

SENATE BILL 592

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

Introduced and read first time: February 6, 2009

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **State Retirement and Pension System – Compliance with Federal Tax**
3 **Provisions**

4 FOR the purpose of prohibiting the Board of Trustees for the State Retirement and
5 Pension System from using certain forfeitures of benefits for certain purposes;
6 requiring that certain forfeitures of benefits be used for certain purposes;
7 providing that the State Retirement Agency may make certain payments to
8 certain eligible retirement plans specified by certain designated beneficiaries of
9 a member of the State Retirement and Pension System; allowing certain
10 members of the State Retirement and Pension System to make direct rollovers
11 of certain distributions on or after a certain date; providing that an eligible
12 rollover distribution includes certain distributions to certain spouses or former
13 spouses of members of the State Retirement and Pension System; providing
14 that distributions totaling less than a certain amount are not eligible rollover
15 distributions; clarifying that certain portions of distributions remain eligible
16 rollover distributions even if these portions consist of certain employee
17 contributions; limiting the investment options that may be used for transfers of
18 certain portions of eligible rollover distributions; providing that certain
19 investment options be considered in a certain manner; altering certain
20 definitions; altering the application of a certain Act to apply to certain members
21 or retirees of the State Retirement and Pension System who request certain
22 beneficiary changes on or after a certain date; and generally relating to
23 conforming the State Retirement and Pension System to certain federal tax
24 legislation.

25 BY adding to
26 Article – State Personnel and Pensions
27 Section 20–209
28 Annotated Code of Maryland
29 (2004 Replacement Volume and 2008 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – State Personnel and Pensions
3 Section 21–601 and 21–602
4 Annotated Code of Maryland
5 (2004 Replacement Volume and 2008 Supplement)

6 BY repealing and reenacting, with amendments,
7 Chapter 500 of the Acts of the General Assembly of 2005
8 Section 2

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

11 **Article – State Personnel and Pensions**

12 **20–209.**

13 (A) IN CONFORMITY WITH § 401(A)(8) OF THE INTERNAL REVENUE
14 CODE, ANY FORFEITURE OF BENEFITS BY A MEMBER OR FORMER MEMBER OF
15 THE SEVERAL SYSTEMS MAY NOT BE USED BY THE BOARD OF TRUSTEES TO PAY
16 BENEFIT INCREASES.

17 (B) ANY FORFEITURE OF BENEFITS BY A MEMBER SHALL BE USED TO
18 REDUCE EMPLOYER CONTRIBUTIONS.

19 21–601.

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

21 (b) “Direct rollover” means a payment by the State Retirement Agency
22 directly to the eligible retirement plan specified by the participant [or], the surviving
23 spouse of a participant, **OR THE DESIGNATED BENEFICIARY OF THE PARTICIPANT.**

24 (c) “Eligible retirement plan” means:

25 (1) an individual retirement account described in § 408(a) of the
26 Internal Revenue Code;

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

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

31 (4) an annuity plan described in § 403(a) of the Internal Revenue
32 Code;

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

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

6 **(7) EFFECTIVE JANUARY 1, 2008, A ROTH INDIVIDUAL**
7 **RETIREMENT ACCOUNT DESCRIBED IN § 408A OF THE INTERNAL REVENUE**
8 **CODE.**

9 (d) (1) “Eligible rollover distribution” means a distribution:

10 (i) on or after January 1, 1993, to a participant of all or any
11 part of the balance to the credit of the participant in any State system;

12 (ii) on or after January 1, 2002, to the surviving spouse of a
13 member, former member, or retiree, **OR TO A SPOUSE OR FORMER SPOUSE WHO IS**
14 **AN ALTERNATE PAYEE UNDER AN ELIGIBLE DOMESTIC RELATIONS ORDER, AS**
15 **DEFINED IN § 414(P) OF THE INTERNAL REVENUE CODE**, of all or any part of the
16 balance to the credit of the member, former member, retiree, or surviving spouse in
17 any State system; or

18 (iii) on or after January 1, 2007, to the designated beneficiary of
19 a member, former member, or retiree of all or any part of the balance to the credit of
20 the member, former member, retiree, or designated beneficiary in any State system.

