

## **CHAPTER 455**

**(House Bill 1139)**

AN ACT concerning

### **Montgomery County – Director of the Department of Social Services – Pension and Retirement Health Benefits**

**MC 711-07**

FOR the purpose of allowing an individual, who is an employee of the Department of Social Services in Montgomery County, and subsequently is transferred into the State Personnel Management System, to remain in the Montgomery County Retirement System or transfer into the Employees' Pension System of the State of Maryland; requiring the Central Payroll Bureau to deduct a certain amount from the biweekly salary of the employee; requiring that the Department of Human Resources provide the County with certain funding on a quarterly basis; providing for the calculation and payment of these funds; providing for the payment of employee and retiree health benefits; conditioning the payment of employee and retiree health benefits on the payment by the State of a certain contribution; providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act; and generally relating to the pension and retirement benefits paid to the Director of the Department of Social Services in Montgomery County who transfers into the State Personnel Management System.

BY repealing and reenacting, with amendments,  
Article 88A – Department of Human Resources  
Section 13(b-1) and 13A(c)  
Annotated Code of Maryland  
(2003 Replacement Volume and 2006 Supplement)

BY adding to  
Article 88A – Department of Human Resources  
Section 13C  
Annotated Code of Maryland  
(2003 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,  
Article – State Personnel and Pensions

Section 23–201(b)  
 Annotated Code of Maryland  
 (2004 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,  
 Article – Human Services  
 Section 3–301(f) and 3–403(a)  
 Annotated Code of Maryland  
 (As enacted by Chapter 3 (S.B. 6) of the Acts of the General Assembly of 2007)

BY repealing and reenacting, without amendments,  
 Article – Human Services  
 Section 3–403(b)  
 Annotated Code of Maryland  
 (As enacted by Chapter 3 (S.B. 6) of the Acts of the General Assembly of 2007)

BY adding to  
 Article – Human Services  
 Section 3–403.1  
 Annotated Code of Maryland  
 (As enacted by Chapter 3 (S.B. 6) of the Acts of the General Assembly of 2007)

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

**Article 88A – Department of Human Resources**

13.

(b–1) (1) The local director in each county, including Baltimore City, who is appointed on or after October 1, 1992, shall be in the executive service or management service of the State Personnel Management System.

(2) All deputy directors and assistant directors of the Department of Social Services of Baltimore City who are appointed after May 1, 1989, shall be in the management service of the State Personnel Management System.

**(3) EXCEPT AS PROVIDED IN § 13C OF THIS ARTICLE, THE DIRECTOR OF THE DEPARTMENT OF SOCIAL SERVICES IN MONTGOMERY COUNTY IS A MEMBER OF THE EMPLOYEES’ PENSION SYSTEM.**

13A.

(c) [The] **SUBJECT TO § 13C OF THIS ARTICLE, THE** Secretary of Human Resources shall enter into a grant agreement with the Montgomery County government for administration in Montgomery County of programs administered by local departments elsewhere in the State. The grant agreement shall:

(1) Provide for payment to Montgomery County for costs to administer State programs, including salaries, overhead, general liability coverage, workers' compensation, and employee benefits, at State funding rates as provided in § 13(d) of this article, excluding amounts attributable to county salaries or benefits that exceed comparable State salaries or benefits; and

(2) Require that the State shall continue to provide for the payment of State accrued leave.

### **13C.**

**(A) THIS SECTION APPLIES ONLY TO THE DIRECTOR OF THE DEPARTMENT OF SOCIAL SERVICES IN MONTGOMERY COUNTY WHO WAS A PARTICIPANT IN THE MONTGOMERY COUNTY RETIREMENT SYSTEM.**

**(B) THE DIRECTOR OF THE DEPARTMENT OF SOCIAL SERVICES IN MONTGOMERY COUNTY WHO IS TRANSFERRED INTO THE STATE PERSONNEL MANAGEMENT SYSTEM AS AN EMPLOYEE OF THE SOCIAL SERVICES ADMINISTRATION OF THE MARYLAND DEPARTMENT OF HUMAN RESOURCES, MAY ELECT TO:**

