

SENATE BILL 771

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K4

1999 Regular Session  
9lr2607  
CF HB 1087

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By: **Senator Conway**

Introduced and read first time: March 4, 1999

Assigned to: Rules

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A BILL ENTITLED

1 AN ACT concerning

2 **St. Mary's College and Morgan State University - Workforce Flexibility Act**

3 FOR the purpose of allowing certain State employees of St. Mary's College and  
4 Morgan State University who are members of the Employees' Retirement  
5 System or the Employees' Pension System to retire early with a service  
6 retirement allowance during a certain period of time under certain  
7 circumstances; authorizing the Board of Trustees for the State Retirement and  
8 Pension System to adopt certain regulations providing for the benefits on early  
9 retirement under this Act; altering the conditions under which a member who  
10 retires under this Act may become reemployed by certain employers; requiring  
11 the president of each institution to notify the Board of Trustees if a member  
12 revokes an application for retirement under this Act; providing for a certain  
13 choice of death benefits to a designated beneficiary if an employee dies under  
14 certain circumstances; providing for the funding of certain retirement and  
15 pension costs under this Act; providing for the delay of the effective date for  
16 certain employees to retire under this Act until a certain date; requiring  
17 notification to the Board of Trustees of certain information by a certain date;  
18 making the election to retire under this Act irrevocable except under certain  
19 circumstances; providing that unused sick leave may not be used to determine  
20 eligibility for the incentive provided for under this Act or to determine the  
21 amount of the incentive provided for under this Act; providing that the  
22 application for retirement shall be void if a member dies prior to the effective  
23 date of retirement under certain circumstances; requiring St. Mary's College  
24 and Morgan State University to submit before a certain date a report to  
25 specified State agencies and certain committees of the General Assembly;  
26 declaring the intent of the General Assembly; providing for the effective date of  
27 this Act; and generally relating to the separation from employment and  
28 retirement of certain members of the Employees' Retirement System and the  
29 Employees' Pension System.

30 BY adding to

31 Article - State Personnel and Pensions  
32 Section 21-304(d)(7) and 21-307(k) and (l)  
33 Annotated Code of Maryland  
34 (1997 Replacement Volume and 1998 Supplement)

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

3 **Article - State Personnel and Pensions**

4 21-304.

5 (d) (7) IF THE ACCRUED LIABILITY IS INCREASED BY LEGISLATION  
6 EFFECTIVE JUNE 1, 1999, THAT PROVIDES FOR THE EARLY RETIREMENT OF  
7 EMPLOYEES OF ST. MARY'S COLLEGE AND MORGAN STATE UNIVERSITY WHO ARE  
8 MEMBERS OF THE EMPLOYEES' PENSION SYSTEM OR THE EMPLOYEES' RETIREMENT  
9 SYSTEM, THE ADDITIONAL LIABILITY SHALL BE DETERMINED BY THE ACTUARY AND  
10 FUNDED OVER A PERIOD OF 5 YEARS BEGINNING ON JULY 1, 2000, BY PAYMENT OF  
11 ANNUAL ACCRUED LIABILITY CONTRIBUTIONS BY ST. MARY'S COLLEGE AND  
12 MORGAN STATE UNIVERSITY AS PROVIDED IN § 21-307(K) AND (L) OF THIS SUBTITLE.  
13 21-307.

14 (K) (1) ST. MARY'S COLLEGE SHALL PAY AN ANNUAL ACCRUED LIABILITY  
15 CONTRIBUTION EQUAL TO AN AMOUNT THAT IS SUFFICIENT TO LIQUIDATE, OVER  
16 NOT MORE THAN 5 YEARS, THE INCREASE IN THE ACCRUED LIABILITY DETERMINED  
17 UNDER § 21-304(D)(7) OF THIS SUBTITLE THAT IS ATTRIBUTABLE TO THE  
18 RETIREMENT OF EMPLOYEES OF ST. MARY'S COLLEGE, BY MEANS OF ANNUAL  
19 PAYMENTS THAT INCREASE EACH YEAR BASED ON ACTUARIAL ASSUMPTIONS  
20 ADOPTED BY THE BOARD OF TRUSTEES ON THE RECOMMENDATION OF THE  
21 ACTUARY.

22 (2) ST. MARY'S COLLEGE:

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

26 (II) MAY PREPAY ALL OR A PORTION OF THE INCREASE IN THE  
27 ACCRUED LIABILITY IN ACCORDANCE WITH A CALCULATION APPROVED BY THE  
28 BOARD OF TRUSTEES.

