
By: **Delegates Busch and James**
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Committee Report: Favorable with amendments
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CHAPTER _____

1 AN ACT concerning

2 **~~State Employees--~~ State Retiree Health Care Protection Act**

3 FOR the purpose of creating a Postretirement Health ~~Funding System~~ Benefits Trust
4 Fund to assist in funding the postretirement health insurance subsidy for State
5 employees; authorizing the Board of Trustees for the State Retirement and
6 Pension System to commingle the assets of the Postretirement Health Benefits
7 Trust Fund with the assets of certain other State retirement and pension
8 systems; providing a certain method for funding the Postretirement Health
9 Funding System Benefits Trust Fund; requiring the Board of Trustees for the
10 State Retirement and Pension System to be the trustees for the Postretirement
11 Health Benefits Trust Fund; providing the Board of Trustees with certain
12 powers, duties and indemnification; authorizing the Board of Trustees to incur
13 certain investment and administrative expenses with regard to the
14 Postretirement Health Benefits Trust Fund; providing that the Board of
15 Trustees is not subject to certain provisions of the State Finance and
16 Procurement Article for certain purposes; providing that the funds of the
17 Postretirement Health ~~Funding System~~ Benefits Trust Fund be invested in a
18 certain manner; providing a certain method for the disbursement of funds from
19 the Postretirement Health ~~Funding System~~ Benefits Trust Fund; providing for
20 the transfer of funds from the Postretirement Health ~~Funding System~~ Benefits
21 Trust Fund to the General Fund under certain circumstances; requiring the
22 Board of Trustees to prepare a consolidated report on or before a certain date
23 each year that includes certain information; and generally relating to the
24 creation of the Postretirement Health ~~Funding System~~ Benefits Trust Fund.

25 BY repealing and reenacting, with amendments,
26 Article - State Finance and Procurement
27 Section 11-203(d)

1 Annotated Code of Maryland
 2 (2001 Replacement Volume and 2003 Supplement)

3 BY repealing and reenacting, without amendments,
 4 Article - State Personnel and Pensions
 5 Section 21-102
 6 Annotated Code of Maryland
 7 (1997 Replacement Volume and 2003 Supplement)

8 BY repealing and reenacting, with amendments,
 9 Article - State Personnel and Pensions
 10 Section ~~21-102~~ 21-123(e)
 11 Annotated Code of Maryland
 12 (1997 Replacement Volume and 2003 Supplement)

13 BY adding to
 14 Article - State Personnel and Pensions
 15 Section 33-101 to be under the new title "Title 33. Postretirement Health
 16 ~~Funding System~~ Benefits Trust Fund"
 17 Annotated Code of Maryland
 18 (1997 Replacement Volume and 2003 Supplement)

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

21 **Article - State Finance and Procurement**

22 11-203.

23 (d) Except as provided in Title 14, Subtitle 3 of this article, this Division II
 24 does not apply to the Board of Trustees of the State Retirement and Pension System
 25 for:

26 (1) services of managers to invest the assets of the State Retirement and
 27 Pension System, including real and personal property;

28 (2) expenditures to manage, maintain, and enhance the value of the
 29 assets of the State Retirement and Pension System in accordance with investment
 30 guidelines adopted by the Board of Trustees; [and]

31 (3) services related to the administration of the optional retirement
 32 program under Title 30 of the State Personnel and Pensions Article; AND

33 (4) SERVICES RELATED TO THE ADMINISTRATION OF THE
 34 POSTRETIREMENT HEALTH BENEFITS TRUST FUND.

1 **Article - State Personnel and Pensions**

2 21-102.

3 The State Retirement and Pension System consists of:

- 4 (1) the Correctional Officers' Retirement System, established on July 1,
5 1974;
- 6 (2) the Employees' Pension System, established on January 1, 1980;
- 7 (3) the Employees' Retirement System, established on October 1, 1941;
- 8 (4) the Judges' Retirement System, which consists of:
- 9 (i) the contributory plan, established on July 1, 1969; and
- 10 (ii) the noncontributory plan, established on April 7, 1904;
- 11 (5) the Legislative Pension Plan;
- 12 (6) the Local Fire and Police System, established on July 1, 1989;
- 13 (7) the Law Enforcement Officers' Pension System, established on July
14 2, 1990;
- 15 (8) the State Police Retirement System, established on July 1, 1949;
- 16 (9) the Teachers' Pension System, established on January 1, 1980;
- 17 (10) the Teachers' Retirement System, established on August 1, 1927;
18 {and}
- 19 ~~(11) THE POSTRETIREMENT HEALTH FUNDING SYSTEM, ESTABLISHED~~
20 ~~ON JULY 1, 2004; AND~~
- 21 ~~{(11)}~~ ~~(12)~~ any other system or subsystem that the Board of Trustees
22 administers.

23 21-123.

