

BY: Delegate Morgan

AMENDMENTS TO HOUSE BILL NO. 987, AS AMENDED
(First Reading File Bill)

AMENDMENT NO. 1

On page 1 of the Appropriations Committee Amendments (HB0987/064340/2), in line 1 of Amendment No. 1, after “System” insert “- State Defined Contribution System”; in line 8, after “match;” insert “establishing a State Defined Contribution System for the purpose of allowing certain individuals to contribute to certain plans with tax qualified status under the Internal Revenue Code and receive certain employer contributions from the State instead of being a member of the Employees’ Pension System or Teachers’ Pension System;”; in lines 10 and 14, in each instance, after “System” insert “and the State Defined Contribution System”; in line 21, after “terms;” insert “providing that an election to participate in the State Defined Contribution System is a waiver of certain rights under the Employees’ Pension System or Teachers’ Pension System; providing for a certain transfer of funds from certain systems to certain supplemental plans; providing certain health insurance benefits;”; and in line 24, after “System” insert “and a State Defined Contribution System”.

On page 1 of the bill, strike beginning with “and” in line 8 down through “election” in line 10.

On page 2 of the Committee Amendments, in line 5 of Amendment No. 1, after “21-305.2(e),” insert “23-201(b), 23-206(b),”; in line 6, after “21-505” insert “, 23-215”; in the same line, after “35-101(c)” insert “, and 35-102”; in line 8, after “System;” insert “33-101 through 33-302, inclusive, to be under the new title “Title 33. State Defined Contribution System”;”.

On page 2 of the bill, in line 6, after “Section” insert “2-508(a)(3) and (4)”; and in the same line, after “23-212,” insert “23-214,”.

AMENDMENT NO. 2

On page 3 of the bill, in line 22, strike “23-212.” and substitute:

(Over)

“23-201.

(b) Sections 23-202 through 23-205 of this subtitle do not apply to:

(1) an individual who is or is entitled to be a member of any State system other than the Employees’ Pension System;

(2) a contractual, emergency, or temporary extra employee;

(3) an individual who is employed under a federal public service employment program;

(4) an assessor who is a member of a retirement or pension system operated by a political subdivision of the State;

(5) an employee of a board of supervisors of elections who chose to stay in a local merit system under Article 33, § 2-6 of the Code; [or]

(6) a nonclerical or nonprofessional employee of the Baltimore City Community College who:

(i) was an employee of the New Community College of Baltimore during the 1989-1990 academic year;

(ii) was employed by the New Community College of Baltimore on or before December 31, 1990, as a “Class A” member of the Baltimore City Retirement Plan; and

(iii) elected to remain a member of the Baltimore City Retirement Plan; OR

(7) AN INDIVIDUAL WHO ELECTS OR IS REQUIRED TO PARTICIPATE IN THE STATE DEFINED CONTRIBUTION SYSTEM UNDER TITLE 33 OF THIS ARTICLE.

23-206.

(b) Sections 23-207 through 23-209 of this subtitle do not apply to:

(1) an individual who has elected to participate in an optional retirement program under Title 30 of this article;

(2) an individual who is employed under a federal public service employment program; [or]

(3) a professional or clerical employee of the Department of Public Libraries of Montgomery County who is participating in the employees' retirement system of Montgomery County; OR

(4) AN INDIVIDUAL WHO ELECTS OR IS REQUIRED TO PARTICIPATE IN THE STATE DEFINED CONTRIBUTION SYSTEM UNDER TITLE 33 OF THIS ARTICLE.

23-212.”;

after line 28, insert:

“23-214.

Membership ends on:

(1) separation from employment; OR

(2) TRANSFER TO ANOTHER SYSTEM UNDER THIS DIVISION II.”;

strike in its entirety line 29 and substitute:

“23-215.

