

SENATE BILL 66

K4

9lr0030

(PRE-FILED)

By: **Chair, Budget and Taxation Committee (By Request - Departmental - Higher Education Commission)**

Requested: October 6, 2008

Introduced and read first time: January 14, 2009

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Supplemental Retirement Plans and Optional Retirement Program -**
3 **Employing Institutions - Community Colleges**

4 FOR the purpose of designating certain community colleges or certain regional
5 community colleges as employing institutions for certain employees
6 participating in supplemental retirement plans and the Optional Retirement
7 Program; declaring the intent of the General Assembly; providing for the
8 application of this Act; and generally relating to employing institutions'
9 supplemental retirement plans and the Optional Retirement Program.

10 BY repealing and reenacting, without amendments,
11 Article - State Personnel and Pensions
12 Section 30-101(a)
13 Annotated Code of Maryland
14 (2004 Replacement Volume and 2008 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article - State Personnel and Pensions
17 Section 30-101(e) and (j), 30-210, and 30-212
18 Annotated Code of Maryland
19 (2004 Replacement Volume and 2008 Supplement)

20 BY adding to
21 Article - State Personnel and Pensions
22 Section 30-401 to be under the new subtitle "Subtitle 4. Supplemental
23 Retirement Plans"
24 Annotated Code of Maryland
25 (2004 Replacement Volume and 2008 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – State Personnel and Pensions**

4 30–101.

5 (a) In this title the following words have the meanings indicated.

6 (e) “Employing institution” means:

7 (1) the University System of Maryland;

8 (2) Morgan State University;

9 (3) St. Mary’s College; [and]

10 (4) the Maryland Higher Education Commission with respect to
11 eligible employees of the Commission [or]; **AND**

12 **(5)** any community college or regional community college established
13 under Title 16 of the Education Article.

14 (j) “Supplemental retirement plans” means plans established pursuant to [§
15 30–210] **§ 30–401** of this title.

16 30–210.

17 [(a)] With respect to a participating employee who is employed by an
18 employing institution or an institution over which the employing institution has
19 administrative authority, the employing institution shall administer the participating
20 employee’s enrollment, termination, or retirement under the program.

21 [(b) (1) An employing institution may:

22 (i) establish supplemental retirement plans that provide
23 supplemental retirement accounts offered by a designated company in accordance with
24 § 401(a), § 403(b), or § 457 of the Internal Revenue Code, or any other provision of
25 federal law that authorizes supplemental retirement accounts; and

26 (ii) authorize its employees or the employees of an institution
27 over which it has administrative authority to participate in one or more of the
28 supplemental retirement plans.

29 (2) If an employing institution authorizes its employees or the
30 employees of an institution over which it has administrative authority to participate in
31 a supplemental retirement plan, the employing institution shall designate the

1 companies that may offer supplemental retirement accounts to those employees and
2 shall administer the participation of those employees in the supplemental retirement
3 plan.

4 (3) Contributions authorized under this subsection to a supplemental
5 retirement account on behalf of an employee may be made by payroll deduction, a
6 reduction in salary, or deferral in compensation in accordance with § 403(b), § 457, or §
7 414(h) of the Internal Revenue Code.

8 (4) Assets of the supplemental retirement plans may be deposited and
9 invested in accordance with the investment elections allowed under the supplemental
10 retirement plans notwithstanding any other law limiting the types of investments that
11 may be made with State funds or imposing conditions on the deposit of State funds.

12 (5) An employee of an employing institution with discretionary
13 authority over the management or administration of any of the supplemental
14 retirement plans or the management or disposition of the assets of any of the
15 supplemental retirement plans is entitled to indemnification and insurance as
16 provided under § 30–210.1 of this subtitle.]

17 30–212.

18 A designated company **OR A COMPANY AUTHORIZED TO PROVIDE**
19 **SUPPLEMENTAL RETIREMENT ACCOUNTS UNDER § 30–401 OF THIS TITLE** shall
20 hold harmless and indemnify the State, the Board of Trustees, employing institutions,
21 and the officers, agents, and employees of the State, the Board of Trustees, and
22 employing institutions from any claims or demands arising from any act or omission
23 on the part of the designated company **OR A COMPANY AUTHORIZED TO PROVIDE**
24 **SUPPLEMENTAL RETIREMENT ACCOUNTS UNDER § 30–401 OF THIS TITLE** or its
25 officers, agents, or employees, including any claim or demand for payment of benefits
26 or damages arising from the formation, execution, performance, or termination of an
27 annuity contract.