24 (e) (1) The Board of Trustees may commingle assets of the several systems,
25 INCLUDING THE POSTRETIREMENT HEALTH BENEFITS TRUST FUND, if the Board of
26 Trustees keeps [six] SEVEN sets of records that show:

27 (i) the percentage of participation of each State system or group of
28 State systems, INCLUDING THE POSTRETIREMENT HEALTH BENEFITS TRUST FUND;

29 (ii) the percentage of income, gains, and losses applicable to each
30 State system or group of State systems, INCLUDING THE POSTRETIREMENT HEALTH
31 BENEFITS TRUST FUND; and

1 (iii) the total contributions and disbursements applicable to each
 2 State system or group of State systems, INCLUDING THE POSTRETIREMENT HEALTH
 3 BENEFITS TRUST FUND.

4 (2) The Board of Trustees shall keep records required by paragraph (1) of
 5 this subsection for each of the following:

6 (i) the group that consists of the Correctional Officers' Retirement
 7 System, the Employees' Pension System, the Employees' Retirement System, and the
 8 Legislative Pension Plan;

9 (ii) the Judges' Retirement System;

10 (iii) the Local Fire and Police System;

11 (iv) the Law Enforcement Officers' Pension System;

12 (v) the State Police Retirement System; [and]

13 (vi) the group that consists of the Teachers' Pension System and the
 14 Teachers' Retirement System; AND

15 (VII) THE POSTRETIREMENT HEALTH BENEFITS TRUST FUND.

16 TITLE 33. POSTRETIREMENT HEALTH ~~FUNDING SYSTEM~~ BENEFITS TRUST FUND.

17 33-101.

18 (A) THERE IS A POSTRETIREMENT HEALTH ~~FUNDING SYSTEM~~ BENEFITS
 19 TRUST FUND.

20 (B) THE ~~SYSTEM~~ POSTRETIREMENT HEALTH BENEFITS TRUST FUND SHALL
 21 BE ESTABLISHED AS A TAX-EXEMPT TRUST, IN ACCORDANCE WITH § 401(H) § 115 OF
 22 THE INTERNAL REVENUE CODE OR OTHER APPLICABLE FEDERAL STATUTE.

23 (C) THE PURPOSE OF THE POSTRETIREMENT HEALTH ~~FUNDING SYSTEM~~
 24 BENEFITS TRUST FUND IS TO ASSIST THE STATE IN FINANCING THE
 25 POSTRETIREMENT HEALTH INSURANCE SUBSIDY, AS SPECIFIED IN § 2-508 OF THIS
 26 ARTICLE.

27 (D) BEGINNING IN FISCAL YEAR 2006, ANY SUBSIDY RECEIVED BY THE STATE
 28 THAT IS PROVIDED TO EMPLOYERS AS A RESULT OF THE FEDERAL MEDICARE
 29 PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003, OR
 30 SIMILAR FEDERAL SUBSIDY RECEIVED AS A RESULT OF THE STATE'S PRESCRIPTION
 31 DRUG PROGRAM, SHALL BE DEPOSITED INTO THE ACCUMULATION FUND OF THE
 32 POSTRETIREMENT HEALTH ~~FUNDING SYSTEM~~ BENEFITS TRUST FUND.

33 (E) (1) THE BOARD OF TRUSTEES ARE THE TRUSTEES OF THE
 34 POSTRETIREMENT HEALTH BENEFITS TRUST FUND.

1 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW:

2 (I) THE BOARD OF TRUSTEES SHALL HAVE FULL POWER TO
3 INVEST AND MANAGE THE ASSETS OF THE POSTRETIREMENT HEALTH BENEFITS
4 TRUST FUND TO ACHIEVE THE STATUTORY PURPOSE OF THE FUND; AND

5 (II) EACH MEMBER OF THE BOARD OF TRUSTEES SHALL
6 DISCHARGE THE MEMBER'S DUTIES WITH RESPECT TO THE POSTRETIREMENT
7 HEALTH BENEFITS TRUST FUND AS A FIDUCIARY AND BE INDEMNIFIED IN
8 ACCORDANCE WITH THE PROVISIONS OF TITLE 21, SUBTITLE 2 OF THIS ARTICLE.

9 (3) THE BOARD OF TRUSTEES MAY INCUR REASONABLE INVESTMENT
10 EXPENSES PAYABLE FROM THE ASSETS OF THE POSTRETIREMENT HEALTH
11 BENEFITS TRUST FUND, AND IN ACCORDANCE WITH § 21-315(D) OF THIS ARTICLE,
12 FOR:

13 (I) SERVICES OF MANAGERS TO INVEST THE ASSETS OF THE
14 POSTRETIREMENT HEALTH BENEFITS TRUST FUND;

15 (II) SERVICES OF ONE OR MORE DULY QUALIFIED BANKS OR TRUST
16 COMPANIES FOR THE SAFE CUSTODY OF THE INVESTMENTS AND BANKING
17 SERVICES; AND

18 (III) ANY OTHER SERVICE THAT THE BOARD OF TRUSTEES DEEMS
19 REASONABLE AND NECESSARY IN CONNECTION WITH THE INVESTMENTS OF THE
20 POSTRETIREMENT BENEFITS TRUST FUND.

