

HOUSE BILL 1155

K4

11r0760

By: **Delegate Smigiel**

Introduced and read first time: February 14, 2011

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Pension Reform Act of 2011**

3 FOR the purpose of requiring the State to discontinue certain prescription drug
4 benefits for certain retirees beginning in a certain fiscal year; prohibiting the
5 Chief Investment Officer for the State Retirement and Pension System from
6 hiring or renewing a contract with certain external investment managers on or
7 after a certain date; requiring the Chief Investment Officer to manage certain
8 assets of the State Retirement and Pension System in a certain manner;
9 providing that, on or after a certain date, certain individuals are not eligible to
10 join the Employees' Pension System or the Teachers' Pension System; requiring
11 that, on or after a certain date, certain individuals are required to join the
12 optional retirement program as a condition of employment; providing that
13 certain supervising employers are not responsible for the payment of certain
14 benefits payable under the optional retirement program; requiring certain
15 supervising employers to administer certain aspects of the participation of
16 certain employees participating in the optional retirement program; providing
17 that certain employees are eligible to participate in the optional retirement
18 program; requiring that certain employees who elect to participate in the
19 optional retirement program make such an election within a certain period of
20 time and in a certain manner; requiring certain participating governmental
21 units that elect to participate in the State Retirement and Pension System on or
22 after a certain date to participate in the optional retirement program; requiring
23 certain participating governmental units that elect to participate in the optional
24 retirement program to make such an election in a certain manner; providing for
25 the effective date of participation for certain participating governmental units
26 that elect to participate in the optional retirement program; prohibiting a
27 participating governmental unit from transferring certain service credit of
28 certain employees of the participating governmental unit to the optional
29 retirement program; defining certain terms; and generally relating to reforms in
30 benefits for retirees and the management of assets of the State Retirement and
31 Pension System.

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 2–509.1, 21–122(d) and (e), 23–203, 23–204(c) and (d), 23–208, 30–101,
 4 30–201, 30–202, 30–207, 30–210, 30–301, 30–302, 30–303, 30–305,
 5 30–306, 30–307(e), 31–101(c) and (d), 31–102, 31–109, and 31–113
 6 Annotated Code of Maryland
 7 (2009 Replacement Volume and 2010 Supplement)

8 BY repealing and reenacting, without amendments,
 9 Article – State Personnel and Pensions
 10 Section 31–101(a)
 11 Annotated Code of Maryland
 12 (2009 Replacement Volume and 2010 Supplement)

13 BY adding to
 14 Article – State Personnel and Pensions
 15 Section 31–109.2, 31–109.3, 31–111.7, and 31–112.1
 16 Annotated Code of Maryland
 17 (2009 Replacement Volume and 2010 Supplement)

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

20 **Article – State Personnel and Pensions**

21 2–509.1.

22 **(A) [The] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,**
 23 **THE** State shall continue to include a prescription drug benefit plan in the health
 24 insurance benefit options established under the Program and available to retirees
 25 under §§ 2–508 and 2–509 of this subtitle notwithstanding the enactment of the
 26 federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003 or
 27 any other federal law permitting states to discontinue prescription drug benefit plans
 28 to retirees of a state.

29 **(B) BEGINNING IN FISCAL YEAR 2013, THE STATE SHALL DISCONTINUE**
 30 **PRESCRIPTION DRUG BENEFITS FOR MEDICARE–ELIGIBLE RETIREES.**

31 21–122.

32 (d) On behalf of the several systems, the Chief Investment Officer:

33 (1) **ON OR BEFORE JUNE 30, 2011,** may hire external investment
 34 managers to invest the assets of the several systems;

1 **(2)** ON OR AFTER JULY 1, 2011, MAY NOT HIRE OR RENEW A
2 CONTRACT WITH AN EXTERNAL INVESTMENT MANAGER TO INVEST THE ASSETS
3 OF THE SEVERAL SYSTEMS, EXCEPT AS PROVIDED IN § 2-123(G) OF THIS
4 SUBTITLE FOR THE MANAGEMENT OF REAL ESTATE ASSETS;

5 **(3)** SHALL MANAGE THE ASSETS OF THE SEVERAL SYSTEMS,
6 OTHER THAN REAL ESTATE ASSETS, USING INDEXES FOR FIXED INCOME AND
7 EQUITY INVESTMENT ASSETS;

8 **[(2)] (4)** may select and invest in specific investment vehicles,
9 including limited partnerships, private equity fund investments, and private real
10 estate fund investments; and

11 **[(3)] (5)** may terminate the appointment of an external investment
12 manager.

13 (e) Prior to terminating the appointment of an external investment manager
14 under subsection **[(d)(2)] (D)(5)** of this section, the Chief Investment Officer shall
15 provide written documentation to the Board of Trustees and the Investment
16 Committee explaining the basis for the termination.

17 23-203.

