

# SENATE BILL 1019

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CF HB 1495

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By: **Senators McFadden ~~and Robey~~, Robey, and Munson**

Introduced and read first time: March 4, 2009

Assigned to: Rules

Re-referred to: Budget and Taxation, March 11, 2009

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 2, 2009

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **State Police Retirement System - Reemployment of Retirees**

3 FOR the purpose of exempting from a certain offset of a retirement allowance certain  
4 retirees of the State Police Retirement System who are reemployed as police  
5 employees at certain ranks; requiring certain retirees of the State Police  
6 Retirement System who are reemployed under certain circumstances to  
7 terminate participation in the Deferred Retirement Option Program and receive  
8 a certain lump sum payment prior to being reemployed by the Department of  
9 State Police; requiring that certain retirees of the State Police Retirement  
10 System who are reemployed and injured under certain circumstances receive a  
11 certain adjustment to their retirement allowance; requiring that the Board of  
12 Trustees for the State Retirement and Pension System pay a certain death  
13 benefit under certain circumstances; requiring the Department of State Police  
14 to provide the State Retirement Agency with certain information; providing that  
15 certain retirees of the State Police Retirement System may only be reemployed  
16 for a certain period of time or until reaching a certain age; requiring the  
17 Department of State Police to submit certain reports by a certain date to certain  
18 committees; ~~making certain technical changes~~; providing for the application of  
19 this Act; providing for the termination of this Act; and generally relating to the  
20 reemployment of retirees in the State Police Retirement System.

21 BY repealing and reenacting, with amendments,  
22 Article – State Personnel and Pensions  
23 Section 24–405  
24 Annotated Code of Maryland

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### 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 (2004 Replacement Volume and 2008 Supplement)

2 BY repealing and reenacting, without amendments,

3 Article – State Personnel and Pensions

4 Section 24–405.1

5 Annotated Code of Maryland

6 (2004 Replacement Volume and 2008 Supplement)

7 BY adding to

8 Article – State Personnel and Pensions

9 Section 24–405.2

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 24–405.

16 (a) Except as provided in ~~§~~ 24–405.1 of this subtitle and subject to  
17 subsections ~~(b) and (c)~~ **(B), (C), AND (D)** of this section, ~~SUBSECTION (H) OF THIS~~  
18 ~~SECTION~~, an individual who is receiving a service retirement allowance or vested  
19 allowance may accept employment with a participating employer on a temporary **OR**  
20 **CONTRACTUAL** basis, if:

21 (1) the employment is not in a regularly allocated position; and

22 ~~(2)~~ the individual immediately notifies the Board of Trustees:

23 ~~(i)~~ ~~(1)~~ of the individual's intention to accept the employment;

24 and

25 ~~(ii)~~ ~~(2)~~ of the compensation that the individual will receive.

26 (b) **(1) THE BOARD OF TRUSTEES SHALL REDUCE THE ALLOWANCE**  
27 **OF AN INDIVIDUAL WHO ACCEPTS EMPLOYMENT AS PROVIDED UNDER**  
28 **SUBSECTION (A) OF THIS SECTION IF:**

29 **(I) THE INDIVIDUAL'S CURRENT EMPLOYER IS ANY UNIT OF**  
30 **STATE GOVERNMENT; AND**

31 **(II) THE INDIVIDUAL'S EMPLOYER AT THE TIME OF THE**  
32 **INDIVIDUAL'S LAST SEPARATION FROM EMPLOYMENT WITH THE STATE BEFORE**

1 THE INDIVIDUAL COMMENCED RECEIVING A SERVICE RETIREMENT ALLOWANCE  
2 OR VESTED ALLOWANCE WAS ALSO A UNIT OF STATE GOVERNMENT.

3 (2) THE REDUCTION UNDER PARAGRAPH (1) OF THIS  
4 SUBSECTION SHALL EQUAL THE AMOUNT BY WHICH THE SUM OF THE  
5 INDIVIDUAL'S INITIAL ANNUAL BASIC ALLOWANCE AND THE INDIVIDUAL'S  
6 ANNUAL COMPENSATION EXCEEDS THE AVERAGE FINAL COMPENSATION USED  
7 TO COMPUTE THE BASIC ALLOWANCE.

