

HOUSE BILL 823

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By: **Delegates Rosenberg and James**

Introduced and read first time: February 9, 2007

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Voluntary Employee Accounts Program**

3 FOR the purpose of establishing the Maryland Voluntary Employee Accounts
4 Program; requiring the State Board of Trustees of the Maryland Teachers and
5 State Employees Supplemental Retirement Plans to implement, maintain, and
6 administer the Program and certain supplemental retirement plans for certain
7 employees; requiring the Board of Trustees to submit certain information to
8 certain employers and employees; authorizing the Board of Trustees to employ
9 certain individuals; providing that certain individuals employed by the Board of
10 Trustees are subject to certain provisions of the State Personnel and Pensions
11 Article; providing for the method of payment of certain expenses incurred by the
12 Board of Trustees as a result of administering the Program; establishing the
13 fiduciary duties and responsibilities of certain individuals with certain
14 authority or control over the Program or certain supplemental retirement plans;
15 requiring the Governor to include certain funds in the State budget; authorizing
16 certain assets to be deposited and invested in a certain manner; authorizing the
17 Board of Trustees to establish certain supplemental retirement plans; providing
18 for participation in a certain supplemental retirement plan; requiring the Board
19 of Trustees to obtain certain approvals, rulings, opinions, and confirmations
20 from certain federal authorities or agencies; making certain provisions of this
21 Act contingent on receipt of certain approvals, rulings, opinions, and
22 confirmations from certain federal authorities or agencies; defining certain
23 terms; and generally relating to the Maryland Voluntary Employee Accounts
24 Program.

25 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – State Personnel and Pensions

2 Section 41–101 through 41–401 to be under the new title “Title 41. Maryland
3 Voluntary Employee Accounts Program”

4 Annotated Code of Maryland

5 (2004 Replacement Volume and 2006 Supplement)

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

8 **Article – State Personnel and Pensions**

9 **TITLE 41. MARYLAND VOLUNTARY EMPLOYEE ACCOUNTS PROGRAM.**

10 **SUBTITLE 1. DEFINITIONS.**

11 **41–101.**

12 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
13 INDICATED.

14 (B) “BOARD” MEANS THE STATE BOARD OF TRUSTEES OF THE
15 MARYLAND TEACHERS AND STATE EMPLOYEES SUPPLEMENTAL RETIREMENT
16 PLANS UNDER TITLE 35 OF THIS ARTICLE.

17 (C) “ERISA” MEANS THE FEDERAL EMPLOYEE RETIREMENT INCOME
18 SECURITY ACT OF 1974.

19 (D) “IRA” MEANS AN INDIVIDUAL RETIREMENT ACCOUNT UNDER § 408
20 OF THE INTERNAL REVENUE CODE.

21 (E) (1) “PARTICIPATING EMPLOYER” MEANS A PERSON THAT:

22 (I) IS ENGAGED IN A BUSINESS, INDUSTRY, PROFESSION,
23 TRADE, OR OTHER ENTERPRISE IN THE STATE; AND

24 (II) MEETS THE REQUIREMENTS TO ESTABLISH OR
25 PARTICIPATE IN:

26 1. A CASH OR DEFERRED ARRANGEMENT UNDER §
27 401(K) OF THE INTERNAL REVENUE CODE;

1 **2. A SAVINGS INCENTIVE MATCH PLAN UNDER**
2 **§ 408(P) OF THE INTERNAL REVENUE CODE; OR**

3 **3. A PAYROLL DEDUCTION IRA.**

4 **(2) “PARTICIPATING EMPLOYER” DOES NOT INCLUDE:**

5 **(I) THE STATE AND ITS UNITS;**

6 **(II) A COUNTY AND ITS UNITS; OR**

7 **(III) A MUNICIPAL CORPORATION AND ITS UNITS.**

8 **(F) “PROGRAM” MEANS THE MARYLAND VOLUNTARY EMPLOYEE**
9 **ACCOUNTS PROGRAM ESTABLISHED UNDER THIS TITLE OFFERING**
10 **SUPPLEMENTAL RETIREMENT PLANS TO PARTICIPATING EMPLOYERS AND, IF**
11 **THE BOARD DETERMINES, IRAS TO THE RESIDENTS OF MARYLAND.**

12 **(G) “SUPPLEMENTAL RETIREMENT PLANS” MEANS THE SALARY**
13 **REDUCTION SAVINGS PLANS OR ANY OTHER PLANS OFFERED UNDER THE**
14 **PROGRAM AND AUTHORIZED BY THIS TITLE.**