18 **(A)** Except as provided in § 23-204 of this subtitle, an individual described in
19 § 23-201(a) of this subtitle who becomes an employee of a participating employer on or
20 after January 1, 1980, **AND ON OR BEFORE JUNE 30, 2011**, or who transfers
21 membership from the Employees' Retirement System **ON OR BEFORE JUNE 30,**
22 **2011**, is a member of the Employees' Pension System as a condition of employment.

23 **(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
24 **SUBSECTION, AN INDIVIDUAL WHO IS NOT A MEMBER OF THE EMPLOYEES'**
25 **PENSION SYSTEM ON JUNE 30, 2011, IS NOT ELIGIBLE FOR MEMBERSHIP IN**
26 **THE EMPLOYEES' PENSION SYSTEM.**

27 **(2) AN INDIVIDUAL IS A MEMBER OF THE EMPLOYEES' PENSION**
28 **SYSTEM IF THE INDIVIDUAL COMMENCES EMPLOYMENT ON OR AFTER JULY 1,**
29 **2011, FOR A PARTICIPATING GOVERNMENTAL UNIT THAT ELECTED TO JOIN THE**
30 **EMPLOYEES' PENSION SYSTEM ON OR BEFORE JUNE 30, 2011.**

31 23-204.

32 (c) (1) Subject to paragraph (2) of this subsection, membership in the
33 Employees' Pension System is optional for an individual described in § 23-201(a)(2)(iv)
34 of this subtitle who is elected or appointed as the Baltimore City Sheriff **ON OR**
35 **BEFORE JUNE 30, 2011.**

1 (2) An individual who is elected or appointed as the Baltimore City
2 Sheriff **ON OR BEFORE JUNE 30, 2011**, and who does not elect to join the Employees'
3 Pension System is a member of the Law Enforcement Officers' Pension System under
4 Title 26 of this article as a condition of employment.

5 (3) To elect to be a member of the Employees' Pension System under
6 this subsection, an individual shall file a written application with the State
7 Retirement Agency.

8 (4) An individual who does not elect membership within 6 months of
9 the date the individual begins serving as the Baltimore City Sheriff shall become a
10 member of the Law Enforcement Officers' Pension System.

11 (d) (1) This subsection applies to an individual described in §
12 23-201(a)(2)(iv) of this subtitle who elects membership in the Employees' Pension
13 System under this section.

14 (2) An individual described in paragraph (1) of this subsection may
15 elect membership in the Law Enforcement Officers' Pension System if the county
16 employing the individual elects to become an eligible governmental unit in the Law
17 Enforcement Officers' Pension System **ON OR BEFORE JUNE 30, 2011, AND** in
18 accordance with §§ 31-2A-02 through 31-2A-05 of this article.

19 (3) If an individual transfers to the Law Enforcement Officers' Pension
20 System under this subsection, the eligible governmental unit is responsible for all
21 employer contributions required for the individual under § 21-306.1 of this article.

22 23-208.

23 **(A)** Except as provided in § 23-209 of this subtitle, an individual described in
24 § 23-206(a) of this subtitle who becomes employed by a participating employer on or
25 after January 1, 1980, **AND ON OR BEFORE JUNE 30, 2011**, or who transfers
26 membership from the Teachers' Retirement System **ON OR BEFORE JUNE 30, 2011**,
27 is a member of the Teachers' Pension System as a condition of employment.

28 **(B) AN INDIVIDUAL WHO IS NOT A MEMBER OF THE TEACHERS'**
29 **PENSION SYSTEM ON JUNE 30, 2011, IS NOT ELIGIBLE FOR MEMBERSHIP IN**
30 **THE TEACHERS' PENSION SYSTEM.**

31 30-101.

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

33 (b) (1) "Annuity contract" means a fixed or variable annuity contract or
34 combination of fixed or variable annuity contracts authorized under **§ 401(A) OR §**
35 **403(a) or (b)** of the Internal Revenue Code.

1 (2) “Annuity contract” includes a custodial account to be invested in
2 regulated investment company stock as provided in § 401(f) or § 403(b)(7) of the
3 Internal Revenue Code.

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

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

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

8 (d) “Eligible employee” means an individual eligible to participate in the
9 program.

10 (e) “Employing institution” means:

11 (1) the University System of Maryland;

12 (2) Morgan State University;

13 (3) St. Mary’s College;

14 (4) the Maryland Higher Education Commission with respect to
15 eligible employees of the Commission; and

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

18 (f) “Participating employee” means an eligible employee who:

19 **(1) ON OR BEFORE JUNE 30, 2011, elects to participate in the**
20 **program; OR**

21 **(2) ON OR AFTER JULY 1, 2011, IS REQUIRED TO ENROLL IN THE**
22 **PROGRAM AS A CONDITION OF EMPLOYMENT.**

23 (g) “Pension system” means the Employees’ Pension System or the Teachers’
24 Pension System.

25 (h) “Program” means the optional retirement program established under §
26 30–201 of this title.

27 (i) “Retirement system” means the Employees’ Retirement System or the
28 Teachers’ Retirement System.

