
By: **Delegates Rosenberg and Madaleno**

Introduced and read first time: February 10, 2006

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Voluntary Employee Accounts Program**

3 FOR the purpose of requiring the State Board of Trustees for the Maryland Teachers
4 and State Employees Supplemental Retirement Plans to administer a Voluntary
5 Employee Accounts Program for certain employees; requiring the Board of
6 Trustees to submit certain information to certain employers and employees;
7 authorizing the Board of Trustees to employ certain individuals; providing that
8 certain individuals employed by the Board of Trustees are subject to certain
9 provisions of the State Personnel and Pensions Article; providing for the method
10 of payment of certain expenses incurred by the Board of Trustees as a result of
11 administering a Voluntary Employee Accounts Program; providing for the
12 fiduciary duties and responsibilities of certain individuals with certain
13 authority or control over the Voluntary Employee Accounts Program;
14 authorizing certain assets to be deposited and invested in a certain manner;
15 establishing a certain supplemental retirement plan; providing for the
16 participation in a certain supplemental retirement plan; providing that certain
17 individuals may authorize the Board of Trustees to make certain salary
18 reductions on behalf of the individuals; requiring the Board of Trustees to
19 request a private letter ruling from the Internal Revenue Service that makes
20 certain confirmations; making certain provisions of this Act contingent on
21 receipt of a certain ruling from the Internal Revenue Service; defining certain
22 terms; and generally relating to the Voluntary Employee Accounts Program.

23 BY adding to

24 Article - State Personnel and Pensions
25 Section 41-101 through 41-403, inclusive, to be under the new title "Title 41.
26 Voluntary Employee Accounts Program"
27 Annotated Code of Maryland
28 (2004 Replacement Volume and 2005 Supplement)

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

1 **Article - State Personnel and Pensions**

2 TITLE 41. VOLUNTARY EMPLOYEE ACCOUNTS PROGRAM.

3 SUBTITLE 1. DEFINITIONS.

4 41-101.

5 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

7 (B) "BOARD" MEANS THE STATE BOARD OF TRUSTEES OF THE MARYLAND
8 TEACHERS AND STATE EMPLOYEES SUPPLEMENTAL RETIREMENT PLANS UNDER
9 TITLE 35 OF THIS ARTICLE.

10 (C) "PARTICIPATING EMPLOYEE" MEANS ANY INDIVIDUAL WHO:

11 (1) PERFORMS SERVICES FOR, OR UNDER THE CONTROL AND DIRECTION
12 OF, AN EMPLOYER FOR WAGES OR OTHER REMUNERATION; AND

13 (2) CHOOSES TO PARTICIPATE IN THE PROGRAM.

14 (D) (1) "PARTICIPATING EMPLOYER" MEANS A PERSON ENGAGED IN A
15 BUSINESS, INDUSTRY, PROFESSION, TRADE, OR OTHER ENTERPRISE IN THE STATE,
16 WITH EMPLOYEES THAT CHOOSE TO PARTICIPATE IN THE PROGRAM.

17 (2) "PARTICIPATING EMPLOYER" INCLUDES AGENTS, CONTRACTORS, OR
18 SUBCONTRACTORS OF A PARTICIPATING EMPLOYER.

19 (3) "PARTICIPATING EMPLOYER" DOES NOT INCLUDE:

20 (I) THE STATE AND ITS UNITS;

21 (II) A COUNTY AND ITS UNITS; OR

22 (III) A MUNICIPAL CORPORATION AND ITS UNITS.

23 (E) "PROGRAM" MEANS THE MARYLAND VOLUNTARY EMPLOYEE ACCOUNTS
24 PROGRAM ESTABLISHED UNDER THIS SUBTITLE OFFERING SUPPLEMENTAL
25 RETIREMENT PLANS TO PARTICIPATING EMPLOYEES.