29 (L) (1) MORGAN STATE UNIVERSITY SHALL PAY AN ANNUAL ACCRUED  
30 LIABILITY CONTRIBUTION EQUAL TO AN AMOUNT THAT IS SUFFICIENT TO  
31 LIQUIDATE, OVER NOT MORE THAN 5 YEARS, THE INCREASE IN THE ACCRUED  
32 LIABILITY DETERMINED UNDER § 21-304(D)(7) OF THIS SUBTITLE THAT IS  
33 ATTRIBUTABLE TO THE RETIREMENT OF EMPLOYEES OF MORGAN STATE  
34 UNIVERSITY BY MEANS OF ANNUAL PAYMENTS THAT INCREASE EACH YEAR BASED  
35 ON ACTUARIAL ASSUMPTIONS ADOPTED BY THE BOARD OF TRUSTEES ON THE  
36 RECOMMENDATION OF THE ACTUARY.

37 (2) MORGAN STATE UNIVERSITY:

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

4 (II) MAY PREPAY ALL OR A PORTION OF THE INCREASE IN THE  
5 ACCRUED LIABILITY IN ACCORDANCE WITH A CALCULATION APPROVED BY THE  
6 BOARD OF TRUSTEES.

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

8 (a) A member of the Employees' Retirement System or the Employees' Pension  
9 System may retire if the member:

10 (1) submits a written application to the Board of Trustees from July 1,  
11 1999 through August 31, 1999, inclusive;

12 (2) is an employee of St. Mary's College or Morgan State University on  
13 June 1, 1999;

14 (3) is a member of the Employees' Retirement System or Employees'  
15 Pension System on January 1, 1998, as reflected in the records of the State  
16 Retirement Agency; and

17 (4) on or before June 30, 2000:

18 (i) has at least 30 years of creditable service;

19 (ii) 1. has at least 25 years of creditable service; and

20 2. is at least 50 years old; or

21 (iii) is otherwise eligible to retire under § 22-401, § 22-402, §  
22 23-401, or § 23-402 of the State Personnel and Pensions Article.

23 (b) (1) Except as otherwise provided in paragraph (2) of this subsection and  
24 Section 7 of this Act, a member of the Employees' Retirement System or the  
25 Employees' Pension System who elects the early retirement incentive under this  
26 section shall retire on October 1, 1999.

27 (2) An employee who has timely filed an application in accordance with  
28 subsection (a) of this section and who does not satisfy the eligibility requirements on  
29 or before October 1, 1999, shall retire on the first day of the month following the  
30 month in which the employee becomes eligible to retire under this Act.

31 (c) (1) Except as provided in paragraph (2) of this subsection, an application  
32 to retire under this section is irrevocable.

33 (2) The President of St. Mary's College or the President of Morgan State  
34 University may allow a member to revoke an application if that member has  
35 experienced extenuating circumstances since submitting the application, and the

1 member submits a written request to the appropriate president for a revocation of the  
2 member's application.

3 (3) If a member revokes an application for retirement that is allowed  
4 under paragraph (2) of this subsection, the President of St. Mary's College or the  
5 President of Morgan State University shall notify the Board of Trustees of the  
6 revocation not later than 2 weeks after the revocation.

7 (d) (1) Except as provided in paragraph (2) of this subsection, a member who  
8 retires under this section shall receive an additional 1 month of credit for each full  
9 year of such member's creditable service.

10 (2) For any part of a year of creditable service that is at least one-half of  
11 1 year, the member shall receive an additional 1 month of credit.

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

15 (e) (1) Except as provided in paragraphs (2) and (3) of this subsection, a  
16 member of the Employees' Retirement System who retires under this section shall  
17 receive a service retirement allowance equal to one fifty-fifth of the member's  
18 average final compensation multiplied by the sum of:

19 (i) the member's creditable service; and

20 (ii) the additional credit described in subsection (d) of this section.

21 (2) If a member has less than 30 years of eligibility service and is less  
22 than 60 years old, the member's retirement allowance computed under paragraphs (1)  
23 and (3) of this subsection shall be:

24 (i) reduced by the lesser of 0.5% for each month by which the  
25 member's date of retirement precedes the earlier of the date the member would be 60  
26 years old or the date the member would have completed 30 years of eligibility service  
27 or 30%; and

28 (ii) increased by the lesser of 18% or the amount of the reduction  
29 under item (i) of this paragraph.

