
By: **Chairman, Appropriations Committee (Departmental - University System of Maryland)**

Introduced and read first time: January 23, 1998

Assigned to: Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 17, 1998

CHAPTER _____

1 AN ACT concerning

2 **University System of Maryland Workforce Flexibility Act**

3 FOR the purpose of allowing certain State employees of the University System of
4 Maryland who are members of the Employees' Retirement System or the
5 Employees' Pension System to retire early with a service retirement allowance
6 during a certain period of time under certain circumstances; prohibiting a
7 member who retires under this Act from receiving an allowance that exceeds a
8 certain amount; authorizing the Board of Trustees for the State Retirement and
9 Pension System to adopt certain regulations providing for the benefits on early
10 retirement under this Act; altering the conditions under which a member who
11 retires under this Act may become reemployed by certain employers; allowing
12 certain employees who are separated from employment under certain
13 circumstances to be eligible for certain retirement benefits; requiring the
14 University Medical System to pay for a certain period the entire cost of health
15 insurance premiums for certain employees who are separated from employment
16 under certain circumstances; requiring the Chancellor to notify the Board of
17 Trustees if a member revokes an application for retirement under this Act;
18 providing for a certain choice of death benefits to a designated beneficiary if an
19 employee dies under certain circumstances; providing for the funding of certain
20 retirement and pension costs under this Act; providing for the delay of the
21 effective date for certain employees to retire under this Act until a certain date;
22 requiring notification to the Board of Trustees of certain information by a
23 certain date; making the election to retire under this Act irrevocable except
24 under certain circumstances; providing that unused sick leave may not be used
25 to determine eligibility for the incentive provided for under this Act or to
26 determine the amount of the incentive provided for under this Act; providing
27 that the application for retirement shall be void if a member dies prior to the

1 effective date of retirement under certain circumstances; requiring the
2 University System of Maryland to submit before a certain date a report to
3 specified State agencies and certain committees of the General Assembly;
4 declaring the intent of the General Assembly; providing for the effective date of
5 this Act; and generally relating to the separation from employment and
6 retirement of certain members of the Employees' Retirement System and the
7 Employees' Pension System.

8 BY repealing and reenacting, without amendments,
9 Article - State Personnel and Pensions
10 Section 21-304(d)(4)
11 Annotated Code of Maryland
12 (1997 Replacement Volume)

13 BY adding to
14 Article - State Personnel and Pensions
15 Section 21-304(d)(5) and 21-307(i) and (j)
16 Annotated Code of Maryland
17 (1997 Replacement Volume)

18 Preamble

19 WHEREAS, The University System of Maryland requires increased
20 management flexibility in order to create personnel opportunities to meet changing
21 programmatic needs and projected enrollment growth; and

22 WHEREAS, In order to increase management flexibility for the University
23 System of Maryland, and to realize overall costs savings, the General Assembly is
24 offering a one-time early retirement incentive program to certain State employees of
25 the University System of Maryland to provide an opportunity for the greatest number
26 of employees to volunteer to leave State service; now, therefore,

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
28 MARYLAND, That the Laws of Maryland read as follows:

29 **Article - State Personnel and Pensions**

30 21-304.

31 (d) (4) If the accrued liability is increased by legislation that provides for
32 early retirement of State employees, the additional liability shall be funded over a
33 period of 5 years beginning on:

34 (i) July 1, 1997 for legislation effective June 1, 1996; and

35 (ii) July 1, 1998 for legislation effective June 1, 1997.

1 (5) IF THE ACCRUED LIABILITY IS INCREASED BY LEGISLATION
2 EFFECTIVE JUNE 1, 1998, THAT PROVIDES FOR THE EARLY RETIREMENT OF
3 EMPLOYEES OF THE UNIVERSITY SYSTEM OF MARYLAND WHO ARE MEMBERS OF
4 THE EMPLOYEES' PENSION SYSTEM OR THE EMPLOYEES' RETIREMENT SYSTEM, THE
5 ADDITIONAL LIABILITY SHALL BE DETERMINED BY THE ACTUARY AND FUNDED
6 OVER A PERIOD OF 5 YEARS BEGINNING ON JULY 1, 1999 BY PAYMENT OF AN ANNUAL
7 ACCRUED LIABILITY CONTRIBUTION BY THE UNIVERSITY SYSTEM OF MARYLAND
8 AND THE MEDICAL SYSTEM AS PROVIDED IN § 21-307(I) AND (J) OF THIS SUBTITLE.

