion on salaries, wages, and benefits during fiscal 2014, which amounts to 20.3% of the total State operating budget.

The following exhibits provide a demographic and functional "snapshot" 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 2009 to 2014.
- Exhibit 1.2 compares the distribution of State employees by length of service in fiscal 2013.
- Exhibit 1.3 shows the distribution of State employees by department/service area in fiscal 2015. Appendix 1 presents a historical table of this distribution.
- Exhibit 1.4 is a demographic profile of the State workforce for fiscal 2013.
- Exhibit 1.5 lists average salaries of State employees from fiscal 1994 to 2013.

Exhibit 1.1
State Population – State Employment
(Includes Higher Education Employees)
Fiscal 2009-2014

Fiscal Year	Population[1]	% Change	Authorized State Positions[2]	% Change	Employees as % of State Population
2009	5,684,965		81,801		1.4%
2010	5,730,388	0.80%	80,214	-1.9%	1.4%
2011	5,787,193	0.99%	79,558	-0.8%	1.4%
2012	5,840,241	0.92%	78,987	-0.7%	1.4%
2013	5,884,868	0.76%	79,231	0.3%	1.3%
2014	5,928,814	0.75%	79,834	0.8%	1.3%

[1]Estimated population as of July 1 of the fiscal year.
[2]Full-time equivalent positions as of July 1 of the fiscal year.

Source: U.S. Census Bureau; Maryland Department of Planning; Department of Legislative Services; Department of Budget and Management

Exhibit 1.2
State Employees by Length of Service[1]
Fiscal 2013

Years of Service	Distribution of Employees Fiscal 2013
Less than 1 year	6%
1 – 5 years	38%
6 – 10 years	29%
11 – 15 years	9%
16 – 20 years	8%
21 – 30 years	8%
Over 30 years	2%

[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 2015[1]

Department/Service Area	FTE	Percent
Legislative Branch	**748**	**0.9%**
Judicial Branch	**3,733**	**4.6%**
Executive Branch		
Judicial and Legal Review (Excluding Judiciary)	1,503	1.9%
Executive and Administrative Control	1,650	2.0%
Fiscal and Revenue Administration	2,108	2.6%
Budget, Personnel and Information Technology	450	0.6%
Retirement Programs	205	0.3%
General Services	592	0.7%
Transportation	9,179	11.4%
Natural Resources	1,302	1.6%
Agriculture	385	0.5%
Health and Mental Hygiene	6,388	7.9%
Human Resources	6,487	8.0%
Labor, Licensing, and Regulation	1,641	2.0%
Public Safety and Correctional Services	11,126	13.8%
Public Education (Excluding Higher Education)	1,980	2.5%
Housing and Community Development	339	0.4%
Business and Economic Development	219	0.3%
Environment	955	1.2%
Juvenile Services	2,074	2.6%
State Police	2,445	3.0%
Executive Branch Subtotal	***51,025***	***63.2%***
Higher Education	**25,282**	**31.3%**
Total	**80,788**	**100.0%**

FTE: full-time equivalent

[1] As of July 1, 2014.

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

Source: Department of Budget and Management

Exhibit 1.4
State Workforce Highlights
Fiscal 2013

	SPMS	MDOT
● **State Government Employees by Bargaining Status:**[1]		
Included in a Collective Bargaining Unit	64.9%	58.9%
Excluded from Collective Bargaining Units	35.1%	41.1%
● **Work Location of State Employees:**[1]		
Baltimore City	36.6%	29.0%
Anne Arundel County	12.8%	35.0%
Baltimore Metro Area	18.4%	9.6%
Western Maryland	14.0%	6.7%
Eastern Shore Area	10.4%	7.3%
Washington Metro Area	4.8%	10.0%
Southern Maryland Area	2.6%	2.6%

● **The Statewide Civilian Labor Force Is:**	**...while the State Employee Workforce Is:**
50.8% Male	45% Male
49.2% Female	55% Female
43.3% Minority	49.6% Minority

● **State Government Employees by Service Classification:**[2]	
Executive Service	1.9%
Management Service	3.6%
Special Appointment	6.9%
Professional Service	7.2%
Skilled Service	57.6%
Transportation Service	12.8%
Other	10.0%

● **The average SPMS employee is 46 years old and has 13 years of service, while the average MDOT employee is 48 years old with 15 years of service.**[1]

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

[1]Excludes information from the University System of Maryland, the Maryland Transportation Authority, the union employees of the Maryland Transit Administration, and employees of the Legislative and Judicial branches.
[2]SPMS and MDOT full-time and part-time employees.

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 1994-2013

Fiscal Year	Average Salary
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
2006	44,464
2007	46,080
2008	47,490
2009	48,530
2010	48,057
2011	47,934
2012	48,770
2013	48,829

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.

Historical Federal Influence

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.

"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 toward 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% 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 "whistleblowers" 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 Baltimore City 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 in 1920 was not an isolated attempt at governmental reform; it was part of a larger reform movement that swept Maryland in the early 1900s (*i.e.*, executive budget system, child labor laws, work safety, and 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 legislative 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 legislative 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 N. 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 workforce. 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 Budget and Management in turn created the Office of Personnel and Employee Benefits to oversee the management of the State's workforce.

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

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. Chapters 581 and 582 of 2012 further extended the State's collective bargaining law to include employees of the Office of the Comptroller, the Maryland Transportation Authority (non-police officers), the State Retirement Agency, and the Maryland State Department of Education. In 2009 and 2013, the General Assembly authorized the State and certain higher education institutions, respectively, to bargain with respect to service fees for members of a bargaining unit who are not members of the exclusive representative. 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:

- "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" is a type of temporary employee whose employment cannot exceed six months.

- "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.

- "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.

- "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.

- "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.

- "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.

- "Special appointments" means certain positions in the skilled or professional service that are exempted from the selection and termination provisions of that service and may be filled with regard to political affiliation, opinion, or belief.

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

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 may issue executive orders to change personnel policies. Examples include State employee substance abuse (E.01.01.1991.16), an increase in the standard work week for State employees from 35.5 to 40 hours per week (E.0.01.01.1991.19), the State employee furlough and temporary salary reduction program (E.01.01.2008.20, E.01.01.2009.11, and E.01.01.2010.11), and standards of conduct for Executive Branch employees (E.01.01.2007.01).

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 Maryland 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 31.3% (25,282 full-time equivalent positions) and 11.4% (9,175 full-time equivalent positions), respectively, of the total number of budgeted State positions for fiscal 2015. 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 that 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. Chapters 561 and 562 of 2012 granted the Board of Trustees for the State Retirement and Pension System limited authority to set the salaries of the deputy chief investment officer and managing directors in the Investment Division within the State Retirement Agency.

The Judicial and Legislative branches (combined 5.5% of the total regular workforce or 4,481 full-time equivalent 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. Chapter 613 of 2014 altered the independent salary setting authority of the following entities:

- Correctional Training Commission;
- Police Training Commission;
- Department of Business and Economic Development;
- Maryland Water Quality Financing Administration;
- Maryland Health Care Commission;
- Maryland Health Services Cost Review Commission;
- State Board of Physicians;
- State Lottery and Gaming Control Agency;
- Maryland Insurance Administration;
- Maryland Health Insurance Plan;
- Maryland Health Benefit Exchange; and
- Divisions of Unemployment Insurance and Workforce Development within the Department of Labor, Licensing, and Regulation.

The Act allowed the above entities to establish employee compensation for positions that are unique to those entities, require specific skills or experience, and do not require employees in those positions to perform functions that are comparable to those performed by employees of other State agencies. The Act also specified that the Secretary of Budget and Management, in consultation with the various agencies, determine for which positions the entity may set compensation.

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 Maryland 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 Act created the University System of Maryland by combining the university's campuses with the campuses of the former institutions of higher education governed by the Board of Trustees of State Universities and Colleges.

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.

Maryland Department of Transportation Personnel System

Chapter 168 of 1992 authorized the Maryland 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 two types of employment positions in State government: regular full-time equivalent positions and contractual positions. Regular full-time equivalent positions are further divided into four categories: skilled service, professional service, management service, and executive service. Most regular full-time equivalent positions are in the skilled service category, which are selected on a competitive basis and enjoy full employee protections inherent in a merit system. Professional service positions require advanced knowledge in a field of science or learning acquired through special courses and study often requiring a professional license or advanced degree. Professional service positions also enjoy full employee protections. A position is in the management service if the position involves direct oversight over personnel and financial resources and is not in the executive service. Executive service positions are generally political appointments at the highest levels of State government.

Within the skilled and professional services classes of regular employees, there is a category of special appointment employees. Special appointments positions consist of the following:

- positions filled by individuals appointed by the Governor that are not provided for 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.

If the Secretary of Budget and Management determines that the special appointment position relates to political interests or concerns, requires direct or indirect input into the policymaking process, or provides access to confidential information with a role in policymaking or providing direct advice or services, the positions may be filled with regard to political affiliation, belief, or opinion.

At-will employees serve at the pleasure of their appointing authority and may be terminated from employment for any reason, solely at the discretion of the appointing authority. There are several groups of at-will positions, which include positions in the executive and management services as well as positions across all services designated as special appointments. In addition, Maryland statutory law defines certain other positions that are considered at-will or special appointment. Chapter 690 of 2009 changed the at-will status of a number of positions and groups of positions previously classified as at-will in statute. These include the Department of Public Safety and Correctional Services chaplains, certain Department of Business and Economic Development employees, certain Maryland State Department of Education professional assistants, Child Support Enforcement Administration demonstration site employees, Maryland Historical Trust positions, and staff of certain health commissions. Changes to the at-will status of these positions were encumbered on October 1, 2009, and take effect when the position becomes vacant.

Approximately 6.9% of State employees in the State Personnel Management System and the Department of Transportation Personnel System were special appointment positions in fiscal 2013. 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 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 – Maryland's 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 2013, the State Personnel Management System and the Department of Transportation Personnel System covered over 50,000 budgeted positions in the State

Personnel Management System. Approximately 0.5% are in the executive service, 4.4% are in the management service, 9.0% are in the professional service, 71.6% are in the skilled service, and 9.1% are in special appointment status. The remaining positions include other at-will positions and uniformed State troopers. In the Department of Transportation Personnel System, 11.8% are in the executive service, 87.1% are in the career service, and 1.0% are in special appointment status.

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.

Reforms to the State Personnel Management System

During the 2005 interim, the Legislative Policy Committee appointed a Special Committee on State Employees Rights and Protections to examine numerous matters regarding the State Personnel Management System, as well as terminations and separations of at-will employees. Chapter 592 of 2007, the State Employees' Rights and Protections Act, implemented some of the recommendations made by the special committee. It:

- provided that special appointments may be filled with regard to political affiliation if the Secretary determines that the position relates to political interests or concerns and requires direct or indirect input into the policymaking process or provides access to confidential information;

- provided that special appointments require the designation and written notification to employees of at-will positions in the State Personnel Management System and the Maryland Department of Transportation that must be filled with or without regard to political affiliation, belief, or opinion;

- clarified that at-will employees cannot be terminated illegally or unconstitutionally;

- prohibited the termination of a management service employee or nonpolitical special appointment to create a position for an individual based on political affiliation, belief, or opinion; and

- required the Department of Legislative Services to further study at-will employment and provide suggestions for reform.

In 2008, the Department of Legislative Services issued a report on its findings. Chapter 690 of 2009 implemented many of the recommendations of the report. The bill repealed the automatic at-will status of a number of groups of employees throughout State government; allowed for flexibility in recruiting for certain skilled and professional service positions; repealed the Legislative Joint Committee on Fair Practices and established the Joint Committee on Fair Practices and State Personnel Oversight; required submission of a report each gubernatorial election year on the total number of individuals employed with regard to political affiliation, belief, or opinion in the State; and required the Secretary of Budget and Management to evaluate all skilled and professional services positions considered special appointments to determine whether these positions should continue to be considered special appointments.

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 timeframes, 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, deadlines and locations for submitting applications, and the duration of the list of eligible individuals derived from the announcement. 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 2004 through 2014 by the Department of Budget and Management. The growth in applications and testing is attributed to a tighter labor market and the online automation of the application process for many jobs. Despite a significant increase in job applicants, appointments remained between 3,000 and 4,000 per year during the period from fiscal 2011 through 2014. 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 2004-2014

Fiscal Year	Applications Received	Applicants Tested	Appointed
2004	41,784	36,334	3,972
2005	48,591	43,838	5,354
2006	51,567	47,381	6,710
2007	55,563	51,973	5,237
2008	47,719	43,921	4,448
2009	56,558	52,223	4,054
2010	59,502	55,156	2,887
2011	59,656	55,083	3,336
2012	62,651	58,075	3,283
2013*	254,796	164,429	3,344
2014*	325,719	204,773	3,943

*Includes applications for contractual positions.

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 5 points for 20 years of service. State residents are entitled to 5 points toward their scores. There are also credits available for positions at qualified prison facilities and at the Baltimore Juvenile Justice Center for residents living in or adjacent to counties with high unemployment rates. As a result of reforms made to the personnel system (Chapter 347 of 1996), the absolute hiring preference for veterans was eliminated. However, a credit of 10 points is given to eligible veterans, spouses of disabled veterans, and surviving spouses of deceased veterans. Two additional points are given to disabled veterans and former prisoners of war.

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.

Depending on the number of available candidates, agencies may 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.

In making a selection, agencies may interview any of the candidates in the rating category from which the selection will be made. However, if interviews are conducted, at least three candidates must be interviewed.

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. The probationary period may be extended at the discretion of the agency if the agency decides that additional time is necessary to allow the employee to demonstrate proficiency in his or her duties, the agency decides that more time is required due to an employee's approved absence, or if the employee requests it. Employees in salary grade seven or higher may have their probations extended up to six more months, while employees in salary grades one through six may have their probations extended up to three months. An employee reinstated into the same classification within one year after leaving State service, after already serving probation, does 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. 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

Title 7, Subtitle 5 of the State Personnel and Pensions Article requires that all employees in the skilled service, the professional service, and the management service have their performance evaluated every six months. In November 2008, the Performance Appraisal Task Force was established as a result of collective bargaining negotiations between the State and the exclusive bargaining representatives of State employees. The task force was charged with reviewing the current employee performance appraisal procedures and suggesting changes to increase effectiveness and to increase the completion rate of the performance appraisals by supervisors. Changes made through Chapter 142 of 2010 reflect the recommendations of the task force.

The evaluation process is designed to facilitate communication between employees and supervisors. The components of the appraisal process include an informal mid-year performance appraisal and an end-of-year performance appraisal with an overall performance rating. Previous requirements for a self-appraisal by the employee were eliminated by Chapter 142. 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," "satisfactory," or "unsatisfactory" (ratings were collapsed from five categories to three per Chapter 142). The final performance appraisal should include ways to enhance the employee's performance, specific tasks to achieve during the next rating period, and recommendations for training or other methods to increase the employee's skills.

In addition to the downward evaluation process, if a supervisor or manager is responsible for five or more employees, the supervisor's or manager's supervisor may require the completion of anonymous surveys by the supervisor's employees. 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.

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. In fiscal 2010 and 2011, due to the State's weak fiscal condition, language included in budget reconciliation and financing legislation prohibited the granting of bonuses to any State employee, except as necessary to retain faculty at certain higher education institutions or the performance bonus for the Chief Investment Officer of the State Retirement and Pension System. After three years of furloughs, the fiscal 2012 budget included funding for a $750 bonus for State employees. Bonuses are 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

Title 7, Subtitle 6 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 may 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 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 developing rates of pay, the Secretary of Budget and Management 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 2015, the salary schedule has 22 grades and 21 steps within each grade (base plus steps 1 through 20) and is the pay plan for the vast majority of employees. Chapter 216 of 2006 (the fiscal 2007 budget bill) eliminated grades 1 through 4 of the standard salary schedule in an effort to ensure that all full-time State employees earned at least $20,000 per year. The salary schedule in effect beginning on July 1, 2014, is shown in Appendix 4.

Although the standard salary schedule covers most State employees, there are six 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), police officers, State and natural resources police, deputy fire marshals, State Police Aviation Command, 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.

General salary increases have been provided by various methods. Appendix 5 is a history of State general salary increases for fiscal 2003 through 2014. Due to budgetary restraints, no general salary increases were granted in fiscal 2010 or 2011. Cost-of-living

adjustments of 2% and 3% were granted in fiscal 2013 and 2014, respectively. Additionally, the fiscal 2014 budget included merit increases for the first time in several years. The fiscal 2015 budget included funding for merit increases and cost-of-living adjustments.

In addition to general pay increases, Section 8-105 of the State Personnel and Pensions Article provides for salary adjustment procedures through annual salary reviews. 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.

Special Pay Provisions

Shift differential pay is provided to certain employees who work qualifying shifts. Qualifying shifts start at or after 2:00 p.m. and at or before 1:00 a.m. Employees eligible for shift differential pay include registered nurses at State institutions, sworn police officers, fire marshals, and firefighters at the Maryland Department of Transportation. In addition, registered nurses at State institutions may also be paid differentials for weekend shifts.

Employees of the State Fire Marshal's Office who are members of the bomb squad or work as an explosives technician are entitled to hazardous duty pay. Hazardous duty pay may not exceed $150 per month.

Executive Pay Plan

The executive pay plan was created in 1989 (Chapter 831 of 1989) 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 Maryland 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 extended standard salary schedule, which was expanded four grades to accommodate them.

Chapter 335 of 2008 (the fiscal 2009 budget bill) created one additional salary range, for a total of nine salary ranges in the executive pay plan, as demonstrated in Exhibit 3.2. 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 2015
Effective July 1, 2014

Scale	Minimum	Midpoint	Maximum
ES4	$78,385	$91,448	$104,513
ES5	84,217	98,288	112,352
ES6	90,522	105,671	120,819
ES7	97,328	113,650	129,969
ES8	104,679	122,265	139,849
ES9	112,621	131,571	150,521
ES10	121,194	141,618	162,040
ES11	130,459	152,472	174,487
ES91	150,026	200,928	251,829

Source: Department of Budget and Management

Administrative procedures pertaining to the executive pay plan include:

- Merit increases are limited by and awarded out of a merit pool. 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.

Gubernatorial and Constitutional Officer 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. The General Assembly may endorse or reduce each commission's proposals but may not increase the proposed salaries. In 2014, the Governor's Salary Commission recommended that the salaries for the Governor and the Lieutenant Governor increase for each year of the new term. The commission recommended increasing the Governor's salary by $15,000 to $165,000 for the first year of the new four-year term and then by $5,000 for each succeeding year of the new term with the salary for the final year being $180,000. The commission recommended increasing the salary for the Lieutenant Governor by $12,500 to $137,500 for the first year of the new four-year term and then by $4,000 for each succeeding year of the new term with the salary for the final year being $149,500. Joint Resolution 1 and Joint Resolution 2 of 2014 implemented these recommendations.

In addition to making salary recommendations for the Governor and Lieutenant Governor, the Governor's Salary Commission makes recommendations regarding the salaries of the Comptroller, Treasurer, Attorney General, and Secretary of State for the next

four-year term of office. Chapter 283 of 2014 reflects the commission's recommendations by increasing the salaries of the Comptroller, Treasurer, and Attorney General by $25,000 to $137,500 for the first year of the new four-year term and by $4,000 for each succeeding year of the new term. The salary for the Comptroller, Treasurer, and Attorney General for the final year is $149,500. Also, the salary for the Secretary of State is increased by $17,750 to $96,500 for the first year of the new four-year term and by $3,000 for each succeeding year of the new term. The salary for the Secretary of State for the final year is $105,500. Exhibit 3.3 shows the salaries for the Governor, Lieutenant Governor, and Constitutional Officers for the 2015 through 2018 legislative term of office.

Exhibit 3.3
Salaries of the Governor, Lieutenant Governor, and Constitutional Officers
2015-2018 Legislative Term

Position	Prior Salary	2015	2016	2017	2018
Governor	$150,000	$165,000	$170,000	$175,000	$180,000
Lieutenant Governor	112,500	137,500	141,500	145,500	149,500
Comptroller	112,500	137,500	141,500	145,500	149,500
Treasurer	112,500	137,500	141,500	145,500	149,500
Attorney General	112,500	137,500	141,500	145,500	149,500
Secretary of State	78,750	96,500	99,500	102,500	105,500

Source: Department of Legislative Services

The Governor's Salary Commission also made recommendations regarding the pension and health benefits available to former Governors and surviving spouses of a deceased Governor or former Governor. Chapter 477 of 2014 raised the retirement age and changed eligibility requirements for retirement health benefits for former Governors who begin serving on or after January 21, 2015. Chapter 11 of this volume describes the details of the pension benefits and post employment benefits for former Governors, Lieutenant Governors, and Constitutional Officers.

Overtime Compensation

State employees who are not exempt from the federal Fair Labor Standards Act are eligible to receive cash payments or compensatory time 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 policies 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 ES91.

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 1.0 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 times the employee's regular hourly rate of pay; (3) an employee may carry no more than 240 hours of compensatory time (480.0 hours for employees who work in a public safety activity, emergency response activity, or seasonal activity) and must use it within one year of when it is accrued; 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 may not receive payment for overtime work. These employees may be granted compensatory time. 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 with regard to age; ancestry; color; creed; marital status; mental or physical disability; national origin; race; religious affiliation, belief, or opinion; or sex. For members of the skilled, professional, and management services, and special appointment positions not designated as political appointments, personnel actions must also be made without regard for political affiliations, beliefs, or opinions. 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 Joint Committee on Fair Practices and State Personnel Oversight (formerly the Legislative Joint Committee on Fair Practices, changed in Chapter 690 of 2009), 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 Subtitle 2;

- appointment of a fair practices officer and an appropriate number of equal employment opportunity officers 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. Within 30 days of the complaint being filed, the agency's equal employment opportunity officer then investigates, and the agency head must issue a written decision. If the complainant is not satisfied, the person has 10 days to appeal the decision to the Secretary of Budget and Management 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 designee must then make a decision and if a violation has occurred, the decision must also include recommendations for appropriate remedial action. Regardless of the decision, the decision of the Secretary or designee is final.

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.

Employees seeking relief from a violation may file a complaint or pursue the statutory grievance procedure. After a possible violation, an employee has six months to file a complaint with the Secretary 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 for 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 in the workplace. The Department of Budget and Management coordinates policies and practices regarding State employee drug use and testing, and has adopted regulations under COMAR 17.04.09 pertaining to testing of employees for use of illegal drugs. 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, will be referred to an employee assistance program for the first conviction and will be subject to any other appropriate disciplinary action; for the second conviction, will be suspended for at least five days and will be subject to first conviction actions; and for the third conviction, will 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;

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[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...."

- 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 earlier 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 grievances do not include disputes about:

- a pay grade or range for a class;
- 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;
- a mid-year performance appraisal; 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 or patients 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:

- Before filing, the employee must talk to the employee's supervisor about the dispute. 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.

- 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 decisionmaker in the grievance procedure. A decisionmaker 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 and former employees, except temporary 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 work days 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, theft of State property, 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:

- being negligent in the performance of duties;
- engaging in intentional misconduct, without justification, that injures another person;
- stealing State property with a value under $300; 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 earlier, 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 decisionmaker 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. A decision by a peer review panel is the final administrative decision.

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 3.4 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 2012 and 2013. These actions include dismissals, suspensions, reprimands, and grievances.

Exhibit 3.4
Disciplinary Actions and Grievances
Fiscal 2012-2013

	Cases Forwarded to the Office of Administrative Hearings		Cases Resolved by the Employee and Labor Relations Division	
	2012	**2013**	**2012**	**2013**
Reprimand	68	70	166	180
Disciplinary Loss of Leave	7	11	24	17
Disciplinary Suspension	65	60	51	60
Denial of Increment	0	0	0	0
Involuntary Demotion	2	2	1	3
Termination on Probation	4	4	6	11
Termination	61	48	37	38
Grievances	72	73	80	90
Total	**279**	**268**	**365**	**399**

Source: Department of Budget and Management

Neither the Maryland Department of Transportation nor Morgan State University is covered under this process. Chapter 317 of 2005 altered the disciplinary process that the Maryland Department of Transportation must follow when an employee is accused of misconduct to make it much more similar to the process outlined above. Morgan State University utilizes a process where disciplinary action cases go to the Office of Administrative Hearings first and then go to the Department of Budget and Management on appeal for "exception hearings."

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. Chapter 696 of 2008 provides additional seniority points to eligible veterans, veterans with a disability, and former prisoners of war. 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 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, have no specific expiration date, and are regularly performed on a basis that is at least equal to 50% of a full-time permanent employee.

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 6 shows the trends for State contractual employment from fiscal 2010 to 2014.

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 timeframe for reducing long-term contractual employment levels.

The Department of Budget and Management implemented the majority of its recommendations through the budget process. In addition, 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 3.5 lists the number of contractual conversions from fiscal 2009 to 2013.

Exhibit 3.5
Contractual Conversions in State Agencies
Fiscal 2009-2013

Fiscal Year	Employees
2009	596
2010	331
2011	439
2012	406
2013	502

Source: Department of Budget and Management

The fiscal 2015 budget bill (Chapter 462 of 2014) provided for the creation of regular State positions if an equivalent 1.25 full-time equivalent contractual positions are abolished, with the approval of the Board of Public Works. Budget bills have included this same language for a number of years.

In an effort to fill vacant positions with individuals currently working in a similar capacity, Chapter 633 of 2014 mandated that contractual employees be considered when there is a vacancy in the same or similar classification in which the contractual employee is employed in most agencies in the Executive Branch of State government. Chapter 633 specifically required the State Personnel Management System, the Maryland Department of Transportation, the University System of Maryland, Morgan State University, Saint Mary's College of Maryland, and Baltimore City Community College to include such policies regarding contractual employees.

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 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. 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 Maryland Department of Transportation's personnel system has one less holiday (the American Indian Heritage Day) 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 – State Personnel Management System 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	Third 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
American Indian Heritage Day	Fourth Friday in November
Christmas Day	December 25

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 – State Personnel Management System 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

Source: Department of Legislative Services

The law further provides that up to 75 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 75 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 leave bank or to another employee.

All employees, except those covered under collective bargaining agreements and those whose State employment is terminated for a cause involving moral turpitude, may elect to receive compensation of unused annual leave upon termination from State service. The compensation is determined by calculating one-tenth of the employee's current biweekly amount of compensation multiplied by 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 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.

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 employee's starting date. 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 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 Maryland Department of Transportation provides its employees with seven personal days.

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 several licensed or certified medical providers listed in statute.

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

Maryland 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 leave bank. At any time an employee may donate sick leave to the 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.

Advanced Sick Leave

Regulations adopted by the Department of Budget and Management and the Maryland Department of Transportation allow for State Personnel Management System employees and Maryland Department of Transportation employees to be eligible for advanced sick leave. Advanced sick leave is leave with pay that shall be repaid.

For employees in the State Personnel Management System, when the Secretary of Health and Mental Hygiene and the Secretary of Budget and Management have determined that there is a strong likelihood of a statewide health emergency, the Secretary of Budget and Management may, in the best interests of the public and State employees, implement an advanced sick leave policy to minimize exposure to health threats and the spread of disease. Employees who have exhausted all other leave, may receive advanced sick leave if the employee agrees to repay the advanced sick leave at a rate of 50% of earned sick leave when the employee returns to work. An employee who returns to work may apply additional accrued annual or personal leave to the amount owed, or elect to pay in cash at a 100% repayment rate. Employees who use advanced sick leave also agree that any outstanding leave amount due upon the employee's separation from State employment for any reason shall be considered a debt to the State.

For employees in the Maryland Department of Transportation's personnel system, an employee with a minimum of one year of continuous State service at the time of the request who has exhausted all accumulated annual, personal, sick, and compensatory leave available may request an allotment and use of up to 60 working days of advanced sick leave within a 24-month period for a serious health condition. Approval of a request for

an allotment and use of advanced sick leave is at the discretion of the Secretary of Transportation or the Secretary's designee. An employee may not be allotted an amount of advanced sick leave which would bring the employee's total time out to one year or more. Before applying for advanced sick leave, an employee shall apply to the Employee-to-Employee Leave Donation Program and the State Employees' Leave Bank. The department's medical advisor may require the employee to submit to a medical examination. Requests for advanced sick leave may not be granted if the employee refuses to submit to a medical examination. Reimbursement to the department shall be made at the minimum rate of 50% of the rate of sick leave and annual leave earned. An employee may apply credited annual leave, personal leave, sick leave, compensatory leave, or cash to the amount owed. Employee acceptance of an allotment of advanced sick leave constitutes an agreement to repay the department for compensation received while using this leave, which remains binding even if the employee terminates employment with the department.

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 a physician-certified disability until the earlier of the day the employee is able to return to work, as certified by a physician, or 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 if 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. Employees continue seniority and leave accruals based on the their regular pay and maintain all health care benefits; however, the employees 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 are largely self-explanatory and include:

- Bereavement Leave;
- Disaster Service Leave;
- Organ Donation Leave;
- Military Leave;
- Jury Service Leave;
- Legal Action Leave;
- Disciplinary Action Leave;
- Examinations/Interviews for State Positions;
- Release Time for Union Activities;
- Positive Tuberculin Skin Test; and
- Religious Observances.

Unpaid Leave

Several types of unpaid leave may be authorized for State employees, as described on the following page.

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 a member of the U.S. Armed Forces and is called upon for active service, injured in the line of duty and has exhausted all paid leave, or temporarily incapacitated due to physical or mental illness. An employee is eligible, with approval from his or her 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.

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 the Department of General Services, the Department of Budget and Management, and the Maryland Department of 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 total 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. 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.

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.

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 on the following pages are available to regular full-time employees, part-time employees who work more than 50% of the workweek, and certain retirees who have qualified for retiree health care. In addition, health benefits and some other benefits are available to contractual employees and part-time employees working less than 50% of the workweek, provided the employees pay all the costs of the plan.

Health Insurance Plans

Starting in fiscal 2010, the State offered its employees the option of selecting a preferred provider organization, a point-of-service plan, or an exclusive provider organization. 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 a percent of exclusive provider organization premiums, a percent of point-of-service costs, and a percent of preferred provider organization costs. Costs range from the lowest cost exclusive provider organization, to mid-range point-of-service plans, to the highest cost preferred provider organization plans.

The benefits offered are standardized within each type of program (preferred provider organization, point-of-service, and exclusive provider organization). 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.

All of the plans offered meet the minimum essential coverage requirements of the federal Affordable Care Act.

In fiscal 2013, as part of a broader effort to generate savings from health insurance, in-network coinsurance was added to the preferred provider organization and the point-of-service plans. The addition of coinsurance to the preferred provider organizations and point-of-service plans increased the cost of services to users in those plans. Members of those plans were made subject to a 90% coinsurance rate for in-network services, with out-of-pocket maximums of up to $1,000 for an individual and $2,000 for a family for a plan year. This was the first inclusion of in-network coinsurance to any State medical plan and it affected the vast majority of enrollees as over 85% of all employees and retirees in the State program were enrolled in either a preferred provider organization or a point-of-service plan. The exclusive provider organization plan was not included in the change, providing participants a 100% coverage option. The changes also included an increase in emergency room copayments for all plans.

For the exclusive provider organization plan, the State pays a fixed fee, and exclusive provider organizations assume the risk for all costs. Employees must receive all

medical services from a provider or specialist within the network. When receiving a service, a copayment is required for primary and specialist care office visits.

The preferred provider organization plan allows an employee to choose any doctor for services. The State is self-insured for this plan by paying an administrative fee to the providers and assuming the risk for all costs. If the doctor is part of the State's network of participating physicians, a copayment is required, and in-network services are covered at 90% coinsurance until the deductible is exhausted. 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. After the deductible is exceeded, the plan then pays 70% of the cost.

The point-of-service plan is similar to an exclusive provider organization 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. 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, and services are covered at 90% coinsurance until the deductible is exhausted. 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 70% of the cost.

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. Two plans are available, a dental health maintenance organization and a dental preferred provider organization plan. The structure and funding of benefits is similar to health insurance exclusive provider organizations and point-of-service plans. Employees are required to pay 50% 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. The dental health maintenance organization plan covers 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. The preferred provider organization option does not require the selection of a primary dental office, and 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.

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 preferred provider organization and point-of-service plans, the mental health benefit is administered by a separate provider, while exclusive provider organizations provide their own mental health services. For the preferred provider organization and point-of-service plans, the State is self-insured and pays an administrative fee. For exclusive provider organizations, the State pays a fixed fee, and the exclusive provider organizations 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. Similar to the State health plans, employees must pay a portion of the cost of receiving prescription drug coverage. A separate copayment is required for each individual prescription written for 1 to 45 days. Copayments vary depending on whether the prescription is a generic ($10 copayment), preferred brand-name drug ($25 copayment), or nonpreferred brand name drug ($40 copayment). Drugs are determined to be "preferred" through an evaluation by the prescription drug benefit manager's panel of physicians and pharmacists. 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.

Active employees and retirees have the same copayments for prescriptions. However, the out-of-pocket maximum for active employees is $1,000 for an individual and $1,500 for a family, while the maximum for retirees is $1,500 for an individual and $2,000 for a family. Legislation enacted in 2011 also requires the State to discontinue prescription drug benefits for Medicare eligible retirees in fiscal 2020, and allows the State to establish separate health insurance benefit options for retirees that differ from those for active State employees.

Flexible Spending Accounts: Employees have the option of establishing a Flexible Spending Account to set aside pretax 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 are then "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.

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, a personal accidental death and dismemberment plan, and long-term care coverage, which are offered to employees and their dependents who are eligible for health benefits.

Enrollment and Funding

Exhibit 4.3 provides fiscal year enrollment data for employee and retiree health insurance plans. Enrollment has remained steady, and the slight decline can be attributed to the reduction in the number of State positions. For active employees, there has been a significant increase in enrollment in the exclusive provider organization plans in fiscal 2013, while the enrollment has decreased during the same time period in point-of-service and preferred provider organization plans. This can be attributed to the higher costs to enrollees through the implementation of coinsurance and out-of-pocket exposure in the point-of-service and preferred provider organization plans in fiscal 2013.