28 **SUBTITLE 4. SUPPLEMENTAL RETIREMENT PLANS.**

29 **30–401.**

30 (A) **AN EMPLOYING INSTITUTION MAY:**

31 (1) **ESTABLISH SUPPLEMENTAL RETIREMENT PLANS THAT**
32 **PROVIDE SUPPLEMENTAL RETIREMENT ACCOUNTS OFFERED BY A DESIGNATED**
33 **COMPANY IN ACCORDANCE WITH § 401(A), § 403(B), OR § 457 OF THE INTERNAL**
34 **REVENUE CODE, OR ANY OTHER PROVISION OF FEDERAL LAW THAT**
35 **AUTHORIZES SUPPLEMENTAL RETIREMENT ACCOUNTS; AND**

1 **(2) AUTHORIZE ITS EMPLOYEES OR THE EMPLOYEES OF AN**
2 **INSTITUTION OVER WHICH IT HAS ADMINISTRATIVE AUTHORITY TO**
3 **PARTICIPATE IN ONE OR MORE OF THE SUPPLEMENTAL RETIREMENT PLANS.**

4 **(B) IF AN EMPLOYING INSTITUTION AUTHORIZES ITS EMPLOYEES OR**
5 **THE EMPLOYEES OF AN INSTITUTION OVER WHICH IT HAS ADMINISTRATIVE**
6 **AUTHORITY TO PARTICIPATE IN A SUPPLEMENTAL RETIREMENT PLAN, THE**
7 **EMPLOYING INSTITUTION SHALL DESIGNATE THE COMPANIES THAT MAY OFFER**
8 **SUPPLEMENTAL RETIREMENT ACCOUNTS TO THOSE EMPLOYEES AND SHALL**
9 **ADMINISTER THE PARTICIPATION OF THOSE EMPLOYEES IN THE**
10 **SUPPLEMENTAL RETIREMENT PLAN.**

11 **(C) CONTRIBUTIONS AUTHORIZED UNDER THIS SUBSECTION TO A**
12 **SUPPLEMENTAL RETIREMENT ACCOUNT ON BEHALF OF AN EMPLOYEE MAY BE**
13 **MADE BY PAYROLL DEDUCTION, A REDUCTION IN SALARY, OR DEFERRAL IN**
14 **COMPENSATION IN ACCORDANCE WITH § 403(B), § 457, OR § 414(H) OF THE**
15 **INTERNAL REVENUE CODE.**

16 **(D) ASSETS OF THE SUPPLEMENTAL RETIREMENT PLANS MAY BE**
17 **DEPOSITED AND INVESTED IN ACCORDANCE WITH THE INVESTMENT ELECTIONS**
18 **ALLOWED UNDER THE SUPPLEMENTAL RETIREMENT PLANS NOTWITHSTANDING**
19 **ANY OTHER LAW LIMITING THE TYPES OF INVESTMENTS THAT MAY BE MADE**
20 **WITH STATE FUNDS OR IMPOSING CONDITIONS ON THE DEPOSIT OF STATE**
21 **FUNDS.**

22 **(E) AN EMPLOYEE OF AN EMPLOYING INSTITUTION WITH**
23 **DISCRETIONARY AUTHORITY OVER THE MANAGEMENT OR ADMINISTRATION OF**
24 **ANY OF THE SUPPLEMENTAL RETIREMENT PLANS OR THE MANAGEMENT OR**
25 **DISPOSITION OF THE ASSETS OF ANY OF THE SUPPLEMENTAL RETIREMENT**
26 **PLANS IS ENTITLED TO INDEMNIFICATION AND INSURANCE AS PROVIDED**
27 **UNDER § 30-210.1 OF THIS TITLE.**

28 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the
29 General Assembly that this Act not be construed to diminish in any way the State's
30 contribution to the funding of community college employees' Optional Retirement
31 Program.

32 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be
33 construed to apply retroactively and shall be applied to and interpreted to affect
34 supplemental retirement accounts authorized and supplemental annuity contributions
35 made after December 31, 2008.

36 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
37 July 1, 2009.