26 (F) "SUPPLEMENTAL RETIREMENT PLANS" MEANS THE SALARY REDUCTION
27 SAVINGS PLANS OR ANY OTHER PLANS OFFERED UNDER THE PROGRAM AND
28 AUTHORIZED BY THIS TITLE.

29 SUBTITLE 2. BOARD OF TRUSTEES.

30 41-201.

31 (A) THERE IS A MARYLAND VOLUNTARY EMPLOYEE ACCOUNTS PROGRAM.

1 (B) THE BOARD SHALL:

2 (1) IMPLEMENT, MAINTAIN, AND ADMINISTER THE PROGRAM AND THE
3 SUPPLEMENTAL RETIREMENT PLANS; AND

4 (2) SUBMIT PROGRESS AND STATUS REPORTS TO PARTICIPATING
5 EMPLOYERS AND EMPLOYEES IN THE PROGRAM.

6 (C) IN CASE OF DOUBT AS TO WHETHER AN INDIVIDUAL IS ELIGIBLE TO
7 PARTICIPATE IN THE PROGRAM, THE BOARD SHALL DETERMINE THE INDIVIDUAL'S
8 ELIGIBILITY.

9 41-202.

10 (A) THE BOARD MAY EMPLOY A STAFF TO IMPLEMENT THE PROGRAM IN
11 ACCORDANCE WITH THE STATE BUDGET.

12 (B) THE BOARD MAY HIRE CONSULTANTS, ADMINISTRATORS, AND OTHER
13 PROFESSIONALS AS NECESSARY TO HELP IMPLEMENT, MAINTAIN, AND ADMINISTER
14 THE PROGRAM AND THE SUPPLEMENTAL RETIREMENT PLANS.

15 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION OR
16 OTHERWISE BY LAW, EMPLOYEES OF THE BOARD HIRED TO IMPLEMENT THE
17 PROGRAM UNDER SUBSECTION (A) OF THIS SECTION ARE SUBJECT TO THE
18 PROVISIONS OF DIVISION I OF THIS ARTICLE THAT GOVERN NONTEMPORARY
19 EMPLOYEES.

20 (2) EMPLOYEES OF THE BOARD WHOSE LABOR IS PREDOMINATELY
21 INTELLECTUAL AND WHO HOLD POSITIONS THAT THE BOARD DESIGNATES AS
22 PROFESSIONAL OR TECHNICAL POSITIONS INVOLVING SPECIALIZED SKILL,
23 EDUCATION, AND KNOWLEDGE ARE IN THE EXECUTIVE SERVICE, MANAGEMENT
24 SERVICE, OR ARE SPECIAL APPOINTMENTS OF THE SKILLED SERVICE OR THE
25 PROFESSIONAL SERVICE IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

26 (D) (1) ALL EXPENSES, INCLUDING EMPLOYEE COSTS, INCURRED TO
27 IMPLEMENT, MAINTAIN, AND ADMINISTER THE PROGRAM AND THE SUPPLEMENTAL
28 RETIREMENT PLANS SHALL BE PAID FROM THE CONTRIBUTIONS TO OR THE INCOME
29 OR ASSETS OF THE PROGRAM.

30 (2) EACH SUPPLEMENTAL RETIREMENT PLAN SHALL PAY A
31 PROPORTIONATE SHARE OF THE EXPENSES SPECIFIED IN PARAGRAPH (1) OF THIS
32 SUBSECTION.

33 (3) ADMINISTRATIVE EXPENSES TO IMPLEMENT, MAINTAIN, AND
34 ADMINISTER THE PROGRAM SHALL BE AS PROVIDED IN THE STATE BUDGET.

SUBTITLE 3. FIDUCIARIES AND INVESTMENTS.

1 41-301.

2 (A) IN THIS SECTION, "FIDUCIARY" MEANS A PERSON WITH DISCRETIONARY
3 AUTHORITY OR CONTROL OVER:

4 (1) THE MANAGEMENT OR ADMINISTRATION OF THE PROGRAM OR THE
5 SUPPLEMENTAL RETIREMENT PLANS; OR

6 (2) THE MANAGEMENT OR DISPOSITION OF THE ASSETS OF THE
7 PROGRAM OR THE SUPPLEMENTAL RETIREMENT PLANS.