21 (4) (I) THE BOARD OF TRUSTEES MAY INCUR REASONABLE
22 ADMINISTRATIVE EXPENSES PAYABLE FROM THE ASSETS OF THE POSTRETIREMENT
23 HEALTH BENEFITS TRUST FUND.

24 (II) ADMINISTRATIVE EXPENSES PAID UNDER SUBPARAGRAPH (I)
25 OF THIS PARAGRAPH MAY NOT EXCEED AN AMOUNT EQUAL TO THE AMOUNT OF
26 ADMINISTRATIVE EXPENSES PAID BY THE BOARD OF TRUSTEES UNDER § 21-315(C) OF
27 THIS ARTICLE MULTIPLIED BY A FRACTION:

28 1. THE NUMERATOR OF WHICH EQUALS THE TOTAL ASSETS
29 OF THE POSTRETIREMENT HEALTH BENEFITS TRUST FUND; AND

30 2. THE DENOMINATOR OF WHICH EQUALS THE COMBINED
31 TOTAL ASSETS OF THE SEVERAL SYSTEMS AND THE POSTRETIREMENT HEALTH
32 BENEFITS TRUST FUND.

33 (5) THE BOARD OF TRUSTEES IS NOT SUBJECT TO DIVISION II OF THE
34 STATE FINANCE AND PROCUREMENT ARTICLE FOR:

35 (I) OBTAINING SERVICES OF MANAGERS TO INVEST THE ASSETS
36 OF THE POSTRETIREMENT HEALTH BENEFITS TRUST FUND; AND

1 (II) EXPENDITURES TO MANAGE, MAINTAIN, AND ENHANCE THE
2 VALUE OF THE ASSETS OF THE POSTRETIREMENT HEALTH BENEFITS TRUST FUND.

3 ~~(E)~~ (F) TO THE EXTENT POSSIBLE, THE ASSETS OF THE POSTRETIREMENT
4 HEALTH FUNDING SYSTEM BENEFITS TRUST FUND SHALL BE INVESTED IN THE
5 SAME MANNER AS THOSE OF THE OTHER SYSTEMS OF THE STATE RETIREMENT AND
6 PENSION SYSTEM SEVERAL SYSTEMS.

7 ~~(F)~~ (G) FOR FISCAL YEAR 2006 THROUGH FISCAL YEAR 2016, NO PAYMENTS
8 MAY BE MADE FROM THE ACCUMULATION FUND OF THE POSTRETIREMENT HEALTH
9 FUNDING SYSTEM BENEFITS TRUST FUND.

10 ~~(G)~~ (H) FOR FISCAL YEAR 2016 AND EACH FISCAL YEAR THEREAFTER, THE
11 STATE RETIREMENT AND PENSION SYSTEM BOARD OF TRUSTEES SHALL TRANSFER
12 TO THE GENERAL FUND, FOR THE SOLE PURPOSE OF ASSISTING IN THE PAYMENT OF
13 THE STATE'S POSTRETIREMENT HEALTH INSURANCE SUBSIDY, THE LESSER OF:

14 (1) ONE-QUARTER OF THE PRIOR YEAR'S INVESTMENT GAINS OF THE
15 POSTRETIREMENT HEALTH FUNDING SYSTEM BENEFITS TRUST FUND; OR

16 (2) THE AMOUNT NECESSARY TO PAY THE ANNUAL HEALTH INSURANCE
17 PREMIUMS AND OTHER COSTS THAT CONSTITUTE THE STATE'S POSTRETIREMENT
18 HEALTH INSURANCE SUBSIDY SPECIFIED IN § 2-508 OF THIS ARTICLE.

19 ~~(H)~~ (I) IF FOR ANY REASON THE STATE DISCONTINUES THE
20 POSTRETIREMENT HEALTH INSURANCE SUBSIDY SPECIFIED IN § 2-508 OF THIS
21 ARTICLE OR A SUCCESSOR SUBSIDY, THE ASSETS OF THE POSTRETIREMENT HEALTH
22 FUNDING SYSTEM BENEFITS TRUST FUND SHALL BE TRANSFERRED TO THE
23 GENERAL FUND.

24 (J) ON OR BEFORE OCTOBER 1, 2007, AND ON OR BEFORE OCTOBER 1
25 THEREAFTER, THE BOARD OF TRUSTEES SHALL PUBLISH AN ANNUAL
26 CONSOLIDATED REPORT THAT INCLUDES:

27 (1) THE FISCAL TRANSACTIONS OF THE POSTRETIREMENT HEALTH
28 BENEFITS TRUST FUND FOR THE PRECEDING FISCAL YEAR; AND

29 (2) THE AMOUNT OF THE ACCUMULATED CASH, SECURITIES, AND
30 OTHER ASSETS OF THE POSTRETIREMENT HEALTH BENEFITS TRUST FUND.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 July 1, 2004.