9 21-307.

10 (I) (1) EXCEPT AS PROVIDED IN SUBSECTION (J) OF THIS SECTION, THE
11 UNIVERSITY SYSTEM OF MARYLAND SHALL PAY AN ANNUAL ACCRUED LIABILITY
12 CONTRIBUTION EQUAL TO AN AMOUNT THAT IS SUFFICIENT TO LIQUIDATE OVER
13 NOT MORE THAN 5 YEARS, THE INCREASE IN THE ACCRUED LIABILITY BY MEANS OF
14 ANNUAL PAYMENTS THAT INCREASE EACH YEAR BASED ON ACTUARIAL
15 ASSUMPTIONS ADOPTED BY THE BOARD OF TRUSTEES ON THE RECOMMENDATION
16 OF THE ACTUARY.

17 (2) THE UNIVERSITY SYSTEM OF MARYLAND:

18 (I) SHALL PAY TO THE BOARD OF TRUSTEES THE AMOUNT
19 REQUIRED UNDER THIS SUBSECTION ON JULY 1 OF EACH YEAR UNTIL THE
20 INCREASE IN THE ACCRUED LIABILITY IS PAID IN FULL; AND

21 (II) MAY PREPAY ALL OR A PORTION OF THE INCREASE IN THE
22 ACCRUED LIABILITY IN ACCORDANCE WITH A CALCULATION APPROVED BY THE
23 BOARD OF TRUSTEES.

24 (J) (1) THE MEDICAL SYSTEM, AS DEFINED IN § 13-301(K) OF THE
25 EDUCATION ARTICLE, SHALL PAY AN ANNUAL ACCRUED LIABILITY CONTRIBUTION
26 EQUAL TO AN AMOUNT THAT IS SUFFICIENT TO LIQUIDATE, OVER NOT MORE THAN 5
27 YEARS, THE INCREASE IN THE ACCRUED LIABILITY DETERMINED UNDER §
28 21-304(D)(5) OF THIS SUBTITLE THAT IS ATTRIBUTABLE TO THE RETIREMENT OF
29 MEDICAL SYSTEM UNIVERSITY PERSONNEL, AS DEFINED IN § 13-301(Q) OF THE
30 EDUCATION ARTICLE, BY MEANS OF ANNUAL PAYMENTS THAT INCREASE EACH YEAR
31 BASED ON ACTUARIAL ASSUMPTIONS ADOPTED BY THE BOARD OF TRUSTEES ON THE
32 RECOMMENDATION OF THE ACTUARY.

33 (2) THE MEDICAL SYSTEM:

34 (I) SHALL PAY TO THE BOARD OF TRUSTEES THE AMOUNT
35 REQUIRED UNDER THIS SUBSECTION ON JULY 1 OF EACH YEAR UNTIL THE
36 INCREASE IN THE ACCRUED LIABILITY IS PAID IN FULL; AND

37 (II) MAY PREPAY ALL OR A PORTION OF THE INCREASE IN THE
38 ACCRUED LIABILITY IN ACCORDANCE WITH A CALCULATION APPROVED BY THE
39 BOARD OF TRUSTEES.

40 SECTION 2. AND BE IT FURTHER ENACTED, That:

1 (1) A Except as provided under subsection (2) of this section, a member
 2 of the Employees' Retirement System or the Employees' Pension System may retire if
 3 the member:

4 (i) submits a written application to the Board of Trustees from
 5 July 1, 1998 through August 31, 1998, inclusive;

6 (ii) is an employee of the University System of Maryland on June 1,
 7 1998;

8 (iii) is a member of the respective Retirement or Pension System on
 9 January 1, 1998, as reflected in the records of the State Retirement Agency; and

10 (iv) on or before June 30, 1999:

11 1. has at least 30 years of creditable service;

12 2. A. has at least 25 years of creditable service; and

13 B. is at least 50 years old; or

14 3. is otherwise eligible to retire under § 22-401, § 22-402, §
 15 23-401, or § 23-402 of the State Personnel and Pensions Article.

