

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

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 17, 2009

CHAPTER _____

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; requiring certain employing institutions to select one or more
8 designated companies under certain circumstances that may offer supplemental
9 retirement accounts to their employees and to administer the participation of
10 those employees in the supplemental retirement plan under certain
11 circumstances; requiring certain employing institutions to select one or more
12 companies under certain circumstances that may offer supplemental retirement
13 accounts to their employees and to administer the participation of those
14 employees in the supplemental retirement plan under certain circumstances;
15 requiring a certain company to provide indemnification under certain
16 circumstances; declaring the intent of the General Assembly; providing for the
17 application of this Act; and generally relating to employing institutions'
18 supplemental retirement plans and the Optional Retirement Program.

19 BY repealing and reenacting, without amendments,
20 Article – State Personnel and Pensions
21 Section 30–101(a) and (c)
22 Annotated Code of Maryland
23 (2004 Replacement Volume and 2008 Supplement)

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 BY repealing and reenacting, with amendments,
2 Article – State Personnel and Pensions
3 Section 30–101(e) and (j), 30–210, and 30–212
4 Annotated Code of Maryland
5 (2004 Replacement Volume and 2008 Supplement)

6 BY adding to
7 Article – State Personnel and Pensions
8 Section 30–401 to be under the new subtitle “Subtitle 4. Supplemental
9 Retirement Plans”
10 Annotated Code of Maryland
11 (2004 Replacement Volume and 2008 Supplement)

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

14 **Article – State Personnel and Pensions**

15 30–101.

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

17 (c) “Designated company” means an entity that:

18 (1) on or before March 1, 1993, was designated by the governing board
19 of an employing institution to offer annuity contracts under the program; or

20 (2) is designated by the Board of Trustees.

21 (e) “Employing institution” means:

22 (1) the University System of Maryland;

23 (2) Morgan State University;

24 (3) St. Mary’s College; [and]

25 (4) the Maryland Higher Education Commission with respect to
26 eligible employees of the Commission [or]; AND

27 (5) any community college or regional community college established
28 under Title 16 of the Education Article.

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

1 30-210.

2 [(a)] With respect to a participating employee who is employed by an
3 employing institution or an institution over which the employing institution has
4 administrative authority, the employing institution shall administer the participating
5 employee's enrollment, termination, or retirement under the program.

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

7 (i) establish supplemental retirement plans that provide
8 supplemental retirement accounts offered by a designated company in accordance with
9 § 401(a), § 403(b), or § 457 of the Internal Revenue Code, or any other provision of
10 federal law that authorizes supplemental retirement accounts; and

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

14 (2) If an employing institution authorizes its employees or the
15 employees of an institution over which it has administrative authority to participate in
16 a supplemental retirement plan, the employing institution shall designate the
17 companies that may offer supplemental retirement accounts to those employees and
18 shall administer the participation of those employees in the supplemental retirement
19 plan.

20 (3) Contributions authorized under this subsection to a supplemental
21 retirement account on behalf of an employee may be made by payroll deduction, a
22 reduction in salary, or deferral in compensation in accordance with § 403(b), § 457, or §
23 414(h) of the Internal Revenue Code.

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

28 (5) An employee of an employing institution with discretionary
29 authority over the management or administration of any of the supplemental
30 retirement plans or the management or disposition of the assets of any of the
31 supplemental retirement plans is entitled to indemnification and insurance as
32 provided under § 30-210.1 of this subtitle.]

33 30-212.

34 A designated company **OR A COMPANY AUTHORIZED TO PROVIDE**
35 **SUPPLEMENTAL RETIREMENT ACCOUNTS UNDER § 30-401 OF THIS TITLE** shall
36 hold harmless and indemnify the State, the Board of Trustees, employing institutions,
37 and the officers, agents, and employees of the State, the Board of Trustees, and

1 employing institutions from any claims or demands arising from any act or omission
2 on the part of the designated company **OR A COMPANY AUTHORIZED TO PROVIDE**
3 **SUPPLEMENTAL RETIREMENT ACCOUNTS UNDER § 30-401 OF THIS TITLE** or its
4 officers, agents, or employees, including any claim or demand for payment of benefits
5 or damages arising from the formation, execution, performance, or termination of an
6 annuity contract.