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

32 (i) for creditable service before July 1, 1984, as provided in  
33 paragraph (1) of this subsection; and

34 (ii) for creditable service from July 1, 1984, as provided in  
35 subsection (f) of this section.

1 (f) (1) Except as provided in paragraphs (2) and (3) of this subsection, a  
2 member of the Employees' Pension System who retires under this section shall  
3 receive a service retirement allowance equal the sum of:

4 (i) the number of years of the members creditable service on or  
5 after July 1, 1998, plus the months of additional credit described in subsection (d) of  
6 this section that is attributable to service on or after July 1, 1998, multiplied by 1.4%  
7 of the member's average final compensation; and

8 (ii) the greater of:

9 1. the product obtained by multiplying:

10 A. the number of years of the member's creditable service on  
11 or before June 30, 1998, plus the additional credit described in subsection (d) of this  
12 section that is attributable to service on or before June 30, 1998; and

13 B. 1.2% of the member's average final compensation; or

14 2. the product obtained by multiplying:

15 A. the number of years of the member's creditable service on  
16 or before June 30, 1998, plus the additional credit described in subsection (d) of this  
17 section that is attributable to service on or before June 30, 1998; and

18 B. 0.8% of the member's average final compensation that is  
19 not in excess of the Social Security integration level and 1.5% of the member's  
20 average final compensation that exceeds the Social Security integration level.

21 (2) Except as provided in paragraph (3) of this subsection, a member of  
22 the Employees' Pension System who transferred from the Employees' Retirement  
23 System after April 1, 1998, and who retires under this section shall receive a service  
24 retirement allowance equal to the sum of the member's creditable service and the  
25 additional credit described in subsection (d) of this section multiplied by:

26 (i) 0.8% of the member's average final compensation that is not in  
27 excess of the Social Security integration level; and

28 (ii) 1.5% of the member's average final compensation that exceeds  
29 the Social Security integration level.

30 (3) If a member has less than 30 years of eligibility service and is less  
31 than 62 years old, the member's retirement allowance computed under paragraph (1)  
32 or paragraph (2) of this subsection shall be:

33 (i) reduced by the lesser of 0.5% for each month by which the  
34 member's date of retirement precedes the date the member would be 62 years old, or  
35 42%; and

1 (ii) increased by the lesser of 18% or the amount of the reduction  
2 under item 1 of this paragraph.

3 (g) The Board of Trustees:

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

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

7 A. is filed with the State Retirement Agency after 5:00 p.m. on  
8 August 31, 1999; or

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

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

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

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

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

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

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

35 (b) No more than 2% of the total number of members of the Employees'  
36 Retirement System and the Employees' Pension System who elect to retire under this  
37 Act may be reemployed in a contractual or temporary position in any branch of State  
38 government.

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

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

8 (a) On or before November 1, 1999, the Board of Public Works shall eliminate  
9 the number of positions from the Fiscal Year 2000 State budget that is equivalent to  
10 at least 60% of the number of positions in the State budget of St. Mary's College and  
11 Morgan State University, respectively, that are vacated by individual members of the  
12 Employees' Retirement System or the Employees' Pension System who retire on  
13 October 1, 1999, under Section 2(a) of this Act, and shall eliminate a number of  
14 positions from the proposed Fiscal Year 2001 State budget that is equivalent to at  
15 least 60% of the number of positions in the State budget of St. Mary's College and  
16 Morgan State University, respectively, to be vacated by individual members of the  
17 Employees' Retirement System or the Employees' Pension System who retire after  
18 October 1, 1999, under Section 2(a) of this Act.

19 (b) On or before December 1, 1999, the President of St. Mary's College and the  
20 President of Morgan State University shall determine and certify to the Department  
21 of Budget and Management which positions are to be eliminated from St. Mary's  
22 College and Morgan State University, respectively.

23 (c) The positions in the State budget of St. Mary's College and Morgan State  
24 University eliminated in accordance with subsection (a) of this section shall result in  
25 a total reduction in general funds that is equal to at least 60% of the total salaries and  
26 fringe benefits of the positions eliminated under this Act.

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

28 (a) In this section, "net salary savings" means the amount of an appropriation  
29 of State general funds for St. Mary's College and Morgan State University that is  
30 saved as a result of the elimination of positions under Section 4 of this Act, less the  
31 amounts paid by the State for unused annual leave for individuals who retire under  
32 this Act multiplied by the percent of general funds reduced in accordance with Section  
33 4(c) of this Act, which percent shall be at least 60%.

