
By: **Delegates Eckardt, Guns, Walkup, Cane, Cole, McHale, Mitchell,
Conway, Rudolph, McClenahan, Schisler, W. Baker, and Rosenberg**
Introduced and read first time: February 8, 2001
Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Employees' Retirement and Pension Systems - Reemployment of Retirees -**
3 **Nurses**

4 FOR the purpose of exempting from a certain offset of a retirement allowance certain
5 retirees of the Employees' Retirement System or the Employees' Pension System
6 who are employed by the Department of Health and Mental Hygiene in certain
7 State facilities under certain circumstances; exempting from certain
8 reemployment restrictions certain retirees of the Employees' Retirement System
9 or the Employees' Pension System who are employed by the Department of
10 Health and Mental Hygiene in certain State facilities under certain
11 circumstances; requiring the Department of Health and Mental Hygiene to
12 provide certain information to the State Retirement Agency; and generally
13 relating to the reemployment of retirees of the Employees' Retirement System or
14 the Employees' Pension System.

15 BY repealing and reenacting, with amendments,
16 Chapter 353 of the Acts of the General Assembly of 1996
17 Section 3

18 BY repealing and reenacting, with amendments,
19 Chapter 736 of the Acts of the General Assembly of 1997
20 Section 3

21 BY repealing and reenacting, without amendments,
22 Article - State Personnel and Pensions
23 Section 21-304
24 Annotated Code of Maryland
25 (1997 Replacement Volume and 2000 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article - State Personnel and Pensions
28 Section 22-406 and 23-407
29 Annotated Code of Maryland

1 (1997 Replacement Volume and 2000 Supplement)

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

4 **Article - State Personnel and Pensions**

5 21-304.

6 (a) In this section, "State member" does not include a member on whose behalf
7 a participating governmental unit is required to make an employer contribution
8 under § 21-305 or § 21-306 of this subtitle.

9 (b) (1) Each fiscal year, on behalf of the State members of each State system,
10 the State shall pay to the appropriate accumulation fund an amount equal to or
11 greater than the product of multiplying:

12 (i) the aggregate annual earnable compensation of the State
13 members of that State system; and

14 (ii) the sum of the normal contribution rate and the accrued
15 liability contribution rate, as determined under this section.

16 (2) The amount determined under paragraph (1) of this subsection for
17 each State system shall be based on an actuarial determination of the amounts that
18 are required to preserve the integrity of the funds of the several systems using:

19 (i) the entry-age actuarial cost method; and

20 (ii) actuarial assumptions adopted by the Board of Trustees.

21 (3) For the purpose of making the determinations required under this
22 section:

23 (i) the Employees' Retirement System and the Employees' Pension
24 System shall be considered together as one State system; and

25 (ii) the Teachers' Retirement System and the Teachers' Pension
26 System shall be considered together as one State system.

27 (c) (1) As part of each actuarial valuation, the actuary shall determine the
28 normal contributions, net of member contributions, on account of the State members
29 of each State system.

30 (2) For each State system, the normal contribution rate equals the
31 fraction that has:

32 (i) as its numerator, the sum of the normal contributions
33 determined under this subsection; and

1 (ii) as its denominator, the aggregate annual earnable
2 compensation of the State members of the State system.

3 (d) (1) For each State system, the accrued liability contribution rate shall be
4 computed as the percent of the aggregate annual earnable compensation of the State
5 members of that State system that is sufficient to liquidate over 40 years beginning
6 July 1, 1980, the amount, as of June 30, 1980, by which the total liabilities of that
7 State system on account of State members exceeded the sum of:

8 (i) the assets of the accumulation fund and the annuity savings
9 fund of that State system, other than assets to the credit of the participating
10 governmental units; and

11 (ii) the present value of future normal contributions and future
12 member contributions to that State system on behalf of or by State members.

13 (2) On the recommendation of the actuary, the Board of Trustees may
14 adjust the accrued liability contribution rates to reflect, over the greater of 15 years or
15 the time remaining to amortize the accrued liability:

16 (i) experience gains and losses; and

17 (ii) the effect of changes in actuarial assumptions.