Exhibit 4.3
Employee Participation in Health and Life Insurance Plans
Fiscal 2010-2013

	2010	2011	2012	2013	Change 2012-2013
PPO	35,157	34,762	34,578	25,081	-27.5%
POS	22,804	22,111	21,487	14,270	-33.6%
EPO	11,947	11,947	12,326	28,718	1.3%
Total Health Plan	**69,908**	**68,820**	**68,391**	**68,069**	**-0.5%**
Prescription	65,496	64,258	63,735	63,231	-0.8%
Dental	63,387	63,769	64,058	64,446	0.6%
Term Life	46,796	46,271	46,268	46,631	0.8%
Accidental Death	39,309	39,907	39,252	39,881	1.6%

Retiree Participation in Health and Life Insurance Plans
Fiscal 2010-2013

	2010	2011	2012	2013	Change 2012-2013
PPO	26,082	27,138	27,432	26,099	-4.9%
POS	8,939	9,414	9,616	8,855	-7.9%
EPO	3,268	3,525	3,737	6,691	79.0%
Total Health Plan	**38,289**	**40,077**	**40,785**	**41,645**	**2.1%**
Prescription	37,758	39,587	40,137	40,900	1.9%
Dental	24,655	27,155	28,534	30,141	5.6%
Term Life	9,060	10,404	11,076	11,890	7.3%

EPO: exclusive provider organization
POS: point-of-service
PPO: preferred provider organization

Source: Department of Budget and Management, Office of Personnel Services and Benefits Annual Reports

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Exhibit 4.4 shows the health insurance account activity for fiscal 2011 through 2013. From fiscal 2011 to 2013, total receipts increased by an annual average of 6.5%, while payments to providers and insurance companies increased by 0.8%. The net effect has been that the year-end fund balance has increased significantly over the three-year period.

Claims costs for fiscal 2012 compared to claims costs made for fiscal 2013 show that the plan design changes implemented in fiscal 2013 have had the intended effect of decreasing costs for prescription and medical. As shown in Exhibit 4.5, costs decreased at a rate of 2.9% for health coverage and 3.2% for prescription coverage. However, despite changes resulting in reduced costs, claim payments still rose from $1.131 billion in fiscal 2010 to $1.223 billion in fiscal 2013.

Exhibit 4.4
Summary of Health Insurance Reimbursable Fund
Fiscal 2011-2013
($ in Millions)

	Actual 2011	Actual 2012	Actual 2013	Change 2012-2013	Average Annual Change 2011-2013
Balance, Beginning of Year	**$184.7**	**$162.0**	**$173.4**	**7.0%**	**-3.1%**
State Agency Receipts	$890.6	$985.7	$1,033.6	4.9%	7.7%
Employee Receipts	150.8	169.4	167.3	-1.2%	5.3%
Retiree Receipts	67.5	83.2	85.2	2.4%	12.3%
Other Receipts	71.2	36.1	51.6	42.9%	-14.9%
Total Receipts	**$1,180.1**	**$1,274.4**	**$1,337.7**	**5.0%**	**6.5%**
Subtotal Receipts and Balance	***$1,364.8***	***$1,436.4***	***$1,511.1***	***5.2%***	***5.2%***
Payments	$1,202.8	$1,263.0	$1,223.3	-3.1%	0.8%
Ending Balance	**$162.0**	**$173.4**	**$287.8**	**66.0%**	**33.3%**
Change in Fund Balance	-$22.7	$11.4	$114.4		

Source: Department of Budget and Management

Exhibit 4.5
Total Claims for Health, Prescription, and Dental Benefits
Fiscal 2012 and 2013
($ in Millions)

	2012	2013	Change 2012-2013
Medical	$833.4	$809.5	-2.9%
Prescription Plan	357.8	346.4	-3.2%
Dental Plans	45.1	46.6	3.3%

Source: Department of Budget and Management

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. In the 2011 session, the General Assembly created new eligibility criteria for individuals hired on or after July 1, 2011. Individuals who began State service on or before June 30, 2011, and members of the Judge's Retirement System, were grandfathered under the previous eligibility criteria. Chapter 15 of this handbook includes a detailed discussion of the issues relating to retiree health insurance.

Social Security

Since 1956, State employees (with the exception of the Maryland State Police) have been participants in the Social Security system with the State paying the employer's share of the cost. Social Security costs are determined by multiplying individual salaries up to the Social Security Wage Base by 6.2% for the employee and the employer. Both the State and the employees are also subject to a 1.45% Medicare cost, which is not subject to a wage base.

Pension/Retirement Contributions

See Chapter 11 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.

The compensation benefits that an employee may qualify for are: (1) temporary total disability; (2) temporary partial disability; (3) permanent total disability; (4) permanent partial disability; (5) medical and hospitalization benefits; (6) wage reimbursement; (7) vocational rehabilitation; and (8) death and funeral benefits. 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. Unemployment insurance rates are determined based on the solvency levels of the Unemployment Insurance Trust Fund. For fiscal 2014 and 2015, State agencies were required to budget $.28 for every $100 of payroll for unemployment insurance costs which is consistent with the assessments that all employers will be paying to insure the solvency of the Unemployment Insurance Trust Fund.

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 non-sensitive 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.

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 Chapter 14 of this volume on the Maryland State Retirement and Pension System for more information on supplemental retirement plans.

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- 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.

Teleworking Program

The Department of Budget and Management maintains a telework policy that allows eligible employees to periodically work from home, a satellite office, or a telework center. Chapter 83 of 2013 established a goal of having at least 15% of eligible Executive Branch employees, including those in agencies with independent personnel systems, to participate in a statewide telework program. The Act requires the Secretary of Budget and Management to establish the program as well as statewide telework policy guidelines. Each unit head in the Executive Branch is responsible for designating positions eligible for teleworking.

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; the Department of Housing and Community Development's day care center in Crownsville; and the Department of Natural Resources' facility in Annapolis. 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 earlier, 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 N. 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. Chapter 634 of 2007 allowed the exclusive representatives of bargaining units of State higher education institutions to access certain employee information. In addition, it also provided that if an Executive Branch employee or higher education employee notifies the employer that the employee does not want his or her contact information provided to the

exclusive representative, the notification remains in effect until the employee indicates otherwise.

Collective Bargaining in State Government

Approximately 27,332 State employees, excluding higher education employees, were covered by collective bargaining as of April 1, 2014. While most Executive Branch employees have collective bargaining rights, management service employees, 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). Chapters 581 and 582 of 2012 further extended the State's collective bargaining law to apply to employees of the Office of the Comptroller, the Maryland Transportation Authority (non-police officers), the State Retirement Agency, and the Maryland State Department of Education. Except for higher education employees, who are discussed later in this chapter, covered employees are divided into 10 bargaining units. The State Labor Relations Board conducts the elections in which employees choose their exclusive bargaining representative. Exhibit 5.1 contains a list of the bargaining units and their exclusive representatives.

The Maryland Transportation Authority Police Force, as part of a nonbudgeted agency, is not considered to be a unit of the Maryland Department of Transportation, and thus is not subject to the general State collective bargaining law. Chapter 704 of 2010 included in the general State collective bargaining law Maryland Transportation Authority police officers at the rank of first sergeant and below. In addition, the Act also required that the police officers have a separate bargaining unit. These positions are included under Unit J, as shown in Exhibit 5.1.

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 for nonhigher education Executive Branch bargaining units are the Maryland Classified Employees Association, the Maryland Troopers Association, and the Maryland Correctional Union.

Exhibit 5.1
Bargaining Units and Representatives
As of April 1, 2014

Unit	Title	Exclusive Representative	Employees
A	Labor and Trades	AFSCME (American Federation of State, County, and Municipal Employees)	727
B	Administrative, Technical, and Clerical	AFSCME	3,751
C	Regulatory, Inspection, and Licensure	AFSCME	592
D	Health and Human Service Nonprofessionals	AFSCME	1,680
E	Health Care Professionals	AFT – Healthcare Maryland	1,703
F	Social and Human Service Professionals	AFSCME	3,769
G	Engineering, Scientific and Administrative Professionals	Maryland Professional Employees Council	3,700
H	Public Safety and Security	AFSCME/Teamsters	9,912
H	Baltimore/Washington International Airport Fire Fighters	International Airport Professional Firefighters Local 1742 I.A.F.F., AFL-CIO, CLC	64
I	Sworn Police Officers	State Law Enforcement Officers Labor Alliance	1,705
J	Maryland Transportation Authority Sworn Officers	MD Transportation Authority Police Lodge #34	449
	Total		**27,332**

Source: Department of Budget and Management; Maryland Department of Transportation

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.

Service Fees

While an exclusive representative bargains for all members of a particular bargaining unit, only a portion of these individuals pays union membership dues to the representing organization. A service fee is paid by an employee to his or her bargaining unit's exclusive representative to offset costs attributable to the collective bargaining process. Generally, this fee is less than the fee charged for union dues. Prior to 2009, the State's collective bargaining laws expressly prohibited negotiating for service fees, also known as agency shop fees and fair share fees. Chapter 187 of 2009, more commonly known as the "Fair Share Act," authorized the State to collectively bargain with the exclusive representative of a bargaining unit for service fees from State employees who are not members of that exclusive representative.

An employee who has religious objections to paying the service fee may instead pay an amount not to exceed the service fee to a charitable organization. The Act did not apply to the State's public four-year higher education institutions or Baltimore City Community College. Chapter 428 of 2013 did, however, implement authorization for the

University System of Maryland, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College to negotiate service fees from nonmembers.

Collective Bargaining for Child Care Providers

The child care subsidy program, administered by the Maryland State Department of Education, provides financial assistance with child care costs to eligible families through each local department of social services. In 2007, Governor Martin O'Malley signed an executive order authorizing collective bargaining for registration and registration-exempt family child care providers participating in the child care subsidy program. An October 15, 2009 memorandum of understanding between the Governor, the Maryland State Department of Education, and the Service Employees International Union recognized that organization as the exclusive collective bargaining representative for all registered and registration-exempt family child care providers participating in the child care subsidy program. The memorandum of understanding also specified that if legislation expanding the rights of providers to engage in collective bargaining is signed by the Governor, the exclusive representative may reopen negotiations related to these expanded rights.

Chapter 496 of 2010 codified collective bargaining rights for child care providers and authorized the negotiation and implementation of service fees. Under the Act, the State must conclude that a collective bargaining agreement as a whole will not adversely impact providers who are not members of the main employee organization before a service fee for nonmember providers can be authorized through an agreement reached by the State and the providers' exclusive collective bargaining representative. The Act also established a private fund to protect child care providers against extreme hardship or loss of livelihood resulting from late State payments. In addition, it required the Early Learning Programs Section of the Maryland State Department of Education to report to the Senate Finance and House Economic Matters committees each year through 2013 on the status of the Maryland Child Care Subsidy Program as it relates to family child care providers.

Collective Bargaining for Home Care Providers

Independent home care providers receive compensation for providing home care services to eligible adults. In 2007, the Governor issued an executive order specifying that the State must recognize a provider organization designated by a majority of independent home care providers who participate in the Medicaid Waiver for Older Adults Program, the Medicaid Personal Care Program, the Living at Home Waiver Program, or the In-Home Aide Service Program for purposes of collective bargaining. Chapter 171 of 2011 codified collective bargaining rights for independent home care providers and authorized the negotiation and implementation of service fees. The State must conclude that a collective bargaining agreement as a whole will not adversely impact providers who are not members

of the main employee organization before a service fee for nonmember providers can be authorized through the collective bargaining agreement. A service fee provision is only allowable if nonmembers pay fees on a sliding scale in approximate proportion to the amount that each nonmember independent home care provider receives as reimbursement, and a service fee may not be charged for care given to an immediate family member.

Collective Bargaining for Teachers

State public school teachers have collective bargaining rights throughout the State; the State Board of Education, however, has served as the ultimate arbiter of all disputes between local boards of education and the local employee organizations representing school system personnel. Local employee organizations viewed this bargaining process as unfair. As a result, Chapters 324 and 325 of 2010 established a Public School Labor Relations Board to administer and enforce the labor relations laws for local boards of education and their employees. The law authorized the Public School Labor Relations Board to arbitrate impasses that cannot be resolved through mediation and makes any arbitration agreement reached binding on the parties. Under the Acts, the State Board of Education no longer has the power to decide public school labor relations disputes, and the authority of the State Superintendent of Schools to declare labor impasses is repealed. The law also established a new mediation process for resolving disputes and a new process for the Public School Labor Relations Board to decide the negotiability of topics, and it repealed the authority of the local boards of education to make final determinations of matters that have been the subject of negotiation.

Prior decisions of the State Board of Education are not binding on the Public School Labor Relations Board but may be considered precedent. The Public School Labor Relations Board must issue a report by August 1, 2018, on case data from July 1, 2014, through June 30, 2018. For a more detailed discussion of collective bargaining for teachers, please see *Volume IX – Education in Maryland*, of this Legislative Handbook Series.

Collective Bargaining in Higher Education

Certain State employees at public higher education institutions have been granted certain collective bargaining rights. 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.

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. While an independent Higher Education Labor Relations Board oversees collective bargaining for State four-year institutions of higher education, there is no statewide authority for local community colleges to collectively bargain. Most local community college employees do not have collective bargaining rights through their positions with local community colleges. In order for community colleges to have collective bargaining rights, individual legislation by college is required.

For a more detailed discussion of collective bargaining for higher education employees, please see *Volume IX – Education in Maryland*, of this Legislative Handbook Series.

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 the 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.

The commission's 2010 resolution would have frozen legislative salaries at their then current levels for the first two years of the 2011 through 2014 legislative term and would have provided the opportunity for increases in 2013 or 2014. However, the General Assembly passed Joint Resolution 4, which rejected the commission's salary recommendations, thus maintaining the annual salaries set in 2006 over the entire 2011 through 2014 legislative term. The resolution also rejected the commission's

recommendations to alter in-district and out-of-state travel, pension credits, and retirement allowances.

The commission met again prior to the 2014 legislative session. The commission's 2014 resolution makes changes to the compensation and benefits provided to members of the General Assembly beginning in 2015. No successful action was taken to modify the commission's resolution, resulting in its provisions taking effect for the legislative term beginning in 2015. The resolution provides for a $1,707 annual increase for four years for all legislators except the Presiding Officers. The salaries for the Presiding Officers will receive an annual increase of $2,218 over the same period. Exhibit 6.1 shows the salaries for legislators and the Presiding Officers under the resolution for the legislative term beginning in 2015.

Exhibit 6.1
General Assembly Member Salaries
Fiscal 2006-2018

Fiscal Year	Members	% Change	President/ Speaker	% Change
2006-2014	$43,500	-	$56,500	-
2015	45,207	3.9%	58,718	3.9%
2016	46,915	3.8%	60,935	3.8%
2017	48,622	3.6%	63,153	3.6%
2018	50,330	3.5%	65,371	3.5%

Source: Department of Legislative Services

The resolution also increases the annual in-district travel allowance from $500 to $750, and ties the maximum reimbursement for meals and lodging expenses for approved out-of-state travel to the federal domestic per-diem rates as established by the federal General Services Administration. For further information regarding the compensation for members of the General Assembly, see *Volume I – Maryland Legislator's Handbook*.

The 2014 resolution also made changes to the legislative pension plan and to retiree health benefits for retired members of the legislative pension plan. The resolution makes membership in the legislative pension plan mandatory for all legislators beginning in 2015. The member contribution rate is raised from 5 to 7%, to be consistent with changes made to the contribution rates for members of the Employees' and Teachers' Pension Systems.

For legislators with no creditable service prior to January 14, 2015, the normal and early retirement ages are increased to 62 and 55 years of age, respectively. Also for legislators with no creditable service prior to January 14, 2015, the subsidy for participation in a State health program as a retiree is reduced to one-twentieth of the full State subsidy for each year of service. Retired members with creditable service prior to January 14, 2015, will continue to receive a subsidy of one-sixteenth of the full State subsidy for each year of service. Chapter 11 of this volume describes the details of the Legislative Pension Plan and post employment benefits for retired legislators.

Staff

Regular full- 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). The Department of Legislative Services uses a pay-for-performance system with fairly broad pay scales in each level.

Executive orders in fiscal 2009, 2010, and 2011 implemented furloughs for State employees. While these orders specifically did not apply to the Legislative Branch, the Presiding Officers implemented furloughs for Legislative Branch employees, consistent with the furloughs implemented for Executive Branch employees. General Assembly members are constitutionally exempt from furloughs, but members were given the option of voluntary salary reductions consistent with the furlough action.

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 terminating employees, and resolving employee grievances. Furthermore, the Legislative Branch has developed independent policies governing employee performance and conduct. The legislature has adopted policies on anti-harassment and substance abuse. Leave policies and benefits are virtually identical for Legislative and Executive Branch employees. Legislative Branch 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. However, 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, established in 1980, is required to review judicial salaries and pensions and make recommendations to the Governor and the General Assembly once every four years. The General Assembly may amend a joint resolution from the commission to decrease, but not increase, any of the commission's salary recommendations. The General Assembly may not reduce a judge's salary below its current level. Failure to adopt or amend the joint resolution within 50 calendar days of its introduction results in adoption of the salaries recommended by the commission. If the General Assembly rejects any or all of the commission's recommendations, the affected judges' salaries remain unchanged, unless modified by other provisions of law.

General State employee salary increases apply to judges only in years in which judges' salaries are not increased in accordance with a resolution from the commission's recommendations.

The following officials have salaries that are tied to judicial salaries:

- the State Prosecutor and the Public Defender – not less than that of a circuit court judge;
- members of the Workers' Compensation Commission – at least equal to a District Court judge, with the chair's salary being at least $1,500 higher than the members' salaries; and
- State's Attorneys' of various counties – a percentage of a circuit or District Court judge's salary, as discussed in further detail under local expenditures.

During the 2010 session, the recommendations of the commission were introduced as Senate Joint Resolution 4 and House Joint Resolution 4. The General Assembly,

however, amended those resolutions (which then became Joint Resolutions 2 and 3) to provide no salary adjustments for judges. In Chapter 484, the Budget Reconciliation and Financing Act of 2010, the General Assembly once again altered the commission's meeting schedule. Under the new schedule, the commission was required to meet on or after September 1, 2011, September 1, 2013, and every four years thereafter.

After meeting in 2011, the commission made recommendations for salary increases which would have amounted to a total increase of $29,006 through fiscal 2016. Joint Resolution 3 of 2012 reflected the commission's salary recommendations to provide increases in fiscal 2014, 2015, and 2016. The General Assembly reduced the commission's recommended salaries to result in raises from 2014 through 2016. The commission did not recommend any salary increases for fiscal 2013, but judicial salaries increased under the statewide 2% cost-of-living adjustment that took effect on January 1, 2013. Exhibit 7.1 shows the salaries of judges, as established by Joint Resolution 3 of 2012 and the 2013 cost-of-living adjustment.

Exhibit 7.1
Senate Joint Resolution 3 of 2012
Judicial Salaries
Fiscal 2013-2016

Position	Prior Salary	2013	2014	2015	2016
Court of Appeals					
Chief Judge	$181,352	$184,979	$185,908	$190,600	$195,433
Judge	162,352	165,599	166,908	171,600	176,433
Court of Special Appeals					
Chief Judge	152,552	155,603	157,108	161,800	166,633
Judge	149,552	152,543	154,108	158,800	163,633
Circuit Court	140,352	143,159	144,908	149,600	154,433
District Court					
Chief Judge	149,552	152,543	154,108	158,800	163,633
Judge	127,252	129,797	131,808	136,500	141,333

Note: Fiscal 2013 salaries represent salaries as of January 1, 2013, after a 2% cost-of-living adjustment. Because judges did not have a scheduled salary increase during that year, judges were eligible for the cost-of-living adjustment.

Source: Department of Legislative Services

The commission met again in fall 2013, but made no recommendations to further change judicial compensation or benefits beyond the changes enacted during the 2012 legislative session. The commission is scheduled to meet again in 2017.

Judges' Retirement System

The commission also made recommendations in its 2011 report on appropriate retirement benefits and member contribution levels, which took into account the sustainability of pension systems, based on instructions included in Chapter 397 of 2011. The commission voted to include in its report a recommendation that the contribution rate for judges appointed after July 1, 2012, increase from 6% to 8%. Chapter 485 of 2012 increased the member contribution rate from 6% to 8% of earnable compensation for all members of the Judges' Retirement System, and further added a five-year vesting requirement for individuals who become Judges' Retirement System members on or after July 1, 2012. Chapter 11 of this volume describes the details of the Judges' Retirement System and post employment benefits for retired judges.

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 nonbench 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.

During the 2012 session, the budget committees adopted narrative requesting the Judiciary to develop a multi-year plan to request new circuit court and District Court judges, so that workloads can be addressed gradually without having a significant impact on State finances. In fall 2012, the Judiciary submitted this plan, along with the fiscal 2014 certification of judgeships. During the 2013 session, Chapter 34 created a total of 11 new judgeships, including 2 at-large judgeships in the Court of Special Appeals, 5 circuit court

judgeships, and 4 District Court judgeships. This, in effect, enacted the first year of the Judgeship Deployment Plan.

In fall 2013, the Judiciary submitted a new certification and, with it, a revised Judgeship Deployment Plan based on changes in the indicated need for judges in the new certification. The certification was updated not only to account for the new judgeships added but also was revised due to changes in the certified need for judges in multiple jurisdictions. The new plan calls for 25 new judgeships from fiscal 2014 through 2019.

Exhibits 7.2 and 7.3 show the number of judgeships in the District Courts and circuit courts, respectively, in fiscal 2015.

Exhibit 7.2
District Court Judgeships
Fiscal 2015

	Judgeships
Chief Judge	1
District 1	
Baltimore City	28
District 2	
Dorchester	1
Somerset	1
Wicomico	2
Worcester	2
District 3	
Caroline	1
Cecil	2
Kent	1
Queen Anne's	1
Talbot	1
District 4	
Calvert	2
Charles	3
St. Mary's	1
District 5-10	
Prince George's	16
Montgomery	12
Anne Arundel	9
Baltimore	13
Harford	4
Carroll	2
Howard	5
District 11-12	
Frederick	3
Washington	2
Allegany	2
Garrett	1
State	**116**

Source: Department of Legislative Services

Exhibit 7.3
Circuit Court Judgeships
Fiscal 2015

	Judgeships
First Circuit	
Dorchester	1
Somerset	1
Wicomico	4
Worcester	3
Second Circuit	
Caroline	1
Cecil	4
Kent	1
Queen Anne's	1
Talbot	1
Third Circuit	
Baltimore	18
Harford	5
Fourth Circuit	
Allegany	2
Garrett	1
Washington	5
Fifth Circuit	
Anne Arundel	12
Carroll	4
Howard	5
Sixth Circuit	
Frederick	5
Montgomery	22
Seventh Circuit	
Calvert	3
Charles	4
Prince George's	23
St. Mary's	3
Eight Circuit	
Baltimore City	33
State	**162**

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 is $114,500 annually. The actual salary paid to an individual clerk, up to the maximum, is determined by the Board of Public Works and is based on the relative volume of business and receipts in the clerk's office.

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 District Court commissioners' salaries are set by the Chief Judge of the Court of Appeals.

Personnel Policies and Procedures

As noted earlier, 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 or comparable 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, 2013, the system had 192,810 active members, 137,925 retirees and beneficiaries, and 51,552 vested former members, for a total of 382,287 members. While the number of active members and vested former members has remained relatively constant since June 30, 2009, the system has experienced an almost 19% increase in the number of retirees and beneficiaries with 137,925 in 2013 compared to 116,007 in 2009.

Board of Trustees

The responsibility for the administration and operation of the system is vested in the 15-member Board of Trustees for the State Retirement and Pension System. Under current law, 3 of the 15 board members are *ex officio* members: the State Comptroller, the State Treasurer, and the Secretary of Budget and Management. Seven members are appointed by the Governor to four-year terms, including one representative of participating local governmental units, one representative of the interests of county governments, 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 the active members and retirees of specific retirement or pension systems as follows:

- The active members and retirees of the Employees' Pension System, the Employees' Retirement System, the Correctional Officers' Retirement System, the Law Enforcement Officers' Pension Plan, the Local Fire and Police System, the Judges' Retirement System, and the Legislative Pension Plan elect:
    - one trustee who is an *active member* of one of those systems; and
    - one trustee who is a retiree of one of those systems.
- The active members and retirees of the Teachers' Pension System and the Teachers' Retirement System elect:
    - one trustee who is an *active member* of one of those systems; and

- one trustee who is a *retiree* of one of those systems.

- The active members and retirees of the State Police Retirement System elect one trustee who is *either an active member or a retiree* of the State Police Retirement System.

In 2013, the total membership of the board increased from 14 to 15 members as a result of legislation, which established a new position representing county governments. The trustee representing the interests of county governments must have at least 10 years of experience in fiscal management and oversight of county government budgets, and the Governor may appoint the trustee from a list submitted by the Maryland Association of Counties. The new position representing county governments was created in recognition of the new obligation for local school boards to pay a portion of teachers' pension costs beginning in fiscal 2013.

Investment Program

Prior to the start of fiscal 2008, the board had total and final responsibility for establishing and directing the system's investment program. However, legislation was enacted in 2007 that gave the chief investment officer for the State Retirement and Pension System the sole authority to hire and fire external managers to manage the system's assets, a responsibility that previously rested with the board. With the exception of this modification in responsibility, the board maintains all remaining 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 statutorily required to appoint an investment committee to advise the board on (1) matters pertaining to the investment program; (2) compliance of investment programs with board policy; (3) preparation of an investment policy manual; and (4) bonding requirements of employees of the Maryland State Retirement Agency. The statute requires the investment committee to be composed of at least six members. Three of the investment committee members must be representatives of (1) the Employees' Pension System or the Employees' Retirement System; (2) the Teachers' Pension System or the Teachers' Retirement System; and (3) the State Police Retirement System. Additionally, the board must appoint 3 members of the public who are not members or retirees of the system and who have experience in management and control of large investments and have at least 10 years of combined experience in specific capacities such

as a portfolio manager or a chartered financial analyst. With the exception of the 3 public members, the members of the investment committee must be appointed from the board's own membership. As of August 2013, there were 15 members of the investment committee, 12 of whom were board members.

In addition, the board appoints an actuary. Currently, actuarial services are provided by contract with Gabriel, Roeder, Smith and Company, a national actuarial firm. In July 2002, the board contracted with Ennis Knupp (later renamed Hewitt 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. After working with Hewitt Ennis Knupp for 12 years, in July 2014, the board signed a five-year contract with a new outside investment consultant, Meketa.

Standing Committees

The board currently has five standing committees; however, only the investment committee is required by law, as mentioned above. The other four standing committees have been established by board policy and are composed entirely of board members. Currently, the board's five standing committees are:

- the **Administrative Committee –** reviews various issues that the full board deems to require detailed study and makes recommendations to the full board (7 board members);

- the **Audit Committee –** assists the board in fulfilling its oversight responsibilities regarding financial reporting, risk management, internal control, and internal and external audit functions (7 board members);

- the **Corporate Governance Committee –** addresses corporate governance matters such as divestment and proxy monitoring (8 board members);

- the **Investment Committee –** advises the board on investments, see above for more details (12 board members and 3 public advisors); and

- the **Securities Litigation Committee –** advises the board on securities litigation matters (3 board members).

Medical Boards

By law, the board 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.

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 2014, the agency operated with a budget of $28 million and 192 regular positions.

The agency is composed of the Office of the Executive Director and seven other divisions or offices: (1) Administration Division; (2) Finance Division; (3) Internal Audit Division; (4) Information Systems Division; (5) Business Operations Office; (6) External Affairs Division; and (7) Investment Division. Legal services for the system are provided by assistant Attorneys General assigned from the State Attorney General's Office; however, the agency is responsible for paying the salaries of the assistant Attorneys General.

Office of the Executive Director

The Office of the Executive Director 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.

Administration Division

The Administration 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.

Finance 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 System and develops the annual budget for the agency. The budget is submitted to the board of trustees, which in turn 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. Prior to fiscal 2013, the agency's budget was funded solely with special funds from the investment earnings of the system's portfolio. However, beginning in fiscal 2013, all State and local employers that participate in the State Retirement and Pension System are charged an administrative fee to fund agency expenses for administering the pension system for the employees of those State and local employers.

Internal Audit Division

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.

Information Systems Division

The Information Systems Division is responsible for the design and implementation of new automated management information systems and for maintenance and enhancements to existing systems, including data security and hardware and software troubleshooting. The division oversees the contract for the programmers outside of the agency who are working on the Maryland Pension Administration System. The director of the division is the chief information systems officer.

Business Operations Office

The Business Operations Office is responsible for the design and implementation of the Maryland Pension Administration System, which is a project that aims to computerize on a modern platform all functions of the system used to administer retirement and pension benefits for State employees. The office works directly with the programmers who are contracted to work on the Maryland Pension Administration System. The project business sponsor oversees the activities of this office.

External Affairs Division

The External Affairs Division is responsible for communications with the media, members of the General Assembly, system members and retirees, member associations, and the general public. The division provides information about goals and policies of the board, functions and procedures of the agency, and the rights and benefits of the system.

Investment Division

The Investment Division is responsible for the management, control, and investment of the system's Retirement Accumulation and Annuity Savings funds. 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 board of trustees is responsible for appointing a chief investment officer who, in addition to having the sole responsibility to hire and fire external asset managers, is also charged with supervising and monitoring the external asset managers and making recommendations to the investment committee regarding investment policy and strategy.

In 2006, after the chief investment officer position had been vacant for over a year, despite the board of trustees conducting a search for a new chief investment officer, the board concluded that it could not find a qualified candidate at the compensation level it was offering. In addition, a compensation study commissioned by the board in 2006 concluded that the chief investment officer's salary was 13% below the median for comparable public pension plans and total compensation was 18% below the median. As a result, legislation was enacted in 2007 that gave the board independent authority to determine the compensation, including performance bonuses, for the system's chief investment officer. These provisions were designed to bring the chief investment officer's compensation in line with that of comparable pension plans in an effort to attract top candidates to the chief investment officer position. Criteria for determining performance bonuses, if any, for the chief investment officer must be based on objective benchmarks of investment performance and criteria used by comparable public pension systems.

Additionally, after the board conducted a compensation analysis, which showed that the compensation levels of the deputy chief investment officer and the four managing directors in the Investment Division were substantially below the median compensation levels for similar positions in peer pension plans, legislation was enacted in 2012 that gave the board independent authority to determine the qualifications and compensation for the deputy chief investment officer and the four managing directors, subject to specified limitations.

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 Appropriations Committee. Within each standing committee there is a subcommittee on pensions and a subcommittee chair. The two subcommittee chairs are co-chairs of the Joint Committee on Pensions. Most major pension bills are introduced through this joint committee, including legislation requested by the State Retirement and Pension System's board of trustees. For example, the 2013 legislation that made significant changes to the funding structure of the system by phasing out the corridor funding method over 10 years and replacing the system's tiered amortization policy with a single 25-year closed amortization period, was sponsored by the Joint Committee on Pensions.

Chapter 9. Historical Background

Origin of the System and Plan History

Origin of the State Retirement and Pension System

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% 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.

Plan History

The following section provides a general history of the retirement and pension plans within the State Retirement and Pension System. For a more detailed discussion of the provisions of each plan, see Chapter 11.

Teachers' Retirement System

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, which expanded the same benefit to county school teachers throughout the State.

Employees' Retirement System

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 (Chapter 969),

"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.

Elections were held in 1956 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 employers' cost for both groups.

State Police Retirement System

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 1956, when elections were held to determine if Maryland public employees wanted to participate in the federal Social Security program, the members of the State Police Retirement System elected not to participate.

Legislative Pension Plan

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.

Governor's Retirement Plan

In 1971, legislation was enacted that established the Governor's Retirement Plan, which provides special retirement benefits for former governors and their surviving spouses (Chapter 239). Like the Legislative Pension Plan, the Governor's Retirement Plan was established as a subsystem of the Employees' Retirement System.

Judges' Retirement System

In 1974, a hodgepodge of State and local retirement provisions for judges was replaced with the State Judicial Pension Plan (Chapter 483). The plan was later renamed as the Judges' Retirement System.

Correctional Officers' Retirement System

Legislation enacted in 1974 and 1982 created the Correctional Officers' Retirement System. The Correctional Officers' Retirement System is a subsystem of the Employees' Retirement System.

Optional Retirement Program

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). As of December 31, 2013, Teachers Insurance Annuity Association and College Retirement Equities Fund and Fidelity are the current vendors to the Optional Retirement Plan.

Employees' Pension System and Teachers' Pension System

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 on or after January 1, 1980, were required to become members of these systems. In effect, the older retirement systems' membership was closed. Prior to January 1, 2015, members of the older Employees' Retirement System and the Teachers' Retirement System have the option of transferring to the newer systems. 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.

Law Enforcement Officers' Pension System

The Natural Resources Law Enforcement Officers' Pension Plan was created in 1989 (Chapter 479). Participation is mandatory for Natural Resources law enforcement officers hired on or after July 1, 1990, and optional for those officers hired prior to that

date. 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, 2013, membership in the Law Enforcement Officers' Pension System is composed of the:

- Department of Natural Resources police and rangers;
- Maryland Investigative Services Unit officers (Comptroller's Office);
- Maryland Transportation Authority police officers;
- Baltimore City sheriffs who do not elect to join the Employees' Pension System;
- Deputy sheriffs employed by the Baltimore City Sheriff's Department;
- 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 (Baltimore/Washington International Thurgood Marshall Airport);
- 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 or law enforcement officers;
- State Department of Education Division of Rehabilitation Services police officers;
- Firefighters or paramedics employed by the Salisbury Fire Department;

- Department of State Police aviators operating aircrafts for the State Emergency Medical System;

- Maryland Transit Administration police officers;

- 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);

- Department of Public Safety and Correctional Services Internal Investigative Unit police officers; and

- Baltimore City Community College 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.

Local Fire and Police System

The Local Fire and Police System was also created in 1989 (Chapter 580). This system permitted its members to retire with unreduced benefits after 25 years of service or at age 62. If a local government elected to participate, participation was mandatory for those municipal law enforcement officers hired after the election and optional for those hired prior to the election. However, in 2004, Chapter 537 closed the Local Fire and Police System to new membership. As of June 30, 2008, no participating employers remained in the Local Fire and Police Pension System. 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.