16 (2) A member of the Employees' Retirement System or the Employees'
 17 Pension System who is deemed a State employee for retirement purposes and who
 18 was an employee of the Medical System, as defined in § 13-301(k) of the Education
 19 Article, on January 1, 1997 and is separated from employment as a result of the
 20 elimination of the employee's position by the Medical System after January 1, 1998
 21 and before July 1, 1998 may retire if the member:

22 (i) Submits a written application to the Board of Trustees from
 23 June 1, 1998 through August 31, 1998, both inclusive;

24 (ii) Is a member of the respective system on January 1, 1998; and

25 (iii) On or before June 30, 1998 has at least 20 years of creditable
 26 service.

27 (3) (i) Except as otherwise provided in paragraph (ii) of this subsection
 28 and Section 7 of this Act, a member of the Employees' Retirement System or the
 29 Employees' Pension System who elects the early retirement incentive under this
 30 section shall retire on October 1, 1998.

31 (ii) An employee who has timely filed an application in accordance
 32 with subsection (1) of this section and who does not satisfy the eligibility
 33 requirements on or before October 1, 1998, shall retire on the first day of the month
 34 following the month in which the employee becomes eligible to retire under this Act.

35 ~~(3)~~ (4) (i) Except as provided in paragraph (ii) of this subsection, an
 36 application to retire under this section is irrevocable.

1 (ii) The Chancellor of the University System of Maryland may
 2 allow a member to revoke an application if that member has experienced extenuating
 3 circumstances since submitting the application, and the member submits a written
 4 request to the Chancellor for a revocation of the member's application.

5 (iii) If a member revokes an application for retirement that is
 6 allowed under paragraph (ii) of this subsection, the Chancellor of the University
 7 System of Maryland shall notify the Board of Trustees of the revocation not later than
 8 2 weeks after the revocation.

9 ~~(4)~~ (5) (i) Except as provided in paragraph (ii) of this subsection, a
 10 member who retires under this section shall receive an additional 1 month of credit
 11 for each full year of such member's creditable service.

12 (ii) For any part of a year of creditable service that is at least
 13 one-half of 1 year, the member shall receive an additional 1 month of credit.

14 (iii) A member's credit for unused sick leave may not be used to
 15 determine the member's creditable service that is used to compute the additional
 16 service credit under this paragraph.

17 ~~(5)~~ (6) (i) Except as provided in paragraphs (ii) and (iii) of this
 18 subsection, a member of the Employees' Retirement System who retires under this
 19 section shall receive a service retirement allowance equal to one fifty-fifth of the
 20 member's average final compensation multiplied by the sum of:

- 21 1. the member's creditable service; and
- 22 2. the additional credit described in subsection ~~(4)~~ (5) of this
 23 section.

24 (ii) If a member has less than 30 years of ~~creditable~~ creditable eligibility
 25 service and is less than 60 years old, the member's retirement allowance computed
 26 under ~~paragraph (i)~~ paragraphs (i) and (iii) of this subsection shall be:

- 27 1. reduced by the lesser of 0.5% for each month by which the
 28 member's date of retirement precedes the earlier of the date the member would be 60
 29 years old or the date the member would have completed 30 years of ~~creditable~~
 30 creditable eligibility service, ~~not including the credit described in subsection (4) (5) of this~~
 31 ~~section~~, or 30%; and

- 32 2. increased by the lesser of 18% or the amount of the
 33 reduction under subparagraph 1 of this paragraph.

34 (iii) A member of the Employees' Retirement System who is subject
 35 to Selection C (Combination formula) shall receive a service retirement allowance:

- 36 1. for creditable service before July 1, 1984, as provided in
 37 paragraph (i) of this subsection; and

1 2. for creditable service from July 1, 1984, as provided in
2 subsection ~~(6)~~ (7) of this section.