(A) AN INDIVIDUAL WHO ON OR BEFORE JUNE 30, 1998 IS A MEMBER OF THE EMPLOYEES' PENSION SYSTEM OR TEACHERS' PENSION SYSTEM SHALL MAKE ONE

(Over)

OF THE FOLLOWING ELECTIONS ON OR BEFORE JUNE 30, 2000:

(1) REMAIN IN THE EMPLOYEES' PENSION SYSTEM OR TEACHERS' PENSION SYSTEM BUT NOT BE SUBJECT TO THE ALTERNATE PENSION SELECTION UNDER TITLE 23, SUBTITLE 2, PART II OF THIS ARTICLE;

(2) BECOME SUBJECT TO THE ALTERNATE SELECTION OF THE EMPLOYEES' PENSION SYSTEM OR THE TEACHERS' PENSION SYSTEM UNDER TITLE 23, SUBTITLE 2, PART II OF THIS ARTICLE; OR

(3) PARTICIPATE IN THE STATE DEFINED CONTRIBUTION SYSTEM UNDER TITLE 33 OF THIS ARTICLE.

(B) (1) AN ELECTION UNDER THIS SECTION IS IRREVOCABLE.

(2) THE BOARD OF TRUSTEES MAY NOT REVOKE OR OVERTURN AN ELECTION EVEN IF REQUESTED BY THE MEMBER MAKING THE ELECTION.

(3) THE EFFECTIVE DATE OF THE ELECTION IS THE FIRST DAY OF THE MONTH IN WHICH AN APPLICATION FOR THE ELECTION IS RECEIVED BY THE STATE RETIREMENT AGENCY.

(C) (1) ON RECEIPT OF AN ELECTION TO PARTICIPATE IN THE STATE DEFINED CONTRIBUTION SYSTEM, THE STATE RETIREMENT AGENCY SHALL SEND A COPY OF THE ELECTION TO THE STATE BOARD OF TRUSTEES OF THE MARYLAND TEACHERS AND STATE EMPLOYEES SUPPLEMENTAL RETIREMENT PLANS.

(2) AN ELECTION BY AN INDIVIDUAL TO PARTICIPATE IN THE STATE DEFINED CONTRIBUTION SYSTEM IS A WAIVER OF ALL RIGHTS AND BENEFITS PROVIDED BY THE EMPLOYEES' PENSION SYSTEM OR THE TEACHERS' PENSION SYSTEM.”;

and in line 33, after “(A)” insert “EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION.”.

On pages 3 and 4 of the bill, strike beginning with the colon in line 33 on page 3 through “AGENCY” in line 30 on page 4 and substitute:

“AN INDIVIDUAL WHO ON OR BEFORE JUNE 30, 1998 IS A MEMBER OF THE EMPLOYEES’ PENSION SYSTEM OR TEACHERS’ PENSION SYSTEM AND ON OR BEFORE JUNE 30, 2000 ELECTS TO BE SUBJECT TO THIS PART II OF THIS SUBTITLE.

(B) THIS PART II OF THIS SUBTITLE DOES NOT APPLY TO AN INDIVIDUAL WHO ELECTS OR IS REQUIRED TO PARTICIPATE IN THE STATE DEFINED CONTRIBUTION SYSTEM UNDER TITLE 33 OF THIS ARTICLE”.

On page 5 of the bill, in lines 16 and 19, in each instance, strike “AT LEAST 60 MONTHS” and substitute “THE PERIOD OF TIME SET FORTH IN REGULATIONS ADOPTED BY THE BOARD OF TRUSTEES AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION”.

On page 8 of the Committee Amendments, in line 9 of Amendment No. 5, strike “AT LEAST 60 MONTHS” and substitute “THE PERIOD OF TIME SET FORTH IN REGULATIONS ADOPTED BY THE BOARD OF TRUSTEES AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION”.

On page 9 of the Committee Amendments, in line 6 of Amendment No. 5, after “SELECTION.” insert:

“(4) (I) THE BOARD OF TRUSTEES SHALL ADOPT REGULATIONS THAT SET FORTH THE NUMBER OF MONTHS OF MEMBER CONTRIBUTIONS AND THE NUMBER OF MONTHS REQUIRED FOR THE VESTING OF EMPLOYER CONTRIBUTIONS UNDER TITLE 33 OF THIS ARTICLE THAT ARE NECESSARY TO PAY FOR ANY ADDITIONAL ACTUARIAL COSTS THAT ARE ATTRIBUTABLE TO THE ESTABLISHMENT OF THE ALTERNATE PENSION SELECTION UNDER THIS PART II OF THIS SUBTITLE AND THE STATE DEFINED CONTRIBUTION SYSTEM UNDER TITLE 33 OF THIS ARTICLE.