8 [(1)] (3) [This] THE REDUCTION UNDER PARAGRAPH (1) OF THIS  
9 subsection does not apply to:

10 (i) an individual who has been retired for 9 years, beginning on  
11 January 1, after the date the individual retires; [or]

12 (ii) an individual who participates in the Deferred Retirement  
13 Option Program established under § 24-401.1 of this subtitle; OR

14 (III) A RETIREE OF THE STATE POLICE RETIREMENT  
15 SYSTEM WHO IS REEMPLOYED BY THE DEPARTMENT OF STATE POLICE ON A  
16 CONTRACTUAL BASIS ~~FOR NOT MORE THAN 4 YEARS~~ AS A POLICE EMPLOYEE, AS  
17 DEFINED IN § 2-101 OF THE PUBLIC SAFETY ARTICLE, AT A RANK OF ~~SERGEANT~~  
18 ~~OR BELOW~~ TROOPER FIRST CLASS.

19 [(2) The Board of Trustees shall reduce an individual's allowance by  
20 the amount that the sum of the individual's initial annual basic allowance and the  
21 individual's annual compensation exceeds the average final compensation used to  
22 compute the basic allowance.]

23 (c) For purposes of this section, employment is not on a temporary basis if, in  
24 any 12-month period, an individual works:

25 (1) full time for more than 6 months; or

26 (2) part time for the equivalent of more than 6 months of full-time  
27 work.‡

28 ~~(C)~~ (D) PRIOR TO COMMENCING REEMPLOYMENT UNDER  
29 SUBSECTION (B)(3)(III) OF THIS SECTION, A RETIREE SHALL TERMINATE  
30 PARTICIPATION IN THE DEFERRED RETIREMENT OPTION PROGRAM AND  
31 RECEIVE ANY LUMP SUM PAYMENT ASSOCIATED WITH THE RETIREE'S  
32 PARTICIPATION IN THE DEFERRED RETIREMENT OPTION PROGRAM AS  
33 PROVIDED UNDER § 24-401.1(I) OF THIS SUBTITLE.

1            (E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A  
 2 RETIREE REEMPLOYED UNDER SUBSECTION (B)(3)(III) OF THIS SECTION MAY  
 3 NOT BE REEMPLOYED FOR MORE THAN 4 YEARS.

4            (2) A RETIREE REEMPLOYED UNDER SUBSECTION (B)(3)(III) OF  
 5 THIS SECTION MAY NOT BE REEMPLOYED AFTER BECOMING 60 YEARS OLD.

6            ~~(D) (1) THIS SUBSECTION APPLIES TO A RETIREE WHO:~~

7                    ~~(I) WHILE REEMPLOYED UNDER SUBSECTION (B)(3)(III) OF~~  
 8 ~~THIS SECTION, IS TOTALLY AND PERMANENTLY INCAPACITATED FOR DUTY IN~~  
 9 ~~THE COURSE OF THE ACTUAL PERFORMANCE OF DUTY WITHOUT WILLFUL~~  
 10 ~~NEGLIGENCE BY THE RETIREE; AND~~

11                   ~~(II) THE MEDICAL BOARD CERTIFIES THAT:~~

12                            ~~1. THE RETIREE IS TOTALLY INCAPACITATED,~~  
 13 ~~EITHER MENTALLY OR PHYSICALLY, FOR THE FURTHER PERFORMANCE OF~~  
 14 ~~DUTY;~~

15                            ~~2. THE RETIREE'S INCAPACITY IS LIKELY TO BE~~  
 16 ~~PERMANENT; AND~~

17                            ~~3. THE RETIREE SHOULD CEASE REEMPLOYMENT.~~

18            ~~(2) THE NORMAL SERVICE RETIREMENT ALLOWANCE THAT A~~  
 19 ~~RETIREE DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS~~  
 20 ~~RECEIVING AT THE TIME THE RETIREE IS DETERMINED TO BE DISABLED UNDER~~  
 21 ~~THIS SUBSECTION, SHALL BE READJUSTED TO EQUAL TWO THIRDS OF THE~~  
 22 ~~RETIREE'S AVERAGE FINAL COMPENSATION AT THE TIME THE RETIREE~~  
 23 ~~RETIRED, WITH ACCUMULATED COST OF LIVING ADJUSTMENTS FROM THE~~  
 24 ~~DATE THE RETIREE RETIRED.~~