15 **SUBTITLE 2. ESTABLISHMENT; POWERS AND DUTIES OF BOARD.**

16 **41-201.**

17 **(A) THERE IS A MARYLAND VOLUNTARY EMPLOYEE ACCOUNTS**
18 **PROGRAM.**

19 **(B) THE PROGRAM SHALL INCLUDE, AS DETERMINED BY THE BOARD**
20 **UNDER § 41-401(A) OF THIS TITLE, ONE OR MORE OF THE FOLLOWING**
21 **COMPONENTS:**

22 **(1) ONE OR MORE QUALIFIED § 401(A) OR § 401(K) PLANS AND**
23 **TRUSTS FOR THE EMPLOYEES OF ELIGIBLE EMPLOYERS, WHICH MAY INCLUDE**
24 **MASTER OR PROTOTYPE PLANS;**

1 (2) GROUP ADMINISTRATIVE SERVICE ARRANGEMENTS THAT
2 ALLOW ELIGIBLE EMPLOYERS TO ACHIEVE ECONOMIES OF SCALE FOR PENSION
3 OR RETIREMENT SAVINGS ARRANGEMENTS RELATING TO ACCOUNTING,
4 INVESTMENT, PAYROLL PROCESSING, EMPLOYEE COMMUNICATION, OR
5 INVESTOR EDUCATION;

6 (3) GROUP INVESTMENT VEHICLES FOR THE RETIREMENT PLANS
7 OR PAYROLL DEDUCTION IRA ARRANGEMENTS OF ELIGIBLE EMPLOYERS;

8 (4) CUSTODIAL OR TRUSTEE ARRANGEMENTS FOR PAYROLL
9 DEDUCTION IRAS FOR EMPLOYEES OF ELIGIBLE EMPLOYERS; AND

10 (5) ARRANGEMENTS CORRESPONDING TO THOSE DESCRIBED IN
11 ITEMS (1) THROUGH (4) OF THIS SUBSECTION FOR IRAS.

12 (C) THE BOARD SHALL:

13 (1) IMPLEMENT, MAINTAIN, AND ADMINISTER THE PROGRAM AND
14 THE SUPPLEMENTAL RETIREMENT PLANS; AND

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

17 (D) IN A CASE OF DOUBT, THE BOARD SHALL DETERMINE THE
18 ELIGIBILITY OF AN EMPLOYER, EMPLOYEE, OR OTHER INDIVIDUAL TO
19 PARTICIPATE IN THE PROGRAM.

20 **41-202.**

21 (A) (1) IN ACCORDANCE WITH THE STATE BUDGET, THE BOARD MAY
22 EMPLOY A STAFF TO IMPLEMENT THE PROGRAM.

23 (2) THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET THE
24 AMOUNT OF MONEY NECESSARY TO ESTABLISH THE PLANS OR ARRANGEMENTS
25 APPROVED BY THE BOARD, WHICH MAY BE CHARGED AGAINST PLAN OR
26 ACCOUNT ASSETS ONLY TO THE EXTENT PERMITTED UNDER FEDERAL LAW.

27 (3) THE BOARD MAY CONTRACT WITH PRIVATE FINANCIAL
28 INSTITUTIONS FOR CUSTODIAL OR TRUST ARRANGEMENTS FOR PLANS OR IRAS,

1 AND MAY COLLABORATE OR COOPERATE WITH BUSINESS ORGANIZATIONS OR
2 OTHER ENTITIES TO THE EXTENT NECESSARY OR DESIRABLE TO MAXIMIZE
3 OUTREACH TO EMPLOYERS AND INDIVIDUALS AND FOR THE EFFICIENT
4 IMPLEMENTATION OF THE PROGRAM.

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

8 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
9 SUBSECTION OR OTHERWISE BY LAW, EMPLOYEES OF THE BOARD HIRED TO
10 IMPLEMENT THE PROGRAM UNDER SUBSECTION (A) OF THIS SECTION ARE
11 SUBJECT TO THE PROVISIONS OF DIVISION I OF THIS ARTICLE THAT GOVERN
12 NONTEMPORARY EMPLOYEES.