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 the Legislative Pension Plan, the Governor's Retirement Plan, and the Correctional Officers' Retirement System were subsequently established, they were placed under one of the three existing boards. When the Judges' Retirement System and the Employees' Pension System were established, they were placed under the Board of Trustees for the Employees' Retirement System. When the Teachers' Pension System was established, it 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. Then in 1970, Chapter 98 created the Department of Personnel and placed the three boards of trustees under the Secretary of Personnel. 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.

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 for the State Retirement and Pension System. Pursuant to legislation passed in 1983 (Chapter 552), two private citizens, who may not be members or beneficiaries of the systems, were added to the board. 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 (Chapter 403) to include more members with investment expertise and to provide external investment advisors to the board. 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 officio* 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% 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.

In 2013, the total membership of the board increased from 14 to 15 members as a result of legislation which established a new position representing county governments (Chapters 534 and 535). The trustee representing the interests of county governments must have at least 10 years of experience in fiscal management and oversight of county government budgets, and the Governor may appoint the trustee from a list submitted by the Maryland Association of Counties. The new position representing county governments was created in large part due to the requirement that local school boards pay a portion of the employer pension contribution on behalf of their employees beginning in fiscal 2013.

History of Pension Enhancements

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.

In 2000, Chapter 395 increased the benefit formula for all active Law Enforcement Officers' Pension System members, increased employee contributions, and created a Deferred Retirement Option Program.

In 1998, legislation was enacted (Chapter 530) 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% of earnable compensation and eliminated the 5% contribution on compensation above the Social Security Wage Base.

The 1998 legislation also 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 matched deferred compensation contributions up to a maximum of $600 annually. However, due to fiscal challenges, the statutory mandated $600 employer match was reduced or eliminated entirely in several fiscal years and as part of the broader effort to reduce the structural deficit. Chapter 484 of 2010 permanently eliminated the statutory mandated $600 employer match beginning in fiscal 2011.

Follow-up legislation was enacted in 1999 (Chapter 176) 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. 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 Chapter 110 of 2006, the General Assembly again enhanced pension benefits for all members of the Teachers' Pension System and the Employees' Pension System. Certain members of the Employees' Retirement System and Teachers' Retirement System also benefit from the enhanced benefits (Selection C members), although other Teachers' Retirement System and Employees' Retirement System members are not affected. The legislation also allowed the participating local governmental units that participate in the Employees' Pension System the option of electing to participate in the enhanced benefits by June 30, 2007. Participating local governmental units that joined the Maryland State Retirement and Pension System on or after July 1, 2006, but before July 1, 2011, did so under the 2006 enhanced benefit structure. Participating local governmental units that joined the Maryland State Retirement and Pension System on or after July 1, 2011, are subject to a reformed pension 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% and applied the higher multiplier retroactively to service credit earned by current members of the Teachers' Pension System and the Employees' Pension System since July 1, 1998. In addition, the enhancement increased member contributions from 2.0% to 5.0% of the member's annual compensation. However, this increase was phased in over a three-year period for all teachers, State employees, and employees of participating local governments that opted for the enhanced benefit (3.0% on July 1, 2006; 4.0% on July 1, 2007; and 5.0% from July 1, 2008, through June 30, 2011).

History of Pension Reforms

1979 Pension Reform

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 fiscal 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' Retirement System and the Teachers' Retirement System, the two largest systems, 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.

1984 Pension Reform

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 Employees' Retirement System and the Teachers' Retirement System by providing that members of these systems would receive benefits for service prior to July 1, 1984, calculated under the old retirement systems, and benefits for service after that date under the new pension systems, unless members elected either (1) to receive benefits under the old retirement systems but subject to a limitation of 5% (compounded) on the annual post retirement cost-of-living adjustment; or (2) to receive benefits under the old retirement systems without limitation on the cost-of-living-adjustment (COLA) but with a 2% increase in their contribution (generally from 5% to 7% 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 System and the Employees' Pension System only for purposes of establishing a single annual employer contribution rate for all State employees; (3) combined the Teachers' Retirement System and the Teachers' Pension System 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 the system steadily improved. The State's overall contribution rate for the system decreased from 17.6% of payroll in fiscal 1985 to 7.97% in fiscal 2005. 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%.

2011 Pension Reform

However, the State's overall contribution rate for the system steadily increased from 7.97% in fiscal 2005 to 12.62% in fiscal 2010. Additionally, the funding status for the system had steadily decreased since its peak at the end of fiscal 2000. By the end of fiscal 2010, the funding status of the system had decreased to 64.0%, which was a 37.0% decrease from fiscal 2000. The most dramatic one-year decrease was from the end of fiscal 2008 to the end of fiscal 2009, when the funding status decreased from 78.62% to 65.02%, a change of almost 14.0%. This decline was largely attributable to the effects of the turmoil in the financial markets that began in fall 2008 and carried through spring 2009. A more detailed discussion of the effects of the 2008 to 2009 financial crises on the State Retirement and Pension System is discussed in Chapter 12, which covers the pension plan's actuarial aspects and Chapter 13, which covers the system's investment performance.

In light of the significant increase in State contribution rates and the significant decline in the funding status of the system, language was included in the Budget Reconciliation and Financing Act of 2010 (Chapter 484) establishing the Public Employees' and Retirees' Benefit Sustainability Commission. The commission was charged with studying and making recommendations with respect to all aspects of State funded benefits and pensions provided to State and public education employees and retirees in the State. The commission identified several concerns that threatened the system's long-term sustainability and affordability, including the growing gap between the system's assets and liabilities, the overwhelming effects of recessions and financial market collapses in calendar 2001 through 2002 and 2008 through 2009, and the increased cost of pensions and other fringe benefits for State employees and teachers that were projected to continue to grow faster than general fund revenues. Based on these concerns, the commission concluded that the current pension benefit structure was not sustainable and recommended

that the State adopt dual goals of achieving actuarial funding levels of 80% within 10 years and 100% within 30 years.

Drawing substantially from the work and recommendations of the Public Employees' and Retirees' Benefit Sustainability Commission, the General Assembly passed comprehensive pension and retiree health benefits reform in the Budget Reconciliation and Financing Act of 2011 (Chapter 397). The 2011 pension reform provisions restructured pension benefits for almost all State employees and public school teachers in the State and altered the system's funding model. The pension reform provisions were designed to address two distinct issues with regard to the State's public employee pensions: (1) the long-term sustainability of the State's defined benefit pension plans; and (2) the affordability of the State's contributions to those plans.

Changes to the Benefit Structure

Chapter 397 affected pension benefits for almost all State employees and public school teachers in the State; however, the reforms did not affect individuals who had retired by July 1, 2011, when Chapter 397 took effect. Chapter 397 made numerous changes to the system's benefit structure which are described below. As indicated, some changes affect only those members hired on or after July 1, 2011, but others affect all members of specified plans, regardless of when they were hired.

COLA: All retirement benefits are adjusted automatically to account for annual inflation, but the size of the adjustments vary by plan. Prior to the enactment of Chapter 397, retirees of the Employees' Pension System and Teachers' Pension System, the State's two largest plans, as well as the Law Enforcement Officers' Pension System, received automatic annual COLAs linked to inflation, subject to a 3% cap. The State Police Retirement System and the Correctional Officers' Retirement System also received COLAs linked to inflation, but they were not subject to a cap. The annual inflation rate used is the Consumer Price Index (all urban consumers, U.S. city average, all items not seasonally adjusted, 1967 = 100) for the calendar year ending December 31 as published by the U.S. Department of Labor, Bureau of Labor Statistics.

The reform provisions in Chapter 397 did not affect COLAs for individuals retired as of July 1, 2011, but did affect COLAs that active members in the Employees' Pension System, the Teachers' Pension System, the Law Enforcement Officers' Pension System, the State Police Retirement System, and the Correctional Officers' Retirement System will receive when they retire. For service credit earned on or after July 1, 2011, the COLA is linked to the performance of the pension system's investment portfolio. If the portfolio earns its actuarial target rate (7.75% for fiscal 2011 through 2014 and phasing down to 7.55% by fiscal 2018), the COLA is subject to a 2.5% cap on the annual inflation rate. If

the portfolio does not earn the target rate, the COLA is subject to a 1.0% cap on the annual inflation rate. For service credit earned on or before June 30, 2011, the COLA provisions in effect during that time still apply for each plan.

The COLA provisions did not apply to active members or retirees of the Judges' Retirement System or the Legislative Pension Plan because their benefit increases are linked to the salaries of current judges and legislators, respectively, and are not limited to inflation rates.

Member Contributions: Beginning July 1, 2011, member contributions for all active members of the Employees' Pension System and the Teachers' Pension System increased from 5% to 7% of earnable compensation. Member contributions for active members of the Law Enforcement Officers' Pension System increased from 4% to 6% in fiscal 2012 and from 6% to 7% beginning in fiscal 2013.

Although member contribution rates for other plans remained unchanged in Chapter 397, Chapter 485 of 2012 raised the contribution rate for the Judges' Retirement System members from 6% to 8%, and the 2014 Resolution of the General Assembly Compensation Commission raised the Legislative Pension Plan member contribution rate from 5% to 7%.

Vesting and Average Final Compensation: With the exception of the Judges' Retirement System and the Legislative Pension Plan, for all members of system plans hired on or after July 1, 2011, Chapter 397 increased the vesting period from 5 to 10 years. The calculation of average final compensation used to calculate retirement allowances for members of the Employees' Pension System, the Teachers' Pension System, and the Law Enforcement Officers' Pension System hired on or after July 1, 2011, will be based on the five consecutive years that provide the highest average compensation, rather than three years. For members of the State Police Retirement System and the Correctional Officers' Retirement System hired after the same date, the average final compensation used to calculate retirement allowances will be based only on the five years that provide the highest average compensation; the five years do not need to be consecutive.

Although vesting requirements for judges remained unchanged in Chapter 397, Chapter 485 instituted a five-year vesting period for the Judges' Retirement System members hired after June 30, 2012. Judges' Retirement System members hired before that date continue to vest immediately.

Benefit Multiplier and Retirement Eligibility: Under the reform provisions of Chapter 397, members of the Employees' Pension System and the Teachers' Pension System hired on or after July 1, 2011, receive a retirement allowance equal to 1.5% of

average final compensation for each year of creditable service (compared with 1.8% for members hired before reform). Members of the Employees' Pension System and the Teachers' Pension System hired on or after July 1, 2011, qualify for a normal service retirement benefit either upon reaching age 65 with at least 10 years of service or when the sum of their age and years of service reaches 90 (compared with age 62 with 5 years of service or 30 years of service regardless of age for members hired before reform). These members also qualify for an early retirement benefit at age 60 with at least 15 years of service (compared with age 55 with 15 years of service for members hired before reform).

Members of the State Police Retirement System hired on or after July 1, 2011, qualify for a normal service retirement upon reaching age 50 or with 25 years of service regardless of age (up from 22 years of service for members hired before reform).

Although retirement eligibility requirements for members of the General Assembly and the Governor remained unchanged in Chapter 397, subsequent legislation increased retirement eligibility requirements. The 2014 Resolution of the General Assembly Compensation Commission increased the retirement age for the Legislative Pension Plan members who join on or after January 14, 2015, from 60 to 62, and also increased the early retirement age from 50 to 55. Chapter 477 of 2014 raised the retirement age for Governors who begin serving on or after January 21, 2015, from 55 to 62.

Deferred Retirement Option Program: Under Chapter 397, members of the Law Enforcement Officers' Pension System and the State Police Retirement System, continue to be eligible for the Deferred Retirement Option Program, but members who enter the program on or after July 1, 2011, receive a lower interest rate on their program accounts. The program allows members of these plans to officially "retire" but to continue working for up to four or five years while earning a full salary. During their time in the program, their retirement benefits are deposited in an interest-earning account that is payable in a lump sum when they leave the program. The pension reform provisions reduced the interest earned on program accounts from 6% interest compounded monthly to 4% interest compounded annually.

Changes to Retiree Health Care

In addition to comprehensive reform of the State's pension system, Chapter 397 implemented reforms to the State Health and Welfare Benefits Program. The Public Employees' and Retirees' Benefit Sustainability Commission recognized the need to address the State's unfunded liability of $15.9 billion for Other Post Employment Benefits (2010 valuation). The commission recommended exploring options to reduce State expenditures for health benefits through a combination of plan design and employee cost sharing. The commission also recommended increasing the minimum amount of service

credit needed to be eligible for a retiree to participate in the State health program. Additionally, the commission recommended ending prescription drug coverage for Medicare-eligible retirees beginning in fiscal 2020.

Prescription Drug Coverage: Prior to 2011, retirees and active employees were enrolled under the same prescription drug plan. Chapter 397 authorized the establishment of separate health insurance benefit options for retirees that differ from those for active State employees and required the discontinuation of prescription drug coverage for Medicare-eligible retirees in fiscal 2020.

Chapter 397 also required the prescription drug benefit for retirees to have the same copayments, coinsurance, and deductible that apply to the prescription drug benefit for active State employees. However, the share of the premium cost to retirees was increased to 25%, instead of 20%, while out-of-pocket limits were set at $1,500 for a retiree and $2,000 for a retiree and the retiree's family.

Eligibility for Retiree Health Care: In addition to establishing a separate prescription drug plan for retirees, Chapter 397 altered the eligibility requirements for retiree health and prescription drug coverage for individuals who begin State service on or after July 1, 2011. Those individuals become eligible for retiree health care coverage if the individual:

- ends State service with at least 25 years of creditable service;
- ends State service with at least 10 years of creditable service within 5 years before the age at which a vested retirement allowance normally would begin;
- retires directly from State service with a State retirement allowance and has 10 years of creditable service; or
- retires directly from State service with a State disability retirement allowance.

The State subsidy for retirees hired on or after July 1, 2011, is 1/25 for each year of the retiree's creditable service up to 25 years.

The existing eligibility requirements are maintained for individuals that began State service on or before June 30, 2011, and for retirees of the Judges' Retirement System. These individuals still achieve eligibility for retiree health care coverage if the individual:

- ends State service with at least 10 years of creditable service and within 5 years before the age at which a vested retirement allowance normally would begin;

- ends State service with at least 16 years of creditable service;
- retires directly from State service with a State retirement allowance and has at least 5 years of creditable service; or
- retires directly from State service with a State disability retirement allowance.

The State subsidy for retirees that began State service on or before June 30, 2011, remains at 1/16 for each year of the retiree's creditable service up to 16 years.

Changes to the Funding Model

The pension reform provisions of Chapter 397 established a goal of reaching 80% actuarial funding within 10 years, which aligned with the goal set by the Public Employees' and Retirees' Benefit Sustainability Commission. The 80% level would be achieved in part by reinvesting a portion of the savings generated by the pension benefit restructuring into the pension system in the form of supplemental State contributions above the contribution required by statute. In fiscal 2012 and 2013, the supplemental contribution equaled all but $120 million of the savings generated by the benefit restructuring, with the $120 million dedicated to budget relief each year. Beginning in fiscal 2014, the supplemental contribution was to be set at $300 million, with any savings over that amount dedicated to budget relief. However, subsequent action by the General Assembly altered the amount of the supplemental contribution (this is discussed in the section relating to additional changes to system funding).

Additional Changes to System Funding

Administrative Fee

Chapter 397 of 2011 also required local school boards and community colleges to pay their prorated share of the administrative costs of the State Retirement Agency based on the number of their employees who are members of the Teachers' Retirement System or the Teachers' Pension System. Prior to fiscal 2013, the agency's budget was funded solely with special funds from the investment earnings of the system's portfolio. However, beginning in fiscal 2013, all State and local employers that participate in the State Retirement and Pension System are charged an administrative fee to fund agency expenses for administering the pension system for the employees of those State and local employers.

Teacher Pension Cost Sharing

Since the inception of the Teachers' Retirement System in the 1920s, and continuing with the establishment of the Teachers' Pension System in 1980, the State has paid the full employer contribution on behalf of members of these systems who are employed by local jurisdictions and whose salaries are paid by State or local funds, including teachers, principals, community college faculty, librarians, and other education-related personnel specified in statute. In fiscal 2012, the total State contribution on behalf of members employed by local jurisdictions was $881.4 million; of that, $833.0 million was for employees of local school boards, and the remainder was for community college and public library personnel.

Prior to 2012, Maryland was 1 of 11 states that paid the full employer pension contribution for teachers and other related staff employed by local jurisdictions. The remaining 39 states either shared the cost with local employers or required local employers to pay the full cost. In 2011, the Public Employees' and Retirees' Benefit Sustainability Commission recommended a phase-in of a requirement for local employers to pay 50% of the combined pension and Social Security contributions for their employees.

Chapter 1 of the 2012 first special session phased in a requirement that local school boards pay the employer "normal cost" for active members of the Teachers' Retirement System and the Teachers' Pension System. The employer normal cost represents the employer share of the payment that is necessary to fund the benefits that members accrue in a given year. It is one of two components of the total employer contribution for pension benefits; the other being the amount necessary to pay down liabilities accrued in prior years. Based on 2012 projections of the normal cost, local school boards pay 50% of the normal cost in fiscal 2013, 65% of the normal cost in fiscal 2014, 85% of the normal cost in fiscal 2015, and 100% of the normal cost in fiscal 2016.

During the phase-in, the Act specifies the exact dollar amount to be paid by each local school board based on the projected normal cost and the local share of that cost. In fiscal 2017, when the phase-in is completed, local school boards must pay 100% of the actual normal cost, which is projected to be 5.37% of payroll for members of the Teachers' Retirement System and the Teachers' Pension System.

Phase-out of Corridor Funding Method

Since fiscal 2002, the Employees' Pension System and the Teachers' Pension System had operated under the corridor funding method enacted under Chapter 440 of 2002. The corridor funding method sought to mitigate the effects of fluctuations in market returns on employer contribution rates for the combined teachers' and employees' systems

by spreading out those effects over five years. It froze employer contribution rates for both systems at their fiscal 2002 levels as long as the two systems remained actuarially funded between 90% and 110%. If the plans fell out of this corridor, the employer contributions were to be increased by 1/5 of the difference between the prior year's rate and the full funding rate for the Employees' Pension System and the Teachers' Pension System. The employees' combined systems fell out of their corridor in fiscal 2005, followed by the teachers' combined systems in fiscal 2006.

Over time, the level of underfunding prompted by the corridor system grew, exacerbating the system's declining funded status driven largely by poor investment performance. However, exiting the corridor funding method grew increasingly difficult as the gap between the corridor-based contributions the State has been required to pay and contributions based on the full funding rate continued to grow, exceeding $500 million for several fiscal years. In response to a request in the fiscal 2013 budget to study options for exiting the corridor funding method, the State Retirement Agency and the Department of Legislative Services collaborated on a study during the 2012 interim and presented recommendations to the Joint Committee on Pensions. Chapters 475 and 476 of 2013 implemented the statutory components of those recommendations. Specifically, the Acts phase out the corridor funding method over 10 years and replace the system's current tiered amortization policy with a single 25-year closed amortization period. Additional nonstatutory recommendations presented to the Joint Committee on Pensions recommended that the board phase down its investment return assumption over four years from 7.75% to 7.55% and reduce its inflation assumption immediately from 3.0% to 2.8%. The board ultimately adopted these recommendations; however, the board phased in the inflation assumption reduction over four years.

Together, these four components are expected to generate significant short- and long-term savings in employer contributions to the pension system and put the system on more sound actuarial footing by requiring employer contributions to more closely reflect the full funding contribution rates during the phased-out elimination of the corridor funding method.

Supplemental Contribution

As mentioned above, the pension reform provisions of Chapter 397 set the supplemental contribution at $300 million beginning in fiscal 2014, with any savings over that amount dedicated to budget relief. However, the fiscal 2014 budget reduced the supplemental contribution for that year by $87.1 million in general funds, which were held in reserve and authorized to be transferred to the Dedicated Purpose Account "to provide funds to support critical programs impacted by federal sequestration." The budget further stated that if the Governor determined by January 1, 2014, that the funds were not needed

for that purpose, they must be transferred from the Dedicated Purpose Account to the pension system. Those funds were never needed for their dedicated purpose, but they were not transferred to the pension system because in the following year, Chapter 464 made permanent changes to the supplemental contributions. For each of fiscal 2014 and 2015, the supplemental contribution was reduced from $300 million to $100 million. Beginning in fiscal 2016, Chapter 464 increased the supplemental contribution by $50 million annually until it reaches $300 million in fiscal 2019. The annual supplemental contribution will then remain at $300 million until the corridor funding method is fully phased out and the pension fund reaches an 85% funding level.

After the 2011 comprehensive pension reform, the system was projected to achieve the statutory goal of 80% funding by fiscal 2023 due to the savings generated by the restructured benefits and the addition of supplemental contributions; in the absence of those changes, the system's projected funded status would not reach 80% funding until 2026. Projections now show that, with the reduction in the amount of supplemental contributions included in Chapter 464, the system will achieve 80% funding in 2025, one year earlier than was projected prior to the enactment of pension reform.

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 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. Prior to the 2015 through 2018 legislative term, members of the General Assembly had the option not to participate in the Legislative Pension Plan; however, beginning with the 2015 through 2018 legislative term, membership in the Legislative Pension Plan is mandatory for all members of the General Assembly.

The State Retirement and Pension System serves three 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, 2013, 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, 2013

System/Sub-system	Active Members	Vested Former Members	Subtotal: Active and Former Vested Members	Beneficiaries	Total
Employees' Retirement					
State – Regular	786	*	*	**	
Correctional Officers	7,952	*	*	**	
Legislators	185	*	*	255	
Governmental Units***	143	47	190	3,638	3,828
Subtotal	***9,066***	***890***	***9,956***	***22,386***	***32,342***
Employees' Pension					
State – Regular	51,296	20,236	71,532	33,068	104,600
Governmental Units	24,405	6,526	30,931	11,757	42,688
Subtotal	***75,701***	***26,762***	***102,463***	***44,825***	***147,288***
Teachers' Retirement	1,630	524	2,154	29,247	31,401
Teachers' Pension	102,398	23,031	125,429	37,143	162,572
State Police Retirement	1,320	84	1,404	2,428	3,832
Law Enforcement Officers' Pension	2,407	251	2,658	1,518	4,176
Judges' Retirement	288	10	298	378	676
Total	**192,810**	**51,552**	**244,362**	**137,925**	**382,287**

*Individual data not available. However, as of June 30, 2013, 843 vested former members of the Employees' Retirement System were State employees, correctional officers, or legislators.

**Individual data not available. However, as of June 30, 2013, 18,493 retirees of the Employees' Retirement System were State employees or correctional officers.

***Includes members of both the Employees' Retirement System and the Correctional Officers' System employed by participating governmental units.

Source: Maryland State Retirement and Pension System

Exhibit 10.2
Active and Former
Vested Membership Data by System
Fiscal 2004-2013

June 30	Total All Systems	Teachers' Retirement	Teachers' Pension	Employees' Retirement*	Employees' Pension	Judges' Retirement	State Police Retirement	Law Enforcement Officers
2013	244,362	2,154	125,429	9,956	102,463	298	1,404	2,658
2012	244,224	2,663	124,064	10,101	103,038	304	1,417	2,637
2011	245,970	3,339	124,806	10,225	103,292	297	1,386	2,625
2010	249,561	4,012	125,278	10,730	105,138	300	1,431	2,672
2009	251,571	4,550	124,552	11,095	106,961	365	1,414	2,634
2008	251,050	5,217	123,562	10,906	107,021	294	1,487	2,501
2007	248,289	5,963	120,333	11,240	106,566	310	1,470	2,344
2006	240,583	6,678	114,693	11,398	103,784	310	1,499	2,178
2005	235,714	7,606	110,327	11,160	102,845	297	1,486	1,930
2004	232,772	8,675	107,092	11,800	101,581	297	1,489	1,756

*Includes members of the Maryland General Assembly and State and municipal correctional officers.

Source: *Comprehensive Annual Financial Report*, Maryland State Retirement and Pension System, June 30, 2013

Exhibit 10.3
Retiree and Beneficiary Data by System
Fiscal 2004-2013

June 30	Total All Systems	Teachers' Retirement	Teachers' Pension	Employees' Retirement*	Employees' Pension	Judges' Retirement	State Police Retirement	Law Enforcement Officers
2013	137,925	29,247	37,143	22,386	44,825	378	2,428	1,518
2012	132,493	29,705	33,994	22,806	41,840	365	2,387	1,396
2011	127,171	30,012	30,553	23,236	39,339	358	2,371	1,302
2010	120,247	30,270	27,269	23,475	35,418	351	2,282	1,182
2009	116,007	30,598	25,158	23,778	32,832	348	2,226	1,067
2008	112,422	30,955	23,030	24,197	30,723	342	2,149	958
2007	108,355	31,023	21,016	24,408	28,631	335	2,063	863
2006	103,831	31,138	19,144	24,271	26,216	330	1,937	782
2005	100,196	30,921	17,170	24,633	24,525	316	1,909	708
2004	94,880	30,598	15,093	24,559	21,913	309	1,790	581

*Includes members of the Maryland General Assembly and correctional officers.

Source: *Comprehensive Annual Financial Report*, Maryland State Retirement and Pension System, June 30, 2013

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% 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 July 1, 2014, 126 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, 35 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, 2008, no participating employers remained in the Local Fire and Police Pension System.

Exhibit 10.4
Governmental Units Participating in the Employees' Retirement and Pension System
As of July 1, 2014

Allegany Community College

Allegany County Board of Education

Allegany County Commission

Allegany County Housing Authority

Allegany County Library

Allegany County Transit Authority

Annapolis

Anne Arundel County Board of Education

Anne Arundel County Community College

Berlin

Berwyn Heights

Bladensburg

Bowie

Brunswick

Calvert County Board of Education

Cambridge

Caroline County Board of Education

Caroline County Sheriff Deputies

Carroll County Board of Education

Carroll County Public Library

Carroll Soil Conservation District

Catoctin and Fredrick Soil Conservation District

Cecil County Board of Education

Cecil County Commission

Cecil County Library

Centerville

Chesapeake Bay Commission

Chestertown

Cheverly

College of Southern Maryland

College Park

Crisfield

Crisfield Housing Authority

Cumberland

Cumberland – Police Department

Denton

District Heights

Dorchester County Board of Education

Dorchester County Commission

Dorchester County Roads Board

Eastern Shore Regional Library

Edmonston

Emmitsburg

Federalsburg

Frederick County Board of Education

Frostburg

Fruitland

Garrett County Board of Education

Governmental Units Participating in the Employees' Retirement and Pension System
As of July 1, 2014

Garrett County Community Action Committee

Greenbelt

Greensboro

Hagerstown

Hagerstown Community College

Hampstead

Hancock

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

Hyattsville

Kent County Board of Education

Kent County Commissioners

Kent Soil and Water Conservation District

Landover Hills

LaPlata

Lower Shore Private Industry Council

Manchester

Maryland Health and Higher Education Facilities Authority

Middletown

Montgomery College

Morningside

Mount Airy

Mount Rainier

New Carrollton

North Beach

Northeast Maryland Waste Disposal Authority

Oakland

Oxford

Pocomoke City

Preston

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

Queen Anne's County Board of Education

Queen Anne's County Commission

Queenstown

Ridgely

Rockhall

Salisbury

Exhibit 10.4 (Continued)
Governmental Units Participating in the Employees' Retirement and Pension System
As of July 1, 2014

Shore up!

Snow Hill

Somerset County Board of Education

Somerset County Commission

Somerset County Economic Development Commission

Somerset County Sanitary District, Inc.

Southern Maryland Tri-County Community Action Committee

St. Mary's County Board of Education

St. Mary's County Commission

St. Mary's County Housing Authority

St. Mary's County Metropolitan Commission

St. Michaels, Commissioners of

Sykesville

Takoma Park

Talbot County Board of Education

Talbot County Council

Taneytown

Thurmont

Tri-County Council of Western Maryland

Tri-County for the Lower Eastern Shore

University Park

Upper Marlboro

Walkersville

Washington County Board of Education

Washington County Board of License Commission

Washington County Library

Westminster

Worcester County Board of Education

Worcester County Commission

Wor-Wic Tech Community College

Source: Maryland State Retirement Agency

Exhibit 10.5
Withdrawn Governmental Units
As of July 1, 2014

Anne Arundel County Economic Opportunity Commission	Garrett County Roads Board	Montgomery County Public Library
Anne Arundel County Government	Garrett County Office for Children, Youth, and Family	Rockville
Baltimore Metropolitan Council	Harford County Liquor Board	St. Mary's Nursing Home
Bethesda Fire Department	Health Systems Agency of Western Maryland	University of Maryland Medical System
Calvert County Government	Howard County Economic Development Authority	Washington County Commission
Caroline County Roads Board	Howard County Government	Washington County License Commissioners
Carroll County Government	Interstate Commission on the Potomac River Basin	Washington County Roads Board
Chevy Chase Fire Department	Lexington Market Authority	Washington County Sanitary District
Cresaptown Civic Improvement Association	Maryland Environmental Service	Washington Suburban Sanitary Commission
Elkton	Maryland National Capital Park and Planning Commission	Wicomico County Department of Recreation and Parks
Frederick County Government	Montgomery County Board of Education	Wicomico County Roads Board
Garrett County Commission	Montgomery County Government	

Source: Maryland State Retirement Agency

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% 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, 2013, 23 governmental units have chosen to participate 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% 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. As of July 1, 2013, one governmental unit has chosen to participate in the Correctional Officers' Retirement System.

Chapter 11. Plan Summaries

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 through various retirement or pension plans. As of June 30, 2013, the State Retirement and Pension System maintained nine principal retirement or pension plans: (1) the Teachers' Retirement System; (2) the Employees' Retirement System; (3) the Teachers' Pension 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 Judges' Retirement System; and the (9) Legislative Pension Plan. In addition, the system administers an Optional Retirement Program and a pension plan for Governors and other constitutional officers.

The first part of this chapter includes a separate discussion of the nine principal plans administered by the system with a summary of the following components:

- membership and composite information;
- member contributions;
- retirement eligibility and allowances; and
- vesting.

Many of the nine principal plans administered by the system have very similar components; therefore, the second part of this chapter discusses the following similar components among the principal plans and notes any differences between the plans:

- payment options;
- death benefits;
- disability retirement allowances;
- cost-of-living adjustments (COLA); and
- post retirement health insurance.

The third part of this chapter discusses the additional plans administered by the system: the Optional Retirement Program and a pension plan for Governors and other constitutional officers.

Appendix 7 provides a comparison of the major components of seven of the principal plans administered by the system and the Governor's Retirement Plan. The Teachers' Retirement Plan and the Employees' Retirement Plan are not shown in Appendix 7 because these plans closed to new membership in 1980.

Principal Plans Administered by the System

The State Retirement and Pension System provides retirement allowances and other benefits to various types of employees through several different types of retirement or pension plans. The State Retirement and Pension System is often referred to as "the system" for brevity. However, the individual plans administered by the system may also be called systems, such as the Teachers' Retirement System.

The first part of this chapter will discuss the nine principal plans or systems administered by the State Retirement and Pension System with a summary of the following components: (1) membership and composite information; (2) member contributions; (3) retirement eligibility and allowances; and (4) vesting. Each of the principal plans is a defined benefit plan because each plan provides a determinable benefit based on salary and service.

Teachers' Retirement System and Employees' 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. Exhibit 11.1 summarizes membership in the Teachers' Retirement System, as of June 30, 2013.

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. Exhibit 11.2 illustrates membership in the Employees' Retirement System, as of June 30, 2013.

Exhibit 11.1
Membership in the Teachers' Retirement System
As of June 30, 2013

Membership	
Active Members	1,630
Deferred Vested Members	524
Retirees and Beneficiaries	29,247
Composite	
Average Age – Active Members	62.8 Years
Average Years of Service – Active Members	37.6 Years
Average Annual Salary – Active Members	$89,084
Average Age – Retirees and Beneficiaries	75.4 Years
Average Annual Benefit – Retirees and Beneficiaries	$34,956

Source: Maryland State Retirement Agency

Exhibit 11.2
Membership in the Employees' Retirement System
As of June 30, 2013*

Membership	
Active Members	9,066
Deferred Vested Members	890
Retirees and Beneficiaries	22,386
Composite	
Average Age – Active Members	43.8 Years
Average Years of Service – Active Members	12.8 Years
Average Annual Salary – Active Members	$46,459
Average Age – Retirees and Beneficiaries	73.1 Years
Average Annual Benefit – Retirees and Beneficiaries	$21,000

*Includes members of the Maryland General Assembly, members of the Governor's Retirement Plan, and State and municipal correctional officers.

Source: Maryland State Retirement Agency

Although the Teachers' Retirement System and the Employees' Retirement System are two separate systems that provide benefits for different types of employees, the components of the systems are identical, including the member contributions and retirement eligibility and allowances that are discussed in this section and the other components that are discussed in the second part of this chapter. For brevity, this section will refer to the Teachers' Retirement System and the Employees' Retirement System as the Teachers' and Employees' Retirement Systems.

Until January 1, 1980, membership in the Teachers' and Employees' Retirement Systems was a condition of employment for eligible employees. However, on January 1, 1980, both the Teachers' Retirement System and the Employees' Retirement System were closed to new membership when the State established the Teachers' Pension System and the Employees' Pension System. Prior to January 1, 2005, Teachers' Retirement System members were eligible to transfer to the Teachers' Pension System, and Employees' Retirement System members were eligible to transfer to the Employees' Pension System. If a member chose to transfer, the member received a return of all accumulated contributions, which includes interest. Members who chose to transfer after April 1, 1998, are not eligible to receive the benefit enhancements enacted in 1998 and 2006.

Due to a deterioration in the financial and actuarial condition of the Teachers' and Employees' Retirement Systems, legislation was enacted in 1984 to modify the benefit and contribution structure of the systems. As a result of the 1984 legislation, 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 retirement system and the new pension system. At retirement, a Selection C benefit is calculated as a retirement system benefit for service credits accrued prior to the election of Selection C and as a pension system benefit for service credits accrued after the election. For more details, see the Cost-of-living Adjustments section of this chapter.

Member Contributions

Members of the Teachers' and Employees' Retirement Systems who elected Selection A contribute 7% of earnable compensation in return for unlimited annual COLAs after retirement. Selection B members contribute 5% of earnable compensation in return for COLAs which are limited to 5% compounded annually after retirement.