18 (3) Except as provided in paragraphs (4) and (5) of this subsection, if the
19 accrued liability is increased by legislation enacted after July 1, 1980, the additional
20 liability shall be funded over 30 years beginning on July 1 coincident with or next
21 following the effective date of the increase.

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

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

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

27 (5) If the accrued liability is increased by legislation effective July 1,
28 1998, that provides for changes in the method of computing the retirement allowance
29 of members of the Employees' Pension System or the Teachers' Pension System, the
30 additional liability shall be funded over a period of 20 years beginning on July 1,
31 1999.

32 (6) If the accrued liability is increased by legislation effective June 1,
33 1998, that provides for the early retirement of employees of the University System of
34 Maryland who are members of the Employees' Pension System or the Employees'
35 Retirement System, the additional liability shall be determined by the actuary and
36 funded over a period of 5 years beginning on July 1, 1999 by payment of an annual
37 accrued liability contribution by the University System of Maryland and the Medical
38 System as provided in § 21-307(i) and (j) of this subtitle.

1 22-406.

2 (a) Subject to subsection (b) of this section, an individual who is receiving a
3 service retirement allowance or vested allowance may accept employment with a
4 participating employer on a permanent, temporary, or contractual basis, without any
5 reduction in the allowance, if the individual immediately notifies the Board of
6 Trustees:

7 (1) of the individual's intention to accept the employment; and

8 (2) of the compensation that the individual will receive.

9 (b) (1) This subsection does not apply to:

10 (i) an individual who has been retired for more than 10 years;

11 (ii) an individual whose average final compensation was less than
12 \$10,000 and who is reemployed on a temporary or contractual basis;

13 (iii) an individual who is serving in an elected position as an official
14 of a participating governmental unit or as a constitutional officer for a county that is
15 a participating governmental unit;

16 (iv) a retiree of the Teachers' Retirement System:

17 1. who retired and was reemployed by a participating
18 employer other than the State on or before September 30, 1994; and

19 2. whose employment compensation does not derive, in whole
20 or in part, from State funds;

21 (v) a retiree of the Teachers' Retirement System who:

22 1. is or has been certified to teach in the State;

23 2. has verification of satisfactory or better performance in
24 the last assignment prior to retirement;

25 3. based on the retired teacher's qualifications, has been
26 appointed in accordance with § 4-103 of the Education Article;

27 4. A. retired with a normal service retirement allowance
28 under § 22-401 of this article; or

29 B. retired with an early service retirement allowance under §
30 22-402 of this article and has been retired for at least 12 months;

31 5. subject to item 6 of this item is employed as:

32 A. a substitute classroom teacher or substitute teacher
33 mentor in a public school that has been recommended for reconstitution, or has been

1 reconstituted, by the State Board of Education, until the public school meets the
2 standards for school performance set by the State Board of Education;

3 B. a classroom teacher or teacher mentor in a public school
4 that has been recommended for reconstitution, or has been reconstituted, by the State
5 Board of Education, until the public school meets the standards for school
6 performance set by the State Board of Education;

7 C. a classroom teacher or teacher mentor in a county or
8 subject area on a statewide basis in which the State Board of Education finds that
9 there is a shortage of teachers, until the State Board of Education finds the shortage
10 no longer exists in that county or subject area on a statewide basis; or

11 D. a substitute classroom teacher or substitute teacher
12 mentor in a county or subject area on a statewide basis in which the State Board of
13 Education finds that there is a shortage of teachers, until the State Board of
14 Education finds the shortage no longer exists in that county or subject area on a
15 statewide basis; and

16 6. receives verification of satisfactory or better performance
17 each year the teacher is employed under item 5 of this item;

18 (vi) a retiree of the Teachers' Retirement System who:

19 1. was employed as a principal within 5 years of retirement;

20 2. has verification of better than satisfactory performance in
21 the last assignment as a principal prior to retirement;

22 3. based on the retiree's qualifications, has been hired as a
23 principal;

