

SENATE BILL 412

K4

71r2045

By: **Senator Kramer (Chair, Joint Committee on Pensions)**

Introduced and read first time: February 2, 2007

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 2, 2007

CHAPTER _____

1 AN ACT concerning

2 **State Retirement and Pension System – Compliance with the Federal**
3 **Pension Protection Act of 2006**

4 FOR the purpose of altering the criteria certain employers must meet to participate in
5 the State Retirement and Pension System's employer pickup program;
6 permitting certain surviving spouses and designated beneficiaries of the State
7 Retirement and Pension System to rollover certain distributions; ~~permitting~~
8 ~~certain participants of the State Retirement and Pension System to make direct~~
9 ~~rollovers of certain distributions from the State Retirement and Pension System~~
10 ~~to a Roth Individual Retirement Account;~~ providing for the application of this
11 Act; ~~providing for a delayed effective date of certain provisions of this Act;~~ and
12 generally relating to conforming the State Retirement and Pension System to
13 federal tax legislation.

14 BY repealing and reenacting, with amendments,
15 Article – State Personnel and Pensions
16 Section 21-313, 21-601(b), ~~(c)~~, and (d), and 21-602
17 Annotated Code of Maryland
18 (2004 Replacement Volume and 2006 Supplement)

19 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – State Personnel and Pensions
2 Section 21–601(a)
3 Annotated Code of Maryland
4 (2004 Replacement Volume and 2006 Supplement)

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

7 **Article – State Personnel and Pensions**

8 21–313.

9 (a) In this section, “approved employer” means a participating employer who
10 [has received a favorable ruling from the Internal Revenue Service] **ADOPTS A**
11 **RESOLUTION AND FOLLOWS PROCEDURES AS PRESCRIBED BY THE BOARD OF**
12 **TRUSTEES** for an employer pickup program in accordance with § 414(h)(2) of the
13 Internal Revenue Code.

14 (b) The State or other approved employer of a member shall pick up, within
15 the meaning of § 414(h)(2) of the Internal Revenue Code, the member contributions
16 required by this Division II.

17 (c) The member contributions under subsection (b) of this section:

18 (1) are designated as employee contributions to be picked up by the
19 employing unit within the meaning of § 414(h)(2) of the Internal Revenue Code and
20 shall be treated as employer contributions in determining tax treatment under that
21 section;

22 (2) shall reduce the compensation of the member in an amount that
23 equals the member contribution picked up by the employer;

24 (3) may not be included as gross income of the member until the
25 pickup amounts are distributed or made available to the member;

26 (4) shall be paid by the State or other approved employer from the
27 same source of funds that is used to pay compensation to the member; and

28 (5) for purposes of this Division II, shall be treated in the same
29 manner and to the same extent as member contributions made before establishment of
30 the employer pickup program.

1 21-601.

2 (a) In this subtitle the following words have the meanings indicated.

3 (b) "Direct rollover" means a payment by the State Retirement Agency
4 directly to the eligible retirement plan specified by the participant **OR THE**
5 **SURVIVING SPOUSE OF A PARTICIPANT.**

6 (d) (1) "Eligible rollover distribution" means a distribution:

7 (I) on or after January 1, 1993, to a participant of all or any
8 part of the balance to the credit of the participant in any State system;

9 (II) **ON OR AFTER JANUARY 1, 2002, TO THE SURVIVING**
10 **SPOUSE OF A MEMBER, FORMER MEMBER, OR RETIREE OF ALL OR ANY PART OF**
11 **THE BALANCE TO THE CREDIT OF THE MEMBER, FORMER MEMBER, RETIREE, OR**
12 **SURVIVING SPOUSE IN ANY STATE SYSTEM; OR**

13 (III) **ON OR AFTER JANUARY 1, 2007, TO THE DESIGNATED**
14 **BENEFICIARY OF A MEMBER, FORMER MEMBER, OR RETIREE OF ALL OR ANY**
15 **PART OF THE BALANCE TO THE CREDIT OF THE MEMBER, FORMER MEMBER,**
16 **RETIREE, OR DESIGNATED BENEFICIARY IN ANY STATE SYSTEM.**

17 (2) "Eligible rollover distribution" does not include:

18 (i) any distribution that is one of a series of substantially equal
19 periodic payments that are made at least annually for the life or life expectancy of the
20 participant or the joint lives or joint life expectancies of the participant and the
21 participant's beneficiary;

22 (ii) any distribution that is one of a series of substantially equal
23 periodic payments made for a specified period of at least 10 years; or

24 (iii) any distribution that is required under § 401(a)(9) of the
25 Internal Revenue Code.

26 21-602.

27 (a) Except as provided in subsections (b) and (c) of this section, a participant
28 may elect on the form the Board of Trustees requires to have all or any part of an
29 eligible rollover distribution paid to the eligible retirement plan in a direct rollover.

1 (b) If an eligible rollover distribution is payable to the [surviving spouse]
 2 **DESIGNATED BENEFICIARY** of a member, former member, or retiree, the [surviving
 3 spouse] **DESIGNATED BENEFICIARY** may only elect to have all or any part of the
 4 eligible rollover distribution paid in a direct rollover to an individual retirement
 5 account or individual retirement annuity.

6 (c) A member who is eligible to participate in the plan administered by the
 7 supplemental plan under Title 35, Subtitle 5 of this article may elect to have all or any
 8 part of the eligible rollover distribution paid in a direct rollover to the plan in
 9 accordance with the regulations adopted by the supplemental plan.

10 ~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland~~
 11 ~~read as follows:~~

12 ~~**Article — State Personnel and Pensions**~~

13 ~~21-601.~~

14 (e) ~~“Eligible retirement plan” means:~~

15 (1) ~~an individual retirement account described in § 408(a) of the~~
 16 ~~Internal Revenue Code;~~

17 (2) ~~an individual retirement annuity, other than an endowment~~
 18 ~~contract, described in § 408(b) of the Internal Revenue Code;~~

19 (3) ~~a qualified trust described in § 401(a) of the Internal Revenue Code~~
 20 ~~that is exempt from tax under § 501(a) of the Internal Revenue Code;~~

21 (4) ~~an annuity plan described in § 403(a) of the Internal Revenue~~
 22 ~~Code;~~

23 (5) ~~an annuity plan described in § 403(b) of the Internal Revenue~~
 24 ~~Code; [or]~~

25 (6) ~~a deferred compensation plan that is maintained by an eligible~~
 26 ~~employer described in § 457 of the Internal Revenue Code or any successor provisions;~~
 27 **OR**

28 (7) ~~**A ROTH INDIVIDUAL RETIREMENT ACCOUNT DESCRIBED IN §**~~
 29 ~~**408A(E) OF THE INTERNAL REVENUE CODE.**~~

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

2 (a) Section 21-601(d)(1)(ii) of the State Personnel and Pensions Article, as
3 amended by this Act, shall be construed to apply retroactively and shall be applied to
4 and interpreted to affect any surviving spouse who received an eligible rollover
5 distribution on or after January 1, 2002; and

6 (b) Section 21-601(d)(1)(iii) of the State Personnel and Pensions Article, as
7 amended by this Act, shall be construed to apply retroactively and shall be applied to
8 and interpreted to affect any designated beneficiary who received an eligible rollover
9 distribution on or after January 1, 2007.

10 ~~SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall~~
11 ~~take effect January 1, 2008.~~

12 SECTION ~~5~~ 3. AND BE IT FURTHER ENACTED, That, ~~except as provided in~~
13 ~~Section 4 of this Act,~~ this Act shall take effect July 1, 2007.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.