**(1) REMAIN AS A PARTICIPANT IN THE MONTGOMERY COUNTY RETIREMENT SYSTEM; OR**

**(2) BECOME AN ENROLLEE IN THE EMPLOYEES' PENSION SYSTEM OF THE STATE OF MARYLAND.**

**(C) (1) IF THE DIRECTOR OF THE DEPARTMENT OF SOCIAL SERVICES IN MONTGOMERY COUNTY ELECTS TO REMAIN AS A PARTICIPANT IN THE MONTGOMERY COUNTY RETIREMENT SYSTEM, THE ELECTION REMAINS IN EFFECT ONLY AS LONG AS THE EMPLOYEE REMAINS EMPLOYED BY THE SOCIAL SERVICES ADMINISTRATION OF THE MARYLAND DEPARTMENT OF HUMAN RESOURCES.**

**(2) IF THE DIRECTOR OF THE DEPARTMENT OF SOCIAL SERVICES IN MONTGOMERY COUNTY TRANSFERS TO ANOTHER POSITION IN STATE SERVICE, THE EMPLOYEE SHALL BECOME AN ENROLLEE OF THE EMPLOYEES' PENSION SYSTEM OF THE STATE OF MARYLAND.**

**(3) (I) WHILE THE DIRECTOR OF THE DEPARTMENT OF SOCIAL SERVICES IN MONTGOMERY COUNTY REMAINS A PARTICIPANT IN THE MONTGOMERY COUNTY RETIREMENT SYSTEM, THE STATE CENTRAL PAYROLL BUREAU SHALL DEDUCT FROM THE DIRECTOR'S BIWEEKLY SALARY AN EMPLOYEE CONTRIBUTION THAT EQUALS THE DIRECTOR'S SALARY MULTIPLIED BY THE REQUIRED EMPLOYEE CONTRIBUTION RATE AS SET FORTH IN THE MONTGOMERY COUNTY CODE.**

**(II) THE STATE SHALL PICK UP WITHIN THE MEANING OF § 414(H)(2) OF THE INTERNAL REVENUE CODE, THE EMPLOYEE CONTRIBUTIONS DEDUCTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.**

**(D) (1) UNTIL THE DATE THAT THE DIRECTOR OF THE DEPARTMENT OF SOCIAL SERVICES IN MONTGOMERY COUNTY LEAVES SERVICE IN THE SOCIAL SERVICES ADMINISTRATION OF THE MARYLAND DEPARTMENT OF HUMAN RESOURCES, THE DEPARTMENT OF HUMAN RESOURCES SHALL PAY ON A QUARTERLY BASIS TO THE MONTGOMERY COUNTY RETIREMENT SYSTEM:**

**(I) THE AMOUNT DEDUCTED BY THE STATE CENTRAL PAYROLL BUREAU FROM THE DIRECTOR'S BIWEEKLY SALARY FOR THAT QUARTER AS PROVIDED UNDER SUBSECTION (C)(3) OF THIS SECTION; AND**

**(II) AN EMPLOYER CONTRIBUTION FOR THAT QUARTER EQUAL TO THE TOTAL OF THE DIRECTOR'S SALARY SUBJECT TO A DEDUCTION UNDER SUBSECTION (C)(3) OF THIS SECTION MULTIPLIED BY THE EMPLOYER CONTRIBUTION RATE DETERMINED BY THE DEPARTMENT OF HUMAN RESOURCES UNDER PARAGRAPH (3) OF THIS SUBSECTION.**

**(2) ON OR BEFORE MAY 15 OF EACH YEAR, THE CHIEF ADMINISTRATIVE OFFICER OF MONTGOMERY COUNTY SHALL CERTIFY TO THE DEPARTMENT OF HUMAN RESOURCES THE EMPLOYER AND EMPLOYEE CONTRIBUTION RATES FOR PENSION BENEFITS DETERMINED FOR THE MONTGOMERY COUNTY RETIREMENT SYSTEM FOR THE NEXT FISCAL YEAR.**