Beginning July 1, 2006, member contributions for Selection C members increased from 2% to 5% of the member's annual earnable compensation, to be phased in over a three-year period (3% on July 1, 2006; 4% on July 1, 2007; and 5% 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% compounded annually. For service credits accrued after the member chose Selection C, the COLA is limited to 3% compounded annually.

Additionally, member contributions for Selection C members increased to 7% of the member's annual earnable compensation beginning on July 1, 2011, as part of the comprehensive pension reform legislation that was enacted in 2011. For more information on the 2011 pension reforms, see Chapter 9.

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.

Retirement Eligibility and Allowances

Full Service Retirement: Members of the Teachers' and Employees' Retirement Systems 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 one fifty-fifth (1.818%) of the highest three years' average final salary multiplied by the number of years of accumulated creditable service. The highest three years' average final salary may be earned in nonconsecutive years.

(1.818% x Average Final Salary) x Years of Creditable Service

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

Early Retirement: Members of the Teachers' and Employees' Retirement Systems 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% for each month by which the member's retirement date precedes the normal retirement date. The maximum reduction for early retirement is 30.0%.

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

Vesting

Members of the Teachers' and Employees' Retirement Systems are vested in the system after five years of service. They may begin to draw a deferred vested 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, the accumulated contributions, which includes interest, are paid to the designated beneficiary. Members who separate from service prior to accumulating five years of creditable service receive refunds of their accumulated contributions, which includes interest.

Teachers' Pension System and Employees' 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, or those who are hired on or after July 1, 2011, receive the enhanced benefits enacted in 1998 and 2006. Teachers' Pension System members who are hired on or after July 1, 2011, are subject to a reformed pension benefit structure.

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 the 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 were State employees, except for those who transferred from the Employees' Retirement System after April 1, 1998, or those who were hired on or after July 1, 2011, were again eligible for an enhanced pension benefit. In addition, local governmental units who were participating in the Employees' Pension System on June 20, 2006, had the option of electing to participate in the enhanced benefits if such an election was made by June 30, 2007. Participating local governmental units that joined the Maryland State Retirement and Pension System on or after July 1, 2006, but before July 1, 2011, did so under the 2006 enhanced benefit structure. Employees' Pension System members who were hired on or after July 1, 2011, and participating local governmental units that joined the Maryland State Retirement and Pension System on or after July 1, 2011, were subject to a reformed pension benefit structure.

Membership in the Teachers' Pension System is summarized in Exhibit 11.3, and membership in the Employees' Pension System is summarized in Exhibit 11.4.

Exhibit 11.3
Membership in the Teachers' Pension System
As of June 30, 2013

Membership	
Active Members	102,398
Deferred Vested Members	23,031
Retirees and Beneficiaries	37,143
Composite	
Average Age – Active Members	45.0 Years
Average Years of Service – Active Members	11.7 Years
Average Annual Salary – Active Members	$58,985
Average Age – Retirees and Beneficiaries	68.7 Years
Average Annual Benefit – Retirees and Beneficiaries	$19,824

Source: Maryland State Retirement Agency

Exhibit 11.4
Membership in the Employees' Pension System
As of June 30, 2013

Membership	
Active Members	75,701
Deferred Vested Members	26,762
Beneficiaries	44,825
Composite	
Average Age – Active Members	48.6 Years
Average Years of Service – Active Members	12.4 Years
Average Annual Salary – Active Members	$47,730
Average Age – Retirees and Beneficiaries	68.3 Years
Average Annual Benefit – Retirees and Beneficiaries	$12,792

Source: Maryland State Retirement Agency

Member Contributions

The 2006 pension enhancement legislation provided for an increase in member contributions from 2% to 5% of the member's annual compensation to be phased in over a three-year period (3% on July 1, 2006; 4% on July 1, 2007; and 5% on July 1, 2008, and thereafter). Members who transferred from the Teachers' Retirement System or the Employees' Retirement System after April 1, 1998, and thus are not eligible for the enhanced benefit, are required to contribute 5% of earnable compensation in excess of the Social Security Wage Base.

In an effort to address issues regarding the long-term sustainability and affordability of the State's pension plans, comprehensive pension reform legislation was enacted in 2011, which affected pension benefits for almost all State employees and public school teachers in the State, including members of the Teachers' and Employees' Pension Systems. One component of the reforms was an increase in Teachers' and Employees' Pension Systems member contributions from 5% to 7% of the member's annual compensation beginning on July 1, 2011. For more information on the 2011 pension reforms, see Chapter 9.

Teachers' and Employees' Pension Systems members who separate from service prior to accumulating five years of creditable service receive refunds of their accumulated contributions, which includes 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.

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.

Retirement Eligibility and Allowances

The comprehensive pension reform that was enacted in 2011 increased eligibility requirements to receive a retirement allowance from the Teachers' and Employees' Pension Systems for members who were hired on or after July 1, 2011. Eligibility requirements for members of the Teachers' and Employees' Pension Systems who were hired on or before June 30, 2011, were not changed. On the following page is an explanation of the eligibility requirements for a full service retirement allowance and an early retirement allowance differentiated by whether the member is subject to the 2011 pension reform provisions.

Full Service Retirement – Members Hired on or Before June 30, 2011: Members of the Teachers' and Employees' Pension Systems who were hired on or before June 30, 2011, 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 Teachers' and Employees' Pension Systems members hired on or before June 30, 2011, is equal to 1.8% of average final salary earned after July 1, 1998, plus the greater of 1.2% of average final salary for each year of service earned prior to July 1, 1998, or the pension system retirement allowance for creditable service 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 pension system retirement allowance for creditable service prior to July 1, 1998)

However, for members who transferred from the Teachers' Retirement System or the Employees' Retirement System to the Teachers' Pension System or the Employees' Pension System (as applicable) after April 1, 1998, and thus are not eligible for the enhanced benefit, the full service retirement allowance is 0.8% of the highest 3 consecutive years' average final salary up to the Social Security Integration Level, plus 1.5% 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

Full Service Retirement – Members Hired on or After July 1, 2011: Members of the Teachers' and Employees' Pension Systems who are hired on or after July 1, 2011, must meet one of the following conditions to be eligible for a full service retirement allowance:

- age 65 with 10 years of eligibility service; or
- the sum of the member's age and years of service equals 90 or more (Rule of 90).

The full service retirement allowance is equal to 1.5% of average final salary for each year of service. The average final salary is based on a member's highest *five consecutive* years of compensation.

1.5% x Average Final Salary x Years of Creditable Service

Early Retirement – Members Hired on or Before June 30, 2011: Members of the Teachers' and Employees' Pension Systems who were hired on or before June 30, 2011, 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 retirement allowance reduced by 0.5% 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 42.0%.

Early Retirement – Members Hired on or After July 1, 2011: Members of the Teachers' and Employees' Pension Systems who were hired on or after July 1, 2011, are eligible for early retirement if they are at least 60 years of age with at least 15 years of eligibility service. The early retirement allowance is equal to the full service retirement allowance reduced by 0.5% for each month by which the retirement date precedes the date on which the member reaches age 65. The maximum reduction for early retirement is 30.0%.

Vesting

Members Hired on or Before June 30, 2011: Members of the Teachers' and Employees' Pension Systems who were hired on or before June 30, 2011, are vested in the system after five years of service. They may begin to draw a deferred vested 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 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% for each month by which the member's retirement date precedes the date on which the member turns 62.

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, which includes interest, are paid to the designated beneficiaries.

Members who separate from service prior to accumulating five years of creditable service receive refunds of their accumulated contributions, which includes interest.

Members Hired on or After July 1, 2011: Members of the Teachers' and Employees' Pension Systems who were hired on or after July 1, 2011, are vested in the system after 10 years of service. They may begin to draw a deferred vested retirement allowance at age 65 if they leave State service before retirement, provided that at least 10 years of service was accumulated prior to separation. 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 member may be eligible for a reduced deferred allowance upon attaining age 60 if the member has at least 15 years of eligibility service. If a vested member retires before age 65, the vested allowance is reduced by 0.5% for each month by which the member's retirement date precedes the date on which the member turns 65.

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 65, their accumulated contributions, which includes interest, are paid to the designated beneficiaries.

Members who separate from service prior to accumulating 10 years of creditable service receive refunds of their accumulated contributions, which includes interest.

State Police Retirement System

The State Police Retirement System was established on July 1, 1949, with 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, 2013.

Exhibit 11.5
Membership in the State Police Retirement System
As of June 30, 2013

Membership	
Active Members	1,320
Deferred Vested Members	84
Retirees and Beneficiaries	2,428
Composite	
Average Age – Active Members	35.5 Years
Average Years of Service – Active Members	11.0 Years
Average Annual Salary – Active Members	$60,491
Average Age – Retirees and Beneficiaries	61.4 Years
Average Annual Benefit – Retirees and Beneficiaries	$45,240

Source: Maryland State Retirement Agency

Member Contributions

State Police Retirement System members are required to contribute 8% of annual earnable compensation during employment. The pension reform enacted in 2011 did not change the contribution amount for members of this system. State Police Retirement System members are the only State employees who do not participate in the federal Social Security program.

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.

Retirement Eligibility and Allowances

Except for the Superintendent, all members must retire by age 60; however, eligibility requirements and benefits differ depending on whether the member is subject to the 2011 pension reform provisions.

Full Service Retirement – Members Hired on or Before June 30, 2011: Members of the State Police Retirement System who were hired on or before June 30, 2011, are eligible for a full service retirement allowance at age 50 or after accumulating 22 years of eligibility service regardless of age.

The benefit formula for full service retirement equals 2.55% 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% of the member's average final compensation. The highest three years' average final salary may be earned in nonconsecutive years.

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

Full Service Retirement – Members Hired on or After July 1, 2011: The pension reform enacted in 2011 increased eligibility requirements to receive a retirement allowance from the State Police Retirement System for members who were hired on or after July 1, 2011. Members of the State Police Retirement System who were hired on or after July 1, 2011, are eligible for a full service retirement allowance at age 50 or after accumulating 25 years of eligibility service regardless of age.

The benefit formula for full service retirement equals 2.55% of the member's highest *five* years' average final salary multiplied by the number of years of creditable service. However, the retirement allowance may not exceed 71.4% of the member's

average final compensation. The highest five years' average final salary may be earned in nonconsecutive years.

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

Early Retirement

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

Vesting

Members Hired on or Before June 30, 2011: Members of the State Police Retirement System who were hired on or before June 30, 2011, are vested in the system after five years of service. If the member leaves State service prior to accumulating five years of creditable service, the member receives a refund of his or her accumulated contributions, which includes interest.

Members Hired on or After July 1, 2011: Members of the State Police Retirement System who were hired on or after July 1, 2011, are vested in the system after 10 years of service. If the member leaves State service prior to accumulating 10 years of creditable service, the member receives a refund of his or her accumulated contributions, which includes interest.

Regardless of the date of hire, members of the State Police Retirement System may begin to draw a deferred vested 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, which includes interest, are paid to the designated beneficiary.

Deferred Retirement Option Program

State Police Retirement System members are eligible to participate in a Deferred Retirement Option Program. During the program period, a member is deemed retired and the retirement allowance is placed in an account earning interest. At the end of the program period, which may last no longer than four years, the lump-sum held in the program account

is paid to the member who must then end employment and fully retire. Eligibility requirements and benefits for the program differ depending on whether the member is subject to the 2011 pension reform provisions.

Members Hired on or Before June 30, 2011: Members of the State Police Retirement System who were hired on or before June 30, 2011, are eligible to participate in the Deferred Retirement Option Program if the member has at least 22 years of creditable service, has less than 28 years of service, and is under the age of 60. If a member was participating in the program on or before June 30, 2011, the member accrues interest in a program account at a rate of 6% a year, compounded monthly. However, if a member was not participating in the program until on or after July 1, 2011, the member accrues interest in a program account at a rate of 4% a year, compounded *monthly*.

Members Hired on or After July 1, 2011: Members of the State Police Retirement System who were hired on or after July 1, 2011, are eligible to participate in the Deferred Retirement Option Program if the member had at least 25 years of creditable service, had less than 29 years of service, and is under the age of 60. These members accrue interest in a program account at a rate of 4% a year, compounded *annually*.

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. Chapters 408 and 409 of 2008 included individuals serving as a Maryland Correctional Enterprises officer, officer trainee, plant supervisor, plant manager, or regional manager as members of the Correctional Officers' Retirement System.

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, 2013, there were 7,952 active members in the Correctional Officers' Retirement System. Membership and composite information for the Employees' Retirement System includes Correctional Officers' Retirement System members.

Since the creation of the Correctional Officers' Retirement System, membership has been limited only to nonmanagerial job classifications. As a result, members of the Correctional Officers' Retirement System who accepted promotions to senior managerial positions in the correctional system were no longer eligible for membership in the Correctional Officers' Retirement System and were required to enroll in the Employees'

Pension System. However, when a 2013 study found that differences between the benefit structures for the Correctional Officers' Retirement System and the Employees' Pension System created a disincentive for a member of the Correctional Officers' Retirement System to accept a promotion to a managerial position, legislation was enacted in 2014 that made certain managerial positions eligible for membership in the Correctional Officers' Retirement System. Specifically, Chapter 188 of 2014 added correctional officers who begin serving as security chiefs, facility administrators, assistant wardens, or wardens on or after July 1, 2014, as members of the Correctional Officers' Retirement System as a condition of their employment. Chapter 188 also gave individuals serving in those specified positions as of June 30, 2014, six months to transfer their service credit from the Employees' Pension System to the Correctional Officers' Retirement System if they continue serving in those positions.

Member Contributions

Members are required to contribute 5% of earnable compensation. The pension reform enacted in 2011 did not change the contribution amount for members of this 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.

Retirement Eligibility and Allowances

Full Service Retirement: Correctional Officers' Retirement System members are eligible for a full service retirement allowance after 20 years of creditable service regardless of age. The last 5 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 one fifty-fifth (1.818%) of the average final salary multiplied by the number of years of creditable service. For members of the Correctional Officers' Retirement System who were hired on or before June 30, 2011, the average final salary is calculated on the highest three years. Pension reform in 2011 altered the calculation of the average final salary of members of the Correctional Officers' Retirement System who are hired on or after July 1, 2011, to the highest five years. In both cases, the highest earning years are not required to be consecutive.

(1.818% x Average Final Salary) x Years of Creditable Service

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

Vesting

Members Hired on or Before June 30, 2011: Members of the Correctional Officers' Retirement System who were hired on or before June 30, 2011, are vested in the system after five years of service. They may begin to draw a deferred vested retirement allowance at age 55 with at least five years of creditable service. A security attendant at Clifton T. Perkins is eligible to collect a deferred vested benefit at age 60 with at least five years of creditable service. Members who separate from service prior to accumulating five years of creditable service receive refunds of their accumulated contributions, which includes interest.

Members Hired on or After July 1, 2011: Members of the Correctional Officers' Retirement System who were hired on or after July 1, 2011, are vested in the system after 10 years of service. They may begin to draw a deferred vested retirement allowance at age 55 with at least 10 years of creditable service. A security attendant at Clifton T. Perkins is eligible to collect a deferred vested benefit at age 60 with at least 10 years of creditable service. Members who separate from service prior to accumulating 10 years of creditable service receive refunds of their accumulated contributions, which includes interest.

Regardless of the date of hire, 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. Members who withdraw their contributions after leaving service are no longer entitled to a vested benefit. If a vested member dies prior to age 55 (or age 60 in the case of a security attendant at Clifton T. Perkins) and before withdrawing his or her accumulated contributions, the accumulated contributions, which includes 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 who do not elect to join the Employees' Pension System;
- Deputy sheriffs employed by the Baltimore City Sheriff's Department;
- 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 (Baltimore-Washington International Thurgood Marshall Airport);
- 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 or law enforcement officers;
- State Department of Education Division of Rehabilitation Services police officers;
- Firefighters or paramedics employed by the Salisbury Fire Department;
- Department of State Police aviators operating aircrafts for the State Emergency Medical System;
- Maryland Transit Administration police officers;
- 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.);
- Department of Public Safety and Correctional Services Internal Investigative Unit police officers; and

- Baltimore City Community College police.

Exhibit 11.6 summarizes membership in the Law Enforcement Officers' Pension System, as of June 30, 2013.

Exhibit 11.6
Membership in the Law Enforcement Officers' Pension System
As of June 30, 2013

Membership	
Active Members	2,407
Deferred Vested Members	251
Retirees and Beneficiaries	1,518
Composite	
Average Age – Active Members	40.8 Years
Average Years of Service – Active Members	10.7 Years
Average Annual Salary – Active Members	$57,172
Average Age – Retirees and Beneficiaries	57.9 Years
Average Annual Benefit – Retirees and Beneficiaries	$32,928

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% 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% of earnable compensation; or (2) 2% 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% annually after retirement) contribute 5% 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% 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 contributed 4% of earnable compensation until June 30, 2011. The comprehensive pension reform enacted in 2011 increased the member contributions to 6% as of July 1, 2011, and 7% as of July 1, 2012.

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.

Retirement Eligibility and Allowances

Full Service Retirement: Members of the Law Enforcement Officers' Pension System are eligible for a full service retirement allowance upon reaching 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% of the highest 3 years' average final salary for the first 30 years of creditable service, plus one one-hundredth (1.0%) 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% of average final salary up to a maximum benefit of 60% (30 years of creditable service).

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

For members of the Law Enforcement Officers' Pension System who are pension plan participants and were hired on or before June 30, 2011, the average final salary is calculated on the highest *three consecutive* years. For members who are pension plan participants and were hired on or after July 1, 2011, the average final salary is calculated on the highest *five consecutive* years.

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

Vesting

Members Hired on or Before June 30, 2011: Members of the Law Enforcement Officers' Pension System who were hired on or before June 30, 2011, are vested in the system after five years of service. Members who separate from service prior to accumulating five years of creditable service receive refunds of their accumulated contributions, which includes interest.

Members Hired on or After July 1, 2011: Members of the Law Enforcement Officers' Pension System who were hired on or after July 1, 2011, are vested in the system after 10 years of service. Law Enforcement Officers' Pension System members who separate from service prior to accumulating 10 years of creditable service receive refunds of their accumulated contributions, which includes interest.

Regardless of the date of hire, members of the Law Enforcement Officers' Pension System may begin to draw a deferred vested 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. If vested members do not withdraw their contributions and die before age 50, their accumulated contributions, which includes interest, are paid to the designated beneficiaries.

Deferred Retirement Option Program

Members are eligible to participate in a Deferred Retirement Option Program. To participate in the program, a Law Enforcement Officers' Pension System member must have at least 25 years of creditable service, but less than 30 years. During the program period, a member is deemed retired and the retirement allowance is placed in an account earning interest. At the end of the program period, which may last no longer than 5 years,

the lump-sum held in the program account is paid to the members who must end employment and fully retire. Benefits for the program differ depending on whether the member is subject to the 2011 pension reform provisions.

Members Participating on or Before June 30, 2011: Members of the Law Enforcement Officers' Pension System who were participating in the Deferred Retirement Option Program on or before June 30, 2011, accrue interest in a program account at a rate of 6% a year, compounded *monthly*.

Members Participating on or After July 1, 2011: Members of the Law Enforcement Officers' Pension System who were not participating in the Deferred Retirement Option Program on or after July 1, 2011, accrue interest in a program account at a rate of 4% a year, compounded *annually*.

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 Court of Special 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 11.7 summarizes membership in the Judges' Retirement System, as of June 30, 2013.

Exhibit 11.7
Membership in the Judges' Retirement System
As of June 30, 2013

Membership	
Active Members	288
Deferred Vested Members	10
Retirees and Beneficiaries	378
Composite	
Average Age – Active Members	58.3 Years
Average Years of Service – Active Members	9.6 Years
Average Annual Salary – Active Members	$138,891
Average Age – Retirees and Beneficiaries	76.7 Years
Average Annual Benefit – Retirees and Beneficiaries	$70,164

Source: Maryland State Retirement Agency

Member Contributions

Until June 30, 2012, members contributed 6% of annual earnable compensation; however, Chapter 485 of 2012 increased member contributions to 8% beginning on July 1, 2012. Member contributions are only required during the first 16 years of service.

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.

Retirement Eligibility and Allowances

Full Service Retirement: Members of the Judges' Retirement System 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 (66.7%) 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 of the Judges' Retirement System are not eligible for early retirement.

Vesting

Members Hired on or Before June 30, 2012: Members of the Judges' Retirement System who were hired on or before June 30, 2012, 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.

Members Hired on or After July 1, 2012: Members of the Judges' Retirement System who were hired on or after July 1, 2012, are vested in the system after five years of service. Members leaving the bench with at least five years of service before age 60 are eligible to receive their service retirement allowance upon attaining age 60.

Regardless of the date of hire, the vested allowance for a member of the Judges' Retirement System 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. Within six months after terminating service, but before receiving a

retirement allowance, former members may elect to withdraw all accumulated contributions, which includes interest. However, members who withdraw their contributions after leaving service are no longer entitled to a vested benefit.

Legislative Pension Plan

In 1966, legislation was enacted that provided for retirement allowances to be paid to members of the Maryland General Assembly 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. Membership and composite information for the Employees' Retirement System includes Legislative Pension Plan members.

The General Assembly Compensation Commission comprises 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 four-year terms. 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 2014 for the 2015 through 2018 legislative term. The resolution included changes to the Legislative Pension Plan, which will be noted in the description of the provisions of the Legislative Pension Plan below. One major change is that prior to the 2015 through 2018 legislative term, members of the General Assembly had the option not to participate in the Legislative Pension Plan; however, beginning with the 2015 through 2018 legislative term, membership in the Legislative Pension Plan is mandatory for all members of the General Assembly.

Member Contributions

Through January 13, 2015, members of the Legislative Pension Plan must contribute 5% of annual earnable compensation; however, the 2014 Resolution of the General Assembly Compensation Commission increased member contributions to 7% beginning on January 14, 2015. Member contributions are only required for the first 22 years and three months of service, after which there is no contribution requirement.

Retirement Eligibility and Allowances

The 2014 Resolution of the General Assembly Compensation Commission increased eligibility requirements to receive a retirement allowance from the Legislative Pension Plan for members who do not have creditable service before January 14, 2015 (the start date of the 2015 through 2018 legislative term). Eligibility requirements for members of the Legislative Pension Plan who have creditable service before January 14, 2015, were not changed. Below is an explanation of the eligibility requirements for a full service retirement allowance and an early retirement allowance differentiated by whether the member has any creditable service before the beginning of the 2015 through 2018 legislative term.

Full Service Retirement: Members of the Legislative Pension Plan who have creditable service before January 14, 2015, are eligible for a full service retirement allowance at age 60. Members who do not have creditable service before January 14, 2015, are eligible for a full service retirement allowance at age 62.

The benefit formula for full service retirement for members of the Legislative Pension Plan is calculated as 3% 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 of the Legislative Pension Plan who have creditable service before January 14, 2015, are eligible for an early retirement allowance at age 50. Members who do not have creditable service before January 14, 2015, are eligible for an early retirement allowance at age 55.

The early retirement allowance is equal to the full service retirement allowance reduced by 6% for each year by which the member's retirement date precedes the date on which the member reaches the full service retirement age. For members who have

creditable service before January 14, 2015, the full service retirement age is 60; therefore, the maximum reduction for early retirement is 60%. For members who do not have creditable service before January 14, 2015, the full service retirement age is 62; therefore, the maximum reduction for early retirement is 42%.

Vesting

Members of the Legislative Pension Plan are vested in the system after eight years of service. 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. This ability to purchase future service credit is unique to the Legislative Pension Plan.

With eight years of service, a member is eligible for a retirement allowance equal to 24% of the current salary for an active legislator. For members who have creditable service before January 14, 2015, the retirement allowance is payable at age 60 (or a reduced benefit upon attaining age 50). For members who do not have creditable service before January 14, 2015, the retirement allowance is payable at age 62 (or a reduced benefit upon attaining age 55).

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

Forfeiture of Benefits

Beginning in the 2011 through 2014 legislative term and continuing through the 2015 through 2018 legislative term, a retired member, or a member's beneficiary, is prohibited from receiving a retirement allowance under the Legislative Pension Plan if the member is convicted of, or enters a plea of *nolo contendere* to (1) any felony; or (2) a misdemeanor related to the member's public duties and responsibilities that was committed during the member's term of office and that involves moral turpitude for which the penalty may be incarceration. Members or retirees who are subject to the forfeiture of benefits from the Legislative Pension Plan are entitled to receive a return of the member's contributions with interest, less any benefits already paid prior to the forfeiture. If the member's conviction is later reversed or overturned, the member's benefits must be restored.

Pension Components Similar Among Principal Plans

Many of the nine principal plans administered by the system have very similar components; therefore, the second part of this chapter focuses on the following similar components: payment options, death benefits, disability retirement allowances, COLAs, and post retirement health insurance. Unless otherwise noted, the information below is applicable to members in each of the following nine principal plans administered by the system: (1) the Teachers' Retirement System; (2) the Employees' Retirement System; (3) the Teachers' Pension 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 Judges' Retirement System; and (9) the Legislative Pension Plan.

Payment Options

Basic Allowance

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 or basic allowance. A basic allowance is computed according to the specific rules of each plan. The basic allowance determines the monthly benefit a retiree is entitled to receive.

In the Teachers' and Employees' Retirement Systems, the Teachers' and Employees' Pension Systems, and the Correctional Officers' Retirement System, members may choose between the basic allowance and six other optional forms of payment. If a member of one of these systems chooses the basic allowance, even if the member has a surviving spouse or minor children, payments cease upon the death of the retiree.

In the State Police Retirement System, if a member is married or has minor children at the time of retirement, the member is required to have the basic allowance. However, in this system, upon the death of the retiree, the basic allowance provides 80% of the retiree's allowance to the surviving spouse for life or to minor children until they reach age 18.

Similarly, if a member of the Law Enforcement Officers' Pension System or the Judges' Retirement System is married or has minor children at the time of retirement, the member is required to have the basic allowance. However, in these systems, upon the death of the retiree, the basic allowance provides 50% of the retiree's allowance to the surviving spouse for life or to minor children until they reach age 18.

Members of the State Police Retirement System, the Law Enforcement Officers' Pension System, or the Judges' Retirement System who are not married and do not have

minor children at the time of retirement may choose the basic allowance or one of six optional forms of payment. In this case, if the basic allowance is chosen, payments cease upon the death of the retiree

If a member of the Legislative Pension Plan is married, the member is required to have the basic allowance, which upon the death of the retiree, provides 50% of the retiree's allowance to the surviving spouse for life (but not to minor children). An unmarried member of the Legislative Pension Plan may choose the basic allowance or one optional form of payment. Unique to the Legislative Pension Plan, an unmarried member may choose the basic allowance and designate a beneficiary to receive 50% of the retiree's basic allowance upon the death of the retiree and upon the beneficiary attaining age 60

Optional Forms of Payment

A member may choose an optional form of payment in order to provide benefit protection for a spouse or other designated beneficiary. Since a member's retirement reserve is the amount needed, with interest, to pay for the member's normal retirement allowance, when an optional allowance is chosen, 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. With the exception of the Legislative Pension Plan, the other principal plans offer 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% 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% 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% 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% 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.

In Options 2 and 5, a member may not designate a beneficiary who is more than 10 years younger than the member, unless the beneficiary is the member's spouse or disabled child as defined under the Internal Revenue Code.

In the Legislative Pension Plan, members had the following three options through the 2011 through 2014 legislative term:

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

- Option B provided a 10-year certain plan. When a member died, the monthly allowance continued for the remainder of the 10-year period beginning on the date of the death or retirement of the member, whichever occurs first.

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

However, the 2014 Resolution of the General Assembly Compensation Commission repealed Options B and C because of Internal Revenue Service concerns regarding Option C and because both options had never been used. Therefore, during the 2015 through 2018 legislative term, members will have only one optional retirement benefit to choose, which is identical to the previous Option A. However, language was added to mirror the prohibition in Options 2 and 5 that a member may not designate a beneficiary who is more than 10 years younger than the member, unless the beneficiary is the member's spouse or disabled child as defined under the Internal Revenue Code

Death Benefits

With the exception of the Judges' Retirement System and the Legislative Pension Plan, an ordinary death benefit is paid if an active member dies after completing 1 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, which includes interest. A surviving spouse may elect to receive a 100% 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 (or, regardless of age, had at least 25 years of eligibility service in the Employees' Pension System or the Teachers' Pension System). A 100% survivor annuity means that upon the death of the member, the entire monthly payment that the member would have been entitled to receive at the time of the member's death will be paid to the beneficiary for the remainder of the beneficiary's life.

With the exception of the Judges' Retirement System and the Legislative Pension Plan, 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, which includes interest. In the Correctional Officers' Retirement System and the Law Enforcement Officers' Retirement System, if the deceased member is not survived by a spouse, the member's children, if any, continue to receive the annuity until the youngest child reaches age 18. In the Teachers' Retirement System, the Teachers' Pension System, the Employees' Retirement System, the Employees' Pension System, and the State Police Retirement System 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*.

Special Provisions for the State Police Retirement System and the Law Enforcement Officers' Pension System

If a member of the State Police Retirement System or the Law Enforcement Officers' Pension System dies after completing one year of eligibility service but less than two years of eligibility service, the member is eligible to receive the ordinary death benefit mentioned above. However, 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, in lieu of the ordinary death benefit, a special death benefit is paid as an annuity to the surviving spouse, plus a return of all accumulated contributions, which includes interest.

In the State Police Retirement System, this special death benefit equals 50% of the member's annual earnable compensation at the time of death plus a return of all

accumulated contributions, which includes interest. In the Law Enforcement Officers' Pension System, this special death benefit equals 50% of the applicable ordinary disability allowance plus a return of all accumulated contributions, which includes interest. In both systems, 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. However, in the State Police Retirement System, the deceased member's dependent parents are eligible to receive the annuity for the life of each dependent parent if the deceased member is not survived by a spouse or minor children.

Also, 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 80% of the retirees' retirement allowance in the State Police Retirement System and 50% of the retirees' retirement allowance in the Law Enforcement Officers' Pension System. In both systems, this benefit 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.

Special Provisions for the Judges' Retirement System

In the Judges' Retirement System, 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% 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 contributions, which includes interest, are refunded to the estate.

In the Judges' Retirement System there is no distinction between a member's death that occurs outside of the line of duty or while in the line of duty. The death benefit described above is paid under both circumstances.

Special Provisions for the Legislative Pension Plan

Upon the death of an active legislator who is a member of the Legislative Pension Plan and who had less than eight years of service as a legislator, 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 accumulated contributions, which includes 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 of the Legislative Pension Plan who had 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% 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% 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

In the Legislative Pension Plan, there is no distinction between a member's death that occurs outside of the line of duty or while in the line of duty. One of the death benefits described above, depending on the member's length of service, is paid under both circumstances

Disability Retirement Allowances

Ordinary Disability Retirement Allowances

In all of the systems listed above except the Judges' Retirement System and the Legislative Pension Plan, a member is eligible to receive 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. However, the calculation of the allowance differs among the systems

In the Teachers' Retirement System and the Employees' Retirement System, the disability retirement allowance for Selection A and B members is equal to the greater of (1) a normal service retirement allowance (one fifty-fifth, which is 1.818%, of the highest three years' average final salary); or (2) either 25.0% of the member's average final salary or, if the member is under the normal retirement age (60 years), 1.818% 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 (as required by the 1984 legislation), 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.

In the Correctional Officers' Retirement System, the disability retirement allowance is calculated the same as for Selection A and B members of the Teachers' Retirement

System and the Employees' Retirement System, except that normal retirement age could be 55 years (or 60 years, in the case of a security attendant at Clifton T. Perkins).

In the Teachers' Pension System and the Employees' Pension System, 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.

In the State Police Retirement System, 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% of the member's average final salary.

In the Law Enforcement Officers' Pension System, 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 retirement plan participant equals the greater of (1) the normal service retirement allowance; or (2) 25% 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.

Special Provisions for the Judges' Retirement System

In the Judges' Retirement System members do not need to complete five years of service to be eligible for a disability retirement allowance. 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 at least one-third (33.3%) of the member's annual earnable compensation at the time of retirement.

Special Provisions for the Legislative Pension Plan

Unlike the other systems mentioned earlier, in the Legislative Pension Plan a member must have at least eight years of creditable service to be eligible for a disability retirement allowance. The medical board must certify that the legislator is mentally or physically incapacitated for further performance of legislative duty and that the incapacity

is likely to be permanent. The disability retirement allowance is equal to the full service retirement allowance.

Accidental Disability Retirement Allowances

With the exception of the Judges' Retirement System and the Legislative Pension Plan, in all of the systems listed earlier, 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, which includes interest, and two thirds (66.7%) of the member's average final salary; or (2) the member's average final salary.

Additionally, in the Law Enforcement Officers' Pension System, a member can be eligible for an accidental disability retirement allowance if the member becomes totally and permanently incapacitated for duty as a result of an injury *arising out of* performance of the job, as well as an injury in the *actual* performance of the job. The same is true for members of the State Police Retirement System, but the allowance is called a special disability retirement allowance rather than an accidental disability retirement allowance.

In the case of members who transferred from the Teachers' Retirement System to the Teachers' Pension System or from the Employees' Retirement System to the Employees' Pension System, members who apply for disability retirement within two years of the transfer will have their disability benefits reduced by the amount that the member received in refunded contributions from the previous system.

Members of the Judges' Retirement System and the Legislative Pension Plan are not eligible to receive an accidental disability retirement allowance; however, if they are injured on the job, they may be eligible for an ordinary disability retirement allowance.

Disability Retirement Allowance Reductions

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. 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 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.

Cost-of-living Adjustments

With the exception of the Judges' Retirement System and the Legislative Pension Plan, all of the retirement allowances are adjusted each year based on the Consumer Price Index for all urban consumers as published by the U.S. Department of Labor, Bureau of Labor Statistics. COLAs are effective July 1 of each year and are applied to all allowances payable for the year.