(II) THE BOARD OF TRUSTEES SHALL ADOPT THE REGULATIONS

(Over)

AFTER ANALYZING APPROPRIATE ACTUARIAL EVALUATIONS BY THE STATE ACTUARY.”.

AMENDMENT NO. 3

On page 6 of the Committee Amendments, after line 11 of Amendment No. 2, insert:

“TITLE 33. STATE DEFINED CONTRIBUTION SYSTEM.

SUBTITLE 1. DEFINITIONS.

33-101.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “ELIGIBLE EMPLOYEE” MEANS AN INDIVIDUAL ELIGIBLE TO PARTICIPATE IN THE STATE DEFINED CONTRIBUTION SYSTEM.

(C) “STATE DEFINED CONTRIBUTION SYSTEM” MEANS THE SYSTEM ESTABLISHED UNDER § 33-201 OF THIS TITLE.

(D) (1) “STATE SUPPLEMENTAL PLAN” MEANS A PLAN QUALIFIED UNDER THE INTERNAL REVENUE CODE AND ADMINISTERED BY THE SUPPLEMENTAL BOARD.

(2) “STATE SUPPLEMENTAL PLAN” INCLUDES:

(I) A SALARY REDUCTION PLAN QUALIFIED UNDER § 401(K) OF THE INTERNAL REVENUE CODE;

(II) A TAX SHELTERED ANNUITY PLAN QUALIFIED UNDER § 403(B) OF THE INTERNAL REVENUE CODE;

(III) A DEFERRED COMPENSATION PLAN QUALIFIED UNDER § 457 OF THE INTERNAL REVENUE CODE; OR

(IV) A PLAN QUALIFIED UNDER § 401(A) OF THE INTERNAL REVENUE CODE, INCLUDING A PLAN RECEIVING EMPLOYER CONTRIBUTIONS UNDER § 33-205 OF THIS TITLE AND A PLAN RECEIVING MEMBER CONTRIBUTIONS UNDER § 33-204 OF THIS TITLE THAT ARE PICKED UP BY THE EMPLOYER WITHIN THE MEANING OF § 414(H)(2) OF THE INTERNAL REVENUE CODE.

(E) “SUPPLEMENTAL BOARD” MEANS THE STATE BOARD OF TRUSTEES OF THE MARYLAND TEACHERS’ AND STATE EMPLOYEES’ SUPPLEMENTAL RETIREMENT PLANS ESTABLISHED UNDER § 35-201 OF THIS ARTICLE.

SUBTITLE 2. STATE DEFINED CONTRIBUTION SYSTEM.

33-201.

THERE IS A STATE DEFINED CONTRIBUTION SYSTEM.

33-202.

THE SUPPLEMENTAL BOARD SHALL ADMINISTER THE STATE DEFINED CONTRIBUTION SYSTEM.

33-203.

(A) THE SUPPLEMENTAL BOARD SHALL ADOPT, IMPLEMENT, AND MAINTAIN THE SPECIFIC QUALIFIED PLANS THAT ARE PART OF THE STATE DEFINED CONTRIBUTION SYSTEM.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE SUPPLEMENTAL BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THIS TITLE.

(2) THE SUPPLEMENTAL BOARD IS NOT REQUIRED TO ADOPT OR AMEND THE PLANS UNDER THE STATE DEFINED CONTRIBUTION SYSTEM THROUGH

(Over)

THE ADOPTION OF REGULATIONS UNDER THIS SECTION.