**(3) IF THE EMPLOYER CONTRIBUTION RATE CERTIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION IS GREATER THAN THE EMPLOYER CONTRIBUTION RATE PAID BY THE STATE FOR STATE EMPLOYEES UNDER THE STATE PERSONNEL MANAGEMENT SYSTEM, THE DEPARTMENT OF HUMAN RESOURCES MAY LIMIT THE EMPLOYER CONTRIBUTION RATE TO THE EMPLOYER CONTRIBUTION RATE PAID BY THE STATE FOR STATE EMPLOYEES UNDER THE STATE PERSONNEL MANAGEMENT SYSTEM.**

**(E) (1) (I) THE DIRECTOR OF THE DEPARTMENT OF SOCIAL SERVICES IN MONTGOMERY COUNTY COVERED UNDER THIS SECTION WHO ELECTS TO REMAIN IN THE MONTGOMERY COUNTY RETIREMENT SYSTEM MAY RECEIVE EMPLOYEE HEALTH BENEFITS EQUAL TO THOSE RECEIVED BY EMPLOYEES UNDER THE MONTGOMERY COUNTY RETIREMENT SYSTEM.**

**(II) IF THE DIRECTOR ELECTS TO RECEIVE HEALTH BENEFITS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE STATE SHALL REIMBURSE MONTGOMERY COUNTY EACH MONTH AN AMOUNT EQUAL TO THE STATE'S CONTRIBUTION FOR THOSE HEALTH BENEFITS.**

**(2) (I) A RETIREE COVERED UNDER THIS SECTION WHO ELECTS TO REMAIN IN THE MONTGOMERY COUNTY RETIREMENT SYSTEM MAY RECEIVE RETIREE HEALTH BENEFITS EQUAL TO THOSE RECEIVED BY RETIREES UNDER THE MONTGOMERY COUNTY RETIREMENT SYSTEM.**

**(II) IF A RETIREE ELECTS TO RECEIVE HEALTH BENEFITS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE STATE SHALL REIMBURSE MONTGOMERY COUNTY EACH MONTH AN AMOUNT EQUAL TO THE STATE'S CONTRIBUTION FOR THOSE HEALTH BENEFITS.**

**Article - State Personnel and Pensions**

23-201.

(b) Sections 23-203 through 23-205 of this subtitle do not apply to:

(1) an individual who is or is entitled to be a member of any State system other than the Employees' Pension System;

(2) a contractual, emergency, or temporary extra employee;

(3) an individual who is employed under a federal public service employment program;

(4) an assessor who is a member of a retirement or pension system operated by a political subdivision of the State;

(5) an employee of a local board of elections who chooses to stay in a local merit system under § 2–207 of the Election Law Article;

(6) a nonclerical or nonprofessional employee of the Baltimore City Community College who:

(i) was an employee of the New Community College of Baltimore during the 1989–1990 academic year;

(ii) was employed by the New Community College of Baltimore on or before December 31, 1990, as a “Class A” member of the Baltimore City Retirement Plan; and

(iii) elected to remain a member of the Baltimore City Retirement Plan;

(7) an employee who is not a member of a State system and who accepts a position for which the budgeted hours per fiscal year are less than 500 hours in the first fiscal year of employment; [or]

(8) an employee of the Domestic Relations Division of the Anne Arundel County Circuit Court who:

(i) was transferred on or after July 1, 2002, into the State Personnel Management System as an employee of the Child Support Enforcement Administration of the Maryland Department of Human Resources;

(ii) elected, under § 2–510 of the Courts Article, to remain as a participant in the Anne Arundel County Retirement and Pension System; and

(iii) remains as an employee of the Child Support Enforcement Administration of the Maryland Department of Human Resources or an attorney employed to represent the Child Support Enforcement Administration; [or]

(9) a nonfaculty employee of the Baltimore City Community College who is eligible to participate and elects to participate in an optional retirement program under Title 30 of this article; **OR**