Prior to calendar 2009, the Consumer Price Index for all urban consumers had not had a negative change since automatic COLAs were first instituted in the early 1970s. However, as of December 31, 2009, the Consumer Price Index for all urban consumers declined by 0.356% over the previous calendar year. Absent legislation, this decline would have resulted in a negative adjustment for fiscal 2011 for retirees of the Teachers' Retirement System. As a result, legislation was enacted in 2010 to prevent the reduction in retirement allowances in fiscal 2011. That legislation also required that COLAs in the succeeding year be adjusted to recover the difference the negative COLA that would have been applied and the zero COLA. Then legislation was enacted in 2011 that permanently precludes annual COLAs from being less than zero. In years in which COLAs would be less than zero due to deflation, retirees and beneficiaries do not receive a COLA, but COLAs in succeeding years are adjusted until the difference between the negative COLA that would have applied and the zero COLA is fully recovered.

The amount of the COLA differs depending on what plan the member is in and depending on when the service credit was earned.

Service Credit Earned on or Before June 30, 2011

In the Teachers' Retirement System and the Employees' Retirement System, 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% compounded 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% compounded annually. For service credits that were accrued after

the member chose Selection C up through June 30, 2011, the COLA is limited to 3% compounded annually

In the Teachers' Pension System and the Employees' Pension System, for service credit earned on or before June 30, 2011, the COLA is limited to 3% compounded annually. However, Employees' Pension System members who do not receive the enhanced Employees' Pension System formula receive a simple, rather than a compounded, COLA limited to 3% annually.

In the Law Enforcement Officers' Pension System, 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 5% compounded annually. The COLA for a pension plan participant is limited to 3% compounded annually for service credit earned on or before June 30, 2011.

In the State Police Retirement System and the Correctional Officers' Retirement System, for service credit earned on or before June 30, 2011, the COLA is unlimited.

Service Credit Earned on or After July 1, 2011

With the exception of the Judges' Retirement System and the Legislative Pension Plan, the 2011 pension reform linked COLAs for service credit earned on or after July 1, 2011, to the performance of the system's investment portfolio. For members of the Teachers' Retirement System (Selection C members), the Employees' Retirement System (Selection C members), the Teachers' Pension System, the Employees' Pension System, the State Police Retirement System, the Correctional Officers' Retirement System, and the Law Enforcement Officers' Pension System (pension plan participants), COLAs for service credit earned on or after July 1, 2011, are linked to the performance of the system's investment portfolio. If the portfolio earns its actuarial target rate (the assumed rate of return on investments), the COLA is subject to a 2.5% cap. If the portfolio does not earn the target rate, the COLA is subject to a 1.0% cap. The actuarial target rate was 7.75% for fiscal 2014 and will phase down to 7.55% by fiscal 2018.

Judges' Retirement System and Legislative Pension Plan COLAs

The 2011 pension reform COLA provisions did not apply to active members or retirees of the Judges' Retirement System or the Legislative Pension Plan because their benefit increases are linked to the salaries of current judges and legislators, respectively, and are not limited to inflation rates. Whenever there is a salary adjustment for sitting

judges or active legislators, the retirement allowance for a retiree of the Judges' Retirement System or the Legislative Pension Plan is increased, as applicable. This linking of post retirement adjustments to active salaries is regarded as an unlimited compound COLA.

Post Retirement Health Insurance

Members employed by the State may participate in the State Employee and Retiree Health and Welfare Benefits Program after retirement, which provides post retirement health insurance to eligible retirees. Members employed by a participating governmental unit are entitled to the post retirement health insurance provided by that particular employer.

In addition to comprehensive reform of the State's pension system, the Budget Reconciliation and Financing Act of 2011 (Chapter 397) implemented reforms to the State Health and Welfare Benefits Program. Specifically, the legislation altered eligibility requirements for employees who begin State service on or after July 1, 2011.

Members Who Began State Service on or Before June 30, 2011

With the exception of the Judges' Retirement System and the Legislative Pension Plan, members of the principal retirement or pension plans who began State service on or before June 30, 2011, are eligible for retiree health care coverage through the State Employee and Retiree Health and Welfare Benefits Program if the individual:

- ends State service with at least 10 years of creditable service and within 5 years before the age at which a vested retirement allowance normally would begin;
- ends State service with at least 16 years of creditable service;
- retires directly from State service with a State retirement allowance and has at least 5 years of creditable service; or
- retires directly from State service with a State disability retirement allowance.

The State health insurance subsidy for retirees that began State service on or before June 30, 2011, is 1/16 for each year of the retiree's creditable service up to 16 years. If a retiree receives a State disability retirement allowance or has 16 or more years of creditable service, the retiree or the retiree's surviving spouse or dependent child is entitled to the same State subsidy allowed a State employee. In all other cases, if a retiree has at least 5 years of creditable service, the retiree or the retiree's surviving spouse or dependent child

is entitled to 1/16 of the State subsidy allowed a State employee for each year of the retiree's creditable service up to 16 years.

Members Who Begin State Service on or after July 1, 2011

With the exception of the Judges' Retirement System and the Legislative Pension Plan, the Budget Reconciliation and Financing Act of 2011 altered eligibility requirements for members of the principal retirement or pension plans who begin State service on or after July 1, 2011. These members are eligible for retiree health care coverage through the State Employee and Retiree Health and Welfare Benefits Program if the individual:

- ends State service with at least 25 years of creditable service;
- ends State service with at least 10 years of creditable service within 5 years before the age at which a vested retirement allowance normally would begin;
- retires directly from State service with a State retirement allowance and has 10 years of creditable service; or
- retires directly from State service with a State disability retirement allowance.

The State health insurance subsidy for retirees who begin State service on or after July 1, 2011, is 1/25 for each year of the retiree's creditable service up to 25 years. If a retiree receives a State disability retirement allowance or has 25 or more years of creditable service, the retiree or the retiree's surviving spouse or dependent child is entitled to the same State subsidy allowed a State employee. In all other cases, if a retiree has at least 10 years of creditable service, the retiree or the retiree's surviving spouse or dependent child is entitled to 1/25 of the State subsidy allowed a State employee for each year of the retiree's creditable service up to 25 years.

Members of the Judges' Retirement System

Regardless of the date of hire, members of the Judges' Retirement System have the same eligibility requirements for retiree health care coverage through the State Employee and Retiree Health and Welfare Benefits Program as individuals who began State service on or before June 30, 2011.

Members of the Legislative Pension Plan

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 when the legislator began serving and the amount of creditable service the retired legislator earned. Former legislators receiving a retirement allowance who have creditable service before January 14, 2015, qualify for a subsidy equal to 1/16 of the full State subsidy for each year of service. With 16 years of service, the retiree receives the full State subsidy, which is the same State health insurance subsidy that is provided to active State employees.

Former legislators receiving a retirement allowance who have no creditable service before January 14, 2015, qualify for a subsidy equal to 1/20 of the full State subsidy for each year of service. With 20 years of service, the retiree receives the full State subsidy, which is the same State health insurance subsidy that is provided to active State employees.

Additional Plans Administered by the System

The third part of this chapter focuses on the two additional plans administered by the system: the Optional Retirement Program and a pension plan for governors and other constitutional officers.

Optional Retirement Program

In 1975, the State established the Optional Retirement Program for certain eligible employees of public higher education institutions. Eligible employees are:

- members of the faculty of the University System of Maryland, Morgan State University, St. Mary's College of Maryland, or a community college;
- certain professional employees of the Maryland Higher Education Commission, community colleges, Morgan State University, and St. Mary's College of Maryland; and
- nonclassified employees of the University System of Maryland.

Eligible public higher education employees must elect to participate in (1) the Optional Retirement Program; (2) the Teachers' Pension System; or (3) the Employees'

Pension System. Federal tax law requires employees to make the choice whether to join the Optional Retirement Program within one year of becoming eligible to join the optional program. This choice is a one-time, irrevocable decision.

Unlike the system's nine principal plans which are defined benefit plans, the Optional Retirement Program is a defined contribution plan. A defined contribution plan provides a benefit based upon an accumulated account balance.

The optional program is a contract between the participant and the selected vendor. There are currently two plan vendors: (1) TIAA/CREF and (2) 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% 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.

Unlike the system's nine principal plans, there is no mandated employee contribution in the Optional Retirement Program; in fact, employee contributions are not authorized. The two plan 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.

Also, unlike the system's nine principal plans, participants have immediate vesting in the Optional Retirement Program account balance. Benefits from the Optional Retirement Program may begin upon separation from employment; however, depending on the participant's age, a federal tax penalty may apply.

As of December 31, 2013, 40,365 professional employees were participating in the optional program.

When the Optional Retirement Program was first established in 1975, members were not eligible for retiree health benefits. However, in 1984, optional program employees, spouses, and children became eligible to receive retiree health benefits through the State Employee and Retiree Health and Welfare Benefits Program if the individual:

- ended service with a State institution of higher education with at least 10 years of service and was at least age 57;

- ended service with a State institution of higher education with at least 16 years of service; or

- retired directly from and had at least 5 years of service with a State institution of higher education with a periodic distribution of benefits from an Optional Retirement Program account.

With the passage of the 1984 legislation, optional program retirees who retired directly from a State institution of higher education became eligible to receive (1) a pro-rated health insurance subsidy if the retiree had at least 5 years of service, but less than 16 years of service; or (2) the maximum health insurance subsidy if the retiree had at least 16 years of service. Retirees who had at least 25 years of service did not have to retire directly from a State institution of higher education in order to receive the health insurance subsidy. The State health insurance subsidy for retirees is 1/16 for each year of the retiree's service up to 16 years.

However, spouses and children of optional program retirees were not eligible for a State health insurance subsidy until legislation was enacted in 1993 which allows the retiree's spouse and children to receive the maximum State retiree health insurance subsidy if the retiree has at least 25 years of service. However, the retiree's spouse and children are not eligible for a pro-rated subsidy if the retiree has less than 25 years of service.

As was the case for many of the members of the principal plans within the system, the 2011 pension reform altered eligibility requirements for Optional Retirement Program employees who began State service on or after July 1, 2011. Members who began State service on or before June 30, 2011, continue to receive the benefits as described earlier. However, optional program members who began State service on or after July 1, 2011, are eligible for retiree health care coverage through the State Employee and Retiree Health and Welfare Benefits Program if the individual:

- ends service with a State institution of higher education with at least 10 years of service and is at least age 57;

- ends service with a State institution of higher education with at least 25 years of service; or

- retires directly from and has at least 10 years of service with a State institution of higher education with a periodic distribution of benefits from an Optional Retirement Program account.

Optional Retirement Program retirees who began State service on or after July 1, 2011, and retire directly from a State institution of higher education are eligible to receive (1) a pro-rated health insurance subsidy if the retiree had at least 10 years of service, but less than 25 years of service; or (2) the maximum health insurance subsidy if the retiree

had at least 25 years of service. The State health insurance subsidy for retirees is 1/25 for each year of the retiree's service up to 25 years. If the optional program retiree had at least 25 years of service, the retiree's spouse and children are eligible to receive the maximum State retiree health insurance subsidy; however, the retiree's spouse and children are not eligible for a pro-rated subsidy if the retiree had less than 25 years of service.

Retirement Provisions for Governors, Lieutenant Governors, and Constitutional Officers

Governors

The Governor's Retirement Plan is a noncontributory plan that is a subsystem of the Employees' Retirement System. The Governor of Maryland is automatically enrolled in the plan upon taking office. Membership and composite information for the Employees' Retirement System includes members of the Governor's Retirement Plan.

If a Governor served in office before January 21, 2015, the Governor's Retirement Plan provides a pension benefit beginning at age 55. However, legislation enacted in 2014 increased the retirement age to 62 for Governors who begin serving on or after January 21, 2015.

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 COLA.

The Governor is eligible for a disability retirement allowance if the General Assembly adopts a resolution by a three-fifths vote that the Governor is unable to perform the duties of the office due to a physical or mental disability. If a Governor leaves office due to a disability, the retirement allowance begins immediately and continues through the period of disability. The disability retirement allowance is equal to the normal service retirement allowance. A surviving spouse receives 50% of the retirement benefit that the Governor received or would have received.

There are no specific provisions applicable to accidental disability retirement allowance for the Governor; however, if the Governor is injured on the job, he or she may be eligible for the disability retirement allowance described earlier.

Prior to legislation enacted in 2014, a Governor had the same eligibility requirements for retiree health care coverage through the State Employee and Retiree Health and Welfare Benefits Program as State employees. Therefore, a Governor who began serving in office on or before June 30, 2011, was eligible for a State health insurance subsidy after 5 years of service at 1/16 for each year of service. However, a Governor who began serving in office on or after July 1, 2011, is eligible for a State health insurance subsidy after 10 years of service at 1/25 for each year of service. However, since Governors may serve no more than two consecutive terms, future Governors with no other creditable service would not be able to meet the 10-year service requirement.

Therefore, the 2014 Governor's Salary Commission recommended that for purposes of the retiree health benefit, Governors vest immediately upon taking office and accrue 1/16 of the maximum State subsidy for each year of service. Legislation was enacted in 2014 that allows a former Governor who begins serving on or after January 21, 2015, and is receiving a normal service retirement allowance from the State Retirement and Pension System to participate in State retiree health benefits provided under the State Employee and Retiree Health and Welfare Benefits Program upon reaching age 62 and is entitled to 1/16 of the State premium subsidy for retiree health care services for each year of service as Governor. The former Governor's surviving spouse is entitled to the same benefit. A former Governor who begins serving on or after January 21, 2015, and is receiving a disability retirement allowance may also enroll in the retiree health benefits program at age 62 and receive the same subsidy as a State employee.

Lieutenant Governors and Constitutional Officers

Lieutenant Governors and other constitutional officers such as the Attorney General, the State Comptroller, the State Treasurer, and the Secretary of State, 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% 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 to 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 the ERISA, but the vast majority are advance funded.

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.

Accrued Liabilities

The system currently uses the entry age normal cost method 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 actual experience differing from the actuarial assumptions, or changes in those assumptions.

Actuarial Assumptions

As indicated earlier, advance funding is dependent on the accuracy of actuarial determinations based on a variety of demographic and economic assumptions. The assumptions are not intended to predict the behavior of an individual member or group of members in a given year, or of economic performance in a given year. Rather, the

assumptions are intended to predict members' collective behavior as well as the performance of the underlying economy over time. As the calculation of accrued liabilities includes a projection of future liabilities for every current member of the system, it relies heavily on assumptions about their future behavior, 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 Rates*** – the percentage of members who choose to retire when they are first eligible and at subsequent intervals;
- ***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 are subjected to a periodic "experience study," 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. Maryland law requires an experience study at least once in each five-year period. The last experience study was based on actuarial results from the four years through June 30, 2010. The next scheduled experience study will reflect results from the five years through June 30, 2015. Any changes to actuarial assumptions will be reflected in the fiscal 2018 contribution rates.

Following the 2010 actuarial experience study, the State Retirement and Pension Systems' board of trustees adjusted several of the system's economic and actuarial assumptions. As of June 30, 2013, the following significant assumptions are in place:

- a rate of return on investments of 7.70% as of June 30, 2013, declining by five basis points annually until it reaches 7.55% (adopted in calendar 2013);

- aggregate payroll growth of 3.5% compounded annually, attributable to inflation (adopted in calendar 2007);

- post retirement cost-of-living increases of 1.7% per year for members subject to caps of 1.0% or 2.5% on cost-of-living increases, dependent on whether annual investment returns meet or exceed the assumed rate of return; and 3.0% for most other members (adopted in calendar 2011); and

- rates of mortality, withdrawal, service disablement, and retirement based on actual experience during the period from 1981 through 2010 (adjusted in calendar 2012).

Asset Valuation

The equation to calculate the pension system's unfunded liabilities has two components: the calculation of total liabilities, discussed in the previous section and the calculation of the assets available to pay those liabilities, which is the focus of this section. Most public pension plans take advantage of their long-range horizons to adjust the market value of their assets using asset smoothing strategies. Asset smoothing is a mechanism that spreads out, or smoothes, annual investment returns over a designated period of time in order to minimize volatility. The State Retirement and Pension System employs a five-year rolling average to calculate its actuarial value of assets. In this way, only one-fifth of a given annual gain or loss is recognized during the year in which it occurs.

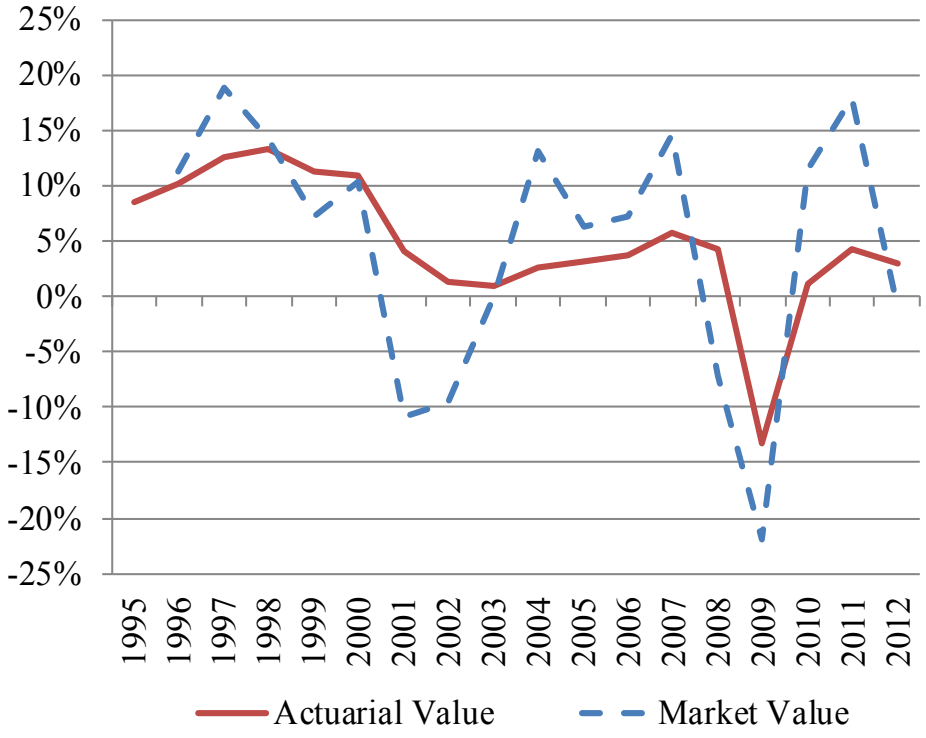
By example, the system's fiscal 2012 actual investment return was 0.28%, or $104.1 million. Given the system's assumed rate of return of 7.75% at the time, the expected return was $2.9 billion, resulting in an actuarial shortfall (loss) of $2.8 billion. However, only one-fifth of that amount ($557.9 million) was initially recognized during the June 30, 2012 valuation, reflecting the five-year smoothing period. In addition, $1.9 billion in losses and $1.1 billion in gains from the previous four years were also recognized, resulting in a net loss to the system of $1.3 billion. Although this represents a substantial loss to the system, it is significantly less than the $2.8 billion loss that it would have recognized in fiscal 2012 in the absence of smoothing. Thus, asset smoothing protects the system from experiencing wild annual fluctuations in the value of its assets based on the performance of financial markets while still ensuring that all gains and losses are recognized in a timely fashion.

Asset smoothing is often limited by a final adjustment to keep the actuarial value of assets from being too far from the market value of assets. For the State Retirement and Pension System, the actuarial value is not allowed to be lower than 80.0% of market value or higher than 120.0%. Prior to calendar 2009, this "collar" had never been invoked. However, due to the precipitous drop in the market value of assets due to the financial crisis

of calendar 2008 through June 2009, the system ended fiscal 2009 with its actuarial value of assets representing 136.0% of its market value of assets. This required a one-time reduction to the actuarial value of assets of more than $4.7 billion to bring it under the 120.0% ceiling. Although this represented a significant hit to the system in fiscal 2009, it also resulted in the system having fewer investment losses left to recognize over the remaining four years. As of June 30, 2012, the market value of assets and the actuarial (smoothed) value of assets were virtually identical, with the actuarial value representing 100.2% of the market value.

Exhibit 12.1 shows the annual percentage changes in both the actuarial and market value of assets since fiscal 1995. As the exhibit shows, both have experienced a fair amount of volatility, but because of asset smoothing, the fluctuations in the actuarial value of assets have been less severe than those for the market value of assets. This has provided a measure of stability to the State's funding of the pension system while ensuring that smoothing policies have not excessively distorted the underlying performance of the system's investments.

Exhibit 12.1
Actuarial vs. Market Value of Assets
Annual % Change
Fiscal 1995-2012

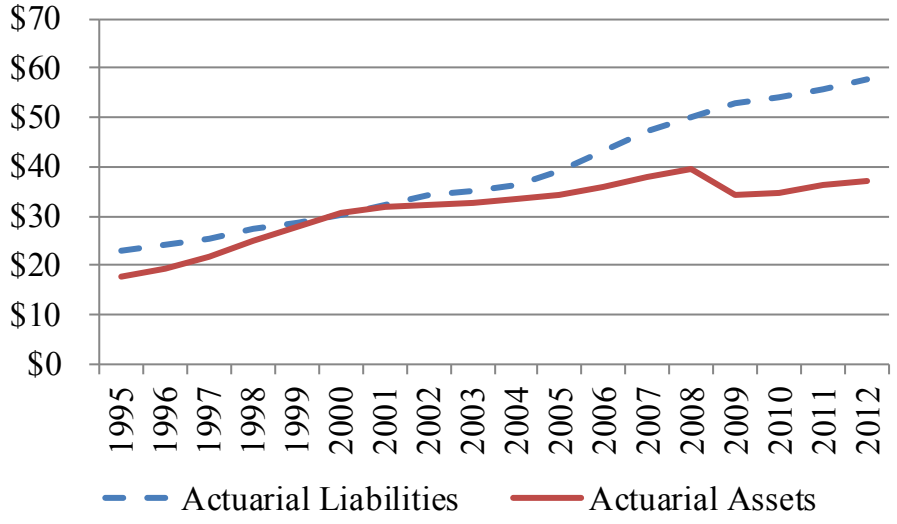


Source: State Retirement and Pension System Comprehensive Annual Financial Reports and Actuarial Valuations

Unfunded Liabilities and Contribution Rates

The difference between the actuarial accrued liabilities and the actuarial value of assets calculated in a given year represents the system's total unfunded liabilities, which is shown in Exhibit 12.2. In fiscal 2000, the exhibit shows that actuarial assets and liabilities were equal to each other, reflecting a fully funded system. After that, liabilities continued to grow at a slightly faster pace than assets, until fiscal 2008, when investment losses prompted by the financial crisis resulted in a widening of the gap between them.

Exhibit 12.2
Actuarial Liabilities and Assets
Fiscal 1995-2012
($ in Billions)



Source: Gabriel, Roeder, Smith

Each year, the actuary amortizes the total unfunded liabilities over a specified period of no more than 40 years and adds that to the normal cost calculation for that year. The sum of the normal cost and the annual amortization payment represents the system's total cost for that year. Based on system membership and payroll, the actuary then determines the annual contribution that, if all assumptions hold, is sufficient to pay the entire normal cost and the annual amortization payment for the accrued liability.

Chapters 475 and 476 of 2012 altered the amortization policy of the State Retirement and Pension System. From fiscal 2000 through 2012, the unfunded actuarial accrued liability had been 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 was amortized over a total of 20 years to June 30, 2020. The new layer of unfunded actuarial accrued liability that arose each year was amortized over a 25-year period from the date it was incurred. Under Chapters 475 and 476, however, the system's unfunded accrued liabilities are amortized over a closed 25-year period beginning July 1, 2012. All unfunded liabilities that arise in each succeeding year will be amortized over the remaining years of the 25-year closed period.

Public vs. Private Pension Plans

Under the provisions of the ERISA, as amended by the federal Pension Protection Act of 2006, private plans are subject to very strict rules about how they calculate their liabilities and assets. The ERISA's plans must amortize their unfunded accrued liability as annual level dollar amounts over a period of 7 years, substantially less than the typical 20 to 30 years used by public plans. Private plans are allowed to smooth their assets over no more than 24 months, whereas public plans typically smooth their assets over 5 to 10 years. Private plans are subject to a "collar" that restricts the actuarial value of assets to between 90% and 110% of the market value of assets. By contrast, Maryland's "collar" is 80% to 120%, which provides more flexibility in calculating the actuarial value of assets.

Perhaps the most meaningful difference between public and private plans is found in their investment return assumptions. Corporate investment return assumptions are based on corporate bond yields, which typically are in the 4.5% to 6.5% range, which is significantly lower than the 7.5% to 8.5% investment return assumptions used by most public plans. However, with bond yields at historically low levels for the 2012 plan year (between 1.58% and 5.38%), corporate pension plans were under severe strain. Use of those rates to calculate plan assets and liabilities resulted in unusually high unfunded liabilities for corporate plans. In response, the federal Moving Ahead for Progress in the 21st Century Act (MAP-21), enacted in July 2012, allows corporate plans to use adjusted rates more in line with 25-year average yields. Under the MAP-21, the applicable rates for February 2013 published by the Internal Revenue Service ranged from 5.54% to 7.52%, providing significant pension funding relief to corporate plans.

The rationale for exempting public pension plans from the ERISA's requirements is that sponsors of public plans, unlike private companies, are not expected to go out of business. Under the ERISA, if a private plan sponsor goes bankrupt or otherwise cannot honor its pension obligation, the Pension Benefit Guaranty Corporation assumes the sponsor's pension liabilities and assets. The ERISA's requirements are designed to ensure that private plans are well funded so that the Pension Benefit Guaranty Corporation's finances are not overwhelmed by the assumption of exorbitant unfunded liabilities. However, public plan sponsors typically do not go out of business and always have the option of raising additional revenue to honor their pension obligations. Therefore, they are exempt from the ERISA's requirements and do not have the option of relying on the Pension Benefit Guaranty Corporation to assume control of their plans.

Actuarial Funding and the "Corridor" Funding Method

During the economic recession of 2000 and 2001, when the pension fund experienced consecutive years of negative investment returns, the State determined that the

mitigating effects of asset smoothing were not sufficient to protect it from a dramatic spike in pension contribution rates. As previously shown in Exhibit 12.2, the State Retirement and Pension System achieved full actuarial funding status in fiscal 2000 following nearly a decade of better-than-expected investment returns. However, the negative investment returns experienced in fiscal 2001 and 2002 resulted in a dramatic increase in the system's unfunded liabilities, and a corresponding increase in State pension contributions, which had declined for the prior four fiscal years. Appendix 8 illustrates the impact of that volatility on the employer contribution rate of each pension subsystem. This prompted the State to revise its approach to move the system back toward full actuarial funding while also controlling the growth in its contribution rates.

Faced with the prospect of dramatic increases in State contribution rates in fiscal 2002 due to investment losses, 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%.

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% funded, and the teachers' systems were 93.5% funded. The employees' systems fell out of their corridor in fiscal 2005, followed by the teachers' systems in fiscal 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% funded, while the Law Enforcement Officers' Pension System was 57% 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

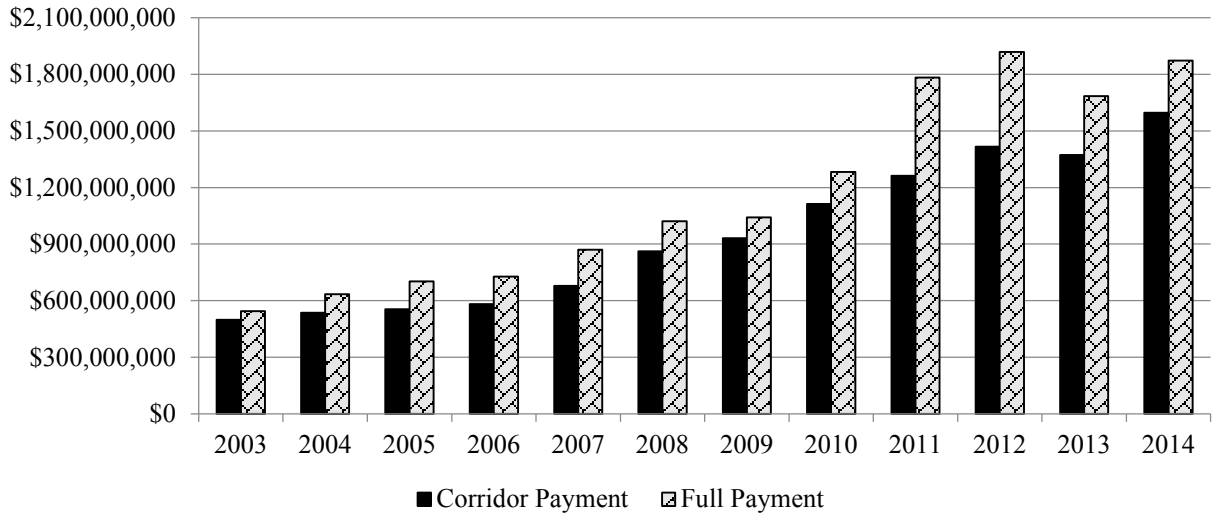
performance would have caused the contribution rate to spike up at the same time that the State was experiencing declining tax revenues. The corridor method insulated the State from having to dramatically increase its pension contribution when it could least afford to do so.

When it was enacted in 2002, the corridor funding method was expected to have minimal effect on the system's financial health because the pension system was expected to recover from the investment losses it experienced in fiscal 2001. However, it experienced additional losses in fiscal 2002, and, while returns were positive in fiscal 2003, they still fell below the actuarial target of 7.75%. As a result, the system's funding status continued to deteriorate, reaching a nadir after financial markets collapsed in fiscal 2008 and 2009. As a result, policymaking attention shifted from the corridor method's short-term benefits with regard to the State budget to its potential long-term fiscal effects.

As Exhibit 12.3 shows, the corridor method achieved its fundamental purpose by restricting the growth in State contributions under the teachers' and employees' retirement and pension plans. For the first 8 fiscal years since the enactment of the corridor method, it saved the State between $53.1 million and $228.4 million in annual pension contributions when compared with what the State would have to pay under full actuarial funding. However, the exhibit shows that the gap between full funding and corridor funding spiked in fiscal 2011, reaching $594.0 million. The State's fiscal 2011 contribution under the corridor method was just 70% of the full actuarial cost of the retirement and pension plans for teachers and regular State employees. The gap between the corridor and full funding contributions has narrowed slightly since then, largely due to improved investment performance and measures enacted to enhance system funding. Nevertheless, in the 12 years since the enactment of the corridor method, the cumulative underfunding of the State Retirement and Pension System attributed to it has reached $2.7 billion, raising concerns about its long-term fiscal implications and the viability of the corridor method.

In response, Chapters 475 and 476 of 2012 phase out the corridor funding method over 10 years, moving the system closer to full actuarial funding in each intervening year. In fiscal 2025, the corridor method will be completely phased out and the system will be restored to full actuarial funding.

Exhibit 12.3
Annual State Pension Contributions
Corridor vs. Full Actuarial Funding
Fiscal 2003-2014



Source: Gabriel, Roeder, Smith

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, 2014, had a market value of $44.9 billion. The portfolio is Maryland's largest public pool of capital. As of February 2014, *Pensions & Investments* ranked the State Retirement and Pension System the twenty-fifth largest non-federal public pension plan in the United States and the thirty-seventh largest retirement plan (public or private) overall. 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, is responsible for the selection, supervision, and termination of external asset managers. 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% 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.

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. The role of the general consultant is to provide 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. The general consultant also provides general information regarding investment trends and developments. In June 2002, the board selected then Ennis Knupp & Associates to act as its general investment consultant. The general consultant contract was competitively rebid in 2007, with a June 30, 2014 expiration date,

and Ennis Knupp was once again selected as the system's general consultant (it became Hewitt Ennis Knupp in 2010 when it was purchased by Hewitt Associates). In June 2014, the board selected Meketa Investment Group as its new general consultant, effective July 1, 2014.

Beginning in 2004, the system has hired several specialty consultants in the areas of private equity, real estate, and absolute return. In 2004, the board selected Altius Associates to act as the system's private equity consultant. In 2005, it contracted with PCA Real Estate Advisors, 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. In May 2010, the board rebid both specialty consultant contracts: Altius was rehired as the private equity consultant under a five-year contract, and Pension Consulting Alliance, Inc. was awarded a five-year contract for real estate consulting. In January 2012, the system selected Albourne America LLC as its absolute return consultant.

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 and regular site visits by investment division staff, the board determines resource needs on an ongoing basis while tracking progress and ensuring that each manager is meeting the system's objectives and expectations.

Asset Allocation

Before fiscal 1987, the board's investment strategy for the allocation of system assets called for a 60.0% investment in equities and a 40.0% investment in fixed income securities. However, this asset allocation shifted dramatically in fall 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% decrease in the State's overall contribution rate to the systems (from 15.6% in fiscal 1989 to 14.2% 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 "underweighting" of equities in the system's portfolio. It also, for the first time, branched out into alternative asset classes, establishing a 2.0% target in 1999 for investments in private equity partnerships. As a result, equity investments totaled 69.2% of the system's assets on June 30, 2002, while fixed income investments totaled just 22.1%. Following the precipitous decline in the equity markets in 2001 and 2002, the board reversed course, adopting a new asset allocation policy in calendar 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 60.0%, 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 65.0%, with sub-asset targets for domestic, global, international, and private equity. The global equity sub-asset target (10.0%) did not take effect until fiscal 2006, resulting in a reduction of the domestic equity target from 48.0% to 40.0%. As of June 30, 2005, equity totaled 65.3% of the system's assets.

In the aftermath of the worldwide financial crisis that began in fall 2007 and persisted for much of calendar 2008, the board once again revisited its asset allocation, making two substantial adjustments, first in January 2008 and again in September 2008. The fundamental purpose of these adjustments was to diversify the fund's investments by expanding its holdings in alternative asset classes and diminishing its holdings in both public equities and fixed income. Although public equities have historically had the highest annualized returns, they also experience the greatest volatility in annualized returns. This was clearly exhibited during the financial crisis, when public equities lost approximately 30% of their value. Thus, the changes were made to reduce year-over-year volatility while still achieving the fund's investment long-term objectives.

The asset allocation changes are summarized in Exhibit 13.1, with the January changes reflected in the June 2008 targets, and the September changes reflected in the June 2009 targets.