3 ~~(6)~~ (7) (i) Except as provided in paragraphs (ii) and (iii) of this
4 subsection, a member of the Employees' Pension System who retires under this
5 section shall receive a service retirement allowance equal to the sum of the member's
6 creditable service and the additional credit described in subsection ~~(4)~~ (5) of this
7 section multiplied by:

8 1. 0.8% of the member's average final compensation that is
9 not in excess of the Social Security integration level; and

10 2. 1.5% of the member's average final compensation that
11 exceeds the Social Security integration level.

12 (ii) If a member has less than 30 years of creditable eligibility
13 service, ~~not including the credit described in subsection (4) of this section~~, and is less
14 than 62 years old, the member's retirement allowance computed under paragraph (i)
15 of this subsection shall be:

16 1. reduced by the lesser of 0.5% for each month by which the
17 member's date of retirement precedes the date the member would be 62 years old, or
18 42%; and

19 2. increased by the lesser of 18% or the amount of the
20 reduction under subparagraph 1 of this paragraph.

21 (iii) If a member's retirement is delayed under Section 7 of this Act,
22 the member shall receive the greater of a service retirement allowance computed
23 under paragraphs (i) and (ii) of this subsection as of the retirement date or a service
24 retirement allowance that is equal to the sum of the member's creditable service as of
25 October 1, 1998 and the additional credit described in subsection ~~(4)~~ (5) of this section
26 as of October 1, 1998:

27 1. multiplied by 0.8% of the member's average final
28 compensation that is not in excess of the Social Security integration level that is in
29 effect on October 1, 1998;

30 2. multiplied by 1.5% of the member's average final
31 compensation that exceeds the Social Security integration level that is in effect on
32 October 1, 1998; and

33 3. if, as of October 1, 1998, the member has less than 30
34 years of creditable eligibility service and is less than 62 years old, the member's
35 retirement allowance computed under items 1 and 2 of this paragraph shall be:

36 A. reduced by the lesser of 0.5% for each month by which
37 October 1, 1998 precedes the date the member would be 62 years old or 42%; and

1 B. increased by the lesser of 18% or the amount of the
2 reduction under item A of this item.

3 ~~(7)~~ (8) The Board of Trustees:

4 (i) may adopt regulations to carry out this section; and

5 (ii) may not accept an application for retirement under this section
6 of the Act that:

7 1. is filed with the State Retirement Agency after 5:00 p.m.
8 on August 31, 1998; or

9 2. is other than the SRA130-98, entitled Application to
10 Retire with Incentive.

11 ~~(8)~~ (9) A member who retires under this section may not receive a basic
12 allowance that exceeds the member's average final compensation.

13 ~~(9)~~ (10) Except as provided in subsection ~~(10)~~ (11) of this section, if the
14 member dies prior to the effective date of retirement, an application to retire in
15 accordance with the provisions of this section shall be void and of no effect, and the
16 benefits payable on the member's account shall be computed as if the application had
17 not been filed.

18 ~~(10)~~ (11) Notwithstanding any other provision of law, if an employee
19 whose effective retirement date is delayed under Section 7 of this Act dies before the
20 effective date of retirement, the employee's designated beneficiary shall have the
21 option of receiving either the death benefit under Title 29, Subtitle 2 of the State
22 Personnel and Pensions Article, including, if the designated beneficiary is eligible for
23 an Option 2 allowance, an Option 2 allowance based on a retirement allowance
24 computed as provided under this Act, or the retirement benefit based on the
25 retirement allowance that the designated beneficiary would otherwise be entitled to
26 receive in accordance with the member's application for retirement.

27 ~~(11)~~ (12) Notwithstanding any other provision of law, if an employee
28 whose retirement date is delayed under Section 7 of this Act becomes disabled before
29 the effective date of retirement, then the employee shall have the option of revoking
30 the employee's application to retire under this Act.

31 SECTION 3. AND BE IT FURTHER ENACTED, That:

32 (1) A member of the Employees' Retirement System or the Employees'
33 Pension System who retires under this Act may not become reemployed in a
34 temporary or contractual position with the Executive Branch of the State government
35 unless the reemployment is approved by the Board of Public Works.