**(10) THE DIRECTOR OF THE ~~LOCAL BOARD~~ DEPARTMENT OF SOCIAL SERVICES IN MONTGOMERY COUNTY WHO:**

**(I) WAS TRANSFERRED INTO THE STATE PERSONNEL MANAGEMENT SYSTEM AS AN EMPLOYEE OF THE SOCIAL SERVICES ADMINISTRATION OF THE MARYLAND DEPARTMENT OF HUMAN RESOURCES;**

**(II) ELECTED, UNDER ARTICLE 88A, § 13C, TO REMAIN AS A PARTICIPANT IN THE MONTGOMERY COUNTY EMPLOYEES' RETIREMENT SYSTEM; AND**

**(III) REMAINS AS AN EMPLOYEE OF THE SOCIAL SERVICES ADMINISTRATION OF THE MARYLAND DEPARTMENT OF HUMAN RESOURCES.**

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

### **Article - Human Services**

3-301.

(f) (1) A local director shall be in the executive service or management service of the State Personnel Management System.

(2) Each deputy director and assistant director of the Baltimore City Department of Social Services shall be in the management service of the State Personnel Management System.

**(3) EXCEPT AS PROVIDED IN § 3-403.1 OF THIS TITLE, THE DIRECTOR OF THE DEPARTMENT OF SOCIAL SERVICES IN MONTGOMERY COUNTY IS A MEMBER OF THE EMPLOYEES' PENSION SYSTEM.**

3-403.

(a) [The] **SUBJECT TO § 3-403.1 OF THIS SUBTITLE, THE** Secretary shall enter into a grant agreement with the Montgomery County government for the

administration in Montgomery County of programs administered in other counties by local departments.

(b) The grant agreement shall:

(1) provide for payment to Montgomery County for the costs of administering State programs at State funding rates as provided in § 3-202 of this title:

(i) including salaries, overhead, general liability coverage, workers' compensation, and employee benefits; but

(ii) excluding amounts attributable to county salaries or benefits that exceed comparable State salaries or benefits;

(2) require the State to pay for State accrued leave; and

(3) utilize the same budget categories as appropriations in the State budget for local departments in other counties.

### **3-403.1.**

**(A) THIS SECTION APPLIES ONLY TO THE DIRECTOR OF THE DEPARTMENT OF SOCIAL SERVICES IN MONTGOMERY COUNTY WHO WAS A PARTICIPANT IN THE MONTGOMERY COUNTY RETIREMENT SYSTEM.**

**(B) THE DIRECTOR OF THE DEPARTMENT OF SOCIAL SERVICES IN MONTGOMERY COUNTY WHO IS TRANSFERRED INTO THE STATE PERSONNEL MANAGEMENT SYSTEM AS AN EMPLOYEE OF THE SOCIAL SERVICES ADMINISTRATION OF THE MARYLAND DEPARTMENT OF HUMAN RESOURCES, MAY ELECT TO:**

**(1) REMAIN AS A PARTICIPANT IN THE MONTGOMERY COUNTY RETIREMENT SYSTEM; OR**

**(2) BECOME AN ENROLLEE IN THE EMPLOYEES' PENSION SYSTEM OF THE STATE OF MARYLAND.**

**(C) (1) IF THE DIRECTOR OF THE DEPARTMENT OF SOCIAL SERVICES IN MONTGOMERY COUNTY ELECTS TO REMAIN AS A PARTICIPANT IN**



**THE MONTGOMERY COUNTY RETIREMENT SYSTEM, THE ELECTION REMAINS IN EFFECT ONLY AS LONG AS THE EMPLOYEE REMAINS EMPLOYED BY THE SOCIAL SERVICES ADMINISTRATION OF THE MARYLAND DEPARTMENT OF HUMAN RESOURCES.**

**(2) IF THE DIRECTOR OF THE DEPARTMENT OF SOCIAL SERVICES IN MONTGOMERY COUNTY TRANSFERS TO ANOTHER POSITION IN STATE SERVICE, THE EMPLOYEE SHALL BECOME AN ENROLLEE OF THE EMPLOYEES' PENSION SYSTEM OF THE STATE OF MARYLAND.**