Exhibit 13.1
State Retirement and Pension System of Maryland
Asset Allocation
Fiscal 2007-2014

	6/30/2014 Actual Allocation	6/30/2014 Strategic Targets	6/30/2009 Strategic Targets	6/30/2008 Strategic Targets	6/30/2007 Strategic Targets
Public Equity					
Domestic Stocks			13.0%	27.0%	40.0%
International Stocks			13.0%	16.0%	13.0%
Global Equity			13.0%	14.0%	10.0%
Total Public Equity	**39.2%**	**35.0%**	**36.0%**	**57.0%**	**63.0%**
Private Equity	7.0%	10.0%	15.0%	5.0%	2.0%
Real Estate	6.8%	10.0%	10.0%	10.0%	5.0%
Fixed Income	14.9%	10.0%	15.0%	17.0%	28.0%
Real Return Strategies	11.8%	14.0%	10.0%	5.0%	2.0%
Absolute Return	9.4%	10.0%	10.0%	5.0%	n/a
Credit and Debt	10.0%	10.0%	1.0%	n/a	n/a
Cash and Other	0.9%	1.0%	3.0%	1.0%	n/a
Total Assets	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**

Source: State Retirement Agency

The alternative asset classes added to the system's asset allocation since 1999 are defined as follows by the Investment Policy Manual:

- **Private Equity:** Investments in companies that are not registered with the Securities and Exchange Commission and are not traded in the public markets. Private equity may also be referred to as venture capital or buy-outs.

- **Absolute Return:** Investments whose performance is expected to deliver absolute (*i.e.*, more than zero) returns in any market condition. It includes hedge funds,

multi-strategy, global tactical asset allocation, event driven, insurance, and other similar investments.

- **Credit/Debt Related Strategies:** Investments in debt issued by corporations and other nongovernment sectors of the fixed income market. It includes distressed debt, government-sponsored programs, mezzanine debt, and high yield debt, among other types of debt.

- **Real Return:** Investments whose performance is expected to exceed the rate of inflation over an economic cycle. It may include, but is not limited to, Treasury inflation protected securities, global inflation linked bonds, commodities, infrastructure, and natural resources.

Following the significant asset allocation changes made in calendar 2008, the board continued to revisit its allocation to reflect the more diversified investment market landscape. These changes are also shown in Exhibit 13.1, with the asset allocation shown as of June 30, 2014. Among the key adjustments made between calendar 2008 and 2014 were (1) elimination of sub-asset targets in the public equity class; (2) reduction in targets for fixed income, private equity, and cash; and (3) corresponding increases in allocations to real return and credit. In addition, the board has provided added flexibility by authorizing the chief investment officer to use absolute return strategies in other asset classes (public equity, fixed income, credit/debt, and real estate), with total exposure to hedge funds limited to 20% of the total fund.

It bears noting, however, that the asset allocation changes represent long-term goals. Although the fund has made substantial progress in reaching its strategic goals, due to market conditions and the nature of private equity investing, the fund has not yet reached all of its new targets, and may not reach them for several more years. The system's actual allocation as of June 30, 2014, is also shown in Exhibit 13.1.

Terra Maria Program

In September 2008, the system's new Emerging Manager Program underwent a significant expansion, restructuring, and name change. First, the program's name was changed to the Terra Maria Program. While the original program's target had been raised from 1% to 2% of the portfolio, initial funding for the Terra Maria Program was earmarked at approximately 5%. Each investment manager in the program is assigned to the appropriate asset or sub-asset class, depending on its respective holdings. Finally, the system hired six new program managers in addition to Northern Trust, the original program manager.

Instead of selecting participating managers and their allocations, each program manager is responsible for recommending investment managers to the chief investment officer that are consistent with the program's focus. The new program guidelines do not place a ceiling on the size of the firms in the program so that the program is not forced to "graduate" investment managers who successfully grow their portfolios beyond the ceiling. Although the program managers are responsible for performing due diligence on all firms that they recommend to the chief investment officer, all hiring, benchmark selection, and rebalancing decisions are left solely to the chief investment officer. Each investment manager in the Terra Maria Program is part of the State Retirement and Pension System portfolio and evaluated against its benchmark.

Public Equities

Exhibit 13.2 outlines the performance of the system's public equity portfolio as of May 31, 2014, and provides 3-, 5-, and 10-year time-weighted total returns. The system held $17.6 billion in public equity investments as of May 31, 2014. As the exhibit shows, the public equity portfolio is divided between domestic and international funds (10.2% and 12.3%, respectively), with global equity accounting for 16.7% of total assets. 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.

Exhibit 13.2
Equity Performance Comparisons
As of May 31, 2014

	May 31, 2014		Time-weighted Total Returns to May 31, 2014					
	Millions	**% Total**	**1 Year**	**3 Years**	**5 Years**	**10 Years**	**Inception**	**Benchmark Since Inception**
U.S. Equity								
Passively Managed Funds	$1,735.1	3.9%	-	-	-	-	-	-
Actively Managed Funds[1]	1,479.2	3.3%	22.4%	13.1%	17.5%	5.9%	-	-
Terra Maria	1,335.6	3.0%	20.1%	13.0%	19.6%	-	8.8%	7.6%
Transition Account	8.6	0.0%	-	-	-	-	-	
U.S. Equity Subtotal	***$4,558.4***	***10.2%***	***21.2%***	***13.9%***	***18.4%***	***7.7%***	***8.8%***	***9.72%***
Russell 3000			20.6%	-	-	-	-	-
S&P 500			20.5%	15.2%	18.4%	7.8%	-	-
International Equity								
Passively Managed Funds	$2,115.1	4.7%	-	-	-	-	-	-
Actively Managed Funds[1]	2,552.4	5.7%	14.7%	4.9%	11.1%	7.5%	-	-
Terra Maria	880.3	2.0%	15.3%	5.9%	12.0%	-	2.7%	0.9%
Currency Management	-23.8	-0.1%						
International Equity Subtotal	***$5,523.9***	***12.3%***	***13.0%***	***5.0%***	***10.8%***	***7.6%***	***7.1%***	***6.1%***
MSCI AC WORLD, ex US Net			14.5%	4.6%	-	-	-	-
Global Equity								
Passively Managed Funds	$406.1	0.9%	17.4%				15.5%	15.2%
Actively Managed Funds[1]	$5,370.1	12.0%	20.2%	10.9%	15.6%	-	7.2%	6.2%
Global Hedge Funds	$1,707.4	3.8%	5.4%	-	-	-	8.2%	11.1%
Terra Maria	$22.0	0.0%	17.0%	6.9%	11.8%	-	13.2%	14.3%
Currency Management	-$11.3	0.0%	-	-	-	-	-	-
Global Equity Subtotal	***$7,495.3***	***16.7%***	***15.8%***	***9.6%***	***14.7%***		***6.8%***	***6.4%***
MSCI AC World Index			17.2%	9.0%	13.7%			
Total Public Equity	**$17,577.7**	**39.2%**	**16.2%**	**9.2%**	**14.5%**	**6.9%**		

[1]Does not include Terra Maria.

Note: Columns may not sum to total due to rounding.

Source: State Street Investment Analytics, Maryland State Retirement Agency

Fixed Income Securities

Exhibit 13.3 sets forth the system's fixed income performance as of May 31, 2014, and provides 3-, 5-, and 10-year time-weighted total returns and the time-weighted return for each major sub-class. The system held $6.7 billion in fixed income investments as of May 31, 2014.

Exhibit 13.3
Fixed Income Performance Comparisons
As of May 31, 2014

	May 31, 2014		Time-weighted Total Returns to May 31, 2014					
	Millions	% Total	1 Year	3 Years	5 Years	10 Years	Inception	Benchmark Since Inception
Fixed Income								
Passively Managed Funds	$429.8	1.0%	1.6%	3.2%	4.8%	4.92%	4.6%	-
Actively Managed U.S.[1]	4,143.0	9.2%	2.4%	4.1%	6.9%	-	5.9%	5.0%
Actively Managed Global[1]	1,610.3	3.6%	2.9%	5.9%	6.2%	-	5.9%	-
Terra Maria	509.4	1.1%	2.4%	3.9%	6.5%	-	7.8%	9.3%
Custom Fixed Income Benchmark			1.9%	3.4%	4.8%	4.9%	-	-
Total Fixed Income	**$6,692.5**	**14.9%**	**2.5%**	**4.4%**	**6.6%**	**5.7%**	**7.6%**	-

[1]Does not include Terra Maria.

Source: State Street Investment Analytics, Maryland State Retirement Agency

As of May 31, 2014, actively managed fixed income assets represented 13.9 % of the system's portfolio, while passively managed fixed income assets represented 1.0 % of the portfolio. One-year returns were 2.5%, exceeding the asset class benchmark by more than 50 basis points. Based on one-year returns, active fixed income managers (including Terra Maria) outperformed the passively managed fixed income assets.

Real Estate Holdings

Exhibit 13.4 sets forth the performance of the system's real estate holdings as of May 31, 2014, and provides 3-, 5-, and 10-year time-weighted total returns as of that date. The system held $3 billion in real estate investments, which represented 6.8% of its total portfolio. In recent years, the system has sold all of its directly held real estate assets, including the Suntrust building in downtown Baltimore, which houses its headquarters. As a result, all real estate assets are invested in private market partnerships and real estate investment trusts.

Exhibit 13.4
Real Estate Funds and Direct Estate
As of May 31, 2014

	May 31, 2014		Time-weighted Total Returns to May 31, 2014					
	Millions	% Total	1 Year	3 Years	5 Years	10 Years	Inception	Benchmark Since Inception
Real Estate								
Private Market Investments	$2,305.3	5.1%	15.7%	12.4%	6.6%	7.8%	8.9%	9.5%
Real Estate Investment Trusts	733.5	1.6%	9.2%	8.4%	16.9%	9.1%	-	-
Total Real Estate	**$3,038.8**	**6.8%**	**13.8%**	**11.1%**	**10.9%**	**8.6%**	**6.4%**	**8.1%**

Note: Columns may not sum to total due to rounding.

Source: State Street Investment Analytics, Maryland State Retirement Agency

Alternative Asset Classes

Over the past six years, the State Retirement and Pension System has added three new asset classes to its investment portfolio and rapidly expanded a fourth (private equity). As noted earlier, the system has sought to diversify away from public equities and fixed income. Toward that end, it added allocations to real return securities, absolute return investments, and credit/debt strategies. Exhibit 13.5 summarizes the system's allocation to each of these asset classes and the performance of each class.

Exhibit 13.5
Alternative Asset Class Performance Comparisons
As of May 31, 2014

	May 31, 2014		Time-weighted Total Returns to May 31, 2014					
	Millions	% Total	1 Year	3 Years	5 Years	10 Years	Inception	Benchmark Since Inception
Fixed Income								
Private Equity	$3,145.1	7.0%	19.9%	13.0%	14.4%	13.4%	6.7%	-
Credit/Debt[1]	4,498.7	10.0%	9.9%	9.0%	12.6%	-	14.0%	12.0%
Absolute Return	4,204.3	9.4%	3.1%	4.3%	5.8%	-	4.5%	0.8%
Real Return	5,311.1	11.8%	3.1%	3.0%	6.9%	-	5.5%	4.1%
Total Alternative Classes	**$17,159.2**	**38.2%**	**-**	**-**	**-**	**-**	**-**	**-**

[1]Includes Terra Maria.

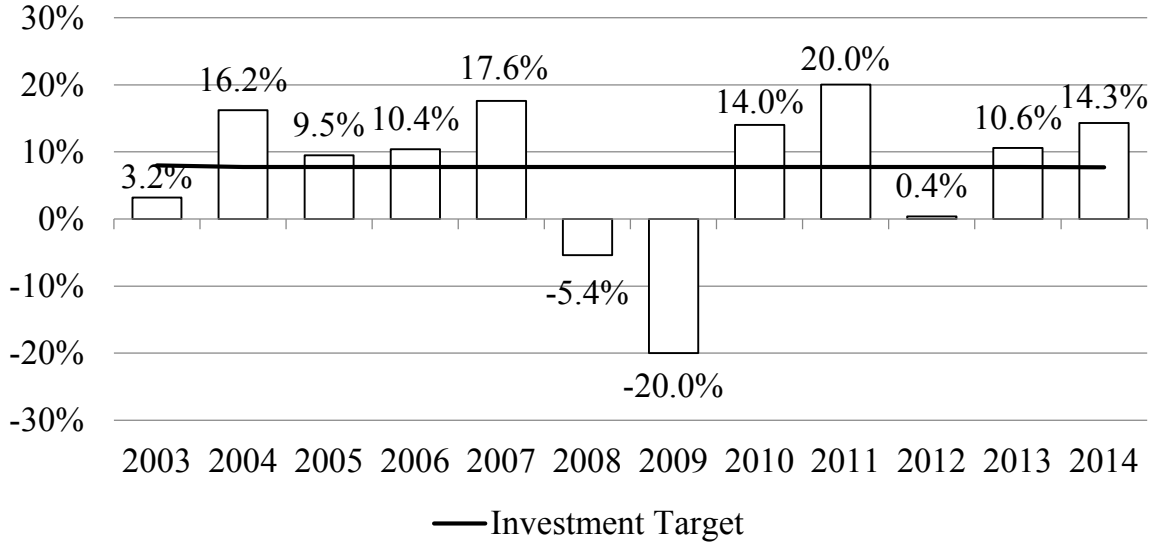
Source: State Street Investment Analytics, Maryland State Retirement Agency

As of May 31, 2014, private equity accounted for 7.0% of assets, credit/debt strategies accounted for 10.0% of assets, absolute return accounted for 9.4%, and real return holdings were 11.8%. As most of these asset classes are relatively new, only medium-term results are generally available. Five-year returns as of May 31, 2014, were 14.4% for private equity, 12.6% for credit/debt strategies, 5.8% for absolute return, and 6.9% for real return.

Investment Performance Overall

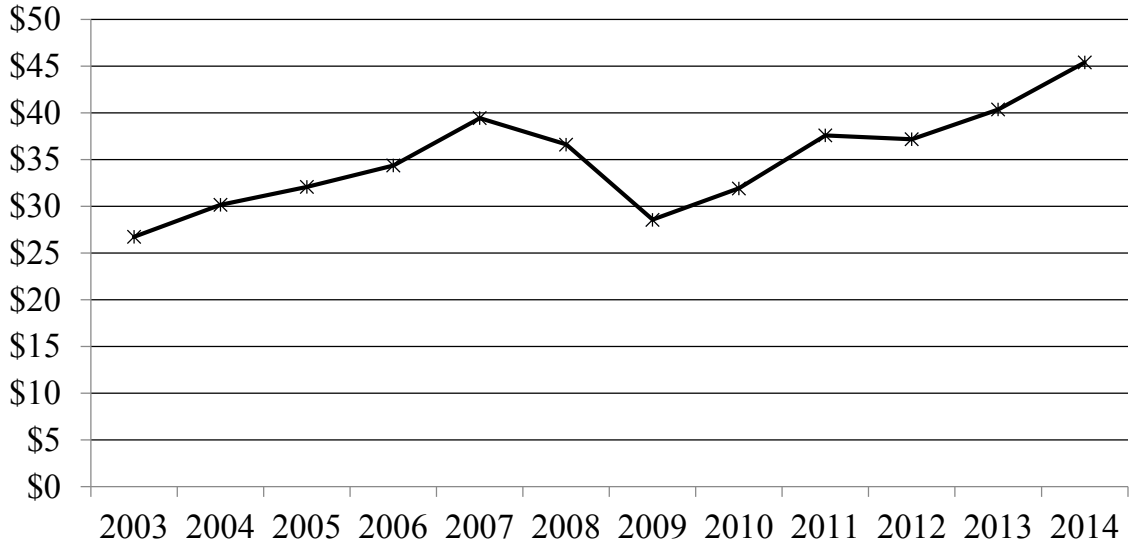
Exhibits 13.6 and 13.7 illustrate the systems' 10-year history of total annualized returns and the 10-year growth of the investment portfolio, respectively, from fiscal 2003 through 2014. In 2004, the system lowered its investment target from 8.0% to 7.75%, where it remained until fiscal 2014, when it was lowered to 7.7%. The target will continue to drop by five basis points each year until it reaches the new long-term target of 7.55%. In 8 of the past 12 fiscal years, the system's returns have exceeded its investment target, often by large margins. However, significant losses in fiscal 2008 and 2009 prompted by the international financial crisis caused total assets to drop precipitously. By fiscal 2013, assets had returned to pre-crisis levels.

Exhibit 13.6
State Retirement and Pension System
Annual Investment Returns
Fiscal 2003-2014



Source: State Retirement and Pension System of Maryland

Exhibit 13.7
State Retirement and Pension System
Market Value of Assets
Fiscal 2003-2014
($ in Billions)



Source: State Retirement and Pension System of Maryland

Chapter 14. Maryland Teachers' and State Employees' Supplemental Retirement Plans

The State of Maryland has authorized four different defined contribution plans for its employees in accordance with federal income tax laws and regulations. While these plans are not part of the State Retirement and Pension System of Maryland, they provide an increasingly important supplemental benefit for employees who elect to participate. As of July 1, 2014, the defined contribution plans authorized by the State were the:

- Deferred Compensation Plan operated pursuant to Internal Revenue Code Section 457(b);
- Tax-Deferred Annuity Plan for Educational Employees under Internal Revenue Code Section 403(b);
- Savings and Investment Plan under Internal Revenue Code Section 401(k); and
- Employer Matching Plan operated under Internal Revenue Code Section 401(a).

Each of these four plans accept traditional pre-tax contributions directly from payroll, which means that the tax-deferred account may grow by additional contributions and investment earnings without paying income taxes until those amounts are withdrawn from the plans. Beginning in April 2011, after-tax Roth contributions are permitted into the 457(b) and 401(k) plans directly from payroll, which means that no further taxes will be due on these contributions or their earnings as eligible payouts from the plans. The federal rules regarding each of these plans are listed in Appendix 9.

Administration

Prior to 1985, responsibility for the administration of the various plans was scattered among several State agencies. The 457(b) plan was the responsibility of a seven-member Board of Trustees of the State Employees Deferred Compensation Plan. The 403(b) plan was the responsibility of the Board of Trustees for the State Retirement and Pension System, and the 401(k) plan was the responsibility of the Department of Personnel.

However, since enactment of Chapter 741 of 1985, responsibility for the administration of the 457(b), 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; and
- Maryland Higher Education Commission.

In addition, three members must be appointed from those eligible to participate in the plans, 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 board's operating budget for fiscal 2014 was $1,544,820, which was financed by a 0.05% fee on the assets of the participants in all of the plans and a monthly per account charge of $0.50 on every account with at least $500. In addition to a 13-member staff, the board contracts for outside investment advisory services. As of November 1, 2011, investment advisory services are provided by Segal Rogerscasey. The actual hands-on administration, including participation and investment carrier coordination, is performed by Nationwide Retirement Solutions, Inc. and is financed by a 0.09% fee on the assets of the plans' participants. Therefore, participants pay the full costs of the plans in a combined asset fee of 0.14% and a $0.50 charge per month per account valued over $500.

457(b) Plan – Deferred Compensation

The 457(b) plan is the oldest of the four State-sponsored, defined contribution plans, with enrollments beginning in 1975. 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. Beginning January 1, 2013, participants may contribute up to 100% of adjusted gross salary annually, not to exceed $17,500, which is accomplished through payroll deductions. Participants over the age of 50 may contribute

an additional $5,500 in "catch-up" contributions, or in the three years prior to retirement may be eligible to contribute a special catch-up of $17,500. For the year ended December 31, 2013, the 457(b) plan had 29,520 participants and assets totaling $1.47 billion. The average 457(b) participant account was $49,640.

403(b) Plan – Tax Sheltered Annuities

Participation in the 403(b) plan is limited to employees of the State, local governments, or local boards of education who perform services in or for educational entities. Beginning January 1, 2013, the maximum deferral is the lesser of $17,500 annually, or 100% of annual adjusted gross salary. Participants over the age of 50 may defer an additional $5,500 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 December 31, 2013, the 403(b) plan had grown to 879 participant accounts worth $82.9 million. The average participant account was $94,363.

401(k) Plan – Savings and Investment

Participation in the 401(k) plan, which became operational on January 1, 1990, is open to all State officers and employees. Similar to the 403(b) plan, the maximum annual deferral is 100% of adjusted gross salary annually and limits participants' deferrals to $17,500, beginning January 1, 2013, except for those over the age of 50, who can contribute an additional $5,500 annually. As of December 31, 2013, the 401(k) plan had the largest amount of assets of the four State-sponsored supplemental retirement plans. The plan totaled $1.49 billion, with 33,974 participants and an average individual account value of $43,719.

401(a) Plan – 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 required the State to contribute a dollar-for-dollar amount not to exceed $600 for each participant who actively contributed to one of the employer-sponsored supplemental retirement accounts. 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 full statutory amount remained in place through

fiscal 2009. However, once again due to the fiscal challenges facing the State, the match was eliminated entirely for fiscal 2010. As part of the broader effort to reduce the structural deficit, Chapter 484 of 2010, the Budget Reconciliation and Financing Act, permanently eliminated the statutory mandated $600 employer match beginning in fiscal 2011.

With sporadic periods of match payments and ongoing employee educational programs, the total membership levels in the State's supplemental plans steadily increased from a low of 44,913 accounts on December 31, 1999, to an all-time high on December 31, 2008, of 69,070 accounts. However, as the economic downturn worsened in fiscal 2009, and the match payments ended, participation growth began declining and since the end of calendar 2008, the plans have lost approximately 4,700 accounts. The decline of employees contributing to a supplemental retirement plan in large part is attributed to the end of the mandated employer match of $600 and stagnant salaries in recent years. However, the pace of the decline appears to be slowing and if salaries increase in coming fiscal years, the percentage of employees contributing to a supplemental retirement plan is likely to increase over the 44% contribution rate as of December 31, 2013. Meanwhile, investment performance has pushed the value of the 401(a) Match Plan to $173.7 million at the end of calendar 2013.

Investment Options

Participants in the 457(b), 401(k), and 401(a) plans have the option of investing in a stable value fund called the Investment Contract Pool. The Investment Contract Pool is invested in a diversified portfolio of fixed investment assets backed by insurance contracts that permit a monthly declared interest rate credited to participant balances. In addition, participants in the 403(b) plan, 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 plans may take advantage of various mutual fund options. There is a diversified list of both low-cost index funds and actively managed funds. Also, in fiscal 2006, "life cycle funds" were added to the investment option menu. These are target-date retirement funds that feature an asset mix that adjusts over time as the individual investor ages through their approximate retirement at 65 years old. With life cycle funds, asset allocation is handled by the fund managers, so members in essence receive investment management services for the same fees they currently pay to individual mutual fund managers.

As of June 30, 2014, the following mutual funds were available to participants in all four State-sponsored supplemental retirement plans:

- Short-term Investments
  - Vanguard Prime Money Market Fund (VMRRX); for the 403(b) plan only
  - Investment Contract Pool; excluding the 403(b) Plan

- Bonds
  - PIMCO Total Return Fund (PTTRX)
  - Vanguard Total Bond Market Index Fund (VBTIX)

- Balanced
  - Fidelity Puritan Fund (FPURX)

- Large-cap Stocks
  - Vanguard Institutional Index Fund (VIIIX)
  - American Funds – Growth Fund of America (RGAGX)
  - American Century Equity Growth Fund (AMEIX)
  - Goldman Sachs Large Cap Value Fund (GSLIX)
  - Parnassus Core Equity Fund (PRILX)
  - Vanguard Value Index Fund (VIVIX)

- Mid-cap Stocks
  - Morgan Stanley Institutional Mid Cap Growth Portfolio (MPEGX)
  - Vanguard Mid-Cap Index Fund (VMCPX)
  - T. Rowe Price Mid-Cap Value Fund (TRMCX)

- Small-cap Stocks
  - T. Rowe Price Small-Cap Stock Fund (OTCFX)
  - Vanguard Small-Cap Growth Index Fund (VSGIX)
  - Vanguard Small-Cap Value Index Fund (VSIIX)

- International Stocks
  - Vanguard Total International Stock Index Fund (VTSNX)
  - American Funds EuroPacific Growth Fund (RERGX)

- Target-Date Retirement Funds ("Life Cycle Funds")
  - T. Rowe Price Retirement Income Fund (TRRIX)
  - T. Rowe Price Retirement 2005 Fund (TRRFX)
  - T. Rowe Price Retirement 2010 Fund (TRRAX)
  - T. Rowe Price Retirement 2015 Fund (TRRGX)
  - T. Rowe Price Retirement 2020 Fund (TRRBX)
  - T. Rowe Price Retirement 2025 Fund (TRRHX)
  - T. Rowe Price Retirement 2030 Fund (TRRCX)
  - T. Rowe Price Retirement 2035 Fund (TRRJX)
  - T. Rowe Price Retirement 2040 Fund (TRRDX)
  - T. Rowe Price Retirement 2045 Fund (TRRKX)
  - T. Rowe Price Retirement 2050 Fund (TRRMX)
  - T. Rowe Price Retirement 2055 Fund (TRRNX)

Program Administration and Fees

Since January 1, 2003, Nationwide Retirement Solutions, Inc. has served as the plan administrator for all of the supplemental plans. Before the end of each contract, a request for proposals is published and once again Nationwide was successful in being awarded a new contract for five years as of January 1, 2013. Prior to 2003, the plan administrator was PEBSCO. Under the January 1, 2013 Nationwide contract, each plan participant is assessed an annual asset fee of 0.09%, which is a reduction from the 0.14% fee under the previous Nationwide contract.

In order to fund the board's budgeted expenses, each plan participant is also assessed an asset fee of 0.05% on an annual basis. Therefore, the plan participant incurs a combined asset fee of 0.14% in each account. Since 2002, there have been three times that, in response to overall poor market returns, the board imposed a flat per-account fee to meet revenue shortfalls. In an attempt to avoid these types of ad hoc supplemental account charges, beginning in May 2010, a $0.50 cent per month, per account, charge is assessed on all 457(b), 401(k), and 403(b) plan participant accounts over $500.

Due to higher than expected asset-driven revenue and a one-time settlement from a class action proceeding by former Invesco investors, the board suspended its share (0.05%) of the asset fee from each plan for eight months (May through December 2013).

Exhibit 14.1 provides a summary of Nationwide and board fees as a percentage of total assets for the supplemental plans for fiscal 2009 through 2013 and the board's operating expenses and reserves for the same period of time.

Exhibit 14.1
Assets and Participants' Fees and Agency Operating Budgets
Fiscal 2009-2013
(Invested Assets $ in Billions)

	2009	2010	2011	2012	2013
Invested Assets	$2.02	$2.24	$2.62	$2.64	$2.91
Nationwide Fees	3,014,920	3,319,031	3,556,692	3,696,603	3,376,326
as Percent of Assets	*0.14%*	*0.14%*	*0.14%*	*0.14%*	*0.14%/0.09%*[1]
Board Fees, Interest, Adjustments	$1,153,949	$1,097,962	$1,229,892	$1,251,220	$1,610,144[2]
as Percent of Assets	*0.05%*	*0.05%*	*0.05%*	*0.05%*	*0.05%*
Fiscal 2009 $3 Charge	204,006				
Effective 5/2010: 50 Cent/mo.		63,537	376,106	368,354	362,996
Operating Expenses	$1,436,942	$1,472,736	$1,525,132	$1,444,892	$1,504,309
Carryover Balance	$467,165	$155,928	$363,868	$382,656	$851,487
Carryover Balance as Percent of Operating Expenses	*32.5%*	*10.6%*	*23.9%*	*26.5%*	*56.6%*

[1]New administrator's contract ratified January 1, 2013, reduced Nationwide fee to 0.09%.
[2]Includes one-time class action settlement of $599,457 and beginning of board asset fee suspension for eight months beginning May 2013.

Source: Maryland Supplemental Retirement Plans; Department of Legislative Services

All Plans – Assets, Deferrals, Participants, and Average Accounts

Exhibit 14.2 provides a summary of the plans' assets, deferrals, participants, and average account values for fiscal 2009 through 2013.

Exhibit 14.2
All Plans – Assets, Deferrals, Participants, and Average Account Values
Fiscal 2009-2013

	2009	2010	2011	2012	2013	% Change 2012-2013	% Change 2009-2013
Invested Plan Assets			**($ in Millions)**				
457	$1,017.3	$1,102.3	$1,248.6	$1,237.3	$1,336.4	8.0%	31.4%
403(b)	53.2	59.5	69.3	67.05	76.0	13.4%	42.9%
401(k)	825.7	948.2	1,151.1	1,173.9	1,337.8	14.0%	62.0%
401(a)	121.1	130.1	150.3	144.7	158.2	9.3%	30.6%
Total	**$2,017.3**	**$2,240.1**	**$2,619.3**	**$2,623.0**	**$2,908.4**	**10.9%**	**44.2%**
Deferrals			**($ in Millions)**				
457	$68.5	$66.5	$65.2	$63.6	$62.7	-1.3%	-8.5%
403(b)	3.2	3.8	2.9	2.9	2.8	-4.5%	-12.5%
401(k)	94.9	89.5	92.4	91.5	88.7	-3.0%	-6.5%
401(a)	20.2	0.4	0.4	0.5	0.3	-39.2%	-98.5%
Total	**$186.8**	**$160.1**	**$160.9**	**$158.4**	**$154.5**	**-2.5%**	**-17.3%**
Participant Accounts			**($ in Millions)**				
457	$30,544	$30,065	$29,684	$29,467	$29,425	-0.1%	-3.7%
403(b)	997	972	938	917	891	-2.8%	-10.6%
401(k)	37,052	36,330	35,459	34,821	34,186	-1.8%	-7.7%
Total	**$68,957**	**$67,367**	**$66,081**	**$65,205**	**$64,502**	**-1.1%**	**-6.5%**
401(a)	$44,572	$42,955	$40,935	$39,278	$37,567	-4.4%	-15.7%
Multi-accounts	7,391	7,179	7,088	7,084	7,025		
Average Account Values			**(in Actual $)**				
457	$33,307	$36,665	$42,064	$41,991	$45,418	8.2%	36.4%
403(b)	66,647	61,174	73,845	73,122	85,302	16.7%	28.0%
401(k)	20,746	26,099	32,463	33,712	39,132	16.1%	88.6%
401(a)	2,186	3,028	3,670	3,685	4,211	14.3%	92.6%

Source: Maryland Supplemental Retirement Plans

Chapter 15. Retiree Health Insurance

Upon their retirement, and provided they receive a retirement allowance from the State Retirement and Pension System, retired State employees are entitled to enroll and participate in any of the health insurance options provided by the State Employee and Retiree Health and Welfare Benefits Program. Health benefits provided to retirees are often referred to as Other Post Employment Benefits to distinguish them from pension benefits. Until the enactment of Chapter 397 of 2011, this has entitled retired State employees to retain the same health coverage they had as active employees. In addition, active State employees accrue eligibility for a partial State subsidy of the cost of health insurance coverage under the program. Chapter 397 established new eligibility requirements for retirees to enroll in the program and qualify for the premium subsidy if they are hired on or after July 1, 2011. Therefore, the eligibility requirements to enroll in the program are different for those who began employment with the State before July 1, 2011, and those who began employment with the State on or after that date. Employees hired before July 1, 2011, are eligible to enroll and participate in the group coverage when they retire if they have:

- retired directly from the State with at least 5 years of service;
- retired directly from State service with a disability;
- ended State service with at least 16 years of service;
- ended State service with at least 10 years of creditable service and within 5 years of retirement age; or
- ended State service on or before June 30, 1984.

Employees who begin employment with the State on or after July 1, 2011, will be eligible to enroll in the program if they:

- retire directly from the State with at least 10 years of service;
- retire directly from State service with a disability;
- end State service with at least 25 years of service; or

- end State service with at least 10 years of creditable service and within 5 years of normal retirement age.

Similarly, eligibility for the premium subsidy differs depending on when the retiree began employment with the State. For those hired before July 1, 2011, eligible retirees must have at least 16 years of service to receive the same subsidy of health insurance premiums that is provided to active employees (80% of preferred provider organization premiums, 83% of point of service premiums, and 85% of health maintenance organization premiums). If a retiree has less than 16 years of State service (but more than 5 years), the benefit is prorated. The State subsidy for health insurance is determined by the amount of creditable service the retired State employee earned. With 5 years of creditable service (the minimum required to participate in the State's program), a retired State employee is entitled to 5/16 of the State subsidy provided to active employees. For each additional year of creditable service up to 16 years, an additional 1/16 of the subsidy is earned. Retirees who began employment with the State on or after July 1, 2011, must have 25 years of service to receive the same subsidy as that provided to active employees. If a retiree has less than 25 years (but more than 10) the benefit is prorated.

As noted earlier, Chapter 397 made additional changes to Other Post Employment Benefits provided to State retirees, particularly in the area of prescription drug coverage. First, it authorized the State to establish separate health insurance benefit options for retirees that differ from those for active State employees. This represented the first time under State law that coverage of the two populations was allowed to be separated. In addition, Chapter 397 also increased the share of the premium for prescription drug coverage paid by retirees from 20% to 25% (it remained 20% for active State employees), and raised out-of-pocket limits for retirees to $1,500 for a single retiree and $2,000 for family drug coverage (previously, the limit had been $750 for single or family coverage for both active employees and retirees). Finally, it required that the State cease providing prescription drug coverage for Medicare-eligible retirees in fiscal 2020.

In response to the new authority to establish separate coverage for retirees, the Department of Budget and Management established a new Employer Group Waiver Plan, effective January 1, 2014, to provide prescription drug coverage to Medicare-eligible retirees. Employer Group Waiver Plans are authorized under the 2003 Medicare Prescription Drug Modernization Act and essentially "wrap" employer coverage around the Medicare Part D prescription drug coverage. Participating retirees are not aware of any change in their coverage because all interactions between the State plan and Medicare are handled administratively.

Health insurance for retirees is one of the fastest growing areas in the State budget due to an aging population, longer life spans, and increasing health care costs. As illustrated in Exhibit 15.1, retiree enrollment in the State health plan continues to grow faster than active employee enrollment. Retiree enrollment in the State health plan as a percentage of total health plan enrollment increased from 32.3% in fiscal 2010 to 38.0% in fiscal 2013. Over the same time period, retiree enrollment in the prescription plan increased from 33.2% of total enrollment to 39.3%. This trend is expected to continue as the population continues to age and the size of the State workforce remains fairly stable.