13 (2) EMPLOYEES OF THE BOARD WHOSE LABOR IS
14 PREDOMINATELY INTELLECTUAL AND WHO HOLD POSITIONS THAT THE BOARD
15 DESIGNATES AS PROFESSIONAL OR TECHNICAL POSITIONS INVOLVING
16 SPECIALIZED SKILL, EDUCATION, AND KNOWLEDGE ARE IN THE EXECUTIVE
17 SERVICE OR THE MANAGEMENT SERVICE OR ARE SPECIAL APPOINTMENTS IN
18 THE SKILLED SERVICE OR THE PROFESSIONAL SERVICE IN THE STATE
19 PERSONNEL MANAGEMENT SYSTEM.

20 (D) (1) ALL EXPENSES, INCLUDING EMPLOYEE COSTS, INCURRED TO
21 IMPLEMENT, MAINTAIN, AND ADMINISTER THE PROGRAM AND THE
22 SUPPLEMENTAL RETIREMENT PLANS SHALL BE PAID FROM THE
23 CONTRIBUTIONS TO OR THE INCOME OR ASSETS OF THE PROGRAM EXCEPT FOR
24 EXPENDITURES THAT ARE APPROVED BY THE BOARD AND BUDGETED UNDER
25 SUBSECTION (A)(2) OF THIS SECTION.

26 (2) EACH SUPPLEMENTAL RETIREMENT PLAN SHALL PAY A
27 PROPORTIONATE SHARE OF THE EXPENSES SPECIFIED IN PARAGRAPH (1) OF
28 THIS SUBSECTION.

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

1 **(4) IN ACCOUNTING FOR EXPENSES OF PARTICULAR PLANS,**
2 **FUNDS, TRUSTS, OR ACCOUNTS, THE PROGRAM SHALL ADHERE TO AND COMPLY**
3 **WITH:**

4 **(I) ALL ACCOUNTING AND OTHER APPLICABLE**
5 **REQUIREMENTS FOR PLANS OF PRIVATE EMPLOYERS UNDER ERISA; AND**

6 **(II) ANY APPLICABLE QUALIFICATION REQUIREMENTS**
7 **UNDER THE INTERNAL REVENUE CODE.**

8 **(E) A CLAIM, TAX LIEN, OR OTHER RIGHT OF SET-OFF OF THE STATE**
9 **MAY NOT BE APPLIED AGAINST ANY FUND COMING INTO THE POSSESSION OF A**
10 **STATE OFFICIAL UNDER THIS SUBTITLE.**

11 **SUBTITLE 3. FIDUCIARIES AND INVESTMENTS.**

12 **41-301.**

13 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
14 **MEANINGS INDICATED.**

15 **(2) “FIDUCIARY” MEANS A PERSON WITH DISCRETIONARY**
16 **AUTHORITY OR CONTROL OVER:**

17 **(I) THE MANAGEMENT OR ADMINISTRATION OF THE**
18 **PROGRAM OR THE SUPPLEMENTAL RETIREMENT PLANS; OR**

19 **(II) THE MANAGEMENT OR DISPOSITION OF THE ASSETS OF**
20 **THE PROGRAM OR THE SUPPLEMENTAL RETIREMENT PLANS.**

21 **(3) “ERISA FIDUCIARY” MEANS A PERSON THAT:**

22 **(I) 1. IS DESIGNATED BY THE BOARD TO SERVE AS A**
23 **FIDUCIARY OF A PLAN OR TRUST ESTABLISHED OR MAINTAINED UNDER THIS**
24 **SUBTITLE;**

25 **2. PERFORMS SERVICES FOR OR FUNCTIONS**
26 **RELATING TO THE PLAN OR TRUST; OR**

1 **3. ENGAGES IN TRANSACTIONS WITH THE PLAN OR**
2 **TRUST; AND**

3 **(II) IS A FIDUCIARY OF THE PLAN OR TRUST UNDER ERISA.**

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

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

8 **(D) THE BOARD MAY DESIGNATE ONE OR MORE PERSONS TO SERVE AS**
9 **AN ERISA FIDUCIARY FOR A PLAN OR TRUST ESTABLISHED OR MAINTAINED**
10 **UNDER THIS SUBTITLE.**

11 **(E) AN ERISA FIDUCIARY SHALL HAVE RESPONSIBILITY AND**
12 **POTENTIAL LIABILITY UNDER THE PROVISIONS OF ERISA WITHOUT REGARD**
13 **TO LIMITATIONS ON LIABILITY OTHERWISE APPLICABLE UNDER MARYLAND**
14 **LAW.**

