

SENATE BILL 592

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9lr1205
CF HB 977

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

Introduced and read first time: February 6, 2009

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 3, 2009

CHAPTER _____

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

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 20–209
 3 Annotated Code of Maryland
 4 (2004 Replacement Volume and 2008 Supplement)

5 BY repealing and reenacting, with amendments,
 6 Article – State Personnel and Pensions
 7 Section 21–601 and 21–602
 8 Annotated Code of Maryland
 9 (2004 Replacement Volume and 2008 Supplement)

10 BY repealing and reenacting, with amendments,
 11 Chapter 500 of the Acts of the General Assembly of 2005
 12 Section 2

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

15 **Article – State Personnel and Pensions**

16 **20–209.**

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

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

23 21–601.

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

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

28 (c) “Eligible retirement plan” means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (3) (I) EFFECTIVE JANUARY 1, 2002, A PORTION OF A
4 DISTRIBUTION WILL NOT FAIL TO BE AN ELIGIBLE ROLLOVER DISTRIBUTION
5 MERELY BECAUSE THAT PORTION CONSISTS OF AFTER-TAX EMPLOYEE
6 CONTRIBUTIONS THAT ARE NOT INCLUDIBLE IN GROSS INCOME.

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

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

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

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

19 (e) "Supplemental plan" means the Board of Trustees of the Maryland
20 Teachers and State Employees Supplemental Retirement Plans.

21 21-602.

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

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

30 (2) (I) A NONSPOUSE DESIGNATED BENEFICIARY MAY ROLL
31 OVER AN ELIGIBLE ROLLOVER DISTRIBUTION ONLY TO AN INDIVIDUAL
32 RETIREMENT ACCOUNT OR INDIVIDUAL RETIREMENT ANNUITY ESTABLISHED
33 FOR THE PURPOSE OF RECEIVING THE DISTRIBUTION.

1 **(II) AN INDIVIDUAL RETIREMENT ACCOUNT OR INDIVIDUAL**
 2 **RETIREMENT ANNUITY ESTABLISHED UNDER THIS PARAGRAPH SHALL BE**
 3 **TREATED AS AN INHERITED INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY**
 4 **WITHIN THE MEANING OF § 408(D)(3)(C) OF THE INTERNAL REVENUE CODE.**

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

9 **Chapter 500 of the Acts of 2005**

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.