36 (2) No more than 2% of the total number of members of the Employees'
37 Retirement System and the Employees' Pension System who elect to retire under this

1 Act may be reemployed in a contractual or temporary position in any branch of State
2 government.

3 (3) The Board of Public Works may not approve the reemployment in a
4 temporary or contractual position in the Executive Branch of State government of a
5 member of the Employees' Retirement System or the Employees' Pension System who
6 retires under this Act, if that reemployment would result in more than 2% of such
7 members who retired under this Act being reemployed in a temporary or contractual
8 position with the State.

9 SECTION 4. AND IT BE FURTHER ENACTED, That:

10 (1) On or before November 1, 1998, the Board of Public Works shall
11 eliminate the number of positions from the Fiscal Year 1999 State budget that is
12 equivalent to at least 60% of the number of positions in the State budget of the
13 University System of Maryland that are vacated by individual members of the
14 Employees' Retirement System or the Employees' Pension System who retire on
15 October 1, 1998 under Section 2(1) of this Act, and shall eliminate a number of
16 positions from the proposed Fiscal Year 2000 State budget that is equivalent to at
17 least 60% of the number of positions in the State budget of the University System of
18 Maryland to be vacated by individual members of the Employees' Retirement System
19 or the Employees' Pension System who retire after October 1, 1998 under Section 2(1)
20 of this Act.

21 (2) On or before December 1, 1998, the Chancellor of the University
22 System of Maryland shall determine and certify to the Department of Budget and
23 Management which positions are to be eliminated from the University System of
24 Maryland administration and from each constituent institution of the University
25 System of Maryland.

26 (3) The positions in the State budget of the University System of
27 Maryland eliminated in accordance with subsection (1) of this section shall result in a
28 total reduction in general funds that is equal to at least 60% of the total salaries and
29 fringe benefits of the positions eliminated under this Act.

30 SECTION 5. AND BE IT FURTHER ENACTED, That:

31 (1) In this section, "net salary savings" means the amount of an
32 appropriation of State general funds for the University System of Maryland that is
33 saved as a result of the elimination of positions under Section 4 of this Act, less the
34 amounts paid by the State for unused annual leave for individuals who retire under
35 this Act multiplied by the percent of general funds reduced in accordance with Section
36 4(3) of this Act, which percent shall be at least 60%.

37 (2) On or before January 1, 1999 for Fiscal Year 1999, the Chancellor of
38 the University System of Maryland shall determine the net salary savings under this
39 Act, and the Governor, subject to the approval of the Board of Public Works, shall
40 reduce the State appropriation for the University System of Maryland by the amount
41 of such net salary savings.

1 (3) A copy of the amended appropriation for the University System of
2 Maryland shall be sent to the Governor, the Comptroller, the Secretary of Budget and
3 Management, the Department of Legislative Services, and the University System of
4 Maryland.

5 SECTION 6. AND BE IT FURTHER ENACTED, That in accordance with §
6 2-1246 of the State Government Article:

7 (1) On or before January 1, 1999, the State Retirement Agency shall
8 report to the General Assembly on the total number of State employees who have
9 elected retirement under this Act.

10 (2) On or before November 1, 1998, and in the executive budget
11 submission for Fiscal Year 2000, the University System of Maryland shall submit to
12 the Department of Budget and Management, the budget committees, and the
13 Spending Affordability Committee of the General Assembly:

14 (i) the number of employees and the salaries of the employees of
15 the University System of Maryland administration and of each constituent institution
16 of the University System of Maryland who retire under this Act;

17 (ii) a list of the positions and the salary and fringe benefits for the
18 positions that are eliminated under this Act;

19 (iii) a schedule of the total number of positions, as of June 30, 1998,
20 for the University System of Maryland administration and for each constituent
21 institution of the University System of Maryland and the number of positions that are
22 eliminated pursuant to this Act; and

23 (iv) a list of the reductions in appropriations under this Act.

24 (3) On or before August 1, 1999, the University System of Maryland shall
25 submit to the Department of Budget and Management, the budget committees, and
26 the Spending Affordability Committee of the General Assembly a list of the positions
27 and the salary and fringe benefits for the positions to be eliminated in the State
28 budget or by budget amendment after September 30, 1998 and before July 1, 1999.

