

SENATE BILL 960

K4

9lr1389

By: **Senator McFadden**

Introduced and read first time: February 20, 2009

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **State Retirement and Pension System – Deceased Retiree’s Retirement**
3 **Application – Medical Board Review**

4 FOR the purpose of requiring a medical board for the State Retirement and Pension
5 System to investigate certain applications by certain surviving spouses of
6 certain retirees; authorizing certain surviving spouses of certain retirees to
7 submit certain applications to the Board of Trustees of the State Retirement
8 and Pension System for review by the medical board of the mental capacity of
9 certain retirees at a certain period of time; requiring certain surviving spouses
10 of certain retirees to submit certain applications to the Board of Trustees within
11 a certain period of time; requiring the medical board to review certain
12 applications to make certain determinations regarding the mental capacity of
13 certain retirees at a certain period of time; requiring the medical board to make
14 a certain certification to the Board of Trustees; requiring the Board of Trustees
15 to make certain payments to certain surviving spouses of certain retirees if the
16 medical board makes certain determinations; prohibiting certain surviving
17 spouses of certain retirees from appealing certain decisions of the medical
18 board; requiring the Board of Trustees to adopt certain regulations; providing
19 for the application of this Act; and generally relating to the review of a deceased
20 retiree’s retirement application by the medical board for the State Retirement
21 and Pension System.

22 BY repealing and reenacting, with amendments,
23 Article – State Personnel and Pensions
24 Section 21–126
25 Annotated Code of Maryland
26 (2004 Replacement Volume and 2008 Supplement)

27 BY adding to
28 Article – State Personnel and Pensions
29 Section 21–407

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Article – State Personnel and Pensions

21–126.

(a) The Board of Trustees shall establish one or more medical boards.

(b) (1) Each medical board consists of three members and not more than
three alternates.

(2) Each medical board member and alternate shall be a physician
who is not eligible to be a member of a State system.

(3) The Board of Trustees shall appoint the medical board members
and any alternates.

(4) In the absence of a medical board member, an alternate may serve
on a medical board.

(c) Two members of a medical board are a quorum for the conduct of
business.

(d) A medical board shall:

(1) arrange for and approve all medical examinations required under
this Division II;

(2) investigate all essential certificates and statements by or on behalf
of a member concerning the application of the member for disability retirement; [and]

**(3) INVESTIGATE ALL ESSENTIAL CERTIFICATES AND
STATEMENTS BY OR ON BEHALF OF A SURVIVING SPOUSE OF A RETIREE OF THE
SEVERAL SYSTEMS CONCERNING THE MENTAL CAPACITY OF THE RETIREE AT
THE TIME THE RETIREE COMPLETED THE RETIREE'S APPLICATION FOR
RETIREMENT; AND**

[(3)] (4) submit written reports to the Board of Trustees, with
conclusions and recommendations, on all matters that the Board of Trustees refers to
the medical board.

(e) The Board of Trustees may employ other physicians to report on special
cases.

1 **21-407.**

2 **(A) THIS SECTION APPLIES TO A SURVIVING SPOUSE OF A RETIREE OF**
3 **THE SEVERAL SYSTEMS WHO AT THE TIME OF RETIREMENT SELECTED THE**
4 **BASIC ALLOWANCE UNDER THE STATE SYSTEM OF THE RETIREE.**

5 **(B) (1) A SURVIVING SPOUSE DESCRIBED UNDER SUBSECTION (A) OF**
6 **THIS SECTION MAY COMPLETE AND SUBMIT AN APPLICATION CREATED BY THE**
7 **BOARD OF TRUSTEES TO THE BOARD OF TRUSTEES FOR REVIEW BY THE**
8 **MEDICAL BOARD OF THE RETIREE'S MENTAL CAPACITY AT THE TIME THE**
9 **RETIREE COMPLETED THE RETIREE'S APPLICATION FOR RETIREMENT.**

10 **(2) ANY APPLICATION SUBMITTED TO THE BOARD OF TRUSTEES**
11 **UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE SUBMITTED WITHIN 6**
12 **MONTHS OF THE RETIREE'S DEATH.**

13 **(C) (1) AFTER RECEIVING THE APPLICATION FROM THE BOARD OF**
14 **TRUSTEES, THE MEDICAL BOARD SHALL REVIEW THE APPLICATION, INCLUDING**
15 **ANY ADDITIONAL EVIDENCE SUBMITTED BY THE SURVIVING SPOUSE, TO**
16 **DETERMINE IF THE RETIREE WAS SUFFERING FROM A VERIFIABLE MEDICAL**
17 **CONDITION THAT RESULTED IN THE RETIREE'S MENTAL INCAPACITY AT THE**
18 **TIME THE RETIREE COMPLETED THE RETIREE'S APPLICATION FOR**
19 **RETIREMENT.**

20 **(2) THE MEDICAL BOARD SHALL CERTIFY TO THE BOARD OF**
21 **TRUSTEES WHETHER THE RETIREE WAS MENTALLY INCAPACITATED AT THE**
22 **TIME THE RETIREE COMPLETED THE RETIREE'S APPLICATION FOR**
23 **RETIREMENT.**

24 **(D) (1) IF THE MEDICAL BOARD CERTIFIES TO THE BOARD OF**
25 **TRUSTEES THAT THE RETIREE WAS MENTALLY INCAPACITATED AT THE TIME**
26 **THE RETIREE COMPLETED THE RETIREE'S APPLICATION FOR RETIREMENT, THE**
27 **BOARD OF TRUSTEES SHALL REFUND THE RETIREE'S REMAINING EMPLOYEE**
28 **CONTRIBUTIONS PLUS INTEREST TO THE SURVIVING SPOUSE OF THE RETIREE.**

29 **(2) IF THE MEDICAL BOARD CERTIFIES TO THE BOARD OF**
30 **TRUSTEES THAT THE RETIREE WAS NOT MENTALLY INCAPACITATED AT THE**
31 **TIME THE RETIREE COMPLETED THE RETIREE'S APPLICATION FOR**
32 **RETIREMENT, THE SURVIVING SPOUSE MAY NOT APPEAL THIS DECISION.**

33 **(E) THE BOARD OF TRUSTEES SHALL ADOPT REGULATIONS TO CARRY**
34 **OUT THIS SECTION.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
2 construed to apply retroactively and shall be applied to and interpreted to affect the
3 surviving spouse of any retiree who retired on or after May 1, 2006, from the
4 Employees' Retirement System or Employees' Pension System and died within 18
5 months of retiring.

6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 July 1, 2009.