25            ~~(E) (1) THIS SUBSECTION APPLIES TO A RETIREE WHO:~~

26                    ~~(I) DIES WHILE REEMPLOYED UNDER SUBSECTION~~  
 27 ~~(B)(3)(III) OF THIS SECTION;~~

28                    ~~(II) DIES WITHOUT WILLFUL NEGLIGENCE BY THE RETIREE;~~  
 29 ~~AND~~

30                    ~~(III) IS KILLED IN THE COURSE OF THE ACTUAL~~  
 31 ~~PERFORMANCE OF DUTY.~~

1           ~~(2) WHEN THE BOARD OF TRUSTEES RECEIVES PROOF OF DEATH~~  
2 ~~OF A RETIREE AND FINDS THAT THE DEATH HAS OCCURRED IN THE MANNER~~  
3 ~~DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD OF TRUSTEES~~  
4 ~~SHALL PAY A SPECIAL DEATH BENEFIT ALLOWANCE EQUAL TO TWO THIRDS OF~~  
5 ~~THE RETIREE'S AVERAGE FINAL COMPENSATION AT THE TIME OF RETIREMENT;~~

6           ~~(I) TO THE SURVIVING SPOUSE;~~

7           ~~(II) IF THERE IS NO SURVIVING SPOUSE OR IF THE~~  
8 ~~SURVIVING SPOUSE DIES BEFORE THE YOUNGEST CHILD OF THE MEMBER IS 18~~  
9 ~~YEARS OLD, TO ALL CHILDREN UNDER THE AGE OF 18 YEARS; OR~~

10           ~~(III) IF THERE IS NO SURVIVING SPOUSE OR CHILDREN~~  
11 ~~YOUNGER THAN 18 YEARS OF AGE, TO THE MEMBER'S DEPENDENT PARENT TO~~  
12 ~~CONTINUE AS THE BOARD OF TRUSTEES MAY DIRECT FOR THE REST OF THE~~  
13 ~~PARENT'S LIFE.~~

14           ~~(3) ANY BENEFITS UNDER TITLE 21, SUBTITLE 4 OF THIS~~  
15 ~~ARTICLE MAY NOT BE PAID IF A SPECIAL DEATH BENEFIT IS PAID UNDER~~  
16 ~~PARAGRAPH 2.~~

17           (F) AN INDIVIDUAL WHO IS RECEIVING A SERVICE RETIREMENT  
18 ALLOWANCE OR A VESTED ALLOWANCE AND WHO IS REEMPLOYED BY A  
19 PARTICIPATING EMPLOYER MAY NOT RECEIVE CREDITABLE SERVICE OR  
20 ELIGIBILITY SERVICE DURING THE PERIOD OF REEMPLOYMENT.

21           (G) THE INDIVIDUAL'S COMPENSATION DURING THE PERIOD OF  
22 REEMPLOYMENT MAY NOT BE SUBJECT TO THE EMPLOYER PICKUP PROVISIONS  
23 OF § 21-303 OF THIS ARTICLE OR ANY REDUCTION OR DEDUCTION AS A MEMBER  
24 CONTRIBUTION FOR PENSION OR RETIREMENT PURPOSES.

25           (H) THE STATE RETIREMENT AGENCY SHALL INSTITUTE APPROPRIATE  
26 REPORTING PROCEDURES WITH THE AFFECTED PAYROLL SYSTEMS TO ENSURE  
27 COMPLIANCE WITH THIS SECTION.

28           (I) (1) IMMEDIATELY ON THE EMPLOYMENT OF A RETIREE WHO IS  
29 REHIRED UNDER SUBSECTION (B)(3)(III) OF THIS SECTION, THE DEPARTMENT  
30 OF STATE POLICE SHALL NOTIFY THE STATE RETIREMENT AGENCY OF THE  
31 TYPE OF EMPLOYMENT AND THE ANTICIPATED EARNINGS OF THE INDIVIDUAL.

32           (2) AT LEAST ONCE EACH YEAR, IN A FORMAT SPECIFIED BY THE  
33 STATE RETIREMENT AGENCY, THE DEPARTMENT OF STATE POLICE SHALL  
34 PROVIDE THE STATE RETIREMENT AGENCY WITH A LIST OF ALL EMPLOYEES  
35 INCLUDED ON ANY PAYROLL OF THE EMPLOYER, THE SOCIAL SECURITY  
36 NUMBERS OF THE EMPLOYEES, AND THEIR EARNINGS FOR THAT YEAR.