(C) A MEMBER'S INTEREST IN THE PLANS UNDER THE STATE DEFINED CONTRIBUTION SYSTEM:

(1) SHALL IMMEDIATELY BE 100% VESTED AS TO MEMBER CONTRIBUTIONS:

(2) IS NOT VESTED AS TO STATE CONTRIBUTIONS UNTIL THE MEMBER HAS THE NUMBER OF MONTHS OF SERVICE SET FORTH IN REGULATIONS ADOPTED BY THE BOARD OF TRUSTEES AS PROVIDED IN § 23-218(B)(4) OF THIS ARTICLE, INCLUDING MEMBERSHIP IN THE STATE DEFINED CONTRIBUTION SYSTEM AND ANY ELIGIBILITY SERVICE IN THE EMPLOYEES' PENSION SYSTEM OR THE TEACHERS' PENSION SYSTEM:

(3) SHALL BE HELD IN TRUST FOR THE EXCLUSIVE BENEFIT OF THE MEMBER; AND

(4) MAY BE DISTRIBUTED ONLY AT THE TIMES, IN THE MANNER, TO THE EXTENT, AND TO THE INDIVIDUALS THAT ALLOW THE PLANS TO MAINTAIN TAX QUALIFIED STATUS UNDER THE INTERNAL REVENUE CODE.

33-204.

(A) EACH MEMBER SHALL CONTRIBUTE 3% OF THE MEMBER'S SALARY.

(B) THE MEMBER CONTRIBUTIONS SHALL BE MADE AS PAYROLLS ARE PAID BY PAYROLL DEDUCTION OR BY A REDUCTION IN SALARY IN ACCORDANCE WITH THE INTERNAL REVENUE CODE, INCLUDING, IF AUTHORIZED BY THE SUPPLEMENTAL BOARD AND IRREVOCABLY ELECTED BY THE MEMBER, A REDUCTION IN SALARY CLASSIFIED UNDER § 414(H)(2) AS A PICK-UP CONTRIBUTION.

(C) EACH MEMBER SHALL DESIGNATE TO WHICH STATE SUPPLEMENTAL PLAN THE MEMBER'S CONTRIBUTIONS ARE TO BE MADE.

33-205.

(A) FOR EACH MEMBER, THE STATE SHALL CONTRIBUTE TO THE PLAN QUALIFIED UNDER § 401(A) OF THE INTERNAL REVENUE CODE EMPLOYER CONTRIBUTIONS EQUAL TO THE LESSER OF:

(1) 6% OF THE MEMBER'S SALARY EACH PAY PERIOD; OR

(2) THE AMOUNT ALLOWED UNDER § 415 OF THE INTERNAL REVENUE CODE.

(B) (1) THIS SUBSECTION APPLIES TO MEMBERS WHO ARE PAID THROUGH THE CENTRAL PAYROLL BUREAU.

(2) AS PAYROLLS ARE PAID, THE CENTRAL PAYROLL BUREAU SHALL PAY THE EMPLOYER CONTRIBUTIONS TO THE STATE SUPPLEMENTAL PLAN AS DIRECTED BY THE SUPPLEMENTAL BOARD.

(3) THE PAYMENTS SHALL BE CHARGED AGAINST THE BUDGETS OF THE UNITS EMPLOYING THE MEMBERS.

(4) IF A MEMBER'S SALARY IS PAID FROM SPECIAL OR FEDERAL FUNDS OR BOTH, THE EMPLOYER CONTRIBUTION SHALL BE PAID FROM THOSE FUNDS.

(C) (1) THIS SUBSECTION APPLIES TO MEMBERS WHO ARE NOT PAID THROUGH CENTRAL PAYROLL.

(2) THE SUPPLEMENTAL BOARD SHALL PROVIDE BY REGULATION HOW EMPLOYER CONTRIBUTIONS AND MEMBER CONTRIBUTIONS ARE TO BE MADE.

(3) THE PAYMENTS SHALL BE CHARGED AGAINST THE BUDGETS OF THE UNITS EMPLOYING THE MEMBERS WHO ARE EMPLOYED BY THE STATE.

(Over)

(4) IF A MEMBER'S SALARY IS PAID FROM SPECIAL OR FEDERAL FUNDS OR BOTH, THE EMPLOYER CONTRIBUTION SHALL BE PAID FROM THOSE FUNDS.

33-206.

THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET BILL AN APPROPRIATION THAT IS SUFFICIENT TO PAY THE EMPLOYER CONTRIBUTIONS FOR MEMBERS.

SUBTITLE 3. PARTICIPATION.

33-301.

(A) (1) AN INDIVIDUAL WHO MAKES AN ELECTION TO PARTICIPATE IN THE STATE DEFINED CONTRIBUTION SYSTEM UNDER § 23-215 OF THIS ARTICLE IS A MEMBER OF THE STATE DEFINED CONTRIBUTION SYSTEM AS A CONDITION OF EMPLOYMENT.