21 (2) “Eligible rollover distribution” does not include:

22 (i) any distribution that is one of a series of substantially equal
23 periodic payments that are made at least annually for the life or life expectancy of the
24 participant or the joint lives or joint life expectancies of the participant and the
25 participant’s beneficiary;

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

28 (iii) any distribution that is required under § 401(a)(9) of the
29 Internal Revenue Code; **OR**

30 **(IV) ANY DISTRIBUTION THAT IS REASONABLY EXPECTED TO**
31 **TOTAL LESS THAN \$200 DURING THE CALENDAR YEAR.**

32 **(3) (I) EFFECTIVE JANUARY 1, A PORTION OF A DISTRIBUTION**
33 **WILL NOT FAIL TO BE AN ELIGIBLE ROLLOVER DISTRIBUTION MERELY BECAUSE**

1 THAT PORTION CONSISTS OF AFTER-TAX EMPLOYEE CONTRIBUTIONS THAT ARE
2 NOT INCLUDIBLE IN GROSS INCOME.

3 (II) A PORTION OF A DISTRIBUTION DESCRIBED IN
4 SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY BE TRANSFERRED ONLY TO:

5 1. AN INDIVIDUAL RETIREMENT ACCOUNT OR
6 ANNUITY DESCRIBED IN § 408(A) OR (B) OF THE INTERNAL REVENUE CODE;

7 2. A QUALIFIED DEFINED CONTRIBUTION PLAN
8 DESCRIBED IN § 401(A) OF THE INTERNAL REVENUE CODE; OR

9 3. ON OR AFTER JANUARY 1, 2007, TO A QUALIFIED
10 DEFINED BENEFIT PLAN DESCRIBED IN § 401(A) OF THE INTERNAL REVENUE
11 CODE OR TO AN ANNUITY CONTRACT DESCRIBED IN § 403(B) OF THE INTERNAL
12 REVENUE CODE, THAT AGREES TO ACCOUNT SEPARATELY FOR AMOUNTS
13 TRANSFERRED TO THE ACCOUNT AND EARNINGS RECEIVED AS A RESULT OF
14 THE TRANSFERRED AMOUNTS.

15 (e) “Supplemental plan” means the Board of Trustees of the Maryland
16 Teachers and State Employees Supplemental Retirement Plans.

17 21-602.

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

21 (b) (1) [If] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
22 SUBSECTION, IF an eligible rollover distribution is payable to the designated
23 beneficiary of a member, former member, or retiree, the designated beneficiary may
24 only elect to have all or any part of the eligible rollover distribution paid in a direct
25 rollover to an individual retirement account or individual retirement annuity.

26 (2) (I) A NONSPOUSE DESIGNATED BENEFICIARY MAY ROLL
27 OVER AN ELIGIBLE ROLLOVER DISTRIBUTION ONLY TO AN INDIVIDUAL
28 RETIREMENT ACCOUNT OR INDIVIDUAL RETIREMENT ANNUITY ESTABLISHED
29 FOR THE PURPOSE OF RECEIVING THE DISTRIBUTION.

30 (II) AN INDIVIDUAL RETIREMENT ACCOUNT OR INDIVIDUAL
31 RETIREMENT ANNUITY ESTABLISHED UNDER THIS PARAGRAPH SHALL BE
32 TREATED AS AN INHERITED INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY
33 WITHIN THE MEANING OF § 408(D)(3)(C) OF THE INTERNAL REVENUE CODE.

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

5 **Chapter 500 of the Acts of 2005**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
 7 construed to apply [only prospectively and may not be applied or interpreted to have
 8 any effect on or application] to any member **OR RETIREE** of the State Retirement and
 9 Pension System who [retires on or before December 31, 2005] **REQUESTS TO CHANGE**
 10 **A BENEFICIARY ON OR AFTER JANUARY 1, 2006.**

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 12 July 1, 2009.