24 4. A. retired with a normal service retirement allowance
25 under § 22-401 of this subtitle; or

26 B. retired with an early service retirement allowance under §
27 22-402 of this subtitle and has been retired for at least 12 months;

28 5. receives verification of better than satisfactory
29 performance each year the retiree is employed as a principal under item 3 of this
30 item; and

31 6. is not employed as a principal under item 3 of this item for
32 more than 4 years; [or]

33 (vii) a retiree of the Teachers' Retirement System:

34 1. who retired from a board of education or local school
35 system; and

1 (1) any public school that is recommended for reconstitution or has been
2 reconstituted;

3 (2) any public school that is no longer recommended for reconstitution or
4 is otherwise found to meet the standards for school performance set by the State
5 Board of Education after reconstitution or a recommendation for reconstitution;

6 (3) any county or subject area on a statewide basis in which the State
7 Board of Education finds there is a shortage of teachers; and

8 (4) a finding that there is no longer a shortage of teachers in a county or
9 subject area on a statewide basis.

10 (i) In addition to any regulations adopted in accordance with § 6-202 of the
11 Education Article, the State Board of Education shall adopt regulations concerning
12 the employment terms of retired teachers and personnel described in subsection
13 (b)(1)(vi) of this section.

14 (J) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL NOTIFY THE
15 STATE RETIREMENT AGENCY OF:

16 (1) A STATE FACILITY IN WHICH THE DEPARTMENT OF HEALTH AND
17 MENTAL HYGIENE FINDS THERE IS A SHORTAGE OF REGISTERED NURSES, LICENSED
18 PRACTICAL NURSES, OR CERTIFIED NURSING ASSISTANTS; AND

19 (2) A FINDING THAT THERE IS NO LONGER A SHORTAGE OF REGISTERED
20 NURSES, LICENSED PRACTICAL NURSES, OR CERTIFIED NURSING ASSISTANTS IN
21 THAT STATE FACILITY.

22 23-407.

23 (a) Subject to subsection (b) of this section, an individual who is receiving a
24 service retirement allowance or a vested allowance may accept employment with a
25 participating employer on a permanent, temporary, or contractual basis, without any
26 reduction in the allowance, if:

27 (1) the individual immediately notifies the Board of Trustees of the
28 individual's intention to accept this employment; and

29 (2) the individual specifies the compensation to be received.

30 (b) (1) This subsection does not apply to:

31 (i) an individual whose average final compensation was less than
32 \$10,000 and who is reemployed on a temporary or contractual basis;

33 (ii) an individual who is serving in an elected position as an official
34 of a participating governmental unit or as a constitutional officer for a county that is
35 a participating governmental unit;

36 (iii) a retiree of the Teachers' Pension System who:

1. is or has been certified to teach in the State;
2. has verification of satisfactory or better performance in
3 the last assignment prior to retirement;
3. based on the retired teacher's qualifications, has been
4 appointed in accordance with § 4-103 of the Education Article;
4. A. retired with a normal service retirement allowance
5 under § 23-401 of this article; or
6. B. retired with an early service retirement allowance under §
7 23-402 of this article and has been retired for at least 12 months;
5. subject to item 6 of this item is employed as:
 8. A. a substitute classroom teacher or substitute teacher
9 mentor in a public school that has been recommended for reconstitution, or has been
10 reconstituted, by the State Board of Education, until the public school meets the
11 standards for school performance set by the State Board of Education;
 12. B. a classroom teacher or teacher mentor in a public school
13 that has been recommended for reconstitution, or has been reconstituted, by the State
14 Board of Education, until the public school meets the standards for school
15 performance set by the State Board of Education;
 16. C. a classroom teacher or teacher mentor in a county or
17 subject area on a statewide basis in which the State Board of Education finds that
18 there is a shortage of teachers, until the State Board of Education finds the shortage
19 no longer exists in that county or subject area on a statewide basis; or
 20. D. a substitute classroom teacher or substitute teacher
21 mentor in a county or subject area on a statewide basis in which the State Board of
22 Education finds that there is a shortage of teachers, until the State Board of
23 Education finds the shortage no longer exists in that county or subject area on a
24 statewide basis; and
6. receives verification of satisfactory or better performance
25 each year the teacher is employed under item 5 of this item; [or]
 26. (iv) a retiree of the Teachers' Pension System who:
 27. 1. was employed as a principal within 5 years of retirement;
 28. 2. has verification of better than satisfactory performance in
29 the last assignment as a principal prior to retirement;
 30. 3. based on the retiree's qualifications, has been hired as a
31 principal;