**(3) (I) WHILE THE DIRECTOR OF THE DEPARTMENT OF SOCIAL SERVICES IN MONTGOMERY COUNTY REMAINS A PARTICIPANT IN THE MONTGOMERY COUNTY RETIREMENT SYSTEM, THE STATE CENTRAL PAYROLL BUREAU SHALL DEDUCT FROM THE DIRECTOR'S BIWEEKLY SALARY AN EMPLOYEE CONTRIBUTION THAT EQUALS THE DIRECTOR'S SALARY MULTIPLIED BY THE REQUIRED EMPLOYEE CONTRIBUTION RATE AS SET FORTH IN THE MONTGOMERY COUNTY CODE.**

**(II) THE STATE SHALL PICK UP WITHIN THE MEANING OF § 414(H)(2) OF THE INTERNAL REVENUE CODE, THE EMPLOYEE CONTRIBUTIONS DEDUCTED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.**

**(D) (1) UNTIL THE DATE THAT THE DIRECTOR OF THE DEPARTMENT OF SOCIAL SERVICES IN MONTGOMERY COUNTY LEAVES SERVICE IN THE SOCIAL SERVICES ADMINISTRATION OF THE MARYLAND DEPARTMENT OF HUMAN RESOURCES, THE DEPARTMENT OF HUMAN RESOURCES SHALL PAY ON A QUARTERLY BASIS TO THE MONTGOMERY COUNTY RETIREMENT SYSTEM:**

**(I) THE AMOUNT DEDUCTED BY THE STATE CENTRAL PAYROLL BUREAU FROM THE DIRECTOR'S BIWEEKLY SALARY FOR THAT QUARTER AS PROVIDED UNDER SUBSECTION (C)(3) OF THIS SECTION; AND**

**(II) AN EMPLOYER CONTRIBUTION FOR THAT QUARTER EQUAL TO THE TOTAL OF THE DIRECTOR'S SALARY SUBJECT TO A DEDUCTION UNDER SUBSECTION (C)(3) OF THIS SECTION MULTIPLIED BY THE EMPLOYER CONTRIBUTION RATE DETERMINED BY THE DEPARTMENT OF HUMAN RESOURCES UNDER PARAGRAPH (3) OF THIS SUBSECTION.**

**(2) ON OR BEFORE MAY 15 OF EACH YEAR, THE CHIEF ADMINISTRATIVE OFFICER OF MONTGOMERY COUNTY SHALL CERTIFY TO THE DEPARTMENT OF HUMAN RESOURCES THE EMPLOYER AND EMPLOYEE CONTRIBUTION RATES FOR PENSION BENEFITS DETERMINED FOR THE MONTGOMERY COUNTY RETIREMENT SYSTEM FOR THE NEXT FISCAL YEAR.**

**(3) IF THE EMPLOYER CONTRIBUTION RATE CERTIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION IS GREATER THAN THE EMPLOYER CONTRIBUTION RATE PAID BY THE STATE FOR STATE EMPLOYEES UNDER THE STATE PERSONNEL MANAGEMENT SYSTEM, THE DEPARTMENT OF HUMAN RESOURCES MAY LIMIT THE EMPLOYER CONTRIBUTION RATE TO THE EMPLOYER CONTRIBUTION RATE PAID BY THE STATE FOR STATE EMPLOYEES UNDER THE STATE PERSONNEL MANAGEMENT SYSTEM.**

**(E) (1) (I) THE DIRECTOR OF THE DEPARTMENT OF SOCIAL SERVICES IN MONTGOMERY COUNTY COVERED UNDER THIS SECTION WHO ELECTS TO REMAIN IN THE MONTGOMERY COUNTY RETIREMENT SYSTEM MAY RECEIVE EMPLOYEE HEALTH BENEFITS EQUAL TO THOSE RECEIVED BY EMPLOYEES UNDER THE MONTGOMERY COUNTY RETIREMENT SYSTEM.**