1           ~~(J) AN INDIVIDUAL WHO IS REHIRED UNDER THIS SECTION MAY NOT BE~~  
2 ~~REHIRED WITHIN 45 DAYS OF THE DATE THE INDIVIDUAL RETIRED IF:~~

3           ~~(1) THE INDIVIDUAL'S CURRENT EMPLOYER IS A PARTICIPATING~~  
4 ~~EMPLOYER OTHER THAN THE STATE AND IS THE SAME PARTICIPATING~~  
5 ~~EMPLOYER THAT EMPLOYED THE INDIVIDUAL AT THE TIME OF THE~~  
6 ~~INDIVIDUAL'S LAST SEPARATION FROM EMPLOYMENT WITH A PARTICIPATING~~  
7 ~~EMPLOYER BEFORE THE INDIVIDUAL COMMENCED RECEIVING A SERVICE~~  
8 ~~RETIREMENT ALLOWANCE; OR~~

9           ~~(2) THE INDIVIDUAL'S CURRENT EMPLOYER IS ANY UNIT OF~~  
10 ~~STATE GOVERNMENT AND THE INDIVIDUAL'S EMPLOYER AT THE TIME OF THE~~  
11 ~~INDIVIDUAL'S LAST SEPARATION FROM EMPLOYMENT WITH THE STATE BEFORE~~  
12 ~~THE INDIVIDUAL COMMENCED RECEIVING A SERVICE RETIREMENT ALLOWANCE~~  
13 ~~WAS ALSO A UNIT OF STATE GOVERNMENT.~~

14           ~~(K) THE DEPARTMENT OF STATE POLICE SHALL NOTIFY THE STATE~~  
15 ~~RETIREMENT AGENCY OF ANY RETIREES WHO QUALIFY UNDER SUBSECTION~~  
16 ~~(B)(3)(III) OF THIS SECTION.~~

17           ~~(L)~~ (J) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE  
18 SECRETARY OF STATE POLICE SHALL SUBMIT A REPORT IN ACCORDANCE WITH  
19 § 2-1246 OF THE STATE GOVERNMENT ARTICLE TO THE JOINT COMMITTEE ON  
20 PENSIONS THAT PROVIDES:

21           (1) THE NUMBER OF REHIRED RETIREES UNDER SUBSECTION  
22 (B)(3)(III) OF THIS SECTION;

23           (2) THE ANNUAL SALARY OF EACH REHIRED RETIREE AT THE  
24 TIME OF RETIREMENT AND THE CURRENT ANNUAL SALARY OF EACH REHIRED  
25 RETIREE;

26           (3) THE NUMBER OF POLICE EMPLOYEES HIRED WHO ARE NOT  
27 RETIREES; AND

28           (4) THE ANNUAL SALARY OF EACH POLICE EMPLOYEE WHO IS  
29 HIRED.

30 ~~§24-405.1.~~

31           A retiree of the State Police Retirement System who is rehired on a permanent,  
32 temporary, or contractual basis may not be rehired within 45 days of the date the  
33 individual retired if the individual's current employer is any unit of State government  
34 and the individual's employer at the time of the individual's last separation from

1 employment with the State before the individual commenced receiving a service  
2 retirement allowance was also a unit of State government.‡

3 **24-405.2.**

4 **(A) (1) THIS SUBSECTION APPLIES TO A RETIREE WHO:**

5 **(I) 1. IS REEMPLOYED UNDER § 24-405(B)(3)(III) OF**  
6 **THIS SUBTITLE; OR**

7 **2. IS REEMPLOYED AS A MARYLAND STATE POLICE**  
8 **AVIATION COMMAND HELICOPTER PILOT;**

9 **(II) WHILE REEMPLOYED UNDER ITEM (I) OF THIS**  
10 **PARAGRAPH IS TOTALLY AND PERMANENTLY INCAPACITATED FOR DUTY IN THE**  
11 **COURSE OF THE ACTUAL PERFORMANCE OF DUTY WITHOUT WILLFUL**  
12 **NEGLIGENCE BY THE RETIREE; AND**