Exhibit 15.1
Retiree Health Plan Enrollment
As a Percentage of Total Plan Enrollment
Fiscal 2009-2013

Plan Type	2009	2010	2011	2012	2013
Health	32.3%	34.3%	35.5%	37.0%	38.0%
Prescription	33.2%	35.4%	36.7%	38.2%	39.3%
Dental	22.4%	26.7%	28.3%	30.1%	31.9%

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 roughly equivalent to employee costs on a per enrollee basis. Exhibit 15.2 shows that medical costs on a per-enrollee basis are actually lower for retirees than for active employees, with retirees averaging $6,098 in claims costs and active employees averaging $8,163, a difference of $2,065. However, retirees average $4,417 in prescription drug costs, compared with $2,621 for active employees, a difference of $1,796. Dental costs for retirees on a per-enrollee basis are slightly lower than per enrollee costs for active employees. Overall, average claims costs for retirees are slightly lower than those for active employees ($10,918 for retirees compared with $11,319 for active employees). This can be attributed to several factors, including the role played by Medicare in paying for a substantial portion of retiree claims costs and lower rates of retiree enrollment in dental coverage.

Exhibit 15.2
Health, Prescription, Mental Health, and Dental Claims Costs on a Per-enrollee Basis
Fiscal 2013

	Active Employees		
	Claims	**Enrollment**	**Per Enrollee**
PPO	$215,422,658	25,081	$8,589
POS	103,070,575	14,270	7,223
HMO	237,129,684	28,718	8,257
Subtotal Health Plan	**$555,622,917**	**68,069**	**$8,163**
Prescription	$165,714,120	63,231	$2,621
Dental	34,452,463	64,446	535

	Retirees		
	Claims	**Enrollment**	**Per Enrollee**
PPO	$150,803,387	26,099	$5,778
POS	55,094,928	8,855	6,222
HMO	48,062,531	6,691	7,183
Subtotal Health Plan	**$253,960,846**	**41,645**	**$6,098**
Prescription	$180,674,469	40,900	$4,417
Dental	12,159,247	30,141	403

HMO: health maintenance organization
POS: point of service
PPO: preferred provider organization

Source: Department of Budget and Management

2011 Reforms Reduce State's Long-term Other Post Employment Benefits Liability

In 2004, the Governmental Accounting Standards Board released new standards that require the State to apply an accounting methodology similar to the one used for pension liabilities to account for retiree health benefits. The Governmental Accounting Standards Board is an independent, nonprofit foundation that establishes accounting standards for

local and state governments. The new standards affect governmental accounting of Other Post Employment Benefits, which are defined as post employment benefits other than pensions. Under the new standards, incorporated into Governmental Accounting Standards Board's Statements 43 and 45, the State must account for the cost of Other Post Employment Benefits as they accrue to employees based on their employment with the State rather than on a pay-as-you-go basis. Prior to the release of Statements 43 and 45, almost all states, including Maryland, had accounted for Other Post Employment Benefits on a pay-as-you-go basis.

The 2004 standards require the State to conduct an actuarial valuation of Other Post Employment Benefits liability at least every two years; since 2006, the State has conducted annual valuations. The valuations must determine the State's accrued Other Post Employment Benefits liabilities, defined as the value of the retiree health benefits promised to current and retired employees based on their actual and projected employment with the State. Each valuation credits the State with the value of any assets (including pay-as-you-go expenditures) deposited in an irrevocable trust for the purpose of funding its Other Post Employment Benefits liabilities. The difference between the State's Other Post Employment Benefits liabilities and its trust fund assets represents the unfunded actuarial accrued liability.

The Governmental Accounting Standards Board allows governments to amortize the unfunded actuarial accrued liability over a period not exceeding 30 years. The annual amortization payment resulting from that calculation is then added to the normal cost, which is the value of the Other Post Employment Benefits accrued by active employees during the current year. The sum of the unfunded actuarial accrued liability amortization payment and the normal cost is the annual required contribution that is necessary to pay down the total Other Post Employment Benefits liability over the amortization period (typically 30 years).

With the number of retirees receiving health insurance from the State continuing to grow faster than active employees, the Public Employees' and Retirees' Benefit Sustainability Commission, established in 2010, determined that the State's retiree health benefits were not sustainable. The commission concluded that eligibility requirements for retiree health coverage should reward employees who devote the vast majority of their careers to State service. It also found that the 2004 addition of a prescription drug benefit within Medicare negated the need for the State to provide prescription drug benefits to Medicare-eligible retirees. As the Medicare prescription drug benefit was being phased in over many years, the commission recommended that the State maintain full prescription drug coverage for Medicare-eligible retirees until fiscal 2020, when Medicare coverage is fully phased in, and then terminate State prescription drug coverage for Medicare-eligible retirees.

The commission's recommendations regarding retiree health coverage were included in Chapter 397 of 2011, resulting in the new eligibility requirements for employees hired on or after July 1, 2011, described earlier, and the eventual termination of prescription drug coverage for Medicare-eligible retirees in fiscal 2020. Together these measures substantially reduced the State's long-term liability for retiree health care costs, as reflected in Exhibit 15.3.

Exhibit 15.3
Maryland Other Post Employment Benefits Liabilities and Annual Required Contributions
Fiscal 2010-2013
($ in Millions)

	2010	2011	2012	2013
OPEB Actuarial Liability	$16,099	$9,732	$9,825	$8,344
Actuarial Value of Assets	183	196	209	223
Unfunded OPEB Liability	**$15,915**	**$9,536**	**$9,617**	**$8,121**
Normal Cost	$583	$323	$274	$229
Amortization Payment	642	381	382	347
Annual Required Contribution	**$1,225**	**$704**	**$656**	**$576**

OPEB: Other Post Employment Benefits

The substantial reduction in unfunded liabilities from fiscal 2010 to 2011 resulted from the changes enacted by Chapter 397 0f 2011, with the elimination of prescription benefits for Medicare-eligible retirees providing the bulk of the savings. Even though that change is not scheduled to take effect until fiscal 2020, its effects are reflected in the annual actuarial valuation of Other Post Employment Benefits liabilities because the valuation covers the cost of benefits over the next 30 years. Successive reductions in fiscal 2012 and 2013 are attributable both to positive plan experience (*i.e.*, lower-than-expected costs) and adjustments to actuarial assumptions used to calculate liabilities that follow from that experience.

Net Other Post Employment Benefits Obligation Grows Due to Lack of Prefunding

The 2004 Governmental Accounting Standards Board's standards do not require governments to reflect their full unfunded Other Post Employment Benefits liability on their balance sheets. Instead, governments must reflect their net Other Post Employment Benefits obligation on their balance sheets. The net Other Post Employment Benefits obligation is defined as the cumulative total of unpaid annual required contributions, plus interest. In the first year that a government implements the new Other Post Employment Benefits standards, the net Other Post Employment Benefits obligation represents the annual required contribution minus any payment made to the Other Post Employment Benefits trust. If the government pays the full annual required contribution to the trust, the government has no net obligation, and, therefore, shows no Other Post Employment Benefits liability on its financial statement. In succeeding years, the sum of any unpaid annual required contributions plus accrued annual interest represents the net Other Post Employment Benefits obligation, which is reflected as a long-term liability on public financial statements. Exhibit 15.4 shows the calculation of Maryland's net Other Post Employment Benefits obligation over the last five years for which complete data are available.

Exhibit 15.4
Calculation of Maryland's Net Other Post Employment Benefits Obligation
Fiscal 2008-2012
($ in Thousands)

	2008	2009	2010	2011	2012
Beginning NOO	n/a	$695,921	$1,478,130	$2,332,502	$3,198,691
Adjusted ARC	$1,086,240	1,118,672	1,127,220	1,134,735	581,198
Interest on NOO	0	29,925	63,560	100,298	137,544
Annual OPEB Cost	**$1,086,240**	**$1,148,597**	**$1,190,780**	**$1,235,033**	**$718,742**
PAYGO Costs	$271,435	$315,257	$336,408	$368,844	$385,913
Prefunding	118,884	51,131	0	0	0
Annual Contributions	**$390,319**	**$366,388**	**$336,408**	**$368,844**	**$385,913**
End of Year NOO	**$695,921**	**$1,478,130**	**$2,332,502**	**$3,198,691**	**$3,531,520**

ARC: annual required contribution
NOO: net Other Post Employment Benefits obligation
OPEB: Other Post Employment Benefits
PAYGO: pay-as-you-go

The exhibit illustrates several key points about the effects of the Governmental Accounting Standards Board's standards. First, it demonstrates that the annual required contribution is substantially larger than the State's pay-as-you-go costs for retiree health care. This is typical for most governments that had been accounting for Other Post Employment Benefits on a pay-as-you-go basis. Second, it shows that for two years (fiscal 2008 and 2009), the State made modest contributions above its pay-as-you-go costs toward prefunding its Other Post Employment Benefits liability. However, beginning in fiscal 2010, the State has made no prefunding contributions toward its Other Post Employment Benefits liabilities. Third, the exhibit illustrates that failure to contribute the full annual required contribution to the irrevocable trust causes the net Other Post Employment Benefits obligation to grow rapidly. As it is, the net Other Post Employment Benefits obligation that is included as a long-term liability on State financial statements failure to fully fund the annual required contribution may have long-term consequences for the State's finances and creditworthiness.

The Advantages of Prefunding

As accounting standards, Statements 43 and 45 require only that governments calculate their Other Post Employment Benefits liabilities and reflect their net Other Post Employment Benefits obligations on their annual financial statements; they do not require governments to prefund their Other Post Employment Benefits liabilities. Indeed, the Governmental Accounting Standards Board has no mechanism of its own to enforce governmental adherence to their standards. However, adherence to the Governmental Accounting Standards Board's standards, and maintaining affordable levels of short- and long-term debt, are both important factors considered by credit rating agencies. For many years, Maryland has been one of only a handful of states that has maintained a AAA bond rating from all three agencies. Rating agencies comments have noted that the State has not recently contributed to the trust fund that was established to prefund the Other Post Employment Benefits liability.

The Governmental Accounting Standards Board also added an incentive to encourage governments to prefund at least a portion of their annual required contributions. In calculating the present value of future Other Post Employment Benefits promised to current employees and retirees, actuaries must discount the value of those future benefits to today's dollars. A government that does not prefund any portion of its annual required contribution must use a conservative discount rate based on the expected return on Treasury securities and other high-grade bonds. However, a government that fully funds its annual required contribution can use a higher discount rate associated with investments in more diversified vehicles, including equities and real estate. In Maryland's case, the unfunded rate is 4.25%, but the fully funded rate is 7.55%, the same investment expectation adopted by the State Retirement and Pension System. The spread between the two rates results in

dramatically different calculations of the State's Other Post Employment Benefits liabilities. Governments that prefund a portion of their annual required contribution may use a blended discount rate that is weighted based on the proportion of the annual required contribution that is prefunded. As Maryland has prefunded only a small fraction of its liability, the actuary uses a blended discount rate of 4.75%.

Shortly after the Governmental Accounting Standards Board's standards took effect, Maryland attempted to prefund a portion of its Other Post Employment Benefits liabilities, but those efforts were derailed by the international financial crisis and resulting fiscal challenges due to reduced general fund revenues. Chapter 466 of 2004 established the Post-retirement Health Benefits Trust Fund to assist the State in financing the retiree health insurance subsidy paid by the State. The fund is a tax-exempt trust in accordance with § 115 of the Internal Revenue Code. In an effort to begin prefunding its Other Post Employment Benefits liabilities, the State set aside funds in fiscal 2007, 2008, and 2009. The fiscal 2007 budget, as enacted, set aside $100.0 million into the Dedicated Purpose Account, which was later transferred to the Other Post Employment Benefits trust fund once it obtained the necessary clearance as an irrevocable trust from the Internal Revenue Service. The fiscal 2008 budget, as enacted, also set aside $100.0 million in general funds in the Dedicated Purpose Account; during the 2008 legislative session, however, the General Assembly cut that figure in half. The Governor's fiscal 2009 allowance included a $210.0 million contribution, all funds, to the Other Post Employment Benefits trust fund. As enacted, the fiscal 2009 budget contained half that amount. In October 2009, the Board of Public Works canceled the remaining $46.0 million that had yet to be paid into the trust fund as a cost containment measure. The State has not made any additional contributions to the Other Post Employment Benefits trust fund since fiscal 2009. As of March 31, 2014, the trust fund held $259.1 million, which represents approximately 3.1% of the State's unfunded Other Post Employment Benefits liability.

New Governmental Accounting Standards Board Other Post Employment Benefits Standards May Affect State Finances

In May 2014, the Governmental Accounting Standards Board released exposure drafts of new accounting standards governing the accounting and reporting of Other Post Employment Benefits liabilities. The 2004 standards had been prompted, in part, by a desire to align Other Post Employment Benefits accounting and reporting standards with pension accounting and reporting standards, and the same is true with the new Other Post Employment Benefits standards reflected in the exposure drafts. In recent years, the Governmental Accounting Standards Board has changed pension accounting standards to require that full unfunded pension liabilities be reflected on the balance sheet of a governmental entity (previously, the full liabilities had been reported in the notes to financial statements).

In a fundamental shift, the 2014 exposure drafts require governmental entities to report their full unfunded Other Post Employment Benefits liabilities on their balance sheets instead of the net Other Post Employment Benefits obligation required by the 2004 standards (the unfunded Other Post Employment Benefits liabilities are currently reported in the notes to financial statements). The new standards also take further steps to standardize the methodology used by governmental entities to calculate their liabilities. Given that Maryland's full unfunded Other Post Employment Benefits liability is substantially larger than its net Other Post Employment Benefits obligation, the new standards may have a substantial negative effect on Maryland's reporting of its financial condition. However, the exposure drafts are subject to a lengthy comment and revision period. The final standards will not be promulgated until at least calendar 2015, following the review and comment period.

Chapter 16. 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. The Governor's Office of Minority Affairs reported the total dollar value of contracts awarded by the major State agencies between fiscal 2010 and 2013 was over $27 billion. The contract dollars awarded by agency are shown in Appendix 10, and the total contract dollars awarded in fiscal 2010 through 2013 are shown below in Exhibit 16.1.

Exhibit 16.1
Total State Contract Dollars Awarded by Fiscal Year
Fiscal 2010-2013

Fiscal Year	Contract Dollars Awarded
2010	$ 5,789,021,603
2011	6,901,737,470
2012	7,656,627,572
2013	6,871,193,114
Total	**$ 27,218,579,759**

Source: Department of Legislative Services based on information from: *Minority Business Enterprise Program Annual Report, Fiscal Year 2010 and Minority Business Enterprise Program Statistical Report, Fiscal Years 2011, 2012, and 2013*, Governor's Office of Minority Affairs

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. The 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.

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.

Generally, the procurement law applies to units of State government for (1) expenditures under procurement contracts; (2) procurements on behalf of other governmental agencies or other entities; and (3) procurements for services to benefit specific categories of individuals, even if the procurement contract does not involve a State expenditure and does produce State revenue. Units of State government are officers or other entities in the Executive Branch of State government that are authorized by law to enter into procurement contracts. The procurement law does not apply to the Legislative or Judicial branches, multistate or multicounty government agencies, or other political subdivisions in the State.

Exemptions from the Procurement Law

Although the procurement law applies broadly to the Executive Branch, for various policy reasons certain types of procurement and certain units of State government are exempt from its provisions. Examples of types of procurement that are exempt include:

- transactions in which an agency procures from another State agency, a political subdivision of 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;

- procurements in support of enterprise activities for the purpose of direct resale, or remanufacture and subsequent resale;

- grants awarded by the State to the Chesapeake Bay Trust for the restoration or protection of the Chesapeake Bay or other aquatic and land resources; and

- public-private partnerships.

When the procurement law became effective in 1981, few units of State government were exempt; however, the number has 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. Today, the number of exemptions for specific agencies has increased to over 30.

Exhibit 16.2 provides examples of units of State government that are now exempt from the Maryland procurement law, cites the current 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 16.2 should be read in conjunction with the statutory provision granting the exemption because many of the units 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 units identified in Exhibit 16.2 are generally exempt from the procurement law, many are still required to comply with provisions of law that address:

- fraud in procurement (State Finance and Procurement Article, § 11-205);
- Board of Public Works approval for designated contracts (State Finance and Procurement Article, § 10-204);
- supervision of capital expenditures and real property leases (State Finance and Procurement Article, Title 12, Subtitle 2);
- required clauses regarding nondiscrimination (State Finance and Procurement Article, § 13-219);
- disclosures to the Secretary of State (State Finance and Procurement Article, § 13-221);
- policies and procedures for exempt agencies (State Finance and Procurement Article, Title 12, Subtitle 4);
- suspension and debarment of contractors (State Finance and Procurement Article, Title 16); and
- special provisions regarding State and local subdivisions (State Finance and Procurement Article, Title 17).

Furthermore, minority business participation requirements apply to most exempt entities.

Exhibit 16.2
Examples of Units 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)(xi)	Chapter 555 of 1993
Department of General Services	SFP, § 11-203(a)(1)(xvii)	Chapter 198 of 2009
Department of Natural Resources	SFP, § 11-203(a)(1)(xviii)	Chapter 428 of 2010
Enterprise Fund	EC, § 5-602(e)	Chapter 305 of 2000
Maryland Automobile Insurance Fund	IN, § 20-201(d)(2)	Chapter 73 of 2013
Maryland Developmental Disabilities Administration of the Department of Health and Mental Hygiene	SFP, § 11-203(a)(1)(xvi)	Chapter 471 of 2003
Maryland Economic Development Corporation	EC, § 10-111(a)(1)(ii)	Chapter 498 of 1984
Maryland Energy Administration	SFP, § 11-203(a)(1)(xv)	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)(v)	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 Benefit Exchange	IN, § 31-103(b)(2)	Chapter 1 of 2011
Maryland Health Insurance Plan (within the Maryland Insurance Administration)	SFP, § 11-203(a)(1)(xiv)	Chapter 153 of 2002
Maryland Historical Trust	SFP, § 11-203(a)(1)(ix)	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)(iv)	Chapter 840 of 1986
Maryland Public Broadcasting Commission	SFP, § 11-203(a)(1)(vi)	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 and Gaming Control Agency	SFP, § 11-203(a)(1)(xiii)	Chapter 548 of 1997
Maryland State Planning Council on Developmental Disabilities	SFP, § 11-203(a)(1)(viii)	Chapter 292 of 1984
Maryland Technology Development Corporation	EC, § 10-407(a)(1)	Chapter 661 of 1998
Maryland Venture Capital Trust	EC, § 10-706(a)	Chapter 222 of 1990
Morgan State University	ED, § 14-109(b)	Chapter 485 of 2004
	SFP, § 11-203(e)(2)	Chapter 273 of 2004
Rural Maryland Council (Forum for Rural Maryland)	SFP, § 11-203(a)(1)(xii)	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)(x)	Chapter 555 of 1983
University System of Maryland	SFP, § 11-203(e)(2)	Chapter 515 of 1999
Public Institutions of Higher Education (for cultural, entertainment, and intercollegiate athletic procurement contracts)	SFP, § 11-203(a)(1)(vii)	Chapter 840 of 1986

EC: Economic Development Article FI: Financial Institutions Article NR: Natural Resources Article
ED: Education Article IN: Insurance Article SFP: State Finance and Procurement Article

Source: Department of Legislative Services

Chapter 17. Organization of State Procurement

Board of Public Works

The Board of Public Works was established 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 Maryland Department of Transportation or the Maryland Transportation Authority in connection with State roads, bridges, or highways.

Primary Procurement Units

State law establishes 10 primary procurement units with exclusive jurisdiction over specified procurements, subject to the authority of the board. The 10 primary procurement units are:

- State Treasurer;
- Department of Budget and Management;
- Department of General Services;
- Department of Information Technology;
- Maryland 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; and
- St. Mary's College of Maryland.

In addition, 7 of the 10 agencies are authorized to control and supervise the procurement of specified goods or services for other agencies. These agencies are referred to as control authorities. Four of the control authorities actively oversee the procurement of other agencies: the State Treasurer (for banking and financial services, insurance, and insurance services), the Department of Budget and Management (for services and motor vehicle leases), the Department of General Services (for real property, other supplies, construction, and construction related services), and the Department of Information Technology (for information processing and telecommunication equipment and services). The Maryland Department of Transportation, the Maryland Port Commission, and the Department of Public Safety and Correctional Services are also recognized as control authorities but do not have active oversight of other agencies. Exhibit 17.1 illustrates the type of procurement authority granted to agencies.

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 without board approval but must report contract modifications that exceed $50,000.

Exhibit 17.2 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 authority sub-delegated its authority to another agency.

Exhibit 17.1
Procurement Authority Delegated to Agencies

Agency	Type of Delegation
State Treasurer	Primary Procurement Unit and Control Authority
Department of Budget and Management	Primary Procurement Unit and Control Authority
Department of General Services	Primary Procurement Unit and Control Authority
Department of Information Technology	Primary Procurement Unit and Control Authority
Maryland Department of Transportation and Maryland Transportation Authority	Primary Procurement Unit and Control Authority
University System of Maryland	Primary Procurement Unit
Maryland Port Commission	Primary Procurement Unit and Control Authority
Department of Public Safety and Correctional Services	Primary Procurement Unit and Control Authority
Morgan State University	Primary Procurement Unit
St. Mary's College of Maryland	Primary Procurement Unit

Source: Department of Legislative Services

Exhibit 17.2
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 and building maintenance services)	$200,000 or less
Contract modifications	In limited circumstances, subject to specified restrictions
Sole source contracts	$100,000 or less
Contracts in which only one bid or offer received	$50,000 or less
Purchase of motor vehicles as commodities	Develop standards for purchase to be approved by the board
Lease of motor vehicles	$10,000 and six months or less

Department of Budget and Management – Sub-delegation

The Department of Budget and Management has sub-delegated its authority to approve contracts for services (except for vehicle leases over which the department retains approval authority) as follows:

Agency	Delegation Level
All agencies	$25,000
All agencies	$200,000 – awards to preferred providers
• Department of Natural Resources • Division of Vocational Rehabilitation (Maryland State Department of Education) for conversion of vehicles and dwellings to accommodate disabled individuals for employment readiness	$50,000
• Department of Information Technology • Department of General Services • Maryland Department of Transportation • Department of Human Resources • Department of Health and Mental Hygiene • Department of State Police for helicopter maintenance	$100,000

Note: For additional details see "DBM PAAR Guidelines" and "Attachment A: Examples" on the Department of Budget and Management Procurement web page.

Department of Information Technology – COMAR 21.02.01.04J

May Engage in or Control Procurement of:	Delegation Level
Information technology contracts	$200,000 or less
Contract modifications	In limited circumstances, subject to specified restrictions
Sole source contracts	$100,000 or less
Contracts in which only one bid or offer is received	$50,000 or less

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
Maintenance	$200,000 or less
Capital equipment	$50,000 or less
Contract modifications	In limited circumstances, 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
All agencies	$25,000 for commodities
All agencies	$50,000 for maintenance

Maryland 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 expenditures contracts in connection with State roads, bridges, and highways	Unlimited
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	In limited circumstances, subject to specified restrictions
Sole source contracts	$50,000 or less
Contracts in which only one bid or offer received	$50,000 or less
Supplies and services for aeronautics-related activities	Unlimited

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	In limited circumstances, subject to specified restrictions
Port-related maintenance	$200,000 or less
Commodities and supplies • Including motor vehicles and information technology supplies • Excluding supplies funded by the proceeds of State general obligation funds, insurance, and insurance-related services	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	In limited circumstances, 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: Code of Maryland Regulations (COMAR) and the Department of Legislative Services (based on information provided by the designated agencies)

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 11 members representing various State departments, a representative of local government with expertise in State procurement matters, and 2 members of the general public, at least 1 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.

Maryland Green Purchasing Committee

The Maryland Green Purchasing Committee consists of representatives of the Department of General Services, the Department of Budget and Management, the Department of Natural Resources, the Maryland Department of the Environment, the Department of Health and Mental Hygiene, the Department of Business and Economic Development, the Maryland Department of Transportation, the Department of Public Safety and Correctional Services, the University System of Maryland, the Department of Information Technology, the Maryland State Department of Education, and the State Treasurer. The committee was established by legislation enacted in 2010 and is required to provide the State with information and assistance concerning environmentally preferable purchasing. Specifically, the committee is required to:

- promote environmentally preferable purchasing through education and training;
- develop and implement statewide policies, guidelines, programs, best practices, and regulations;
- coordinate with other State or federal agencies, task forces, workgroups, regulatory efforts, research and data collection efforts, or other programs and services relating to environmentally preferable purchasing;
- publish environmentally preferable specifications to be adopted by State agencies; and
- provide a framework and format for environmentally preferable purchasing reports.

The committee also is required to establish a single point of contact for State agencies and other interested parties regarding issues related to environmentally preferable purchasing.

Council for the Procurement of Health, Education, and Social Services

The Council for the Procurement of Health, Education, and Social Services consists of 18 members including various secretaries and directors or their designees from relevant units of State government, representatives of private organizations with experience providing human services funded by contracts through State units, a member of the Senate, and a member of the House. The procurement advisor is the chair of the council. Regarding the procurement of health, education, and social services, the duties of the council include:

- enhancing communication between State units 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 how to resolve them; and
- reviewing procurement regulations to determine whether they fulfill the intent and purpose of the law.

Chapter 18. 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 expected degree of minority business enterprise participation or 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 multistep 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 a 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.

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 of Public Works, 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 within 30 days after the execution and approval of the award. 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 (1) an agency spends $25,000 or less; (2) in certain circumstances, a vendor receives annual revenues of $25,000 or less; or (3) the Department of General Services spends $50,000 or less for construction. 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 supplies within an estimated contract value of $1,000,000 or more if the agency determines that auction bids are in the State's best interest. 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. Bid security includes surety bonds, cash, or other forms of security that are authorized by State or federal regulation or deemed satisfactory by the unit awarding the contract. If a successful bidder does not enter into a contract, the bid security will be forfeited. An agency may not require bid security 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% 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 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 19. Contract Formation

Contract Method and Pricing Preferences

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 to allocate 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%, 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 (the Board of Public Works, on the recommendation of the Secretary of General Services, may waive this required clause for a contract to acquire renewable energy); and
- nondiscrimination requirements.

Preferences

In General

State law requires that a State or State-aided entity buy supplies and services, if available, from Maryland Correctional Enterprises, Blind Industries and Services of Maryland, a community service provider under the Employment Works Program, or a business owned by an individual with a disability, in that order of priority. Maryland also has preferences for small, minority-owned, veteran-owned, and disabled veteran-owned 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 products made from recycled paper and other recycled material, low noise supplies, coal operated heating systems, biofuels,

mercury-free products, locally grown foods, steel, conflict minerals, and manufactured goods.

Small- and Veteran-owned Business Programs

Preference Programs

The Small Business Preference Program applies to the procurement of supplies, general 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, with respect to the construction of correctional facilities, the Department of Public Safety and Correctional Services. Under the program a small business may receive a baseline maximum 5% price preference and an additional 3% for a disabled veteran-owned small business or 2% for a veteran-owned small business. These preferences allow 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 the applicable percentage. 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 or gross sales figures specific to wholesalers, retailers, manufacturers, the service industry, the construction industry, or the architectural and engineering services industry. Specified lead agencies, with the help of the Department of Business and Economic Development, 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.

Reserve Programs

In addition, the Small Business Reserve Program requires designated units of State government to structure their procurement procedures so that, subject to limited exceptions, at least 10% of the total dollar value of goods and services it procures are from small businesses. The Small Business Reserve Program terminates on September 30, 2016, unless otherwise extended by law.

Each designated agency is required to structure its procurement procedures so that at least 10% of the agency's total dollar value for procurement of goods, supplies, services, maintenance, construction, construction-related services, and architectural and engineering services is expended directly to small businesses at the prime contract level. The Department of General Services compiles and maintains a comprehensive bidder's list of qualified small businesses.

An agency is also required to structure its procurement procedures so that at least 0.5% of the total dollar value of its procurement contracts is awarded to veteran-owned small businesses.

Minority Business Enterprise Program

In the late 1970s, the General Assembly concluded that underutilization 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. These studies show that prime contractors will use minority business enterprises on public-sector projects with minority business enterprise requirements but will seldom use these businesses 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 on an ongoing basis 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% 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 approximately $1,500,000, adjusted annually for inflation but not including specific interests in minority businesses, primary residences, or qualified retirement plans, may not be found to be economically disadvantaged.

The program requires that a statewide goal for Minority Business Enterprise contract participation be established biennially through the regulatory process. The biennial statewide goal is established by the Special Secretary for the Governor's Office of Minority Affairs, in consultation with the Secretary of Transportation and the Attorney General. Each agency must structure procurement procedures to try to achieve the statewide goal of minority business enterprise participation in State contracts. In a year for which there is a delay in establishing the statewide goal, the previous year's goal applies.

The Special Secretary is also required to establish biennial guidelines for State procurement units to consider in deciding whether to establish subgoals for different minority groups recognized in statute. In a year for which there is a delay in issuing the guidelines, the previous year's guidelines apply.

If a contractor does not achieve all or a part of the minority business enterprise participation goals on a contract, the agency is required to make a finding of whether the contractor has demonstrated that it took all necessary and reasonable steps to achieve the goals, including the performance of required outreach to minority business enterprises. The agency is required to grant a waiver from the participation goals if the contractor provides a reasonable demonstration of good-faith efforts to achieve the goals.

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 Board of Public Works has designated by regulation the Maryland Department of Transportation to certify, recertify, and decertify minority business enterprises. That agency must publish and maintain a central directory of minority business enterprises that are certified or have been decertified for specific purposes. A State agency may not allow a person to participate in a procurement as a certified Minority Business Enterprise unless the Maryland Department of Transportation has appropriately certified the person. The board is also required to adopt regulations promoting and facilitating the certification of minority business enterprises that have received certification from the federal Small Business Administration or a county that uses a certification process that is substantially similar to the State process.

Within 90 days after each fiscal year, each agency is required to submit a report to the Governor's Office of Minority Affairs, the Maryland Department of Transportation in its role as the certification agency, and the General Assembly. The report must include for the previous fiscal year:

- the total number and value of procurement contracts awarded to minority business enterprises, catalogued by category of minority business enterprise and by the award of prime contracts and subcontracts;

- the percentage of the total number and value of contracts awarded to minority business enterprises, catalogued by category of minority business enterprise;

- the total number and the names of certified minority business enterprise contractors that participated as prime contractors or subcontractors on agency contracts;

- all contracts awarded for each participating minority business enterprise, including a description of the contracts; and

- any other information required by the Governor's Office of Minority Affairs and the Maryland Department of Transportation, as approved by the Board of Public Works.

The Governor's Office of Minority Affairs is required to submit a summary report of this information to the board and the General Assembly by the end of each calendar year.

The Governor's Office of Minority Affairs also 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 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 or best proposal from a resident if (1) the resident bidder or offeror is a responsible bidder or offeror; (2) for bids, a responsible bidder 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 the Department of General Services buys, at least 90% 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% 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.

Biofuel for State Vehicle Fleet

Half of all diesel-powered vehicles in the State fleet and State-owned heavy equipment must use a fuel blend that consists of 5% biodiesel or other biofuel approved by the federal Environmental Protection Agency. This requirement also applies to specified State-owned heating equipment, subject to the availability of the biofuel.

Recycled Products

A price preference, not to exceed 5%, 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% 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% 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.

Compost

State and local agencies that maintain public lands must give preference to the use of compost in any land maintenance activity paid for with public funds. The intent of this requirement is to foster the composting of landscaping waste from State land and to increase the percentage of landscaped area fertilized by compost.

Public Employee Uniforms and Equipment

A public employer (defined as a unit of State or local government, a school district, or a special district) may not knowingly buy, furnish, or require an employee to acquire any apparel or safety equipment that is for use while on duty unless the item is manufactured in the United States. Exceptions to this prohibition apply if: (1) the item or a similar item is not made or available for purchase domestically at all or in reasonable quantities; (2) the price of the item or similar item manufactured domestically exceeds that of a similar available foreign item by an unreasonable amount; (3) the quality of the item

or similar item manufactured domestically is substantially less than the quality of a comparably priced, similar, and available foreign item; or (4) the public employer entered into the contract for acquisition before October 1, 2011.

Outdoor Lighting Units

State funds may not be used to install or replace permanent outdoor lighting on the grounds of any State building or facility unless the lighting: (1) is designed to maximize energy conservation and minimize light pollution, glare, and trespass; (2) produces the minimum illumination necessary for its purpose; and (3) restricts the escape of visible light if the lighting emits high amounts of visible light (subject to a waiver granted by the Board of Public Works). Exceptions to this prohibition include lighting on the grounds of a correctional facility, lighting required for storm operation activity performed by the Maryland Department of Transportation, and lighting used to illuminate the flag of the State or the United States.

Conflict Minerals

Federal law requires a person who uses conflict minerals (minerals, including coltan, cassiterite, gold, and wolframrite, that are extracted and sold to finance human conflict) in the manufacture of goods to disclose annually if the minerals originated in the Democratic Republic of the Congo or a neighboring country. A unit of State government may not knowingly procure supplies or services from a person who fails to comply with this federal law.

Investment Activities in Iran

A person that engages in specified investment activities in Iran may not enter into a procurement contract with a public body in the State. Investment activities that trigger the prohibition include: (1) providing goods or services of at least $20 million in the energy sector in Iran; or (2) for financial institutions, extending credit of at least $20 million for at least 45 days to another person who is officially identified on a government list as a person engaging in investment activities in Iran and who will use the credit to provide goods or services to Iran's energy sector.

Electronic Products

A unit of State government may purchase only electronic products that have either gold or silver ratings from the Electronic Product Environmental Assessment Tool (an environmental rating system for computers and other electronic devices based on standards approved by the American National Standards Institute) or meet other nationally

recognized and consensus based standards approved by the Department of Information Technology. On request, the department may waive this requirement. Likewise, a contract for electronic recycling services may be awarded only to a recycler that is R2 or e-Stewards certified (certifications for safe and environmentally friendly recycling of computers and electronics) or that meets comparable standards approved by the Maryland Department of the Environment (in consultation with the Department of General Services).