7 **SUBTITLE 4. SUPPLEMENTAL RETIREMENT PLANS.**

8 **30-401.**

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

10 (1) **ESTABLISH SUPPLEMENTAL RETIREMENT PLANS THAT**
11 **PROVIDE SUPPLEMENTAL RETIREMENT ACCOUNTS OFFERED BY A DESIGNATED**
12 **COMPANY IN ACCORDANCE WITH § 401(A), § 403(B), OR § 457 OF THE INTERNAL**
13 **REVENUE CODE, OR ANY OTHER PROVISION OF FEDERAL LAW THAT**
14 **AUTHORIZES SUPPLEMENTAL RETIREMENT ACCOUNTS; AND**

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

18 (B) ~~IF (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS~~
19 ~~SUBSECTION, IF AN EMPLOYING INSTITUTION AUTHORIZES ITS EMPLOYEES OR~~
20 ~~THE EMPLOYEES OF AN INSTITUTION OVER WHICH IT HAS ADMINISTRATIVE~~
21 ~~AUTHORITY TO PARTICIPATE IN A SUPPLEMENTAL RETIREMENT PLAN, THE~~
22 ~~EMPLOYING INSTITUTION SHALL DESIGNATE THE COMPANIES~~ **SELECT ONE OR**
23 **MORE OF THE DESIGNATED COMPANIES UNDER § 30-202 OF THIS TITLE THAT**
24 **MAY OFFER SUPPLEMENTAL RETIREMENT ACCOUNTS TO THOSE EMPLOYEES**
25 **AND SHALL ADMINISTER THE PARTICIPATION OF THOSE EMPLOYEES IN THE**
26 **SUPPLEMENTAL RETIREMENT PLAN.**

27 (2) **WITH RESPECT TO A COMMUNITY OR REGIONAL COLLEGE**
28 **ESTABLISHED UNDER TITLE 16 OF THE EDUCATION ARTICLE, OTHER THAN A**
29 **COMMUNITY COLLEGE ESTABLISHED UNDER TITLE 16, SUBTITLE 5 OF THE**
30 **EDUCATION ARTICLE, IF AN EMPLOYING INSTITUTION AUTHORIZES ITS**
31 **EMPLOYEES OR THE EMPLOYEES OF AN INSTITUTION OVER WHICH IT HAS**
32 **ADMINISTRATIVE AUTHORITY TO PARTICIPATE IN A SUPPLEMENTAL**
33 **RETIREMENT PLAN, THE EMPLOYING INSTITUTION SHALL SELECT ONE OR**
34 **MORE COMPANIES THAT MAY OFFER SUPPLEMENTAL RETIREMENT ACCOUNTS**
35 **TO THOSE EMPLOYEES AND SHALL ADMINISTER THE PARTICIPATION OF THOSE**
36 **EMPLOYEES IN THE SUPPLEMENTAL RETIREMENT PLAN.**

1 (C) ~~CONTRIBUTIONS AUTHORIZED UNDER THIS SUBSECTION~~ SECTION
2 TO A SUPPLEMENTAL RETIREMENT ACCOUNT ON BEHALF OF AN EMPLOYEE MAY
3 BE MADE BY PAYROLL DEDUCTION, A REDUCTION IN SALARY, OR DEFERRAL IN
4 COMPENSATION IN ACCORDANCE WITH § 403(B), § 457, OR § 414(H) OF THE
5 INTERNAL REVENUE CODE.

6 (D) ASSETS OF THE SUPPLEMENTAL RETIREMENT PLANS MAY BE
7 DEPOSITED AND INVESTED IN ACCORDANCE WITH THE INVESTMENT ELECTIONS
8 ALLOWED UNDER THE SUPPLEMENTAL RETIREMENT PLANS NOTWITHSTANDING
9 ANY OTHER LAW LIMITING THE TYPES OF INVESTMENTS THAT MAY BE MADE
10 WITH STATE FUNDS OR IMPOSING CONDITIONS ON THE DEPOSIT OF STATE
11 FUNDS.

12 (E) AN EMPLOYEE OF AN EMPLOYING INSTITUTION WITH
13 DISCRETIONARY AUTHORITY OVER THE MANAGEMENT OR ADMINISTRATION OF
14 ANY OF THE SUPPLEMENTAL RETIREMENT PLANS OR THE MANAGEMENT OR
15 DISPOSITION OF THE ASSETS OF ANY OF THE SUPPLEMENTAL RETIREMENT
16 PLANS IS ENTITLED TO INDEMNIFICATION AND INSURANCE AS PROVIDED
17 UNDER § 30-210.1 OF THIS TITLE.

18 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the
19 General Assembly that this Act may not be construed to limit, expand, or alter the
20 eligibility of employees to participate in the supplemental plans offered by the Board
21 of Trustees of the Maryland Teachers and State Employees Supplemental Retirement
22 Plans established under the State Personnel and Pensions Article.

23 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That it is the intent of the
24 General Assembly that this Act may not be construed to diminish in any way the
25 State's contribution to the funding of community college employees' Optional
26 Retirement Program.

27 SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall be
28 construed to apply retroactively and shall be applied to and interpreted to affect
29 supplemental retirement accounts authorized and supplemental annuity contributions
30 made after December 31, 2008.

31 SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take
32 effect July 1, 2009.