13 **(III) THE MEDICAL BOARD CERTIFIES THAT:**

14 **1. THE RETIREE IS TOTALLY INCAPACITATED,**  
15 **EITHER MENTALLY OR PHYSICALLY, FOR THE FURTHER PERFORMANCE OF**  
16 **DUTY;**

17 **2. THE RETIREE'S INCAPACITY IS LIKELY TO BE**  
18 **PERMANENT; AND**

19 **3. THE RETIREE SHOULD CEASE REEMPLOYMENT.**

20 **(2) THE NORMAL SERVICE RETIREMENT ALLOWANCE THAT A**  
21 **RETIREE DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS**  
22 **RECEIVING AT THE TIME THE RETIREE IS DETERMINED TO BE DISABLED UNDER**  
23 **THIS SUBSECTION SHALL BE READJUSTED TO EQUAL TWO-THIRDS OF THE**  
24 **RETIREE'S AVERAGE FINAL COMPENSATION AT THE TIME THE RETIREE**  
25 **RETIRED, WITH ACCUMULATED COST-OF-LIVING ADJUSTMENTS FROM THE**  
26 **DATE THE RETIREE RETIRED.**

27 **(B) (1) THIS SUBSECTION APPLIES TO A RETIREE WHO:**

28 **(I) 1. DIES WHILE REEMPLOYED UNDER §**  
29 **24-405(B)(3)(III) OF THIS SUBTITLE; OR**

30 **2. DIES WHILE REEMPLOYED AS A MARYLAND STATE**  
31 **POLICE AVIATION COMMAND HELICOPTER PILOT;**

1                    (II) DIES WITHOUT WILLFUL NEGLIGENCE BY THE RETIREE;  
 2 AND

3                    (III) IS KILLED IN THE COURSE OF THE ACTUAL  
 4 PERFORMANCE OF DUTY.

5                    (2) WHEN THE BOARD OF TRUSTEES RECEIVES PROOF OF DEATH  
 6 OF A RETIREE AND FINDS THAT THE DEATH HAS OCCURRED IN THE MANNER  
 7 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD OF TRUSTEES  
 8 SHALL PAY A SPECIAL DEATH BENEFIT ALLOWANCE EQUAL TO TWO-THIRDS OF  
 9 THE RETIREE'S AVERAGE FINAL COMPENSATION AT THE TIME OF RETIREMENT:

10                    (I) TO THE SURVIVING SPOUSE;

11                    (II) IF THERE IS NO SURVIVING SPOUSE OR IF THE  
 12 SURVIVING SPOUSE DIES BEFORE THE YOUNGEST CHILD OF THE MEMBER IS 18  
 13 YEARS OLD, TO ALL CHILDREN UNDER THE AGE OF 18 YEARS; OR

14                    (III) IF THERE IS NO SURVIVING SPOUSE OR CHILDREN  
 15 YOUNGER THAN 18 YEARS OF AGE, TO THE MEMBER'S DEPENDENT PARENT TO  
 16 CONTINUE AS THE BOARD OF TRUSTEES MAY DIRECT FOR THE REST OF THE  
 17 PARENT'S LIFE.

18                    (3) ANY BENEFITS UNDER TITLE 21, SUBTITLE 4 OF THIS  
 19 ARTICLE OR § 24-403 OF THIS SUBTITLE MAY NOT BE PAID IF A SPECIAL DEATH  
 20 BENEFIT IS PAID UNDER PARAGRAPH (2) OF THIS SUBSECTION.

21                    SECTION 2. AND BE IT FURTHER ENACTED, That § 24-405.2 of the State  
 22 Personnel and Pensions Article as enacted by this Act shall be construed to apply  
 23 retroactively and shall be applied to and interpreted to affect any individual who:

24                    (a) was a retiree of the State Police Retirement System; and

25                    (b) on or after July 1, 2008, while reemployed by the Maryland State Police  
 26 Aviation Command as a helicopter pilot:

27                    (1) died without willful negligence by the individual; and

28                    (2) was killed in the course of the actual performance of duty.

29                    SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take  
 30 effect July 1, 2009. It shall remain effective for a period of 5 years and, at the end of  
 31 June 30, 2014, with no further action required by the General Assembly, this Act shall  
 32 be abrogated and of no further force and effect.