34 (b) On or before January 1, 2000, for Fiscal Year 2000, the President of St.  
35 Mary's College and the President of Morgan State University shall determine the net  
36 salary savings under this Act for each respective institution, and the Governor,  
37 subject to the approval of the Board of Public Works, shall reduce the State  
38 appropriations for St. Mary's College and Morgan State University, respectively, by  
39 the amount of such net salary savings.

40 (c) A copy of the amended appropriations for St. Mary's College and Morgan  
41 State University shall be sent to the Governor, the Comptroller, the Secretary of

1 Budget and Management, the Department of Legislative Services, St. Mary's College,  
2 and Morgan State University.

3 SECTION 6. AND BE IT FURTHER ENACTED, That in accordance with §  
4 2-1246 of the State Government Article:

5 (1) On or before January 1, 2000, the State Retirement Agency shall  
6 report to the General Assembly on the total number of State employees who have  
7 elected retirement under this Act;

8 (2) On or before November 1, 1999, and in the executive budget  
9 submission for Fiscal Year 2001, St. Mary's College and Morgan State University  
10 shall submit to the Department of Budget and Management, the budget committees,  
11 and the Spending Affordability Committee of the General Assembly:

12 (i) the number of employees and the salaries of the employees of  
13 St. Mary's College and Morgan State University, respectively, who retire under this  
14 Act;

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

17 (iii) a schedule of the total number of positions, as of June 30, 1999,  
18 for St. Mary's College and Morgan State University and the number of positions that  
19 are eliminated pursuant to this Act; and

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

21 SECTION 7. AND BE IT FURTHER ENACTED, That prior to September 15,  
22 1999, the President of St. Mary's College and Morgan State University shall review  
23 the positions of those members of the Employees' Retirement System or the  
24 Employees' Pension System who have elected early retirement under this Act, and  
25 shall determine whether the institution's needs and mission require the delay of  
26 retirement for some of these members. In the event that the president determines  
27 that such delay is required, the retirement for members identified by the president  
28 shall be delayed until no later than June 30, 2000. In no event shall the number of  
29 persons whose retirement is delayed exceed 50% of each institution's employees who  
30 are members of the Employees' Retirement System or the Employees' Pension System  
31 who have elected to retire under this Act. The President of St. Mary's College and the  
32 President of Morgan State University shall notify the Board of Trustees by September  
33 15, 1999, of those employees whose retirement date will be delayed under this section,  
34 and shall provide the retirement date for those employees. The retirement date of any  
35 employee whose retirement date is delayed under this section of this Act shall be on  
36 the first day of a month and shall be no later than July 1, 2000.

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

38 (a) If a retiree who elected the early retirement incentive pursuant to this Act  
39 is reemployed in a permanent, temporary, or contractual position with the  
40 participating employer, the retiree's retirement allowance shall be reduced by the



1 amount that the sum of the retiree's annual compensation and the retiree's annual  
2 basic allowance at the time of retirement, including the incentive provided by this Act,  
3 exceeds the average final compensation used to compute the basic allowance.

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

8 SECTION 9. AND BE IT FURTHER ENACTED, That it is the intent of the  
9 General Assembly that the retirement incentive applicable to employees who  
10 voluntarily separate from State service by participating in the early retirement  
11 program established under this Act does not represent an ongoing policy of the State  
12 and is a one-time offer only.

13 SECTION 10. AND BE IT FURTHER ENACTED, That it is the intent of the  
14 General Assembly that the retirement incentive under this Act that is applicable to  
15 employees of St. Mary's College and Morgan State University who are separated from  
16 employment does not represent an ongoing policy of the State and is a one-time offer  
17 only.

18 SECTION 11. AND BE IT FURTHER ENACTED, That general funds shall be  
19 allocated to pay the administrative costs associated with this Act incurred by the  
20 State Retirement Agency for members of the Employees' Retirement System or  
21 Employees' Pension System whose positions are supported in whole or in part by the  
22 State general funds and who retire under this Act. St. Mary's College and Morgan  
23 State University shall be responsible for all other administrative costs incurred by the  
24 State Retirement Agency in implementing this Act, including, but not limited to, the  
25 costs associated with processing retirement applications, of members of the  
26 Employees' Retirement System or the Employees' Pension System whose positions are  
27 not State supported and who retire under this Act.

28 SECTION 12. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 June 1, 1999.