1 (2) At least once each year, in a format specified by the State Retirement
2 Agency, each participating employer shall provide the State Retirement Agency with
3 a list of all employees included on any payroll of the employer, the Social Security
4 numbers of the employees, and their earnings for that year.

5 (g) The county boards of education shall notify the State Retirement Agency of
6 any retired teachers who qualify under subsection (b)(1)(iii) of this section or any
7 personnel who qualify under subsection (b)(1)(iv) of this section.

8 (h) The State Board of Education shall notify the county boards of education
9 of:

10 (1) any public school that is recommended for reconstitution or has been
11 reconstituted;

12 (2) any public school that is no longer recommended for reconstitution or
13 is otherwise found to meet the standards for school performance set by the State
14 Board of Education after reconstitution or a recommendation for reconstitution;

15 (3) any county or subject area on a statewide basis in which the State
16 Board of Education finds there is a shortage of teachers; and

17 (4) a finding that there is no longer a shortage of teachers in a county or
18 subject area on a statewide basis.

19 (i) In addition to any regulations adopted in accordance with § 6-202 of the
20 Education Article, the State Board of Education shall adopt regulations concerning
21 the employment terms of retired teachers and personnel described in subsection
22 (b)(1)(iv) of this section.

23 (J) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE SHALL NOTIFY THE
24 STATE RETIREMENT AGENCY OF:

25 (1) A STATE FACILITY IN WHICH THE DEPARTMENT OF HEALTH AND
26 MENTAL HYGIENE FINDS THERE IS A SHORTAGE OF REGISTERED NURSES, LICENSED
27 PRACTICAL NURSES, OR CERTIFIED NURSING ASSISTANTS; AND

28 (2) A FINDING THAT THERE IS NO LONGER A SHORTAGE OF REGISTERED
29 NURSES, LICENSED PRACTICAL NURSES, OR CERTIFIED NURSING ASSISTANTS IN
30 THAT STATE FACILITY.

31 **Chapter 353 of the Acts of 1996**

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

33 (1) THIS SECTION OF THIS ACT DOES NOT APPLY TO A RETIREE OF THE
34 EMPLOYEES' RETIREMENT SYSTEM OR THE EMPLOYEES' PENSION SYSTEM WHO IS
35 REEMPLOYED IN A PERMANENT, TEMPORARY, OR CONTRACTUAL POSITION AS A
36 REGISTERED NURSE, A LICENSED PRACTICAL NURSE, OR A CERTIFIED NURSING
37 ASSISTANT IN A STATE FACILITY IN WHICH THE DEPARTMENT OF HEALTH AND

1 MENTAL HYGIENE FINDS THAT THERE IS A SHORTAGE OF REGISTERED NURSES,
2 LICENSED PRACTICAL NURSES, OR CERTIFIED NURSING ASSISTANTS UNTIL THE
3 DEPARTMENT OF HEALTH AND MENTAL HYGIENE FINDS THE SHORTAGE NO LONGER
4 EXISTS IN THAT STATE FACILITY.