(2) AFTER AN ELECTION TO PARTICIPATE IN THE STATE DEFINED CONTRIBUTION SYSTEM, A MEMBER OF THE STATE DEFINED CONTRIBUTION SYSTEM IS INELIGIBLE FOR MEMBERSHIP IN THE EMPLOYEES' PENSION SYSTEM OR THE TEACHERS' PENSION SYSTEM.

(B) AN INDIVIDUAL DESCRIBED IN § 23-201(A) OR § 23-206(A) OF THIS ARTICLE WHO BECOMES EMPLOYED ON OR AFTER JULY 1, 1998 IS A MEMBER OF THE STATE DEFINED CONTRIBUTION SYSTEM AS A CONDITION OF EMPLOYMENT.

33-302.

MEMBERSHIP ENDS ON SEPARATION FROM EMPLOYMENT.”;

and after line 14 of the same Amendment, insert:

“35-102.

[(a) The] EXCEPT AS PROVIDED IN TITLE 33 OF THIS ARTICLE:

(1) THE supplemental retirement plans are in addition to any other retirement, pension, or benefit system established by the State[.

(b) A]; AND

(2) A deferral of compensation under any of the supplemental retirement plans does not reduce the amount of any retirement, pension, or other benefit provided by law.”.

On page 7 of the Committee Amendments, in the next to the last line of Amendment No. 2, after “Act.” insert:

“SECTION 7. AND BE IT FURTHER ENACTED, That for each member of the Employees’ Pension System or the Teachers’ Pension System who elects to participate in the State Defined Contribution System established under Section 2 of this Act, the State Retirement Agency shall transfer to the State Board of Trustees of the Maryland Teachers and State Employees Supplemental Retirement Plans the actuarial present value of the accrued benefit attributable to that member, to be placed in the plan that is qualified under § 401(a) of the Internal Revenue Code administered by the Board.”;

and in the last line of the same Amendment, strike “7.” and substitute “8.”.

AMENDMENT NO. 4

On page 2 of the bill, after line 27, insert:

“2-508.

(a) (3) (i) “Retiree” means:

1. a former State employee who receives a retirement allowance under Division II of this article;

(Over)

2. A FORMER STATE EMPLOYEE WHO IS AT LEAST 55 YEARS OLD OR HAS 30 YEARS OF STATE SERVICE AND WHO RECEIVES A BENEFIT UNDER THE STATE DEFINED CONTRIBUTION SYSTEM UNDER TITLE 33 OF THIS ARTICLE; or

[2.] 3. a former employee of the Medical System Corporation, as defined in § 13-301 or § 13-401 of the Education Article, who receives a retirement allowance from the Employees' Retirement System of the State of Maryland or the Employees' Pension System of the State of Maryland under Title 22 or Title 23 of this article.

(ii) "Retiree" does not include:

1. a member of the faculty or staff of a community college;
2. a teacher or a staff member employed by a county board of education; or
3. an individual who retired under an optional program under Title 30 of this article.

(4) "State service" means service with the State by:

(i) an employee while a member of the Employees' Retirement System or the Employees' Pension System under Title 22 or Title 23 of this article OR WHILE A MEMBER OF THE STATE DEFINED CONTRIBUTION SYSTEM UNDER TITLE 33 OF THIS ARTICLE;

(ii) a member of the Judges' Retirement System under Title 27 of this article;

(iii) a teacher while a member of the Teachers' Retirement System or Teachers' Pension System under Title 22 or Title 23 of this article;

(iv) a correctional officer, while a member of the Correctional Officers' Retirement System under Title 25 of this article;

(v) an employee of the Medical System Corporation, as defined in § 13-301 or § 13-401 of the Education Article, while a member of the Employees' Retirement System of the State of Maryland or the Employees' Pension System of the State of Maryland under Title 22 or Title 23 of this article;

(vi) a State Police officer while a member of the State Police Retirement System under Title 24 of this article; or

(vii) a law enforcement officer while a member of the Law Enforcement Officers' Pension System under Title 26 of this article.”.