29 SECTION 7. AND BE IT FURTHER ENACTED, That prior to September 15,
30 1998, the president of each constituent institution of the University System of
31 Maryland shall review the positions of those members of the Employees' Retirement
32 System or the Employees' Pension System who have elected early retirement under
33 this Act, and shall determine whether the institution's needs and mission require the
34 delay of retirement for some of these members. In the event that the president
35 determines that such delay is required, the retirement for members identified by the
36 president shall be delayed until no later than June 30, 1999. In no event shall the
37 number of persons whose retirement is delayed exceed 50% of each institution's
38 employees who are members of the Employees' Retirement System or the Employees'
39 Pension System who have elected to retire under this Act. The Chancellor of the
40 University System of Maryland shall notify the Board of Trustees by September 15,
41 1998 of those employees whose retirement date will be delayed under this section, and

1 shall provide the retirement date for those employees. The retirement date of any
2 employee whose retirement date is delayed under this section of this Act shall be on
3 the first day of a month and shall be no later than July 1, 1999.

4 SECTION 8. AND BE IT FURTHER ENACTED, That:

5 (1) If a retiree who elected the early retirement incentive pursuant to
6 this Act is reemployed in a permanent, temporary, or contractual position with the
7 ~~State participating employer~~, the retiree's retirement allowance shall be reduced by
8 the amount that the sum of the retiree's annual compensation and the retiree's
9 annual basic allowance at the time of retirement, including the incentive provided by
10 this Act, exceeds the average final compensation used to compute the basic allowance.

11 (2) If a member who applies to retire under this Act applies to purchase
12 service credit under § 22-304, § 22-305, § 22-307, or § 23-308 of the State Personnel
13 and Pensions Article, the member shall pay before the effective date of retirement the
14 amount required to purchase the service credit.

15 SECTION 9. AND BE IT FURTHER ENACTED, That, for all purposes relevant
16 to this Act, the Chancellor of the University System of Maryland shall perform all
17 functions for the University System of Maryland administration, which functions are
18 performed by the president of each constituent institution of the University System of
19 Maryland for such institution.

20 SECTION 10. AND BE IT FURTHER ENACTED, That for those employees who
21 have been separated from employment because their positions have been eliminated
22 by the Medical System at any time after January 1, 1998 and before July 1, 1998, and
23 who do not retire under this Act, the Medical System shall pay the entire cost of
24 health insurance premiums for those employees to continue the health insurance the
25 employees received while employed by the Medical System, for a period of 12 months
26 following the month of termination, or until those former employees are covered by
27 another employer subsidized health insurance plan through another employer,
28 whichever comes first.

29 ~~SECTION 11.~~ AND BE IT FURTHER ENACTED, That it is the intent of the
30 General Assembly that the retirement incentive applicable to employees who
31 voluntarily separate from State service by participating in the early retirement
32 program established under this Act does not represent an ongoing policy of the State
33 and is a one-time offer only.

34 SECTION 12. AND BE IT FURTHER ENACTED, That it is the intent of the
35 General Assembly that the retirement incentive under this Act that is applicable to
36 employees of the Medical System who are separated from employment does not
37 represent an ongoing policy of the State and is a one-time offer only.

38 ~~SECTION 13.~~ AND BE IT FURTHER ENACTED, That general funds shall
39 be allocated to pay the administrative costs associated with this Act incurred by the
40 State Retirement Agency for members of the Employees' Retirement System or
41 Employees' Pension System whose positions are supported in whole or in part by the
42 State general funds and who retire under this Act. The University System of

1 Maryland shall be responsible for all other administrative costs incurred by the State
2 Retirement Agency in implementing this Act, including, but not limited to, the costs
3 associated with processing retirement applications, of members of the Employees'
4 Retirement System or the Employees' Pension System whose positions are not State
5 supported and who retire under this Act.

6 SECTION ~~12~~ 14. AND BE IT FURTHER ENACTED, That this Act shall take
7 effect June 1, 1998.