5 [(1)] (2) A retiree who retires under this Act may not become reemployed
6 in a temporary or contractual position with the state, unless the reemployment is
7 approved by:

8 (i) The Board of Public Works, for a position not in the Legislative
9 Branch of State government; or

10 (ii) The President of the Senate and Speaker of the House of
11 Delegates, for a position in the Legislative Branch of State government;

12 [(2)] (3) If a retiree who retires under this Act is reemployed in a
13 permanent, temporary, or contractual position with a participating employer, in
14 addition to any other reduction in the retiree's retirement allowance required under
15 State law, the retiree's retirement allowance shall be reduced by the amount it
16 exceeds the retirement allowance the retiree would otherwise have received;

17 [(3)] (4) No more than 2% of the total number of employees retiring
18 under this Act may be reemployed in a contractual or temporary position in any
19 branch of State government;

20 [(4)] (5) The Board of Public Works may not approve the reemployment
21 in a temporary or contractual position in the Executive Branch of State government of
22 an employee who retires under this Act, if that reemployment would result in more
23 than 2% of the retirees who retired under this Act being reemployed in a temporary or
24 contractual position with the State;

25 [(5)] (6) The President of the Senate and the Speaker of the House of
26 Delegates may not approve the reemployment in a temporary or contractual position
27 in the Legislative Branch of State government of an employee who retires under this
28 Act, if that reemployment would result in more than 2% of the retirees who retired
29 under this Act being reemployed in a temporary or contractual position with the
30 State;

31 [(6)] (7) The Department of Budget and Fiscal Planning shall review the
32 applications for reemployment as contractual or temporary employees under this Act
33 and shall advise the Board of Public Works if the reemployment of an individual will
34 cause the 2% limit under paragraph [(3)] (4) of this section of the Act to be exceeded;
35 and

36 [(7)] (8) The Department of Fiscal Services shall review the applications
37 for reemployment as contractual or temporary employees under this Act and shall
38 advise the President of the Senate and the Speaker of the House of Delegates if the
39 reemployment of an individual will cause the 2% limit under paragraph [(3)] (4) of
40 this section of this Act to be exceeded.

1

Chapter 736 of the Acts of 1997

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

3 (1) THIS SECTION OF THIS ACT DOES NOT APPLY TO A RETIREE OF THE
4 EMPLOYEES' RETIREMENT SYSTEM OR THE EMPLOYEES' PENSION SYSTEM WHO IS
5 REEMPLOYED IN A PERMANENT, TEMPORARY, OR CONTRACTUAL POSITION AS A
6 REGISTERED NURSE, A LICENSED PRACTICAL NURSE, OR A CERTIFIED NURSING
7 ASSISTANT IN A STATE FACILITY IN WHICH THE DEPARTMENT OF HEALTH AND
8 MENTAL HYGIENE FINDS THAT THERE IS A SHORTAGE OF REGISTERED NURSES,
9 LICENSED PRACTICAL NURSES, OR CERTIFIED NURSING ASSISTANTS UNTIL THE
10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE FINDS THE SHORTAGE NO LONGER
11 EXISTS IN THAT STATE FACILITY.

12 [(1)] (2) A retiree who retires under this Act may not become reemployed
13 in a temporary or contractual position with the State, unless the reemployment is
14 approved by the Board of Public Works;

15 [(2)] (3) If a retiree who retires under this Act is reemployed in a
16 permanent, temporary, or contractual position with a participating employer, the
17 retiree's retirement allowance shall be reduced by the amount that the sum of the
18 retiree's annual compensation and the retiree's annual basic allowance at the time of
19 retirement, including the incentive provided by this Act, exceeds the average final
20 compensation used to compute the basic allowance;

21 [(3)] (4) No more than 2% of the total number of employees retiring
22 under this Act may be reemployed in a contractual or temporary position in any
23 branch of State government;

24 [(4)] (5) The Board of Public Works may not approve the reemployment
25 in a temporary or contractual position of an employee who retires under this Act, if
26 that reemployment would result in more than 2% of the retirees who retired under
27 this Act being reemployed in a temporary or contractual position with the State; and

28 [(5)] (6) The Department of Budget and Management shall review the
29 applications for reemployment as contractual or temporary employees under this Act
30 and shall advise the Board of Public Works if the reemployment of an individual will
31 cause the 2% limit under paragraph [(3)] (4) of this section of this Act to be exceeded.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
33 effect July 1, 2001.