**(II) IF THE DIRECTOR ELECTS TO RECEIVE HEALTH BENEFITS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE STATE SHALL REIMBURSE MONTGOMERY COUNTY EACH MONTH AN AMOUNT EQUAL TO THE STATE'S CONTRIBUTION FOR THOSE HEALTH BENEFITS.**

**(2) (I) A RETIREE COVERED UNDER THIS SECTION WHO ELECTS TO REMAIN IN THE MONTGOMERY COUNTY RETIREMENT SYSTEM MAY RECEIVE RETIREE HEALTH BENEFITS EQUAL TO THOSE RECEIVED BY RETIREES UNDER THE MONTGOMERY COUNTY RETIREMENT SYSTEM.**

**(II) IF A RETIREE ELECTS TO RECEIVE HEALTH BENEFITS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE STATE SHALL REIMBURSE MONTGOMERY COUNTY EACH MONTH AN AMOUNT EQUAL TO THE STATE'S CONTRIBUTION FOR THOSE HEALTH BENEFITS.**

#### **Article - State Personnel and Pensions**

23-201.

- (b) Sections 23–203 through 23–205 of this subtitle do not apply to:
- (1) an individual who is or is entitled to be a member of any State system other than the Employees' Pension System;
  - (2) a contractual, emergency, or temporary extra employee;
  - (3) an individual who is employed under a federal public service employment program;
  - (4) an assessor who is a member of a retirement or pension system operated by a political subdivision of the State;
  - (5) an employee of a local board of elections who chooses to stay in a local merit system under § 2–207 of the Election Law Article;
  - (6) a nonclerical or nonprofessional employee of the Baltimore City Community College who:
    - (i) was an employee of the New Community College of Baltimore during the 1989–1990 academic year;
    - (ii) was employed by the New Community College of Baltimore on or before December 31, 1990, as a “Class A” member of the Baltimore City Retirement Plan; and
    - (iii) elected to remain a member of the Baltimore City Retirement Plan;
  - (7) an employee who is not a member of a State system and who accepts a position for which the budgeted hours per fiscal year are less than 500 hours in the first fiscal year of employment; [or]
  - (8) an employee of the Domestic Relations Division of the Anne Arundel County Circuit Court who:
    - (i) was transferred on or after July 1, 2002, into the State Personnel Management System as an employee of the Child Support Enforcement Administration of the Maryland Department of Human Resources;
    - (ii) elected, under § 2–510 of the Courts Article, to remain as a participant in the Anne Arundel County Retirement and Pension System; and

(iii) remains as an employee of the Child Support Enforcement Administration of the Maryland Department of Human Resources or an attorney employed to represent the Child Support Enforcement Administration; [or]

(9) a nonfaculty employee of the Baltimore City Community College who is eligible to participate and elects to participate in an optional retirement program under Title 30 of this article; OR

**(10) THE DIRECTOR OF THE ~~LOCAL BOARD~~ DEPARTMENT OF SOCIAL SERVICES IN MONTGOMERY COUNTY WHO:**

**(I) WAS TRANSFERRED INTO THE STATE PERSONNEL MANAGEMENT SYSTEM AS AN EMPLOYEE OF THE SOCIAL SERVICES ADMINISTRATION OF THE MARYLAND DEPARTMENT OF HUMAN RESOURCES;**

**(II) ELECTED, UNDER § 3-403.1 OF THE HUMAN SERVICES ARTICLE, TO REMAIN AS A PARTICIPANT IN THE MONTGOMERY COUNTY EMPLOYEES' RETIREMENT SYSTEM; AND**

**(III) REMAINS AS AN EMPLOYEE OF THE SOCIAL SERVICES ADMINISTRATION OF THE MARYLAND DEPARTMENT OF HUMAN RESOURCES.**

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect on the taking effect of Chapter 3 (S.B. 6) of the Acts of the General Assembly of 2007. If Section 2 of this Act takes effect, Section 1 of this Act shall be abrogated and of no further force and effect.

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

**Approved by the Governor, May 8, 2007.**