Manufactured Goods

A public body (defined as a unit of State or local government, a school district, or a special district) must require a contractor or subcontractor to use or supply American-manufactured goods in the performance of a contract to build or maintain a public work or buy or manufacture equipment to be installed at a public work site. Exceptions to this prohibition apply if the head of the public body determines that (1) the item or a similar item is not manufactured or available for purchase domestically in reasonable quantities; (2) the price of the American manufactured goods exceeds that of a similar available foreign item by an unreasonable amount; (3) the quality of the item or similar item manufactured domestically is substantially less than the quality of a comparably priced, similar, and available foreign item; or (4) the procurement of a manufactured good would be inconsistent with the public interest. State law also provides an exception to this prohibition for emergency life safety and property safety goods.

Chapter 20. Dispute Resolution

In General

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

Types of 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. The protest procedures described here do not apply to (1) the procurement of architectural or engineering services; (2) except as authorized by the Board of Public Works, an act or omission by an agency under the Veteran-owned Small Business Enterprise Participation Program (reserve program); or (3) an unintentional failure to use eMaryland Marketplace when required for publication of a procurement or 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 non-construction 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 decisionmaking process for procurement disputes depend on the type of complaint filed.

Protests

General Procedures

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, may 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
- if the protest is denied, 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 Claims

General Procedures

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, may 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 claim 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 protests and contract claims, the reviewing authority must comply with specific notification requirements for construction contract claims. 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 in an amount for which the board's accelerated procedure may be used;

- 180 days after the procurement officer receives a claim in an amount for which the board's 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 may be 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

In General

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 (1) protests relating to architectural and engineering services, an unintentional failure to use eMaryland Marketplace when required for publication of a procurement or an award, or, except as authorized by the Board of Public Works, an act or omission by an agency under the Veteran-owned Small Business Enterprise Participation Program (reserve program); or (2) 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 on 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 21. Penalties for Noncompliance

In General

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 federal and State 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;
- conviction for specified offenses under the Minority Business Enterprise Program; 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 that 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 the 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 the person cooperated; and
- the conduct of the person after 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 22. 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 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

In General

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 Maryland 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 than $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 2010-2014 Working Appropriations

Department/Service Area	2010 Actual	2011 Actual	2012 Actual	2013 Actual	2014 Working Appropriation
Legislative Branch	**747**	**747**	**748**	**748**	**748**
Judicial Branch	**3,581**	**3,581**	**3,581**	**3,585**	**3,639**
Executive Branch					
Legal	1,504	1,465	1,498	1,492	1,505
Executive and Administrative Control	1,637	1,601	1,574	1,625	1,642
Financial and Revenue Administration	1,997	1,979	1,972	2,027	2,054
Budget and Management and Information Technology	450	436	427	438	443
Retirement	204	207	200	205	205
General Services	593	588	574	576	580
Transportation	9,012	8,849	8,745	8,771	8,819
Natural Resources	1,287	1,289	1,279	1,294	1,295
Agriculture	406	406	392	384	383
Health and Mental Hygiene	6,584	6,388	6,350	6,388	6,406
Human Resources	6,742	6,677	6,545	6,529	6,529
Labor, Licensing, and Regulation	1,675	1,665	1,649	1,646	1,653
Public Safety and Correctional Services	11,396	11,223	11,052	11,050	11,046
Maryland State Department of Education and Other Education	1,959	1,938	1,918	1,921	1,973
Housing and Community Development	311	308	320	316	337
Business and Economic Development	238	233	225	224	222
Environment	970	959	931	929	937
Juvenile Services	2,254	2,219	2,140	2,109	2,078
Police and Fire Marshal	2,416	2,402	2,367	2,390	2,425
Executive Branch Subtotal	***51,633***	***50,831***	***50,157***	***50,314***	***50,532***
Higher Education	**23,864**	**24,222**	**24,735**	**25,010**	**25,355**
Total	**79,825**	**79,382**	**79,221**	**79,657**	**80,274**

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

Appendix 2
Salary Setting Authorities and Personnel Systems Independent of the State Personnel Management System

Department/Agency	Authority	Groups Covered
Assessments and Taxation	Tax Property Article § 2-104	Persons transferred from jurisdictions in 1974-1976, retain the 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
African American Museum	State Government Article § 9-2604	All employees
Baltimore City Community College	Education Article § 16-510	All employees
Correctional Training Commissions*	Correctional Services Article § 8-206	Executive director, deputy director, and other positions necessary for general administrative and training management functions
Department of Budget and Management	Education Article § 6-302	Teachers employed in Department of Juvenile Justice facilities, hospitals, prisons, and certain vocational rehabilitation programs
Department of Business and Economic Development*	Economic Development Article § 2-115	All employees
Employment Services and Unemployment Insurance*	Labor and Employment Article § 8-305	All employees

Department/Agency	Authority	Groups Covered
Health Care Commission*	Health-General Article §§ 19-106 and 19-107	Executive director, deputy directors, principle section chiefs, and staff
Health Services Cost Review Commission*	Health-General Article §§ 19-206	All employees
Historic St. Mary's City Commission	Education Article § 24-510	All employees
Judiciary	Declaration of Rights Article 8; Maryland Constitution Article IV	All employees, except judges
Department of Legislative Services	State Government Article § 2-1205	All employees
Maryland Automobile Insurance Fund	Insurance Article § 20-204	Executive director, technical, and professional positions
Maryland Aviation Administration	Transportation Article § 5-201.1	Management personnel (up to 12)
Maryland Energy Administration	State Government Article § 9-2002	All employees
Maryland Environmental Service	Natural Ressources Article §§ 3-103.1and 3-103.2	All employees
Maryland Food Center Authority	Economic Development Article § 10-206	All employees
Maryland Health Benefit Exchange*	Insurance Article § 31-105	All staff

Department/Agency	Authority	Groups Covered
Maryland Health Insurance Plan*	Insurance Article § 14-503	All staff
Maryland Insurance Administration*	Insurance Article § 2-105	Professional, management, and technical employees
Maryland Port Administration	Transportation Article § 6-201.2	Management personnel (up to 12) for private operating companies
Maryland Public Broadcasting	Education Article § 24-204	All employees except support and custodial staff
Maryland Stadium Authority	Economic Development Article § 10-610	All employees
Maryland Transit Authority	Transportation Article § 7-206	Executive and management positions, and other employees
Maryland Transportation Authority	Transportation Article § 4-205	Executive management positions and attorneys, consulting engineers, accountants, construction and financial experts, superintendents, managers, and any other necessary agents and employees
Maryland Veterans' Home Commission	State Government Article § 9-928	All employees of the home
Morgan State University	Education Article § 14-104	Professional positions, including faculty
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
Police Training Commissions*	Public Safety Article § 3-206	Executive director, deputy director, and other positions necessary for general administrative and training management functions

Department/Agency	Authority	Groups Covered
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
State Highway Administration	Transportation Article § 8-204	Executive management positions
State Lottery and Gaming Control Agency*	State Government Article § 9-108	All employees
State Racing Commission	Business Regulation Article § 11-206	Stewards and harness judges
State Retirement Agency	State Personnel and Pensions Article § 21-118.1	Chief investment officer
State Retirement Agency	State Personnel and Pensions Article § 21-122	Deputy chief investment officer and managing directors within the Investment Division
State Soil Conservation Committee	Agriculture Article § 8-203	All employees of the committee except certain clerical employees
St. Mary's College	Education Article § 14-408	All positions
Transportation	Transportation Article § 2-103.4	All employees
University System of Maryland	Education Article §§ 12-110 and 12-111	All employees, including former board of trustees institutions

Department/Agency	Authority	Groups Covered
Water Quality Finance Administration*	Environment Article § 9-1604	Employ consultants, accountants, attorneys, financial experts, and other personnel and agents as may be necessary in its judgment, and fix their compensation

*Authority to set compensation is limited to positions that are unique to the employing entity, require specific skills or experience to perform the duties of the positions, and do not perform functions comparable to functions performed in other units of the Executive Branch.

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

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 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 position identification number 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 position identification 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 affects position transfers based on requests from the State agencies. The Department of Budget and Management reviews requests for the transfer of position identification numbers to reflect interagency organizational change. Funds for any transferred position identification numbers 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 2015
Annual Rates Effective July 1, 2014

GRADE										MID POINT						THIRD QUARTILE					
	BASE	STEP	STEP	STEP	STEP	STEP	STEP	STEP	STEP	STEP	STEP	STEP	STEP	STEP	STEP	STEP	STEP	STEP	STEP	STEP	STEP
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
5	$22,261	$23,018	$23,805	$24,623	$25,473	$26,358	$26,819	$27,287	$27,767	$28,254	$28,753	$29,262	$29,778	$30,307	$30,847	$31,396	$31,956	$32,529	$33,110	$33,703	$34,309
6	$23,584	$24,395	$25,234	$26,112	$27,020	$27,967	$28,460	$28,962	$29,476	$29,997	$30,531	$31,075	$31,630	$32,193	$32,770	$33,360	$33,960	$34,572	$35,193	$35,828	$36,474
7	$25,001	$25,868	$26,768	$27,705	$28,680	$29,694	$30,219	$30,756	$31,304	$31,864	$32,435	$33,017	$33,608	$34,213	$34,833	$35,461	$36,103	$36,759	$37,426	$38,106	$38,798
8	$26,517	$27,445	$28,407	$29,409	$30,451	$31,536	$32,099	$32,673	$33,259	$33,858	$34,468	$35,091	$35,726	$36,372	$37,033	$37,707	$38,394	$39,096	$39,808	$40,535	$41,276
9	$28,139	$29,130	$30,161	$31,233	$32,349	$33,509	$34,112	$34,728	$35,353	$35,995	$36,647	$37,314	$37,993	$38,684	$39,393	$40,113	$40,847	$41,597	$42,361	$43,141	$43,933
10	$29,874	$30,934	$32,038	$33,186	$34,380	$35,620	$36,266	$36,923	$37,594	$38,280	$38,980	$39,692	$40,419	$41,160	$41,914	$42,687	$43,473	$44,274	$45,092	$45,926	$46,774
11	$31,729	$32,866	$34,046	$35,274	$36,549	$37,878	$38,569	$39,273	$39,992	$40,726	$41,471	$42,235	$43,011	$43,804	$44,614	$45,441	$46,283	$47,143	$48,019	$48,911	$49,821
12	$33,715	$34,930	$36,194	$37,507	$38,876	$40,296	$41,034	$41,787	$42,557	$43,338	$44,140	$44,955	$45,787	$46,636	$47,502	$48,387	$49,286	$50,204	$51,159	$52,132	$53,123
13	$35,840	$37,141	$38,494	$39,900	$41,358	$42,880	$43,671	$44,476	$45,301	$46,140	$46,995	$47,867	$48,758	$49,665	$50,600	$51,564	$52,547	$53,548	$54,570	$55,612	$56,674
14	$38,117	$39,507	$40,954	$42,457	$44,020	$45,647	$46,495	$47,356	$48,238	$49,137	$50,050	$51,000	$51,972	$52,966	$53,976	$55,007	$56,060	$57,133	$58,227	$59,343	$60,481
15	$40,547	$42,039	$43,585	$45,194	$46,869	$48,610	$49,515	$50,443	$51,405	$52,383	$53,383	$54,402	$55,441	$56,502	$57,584	$58,687	$59,812	$60,959	$62,128	$63,321	$64,536
16	$43,153	$44,746	$46,404	$48,125	$49,916	$51,809	$52,799	$53,807	$54,834	$55,881	$56,951	$58,041	$59,156	$60,291	$61,447	$62,627	$63,833	$65,061	$66,312	$67,587	$68,887
17	$45,938	$47,642	$49,414	$51,278	$53,233	$55,268	$56,324	$57,400	$58,500	$59,622	$60,767	$61,932	$63,124	$64,338	$65,576	$66,838	$68,129	$69,441	$70,783	$72,150	$73,541
18	$48,920	$50,755	$52,690	$54,701	$56,793	$58,967	$60,099	$61,249	$62,429	$63,629	$64,853	$66,102	$67,375	$68,675	$69,999	$71,350	$72,728	$74,134	$75,566	$77,027	$78,507
19	$52,150	$54,140	$56,210	$58,359	$60,596	$62,925	$64,133	$65,369	$66,630	$67,914	$69,222	$70,560	$71,922	$73,312	$74,729	$76,175	$77,651	$79,132	$80,634	$82,167	$83,726
20	$55,630	$57,760	$59,972	$62,276	$64,670	$67,160	$68,455	$69,776	$71,123	$72,496	$73,899	$75,327	$76,786	$78,269	$79,756	$81,275	$82,822	$84,399	$86,008	$87,647	$89,320
21	$59,355	$61,634	$64,005	$66,466	$69,028	$71,692	$73,078	$74,492	$75,934	$77,403	$78,885	$80,386	$81,914	$83,475	$85,067	$86,690	$88,345	$90,034	$91,754	$93,509	$95,297
22	$63,341	$65,778	$68,312	$70,950	$73,691	$76,543	$78,024	$79,507	$81,019	$82,561	$84,134	$85,740	$87,374	$89,046	$90,749	$92,485	$94,258	$96,066	$97,910	$99,790	$101,708
23	$67,606	$70,215	$72,928	$75,747	$78,669	$81,660	$83,214	$84,799	$86,417	$88,067	$89,752	$91,469	$93,219	$95,008	$96,829	$98,686	$100,583	$102,516	$104,491	$106,504	$108,557
24	$72,168	$74,960	$77,863	$80,825	$83,901	$87,101	$88,765	$90,465	$92,195	$93,960	$95,761	$97,597	$99,473	$101,385	$103,334	$105,322	$107,351	$109,423	$111,532	$113,685	$115,879
25	$77,053	$80,000	$83,043	$86,208	$89,501	$92,926	$94,705	$96,524	$98,375	$100,264	$102,191	$104,156	$106,162	$108,208	$110,294	$112,422	$114,591	$116,805	$119,062	$121,364	$123,711
26	$82,192	$85,327	$88,582	$91,970	$95,495	$99,158	$101,062	$103,005	$104,987	$107,010	$109,071	$111,175	$113,320	$115,510	$117,742	$120,016	$122,342	$124,712	$127,129	$129,594	$132,106

Source: Department of Budget and Management

Appendix 5
General Salary Increases, Increments, and Other Compensation
Fiscal 2003-2014

Fiscal Year	Date of Increase	State Employees: General Salary Increase	State Employees: Increments	Police, Natural Resources Police, and Park Ranger Salary Increases	Maximum Deferred Compensation Match by State	Pay-for-Performance Bonuses	Annual Salary Review Reclassifications	Other
2003		None	None		$500	None	None	
2004		None	None		None	None	None	
2005	7/1/2004	$752[3]	On time		None	None	Yes[(1)]	
2006	7/1/2005	1.5%	On time		$400	None	Yes[(2)]	
2007	7/1/2006	$900, $1,400, or 2.0%[(3)]	On time	2.0% extra, 9.0% extra for State police (primarily DGS and DHMH officers)	$600	None	Yes[(4)]	2 steps on standard salary schedule; 1 step on the physician's salary schedule
2008	7/1/2007	2.0%	On time		$600	None	None	
2009	7/1/2008	2.0%	On time		$600	None	Yes[(5)]	2-5 day furlough enacted[(6)]
2010	7/1/2009	None	None		$0	None	None	3-10 day furlough enacted[(7)]
2011	7/1/2010	None	None		$0	None	None	3-10 day furlough enacted[(8)]
2012	7/1/2011	None	None	Negotiated increments	$0	$750 bonus[(9)]	None	Furloughs ended
2013	1/1/2013	2.0%	None		$0	None	Yes[(10)]	
2014	1/1/2014	3.0%	On 4/1/2014	Negotiated increments	$0	None	Yes[(11)]	

DGS: Department of General Services

DHMH: Department of Health and Mental Hygiene

(1) The following classifications were 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, laboratory scientists, administrative law judges, and banking financial examiners.

(2) It provided a one-grade salary adjustment for the Deputy State Fire Marshal classification series.

(3) Fiscal 2007 general salary increases were $900 for employees making less than $45,000 at the end of fiscal 2006, $1,400 for employees making $70,000 or more, and 2.0% for those remaining.

(4) The fiscal 2007 annual salary review provided 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.

(5) The fiscal 2009 annual salary review provided reclassifications and other enhancements for scientists, investigators, engineers, public defender intake specialist, veteran service, cemetery workers, call center specialists, complex tax auditor, tax consultant, retirement benefits counselor, medical care specialist, dental workers, financial regulation, deputy fire marshal, lead aviation maintenance technician, police communications operators, and civilian helicopter pilots.

(6) State employee salaries were reduced through furlough in fiscal 2009 by Executive Order 01.01.2008.20 in December 2008. The salaries for employees earning $40,000 were reduced by the value of two days' salary; those earning between $40,000 and $59,999 were reduced by the value of four days' salary; and those earning $60,000 or above were reduced by five days' salary. Public safety and positions required to maintain 24/7 facilities were exempted from the action. The result was an average salary reduction of approximately 1.5%.

(7) State employee salaries were reduced through furloughs and salary reductions in fiscal 2010 by Executive Order 01.01.2009.11 in August 2009. All employees were subject to a temporary salary reduction of five salary days, while non-24/7 employees with salaries between $40,000 and $49,999 were furloughed for an additional three days; those between $50,000 and $99,999 for an extra four days; and those earning over $100,000 were furloughed for an additional five days. The result was an average salary reduction of approximately 2.6%.

(8) State employee salaries were reduced through furloughs and salary reductions in fiscal 2011 by Executive Order 01.01.2010.11 in May 2010. The structure mirrors the fiscal 2010 program.

(9) The fiscal 2012 budget provided employees with a one-time $750 bonus.

(10) The fiscal 2013 allowance provided upgrades to the following classifications: contribution tax auditors, Maryland correctional enterprise industries representative I and II, and regional managers. Two new classes were also created – nutrient management specialist III and forensic behavioral specialists.

(11) The fiscal 2014 allowance provided one grade for the following classifications: Emergency Medical Services' communication officer staff; State Department of Assessment and Taxation Assessors; personnel classifications at the Department of Health and Mental Hygiene, the Department of Human Resources, and the Department of Public Safety and Correctional Services (DPSCS); and civilian fixed wing pilots, aviation technicians, and inspectors at the State Police. Parole and probation agents at DPSCS that were an agent 1, received a one-grade increase, and agent II and senior at base, step 1 or step 2 were moved up to step 3. Personnel officers in the employee relations function at the Department of Budget and Management were moved into four-level class series.

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

Appendix 6
Summary of Personnel Data by Major Areas of Government
Contractual Full-time Equivalent Positions
Fiscal 2010 Actuals to 2014 Working Appropriations

Department/Service Area	2010 Actual	2011 Actual	2012 Actual	2013 Actual	2014 Working Appropriation
Health and Human Services					
Health and Mental Hygiene	307	319	356	348	400
Human Resources	111	102	111	99	83
Juvenile Services	75	86	168	162	140
Subtotal	***493***	***507***	***635***	***609***	***623***
Public Safety					
Public Safety and Correctional Services	261	270	275	303	398
Police and Fire Marshal	30	31	24	29	30
Subtotal	***291***	***301***	***299***	***332***	***428***
Transportation	101	86	114	124	131
Other Executive					
Legal (excluding Judiciary)	45	53	44	38	61
Executive and Administrative Control	207	236	243	162	216
Financial and Revenue Administration	34	49	54	68	66
Budget and Management and Information Technology	15	16	13	13	19
Retirement	10	11	15	17	17
General Services	21	25	17	0	33
Natural Resources	394	401	366	488	399
Agriculture	49	45	43	36	41
Labor, Licensing, and Regulation	311	237	251	281	286
Maryland State Department of Education and Other Education	221	242	241	312	399
Housing and Community Development	31	33	50	86	90
Business and Economic Development	12	10	13	16	19
Environment	35	30	25	29	62
Subtotal	***1,385***	***1,388***	***1,375***	***1,545***	***1,647***
Executive Branch Subtotal	**2,269**	**2,282**	**2,424**	**2,609**	**2,829**
Higher Education	**6,542**	**6,356**	**6,692**	**6,516**	**6,169**
Judiciary	**384**	**390**	**405**	**446**	**446**
Grand Total	**9,195**	**9,028**	**9,521**	**9,572**	**9,444**

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

Appendix 7
Comparison of Maryland State Retirement and Pension Plans

	Teachers' and Employees' Pension Systems[1]	State Police System	Correctional Officers' System	Law Enforcement Officers' System	Judges' System	Legislative Pension Plan	Governor's Plan
Participation	Condition of employment	Condition of employment	Condition of employment	Condition of employment	Condition of employment	Mandatory	Automatic
Vesting							
Hired on or Before 6/30/11	5 years of service	5 years of service	5 years of service	5 years of service	Immediate	8 years of service	One full term
Hired on or After 7/1/11; or Judges Hired on or After 7/1/12	*10 years of service*	*10 years of service*	*10 years of service*	*10 years of service*	*5 years of service*	*No change*	*No change*
Member Contributions[2]	7.0% of salary (was 5.0%)	8.0% of salary	5.0% of salary	7.0% of salary (was 4.0%)	8.0% of salary, for 16 years (was 6.0%)	7.0% of salary, for 22 years, 3 months (was 5.0%)	None
Service Retirement Conditions							
Hired on or Before 6/30/11	Age 62 or 30 years of service; or age 55 with 15 years, reduced benefit	Age 50 or 22 years of service	20 years of service, with at least the last 5 years as a correctional officer	Age 50 or 25 years of service	Age 60	Age 60; or age 50 with 8 years, reduced benefit	Age 55
Hired on or After 7/1/11; Judges Hired on or After 7/1/12; Legislators and Governors who Begin Serving in or After January 2015	*Age 65 with 10 years of service or Rule of 90[3]; or age 60 with 15 years, reduced benefit*	*Age 50 or 25 years of service*	*No change*	*No change*	*Age 60 with 5 years of service*	*Age 62; or age 55 with 8 years, reduced benefit*	*Age 62*

	Teachers' and Employees' Pension Systems[1]	State Police System	Correctional Officers' System	Law Enforcement Officers' System	Judges' System	Legislative Pension Plan	Governor's Plan
Allowance							
Hired on or Before 6/30/11	1.2% of salary for years of service prior to 7/1/98; plus 1.8% of salary for years of service on or after 7/1/98 (calculated on the highest 3 consecutive years of salary)	2.55% per year of service (calculated on highest 3 years of salary)	1.818% per year of service (calculated on highest 3 years of salary)	2.0% per year if subject to the LEOPS modified pension benefit; otherwise 2.3% for first 30 years and 1.0% for each year thereafter (calculated on the highest 3 consecutive years of salary)	2/3 of active judge salary at 16 years	3.0% of current legislative salary per year of service	1/3 of current annual salary for one term; or 1/2 of current annual salary for two terms
Hired on or After 7/1/11	*1.5% of salary (calculated on the highest 5 consecutive years of salary)*	*Calculated on highest 5 years of salary*	*Calculated on highest 5 years of salary*	*Calculated on the highest 5 consecutive years of salary*	*No change*	*No change*	*No change*
Post Retirement Adjustments[4]							
Service Credit Earned on or Before 6/30/11	Limited to 3.0%, compounded annually	Unlimited annual cost-of-living adjustment (COLA)	Unlimited annual COLA	Limited to 3.0%, compounded annually	Based on salary of active judges	Based on salary of active legislators	Based on salary of current Governor
Service Credit Earned on or After 7/1/11	*Limited to 2.5% in any year the system earns the assumed rate of return; otherwise limited to 1.0%*	*Limited to 2.5% in any year the system earns the assumed rate of return; otherwise limited to 1.0%*	*Limited to 2.5% in any year the system earns the assumed rate of return; otherwise limited to 1.0%*	*Limited to 2.5% in any year the system earns the assumed rate of return; otherwise limited to 1.0%*	*No change*	*No change*	*No change*

	Teachers' and Employees' Pension Systems[1]	State Police System	Correctional Officers' System	Law Enforcement Officers' System	Judges' System	Legislative Pension Plan	Governor's Plan
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	Active legislator must have 8 years of service and be certified disabled by the BOT medical board	General Assembly adopts resolution by 3/5 vote that Governor is unable to perform duties of office due to physical or mental disability
Allowance	Service retirement projected to age 62	Service retirement with minimum of 35.0% of salary	Service retirement with minimum of 25.0% of salary	Service retirement projected to age 50	Service retirement with minimum of 33.3% of salary	3.0% of current legislative salary per year of service	If in first term, 1/3 of current annual salary; if in second term, 1/2 of current salary
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

BOT: Board of Trustees for the State Retirement and Pension System
LEOPS: Law Enforcement Officers' Pension System

[1] The Teachers' and Employees' Retirement Systems are not shown because the systems closed to new members as of December 31, 1979; however, the provisions of these plans are discussed in Chapter 11.

[2] Member contributions for teachers and employees were increased to 7% as of July 1, 2011; contributions for LEOPS members were increased to 6% as of July 1, 2011, and 7% as of July 1, 2012; contributions for judges were increased to 8% as of July 1, 2012; and contributions for legislators were increased to 7% as of January 14, 2015.

[3] Rule of 90: The sum of an employee's age and years of service must equal 90 or more.

[4] Other post retirement adjustment formulas apply to retirees who retired on or before June 30, 2011, retirees of the Employees' and Teachers' Retirement Systems, and retirees who chose various selection options.

Note: Table reflects abbreviated discussion of plan provisions; see Chapter 11 for a more detailed discussion of plan provisions.

Source: Department of Legislative Services

Appendix 8
State and Participating Municipal Corporations – Contribution Rates by System
Fiscal 2006-2015

	2006	2007	2008	2009	2010	2011	2012**	2013**	2014**	2015**
Teachers' Combined	9.4%*	9.7%*	11.6%	11.7%	13.2%	14.3%	15.5%	13.3%	14.7%	15.5%
Employees' Combined	5.8%*	6.8%	8.9%	8.7%	9.9%	11.7%	13.4%	12.3%	14.1%	15.5%
State Police	8.2%	13.8%	15.4%	21.2%	30.8%	57.0%	61.0%	61.2%	66.7%	83.1%
Judges	41.1%	42.4%	44.1%	43.6%	48.9%	59.1%	60.4%	61.2%	50.9%	42.7%
Law Enforcement Officers'	38.5%	40.6%	41.7%	36.6%	38.6%	47.7%	49.3%	46.8%	52.5%	41.4%
Total State Systems	**8.5%**	**9.2%**	**11.1%**	**11.1%**	**12.6%**	**14.3%**	**15.7%**	**13.8%**	**15.4%**	**16.4%**
Municipal Retirement	9.8%	10.7%	10.3%	8.9%	9.05%	12.3%	12.4%	10.5%	11.5%	11.2%
Municipal Pension***	4.8%	5.7%	5.3%	3.9%	4.05%	7.3%	7.4%	5.5%	6.5%	6.2%

*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. In 2007, the funding level for the teachers' system was out of its corridor, so employer contribution rates increased.

**Contribution rates do not include supplemental contributions required by Chapter 397 of 2011 and Chapter 464 of 2014.

***An additional contribution of 2.42% is charged to all participating municipal corporations that have chosen to offer the 1998 contributory benefit enhancement to their Employees' Pension System members. Participating municipal corporations that also opted for the Alternate Contributory Pension Selection enacted in Chapter 110 of 2006 pay an additional contribution of 1.1%.

Source: Annual actuarial valuations, Maryland State Retirement Agency, multiple years

Appendix 9
Comparison of Plan Provisions of 457(b), 401(k), and 403(b) Plans

	457(b) 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).
After-tax Roth payroll deductions	Yes, and after five years eligible withdrawals are tax-free.	Yes, and after five years eligible withdrawals are tax-free.	No.
Minimum contribution	$5 per bi-weekly pay.	$5 per bi-weekly pay.	$5 per bi-weekly pay.
Maximum contribution	Up to 100.0% of compensation, or $17,500.	Up to 100.0% of compensation, or $17,500.	Up to 100.0% of compensation, or $17,500.
Maximum contribution if participating in more than one plan	Up to $35,000 if a member is participating in the 457(b) and the 401(k) or 403(b) plan.	Up to $35,000 if a member is participating in the 401(k) and the 457(b) plan.	Up to $35,000 if a member is participating in the 403(b) and the 457(b) plan.
Eligibility to participate in the 401(a) matching program	Yes, provided the participant is a member of the Employees' Alternate Contributory Pension Selection Plan.	Yes, provided the participant is a member of the Employees' Alternate Contributory Pension Selection Plan.	Yes, provided the participant is a member of the Employees' Alternate Contributory Pension Selection Plan.
"Catch-up" provisions	$5,500 for over age 50, or up to $17,500 in three years prior to retirement.	$5,500 for over age 50.	$5,500 for over age 50.
Fees	Currently, 0.14% of the member's account value per year (not to exceed $2,000/year) and $0.50/month per account.	Currently, 0.14% of the member's account value per year (not to exceed $2,000/year) and $0.50/month per account.	Currently, 0.14% of the member's account value per year (not to exceed $2,000/year) and $0.50/month per account.

	457(b) Deferred Compensation Plan	401(k) Savings and Investment Plan*	403(b) Tax Deferred Annuity Plan
Current investment categories	Investment Contract Pool and mutual funds.	Investment Contract Pool and mutual funds.	Mutual funds.
Rollover options for pre-tax account	(1) From a 457(b), 401(k), 403(b) or traditional IRA into the member's supplemental retirement account; and (2) to a 457(b), 401(k), 403(b) or traditional IRA, upon leaving State service.	(1) From a 457(b), 401(k), 403(b) or traditional IRA into the member's supplemental retirement account; and (2) to a 457(b), 401(k), 403(b) or traditional IRA, upon leaving State service.	(1) From a 457(b), 401(k), 403(b) or traditional IRA into the member's supplemental retirement account; and (2) to a 457(b), 401(k), 403(b) or traditional IRA, either upon leaving State service or reaching age 59 1/2 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 10.0% 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 50.0% of the member's account, not to exceed $50,000. Must be repaid within five years.	Member may borrow up to 50.0% of the member's account, not to exceed $50,000. Must be repaid within five years.	Member may borrow up to 50.0% of the member's account, not to exceed $50,000. Must be repaid within five years.
Hardship distributions	For unforeseeable emergencies causing financial hardships. No IRS penalty for hardship distributions.	For severe emergencies causing financial hardships. A 10.0% IRS penalty may apply for certain hardship distributions.	For severe emergencies causing financial hardships. A 10.0% IRS penalty may apply for certain hardship distributions.

FICA: Federal Insurance Contributions Act
IRA: Individual Retirement Account
IRS: Internal Revenue Service

Source: Maryland Supplemental Retirement Plans

Appendix 10
State Contract Dollars Awarded by Agency
Fiscal 2010-2013

Agency	Total Procurement Dollars	
Aging	$11,293,321	
Agriculture	18,351,228	
Archives	3,784,050	
Assessments and Taxation	4,923,669	
Attorney General's Office	2,332,477	(Does not include fiscal 2011)
Automobile Insurance Fund	1,927,569	
Baltimore City Community College	28,697,655	
Board of Public Works	332,500	
Bowie State University	69,365,931	
Budget and Management	467,718,653	
Business and Economic Development	31,747,382	
Canal Place Preservation	864,817	
Civil Rights (Human Relations) Commission	446,054	
College Savings Plans	2,418,497	(Does not include fiscal 2010 or 2013)
Comptroller	64,445,552	
Coppin State University	64,314,264	
Education	306,398,885	
Elections	35,173,083	
Environment	30,073,699	
Environmental Service	312,845,721	
Executive Department (excludes Dept. of Disabilities)	63,747,192	
Food Center Authority	5,991,381	
Frostburg State University	58,882,661	
General Services	938,906,065	
Health and Mental Hygiene	4,024,449,644	
Higher Education Commission	4,432,029	
Housing and Community Development	38,261,909	
Human Resources	2,117,687,513	
Information Technology	50,058,978	
Insurance Administration	10,019,279	
Juvenile Services	570,853,352	
Labor, Licensing, and Regulation	129,289,258	
Lottery	301,082,774	
Military	19,613,683	
Morgan State University	235,727,465	

Agency	Total Procurement Dollars	
Natural Resources	97,732,350	
People's Counsel	2,971,703	
Planning	4,935,055	
Police	192,883,059	
Prosecutor's Office	50,352	
Public Defender's Office	18,397,854	(Does not include fiscal 2011)
Public Safety and Corrections	1,598,560,509	
Public School Construction	2,219,083,052	
Public Service Commission	10,527,813	
Public Television	17,584,338	
Retirement	20,757,621	
Salisbury University	48,689,822	
School for the Deaf	5,690,013	
Stadium Authority	87,932,043	
St. Mary's College	61,354,363	
Subsequent Injury Fund	266,729	(Does not include fiscal 2011)
Supplemental Retirement	3,088,880	(Does not include fiscal 2011 or 2013)
Tax Court	89,421	
Towson University	238,822,402	
Transportation – Aviation	826,860,492	
Transportation – Motor Vehicle	160,341,200	
Transportation – Office of the Secretary	175,465,274	
Transportation – Port	303,999,204	
Transportation – State Highway	2,971,446,764	
Transportation – Transit	2,839,639,448	
Transportation – Transportation Authority	1,044,312,902	
Treasurer's Office	16,008,905	
University of Baltimore	48,171,239	
University of Maryland, Baltimore	1,262,877,241	
University of Maryland, Baltimore County	223,864,566	
University of Maryland, College Park	1,567,987,549	
University of Maryland, Eastern Shore	72,998,714	
University of Maryland, University College	301,780,409	
Veteran's Affairs	143,676,176	(Does not include fiscal 2013)
Workers Compensation	3,274,107	
TOTAL	**$27,218,579,759**	

Source: Department of Legislative Services with numbers from: *Minority Business Enterprise Program Fiscal Year 2010 Annual Report,* and *Minority Business Enterprise Program Statistical Report, Fiscal Years 2011, 2012, and 2013,* Governor's Office of Minority Affairs

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