8 (B) A FIDUCIARY IS SUBJECT TO THE DUTIES AND RESPONSIBILITIES
9 IMPOSED ON FIDUCIARIES BY TITLE 21, SUBTITLE 2 OF THIS ARTICLE.

10 (C) A FIDUCIARY IS ENTITLED TO INDEMNIFICATION AND INSURANCE AS
11 PROVIDED UNDER § 21-207 OF THIS ARTICLE.

12 41-302.

13 ASSETS OF THE PROGRAM MAY BE DEPOSITED AND INVESTED IN ACCORDANCE
14 WITH THE INVESTMENT ELECTIONS ALLOWED UNDER THE SUPPLEMENTAL
15 RETIREMENT PLANS NOTWITHSTANDING ANY OTHER LAW LIMITING THE TYPES OF
16 INVESTMENTS THAT MAY BE MADE WITH STATE FUNDS OR IMPOSING CONDITIONS
17 ON THE DEPOSIT OF STATE FUNDS.

SUBTITLE 4. SUPPLEMENTAL RETIREMENT PLANS.

18 41-401.

19 (A) THERE IS A SALARY REDUCTION SAVINGS PLAN FOR PARTICIPATING
20 EMPLOYEES AS ALLOWED BY § 401(K) OF THE INTERNAL REVENUE CODE.

21 (B) THE BOARD SHALL OBTAIN APPROVAL FROM THE INTERNAL REVENUE
22 SERVICE FOR THE SALARY REDUCTION SAVINGS PLAN.

23 41-402.

24 A PARTICIPATING EMPLOYEE IS ELIGIBLE TO PARTICIPATE IN THE SALARY
25 REDUCTION SAVINGS PLAN.

26 41-403.

27 SUBJECT TO THE CONDITIONS THAT THE BOARD MAY SET AND IN ACCORDANCE
28 WITH A CONTRACT BETWEEN THE PARTICIPATING EMPLOYEE AND THE
29 PARTICIPATING EMPLOYER, A PARTICIPATING EMPLOYEE MAY HAVE
30 CONTRIBUTIONS MADE TO THE SUPPLEMENTAL RETIREMENT PLANS ON THE
31 PARTICIPANT'S BEHALF BY A SALARY REDUCTION OR IN PLACE OF A SALARY
32 INCREASE.

1 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before July 1, 2006,
2 the State Board of Trustees for the Maryland Teachers and State Employees
3 Supplemental Retirement Plans shall request a private letter ruling from the
4 Internal Revenue Service that confirms the validity of a Voluntary Employee
5 Accounts Program as established under this Act.

6 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
7 take effect contingent on the receipt of a private letter ruling by the Internal Revenue
8 Service that makes the confirmations specified under Section 2 of this Act. If a private
9 letter ruling by the Internal Revenue Service is received that makes the
10 confirmations specified under Section 2 of this Act, Section 1 of this Act shall take
11 effect the first day of the month after the Board of Trustees for the Maryland
12 Teachers and State Employees Supplemental Retirement Plans receives the ruling. If
13 a private letter ruling is received by the Board of Trustees for the Maryland Teachers
14 and State Employees Supplemental Retirement Plans from the Internal Revenue
15 Service that does not make all of the confirmations specified in Section 2 of this Act,
16 Section 1 of this Act, with no further action required by the General Assembly, shall
17 be null and void and of no force and effect. The Board of Trustees for the Maryland
18 Teachers and State Employees Supplemental Retirement Plans, within 5 days after
19 receiving the ruling from the Internal Revenue Service, shall forward a copy of the
20 ruling to the Department of Legislative Services, 90 State Circle, Annapolis,
21 Maryland 21401.

22 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions
23 of Section 3 of this Act, this Act shall take effect July 1, 2006.