15 **41-302.**

16 **NOTWITHSTANDING ANY OTHER LAW THAT LIMITS THE TYPE OF**
17 **INVESTMENTS THAT MAY BE MADE WITH STATE FUNDS OR IMPOSES**
18 **CONDITIONS ON THE DEPOSIT OF STATE FUNDS, ASSETS OF THE PROGRAM MAY**
19 **BE DEPOSITED AND INVESTED IN ACCORDANCE WITH THE INVESTMENT**
20 **ELECTIONS ALLOWED UNDER THE SUPPLEMENTAL RETIREMENT PLANS.**

21 **SUBTITLE 4. SUPPLEMENTAL RETIREMENT PLANS.**

22 **41-401.**

23 **(A) THE BOARD MAY ESTABLISH:**

24 **(1) ONE OR MORE QUALIFIED § 401(A) OR § 401(K) PLANS AND**
25 **TRUSTS FOR THE EMPLOYEES OF ELIGIBLE EMPLOYERS, WHICH MAY INCLUDE**
26 **SALARY REDUCTION ARRANGEMENTS AND MASTER OR PROTOTYPE PLANS;**

1 **(2) ADMINISTRATIVE SERVICE ARRANGEMENTS, INCLUDING**
2 **GROUP ARRANGEMENTS, THAT ALLOW ELIGIBLE EMPLOYERS TO ACHIEVE**
3 **ECONOMIES OF SCALE FOR PENSION OR RETIREMENT SAVINGS ARRANGEMENTS**
4 **RELATING TO ACCOUNTING, INVESTMENT, PAYROLL PROCESSING, EMPLOYEE**
5 **COMMUNICATION, OR INVESTOR EDUCATION;**

6 **(3) GROUP INVESTMENT VEHICLES FOR THE RETIREMENT PLANS**
7 **OR PAYROLL DEDUCTION IRA ARRANGEMENTS OF ELIGIBLE EMPLOYERS;**

8 **(4) CUSTODIAL OR TRUST ARRANGEMENTS FOR PAYROLL**
9 **DEDUCTION IRAS FOR EMPLOYEES OF ELIGIBLE EMPLOYERS; AND**

10 **(5) ARRANGEMENTS CORRESPONDING TO THOSE DESCRIBED IN**
11 **ITEMS (1) THROUGH (4) OF THIS SUBSECTION FOR IRAS.**

12 **(B) THE BOARD SHALL OBTAIN ANY NECESSARY APPROVALS, RULINGS,**
13 **OPINIONS, AND CONFIRMATIONS FROM FEDERAL AUTHORITIES OR AGENCIES,**
14 **INCLUDING THE INTERNAL REVENUE SERVICE, THE DEPARTMENT OF LABOR,**
15 **AND THE SECURITIES AND EXCHANGE COMMISSION.**

16 **(C) THE PLANS AND PROGRAMS ESTABLISHED UNDER THIS TITLE**
17 **SHALL ADHERE TO ALL STANDARDS AND REQUIREMENTS UNDER FEDERAL LAW**
18 **REGULATING THE OPERATION OF PENSION PLANS, OR THE OFFERING, SALE, OR**
19 **DISTRIBUTION OF SECURITIES, WITHOUT REGARD TO ANY EXEMPTION IN**
20 **FEDERAL LAW AVAILABLE TO A PENSION PLAN MAINTAINED BY A GOVERNMENT**
21 **EMPLOYER.**

22 SECTION 2. AND BE IT FURTHER ENACTED, That, prior to implementation
23 of any plan, trust, administrative arrangement, or investment offering under this Act,
24 the State Board of Trustees of the Maryland Teachers and State Employees
25 Supplemental Retirement Plans shall obtain from the Internal Revenue Service, the
26 U.S. Department of Labor, and the Securities and Exchange Commission any
27 approvals, rulings, opinions, and confirmations that may be necessary with respect to,
28 or to confirm the validity of, the plan, trust, administrative arrangement, or
29 investment offering.

30 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
31 take effect contingent on, and as of the first day of the month after, the receipt of all
32 approvals, rulings, opinions, and confirmations that may be necessary, as described in
33 Section 2 of this Act. If all necessary approvals, rulings, opinions, and confirmations
34 are not received by the State Board of Trustees of the Maryland Teachers and State

1 Employees Supplemental Retirement Plans on or before July 1, 2008, this Act, with no
2 further action required by the General Assembly, shall be null and void and of no
3 further force and effect. The State Board, within 5 days after receiving all necessary
4 approvals, rulings, opinions, and confirmations, shall forward a copy of each of them to
5 the Department of Legislative Services, 90 State Circle, Annapolis, Maryland 21401.

6 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions
7 of Section 3 of this Act, this Act shall take effect July 1, 2007.