29 **(J) “SUPERVISING EMPLOYER” MEANS:**

- 1 **(1) ANY UNIT OF STATE GOVERNMENT;**
- 2 **(2) A COUNTY BOARD OF EDUCATION OR THE BALTIMORE CITY**
3 **BOARD OF SCHOOL COMMISSIONERS;**
- 4 **(3) A LIBRARY THAT IS ESTABLISHED UNDER THE EDUCATION**
5 **ARTICLE;**
- 6 **(4) AN EMPLOYING INSTITUTION;**
- 7 **(5) A PARTICIPATING GOVERNMENTAL UNIT THAT IS ELIGIBLE TO**
8 **PARTICIPATE UNDER TITLE 31, SUBTITLE 1 OF THIS ARTICLE AND ELECTS TO**
9 **JOIN THE OPTIONAL RETIREMENT PROGRAM ON OR AFTER JULY 1, 2011;**
- 10 **(6) THE OFFICE OF THE SHERIFF OF BALTIMORE CITY;**
- 11 **(7) A BOARD OF SUPERVISORS OF ELECTIONS OF A COUNTY;**
- 12 **(8) THE STATE RACING COMMISSION AUTHORIZED BY § 11-207**
13 **OF THE BUSINESS REGULATION ARTICLE;**
- 14 **(9) A CIRCUIT COURT FOR ANY COUNTY; OR**
- 15 **(10) THE MARYLAND ENVIRONMENTAL SERVICE.**

16 **[(j)] (K)** “Supplemental retirement plans” means plans established
17 pursuant to § 30-401 of this title.

18 30-201.

19 (a) There is an optional retirement program [in which eligible employees
20 may participate].

21 (b) Under the program, annuity contracts offered by a designated company
22 that provide retirement and death benefits may be purchased for participating
23 employees.

24 (c) (1) The Board of Trustees shall administer the program to the extent
25 provided in this title.

26 (2) The State Retirement Agency shall carry out the administrative
27 duties of the Board of Trustees.

1 (d) The program shall be offered by each [employing institution]
2 **SUPERVISING EMPLOYER.**

3 30-202.

4 (a) The Board of Trustees may designate not more than four companies, in
5 addition to the company that was designated by a governing board of an employing
6 institution on or before March 1, 1993, from which annuity contracts are to be
7 purchased under the program.

8 (b) (1) The Board of Trustees shall approve the form and contents of
9 annuity contracts to be offered by a company that is designated by the Board of
10 Trustees under subsection (a) of this section.

11 (2) The Board of Trustees may also approve the form and contents of
12 additional types of annuity contracts to be offered for the first time after October 1,
13 1993, by the company designated by the governing board of an employing institution
14 on or before March 1, 1993.

15 (c) In making the designation and giving approval under this section, the
16 Board of Trustees shall consider:

17 (1) the nature and extent of the rights and benefits to be provided by
18 the annuity contracts for participating employees and their beneficiaries;

19 (2) the relation of those rights and benefits to the amount of
20 contributions to be made;

21 (3) the suitability of the rights and benefits to the needs of the
22 participating employees and the interests of the [employing institutions]
23 **SUPERVISING EMPLOYERS** in the recruitment and retention of participating
24 employees;

25 (4) the ability of the company to provide for suitable rights and
26 benefits under the annuity contracts;

27 (5) the selection of annuity contracts offered by the company;

28 (6) the financial stability of the company and whether the company
29 meets minimum financial criteria, if any, including a minimum net worth
30 requirement, if any, established by the Board of Trustees; and

31 (7) the effect of any fees, commissions, or other charges imposed or
32 collected in connection with an annuity contract.

33 30-207.

1 Benefits under the program:

2 (1) shall be payable to participating employees or their beneficiaries in
3 accordance with the terms of the annuity contracts; and

4 (2) are not payable by [the State or governing board of an employing
5 institution] **A SUPERVISING EMPLOYER.**

6 30–210.

7 With respect to a participating employee who is employed by [an employing
8 institution or an institution over which the employing institution has administrative
9 authority, the employing institution] **A SUPERVISING EMPLOYER, THE**
10 **SUPERVISING EMPLOYER** shall administer the participating employee's enrollment,
11 termination, or retirement under the program.

12 30–301.

13 (a) **EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN**
14 **ELIGIBLE EMPLOYEE WHO, ON OR AFTER JULY 1, 2011, BECOMES AN EMPLOYEE**
15 **OF A PARTICIPATING EMPLOYER IS A MEMBER OF THE OPTIONAL RETIREMENT**
16 **PROGRAM AS A CONDITION OF EMPLOYMENT.**

17 (b) An [individual is eligible to participate in the program if the individual is
18 eligible for membership in a retirement system or a pension system and is] **ELIGIBLE**
19 **EMPLOYEE IS AN INDIVIDUAL WHO:**

20 (1) **IS** a member of the faculty of an employing institution;

21 (2) **IS** a professional employee at a community college or regional
22 community college established under Title 16 of the Education Article;

23 (3) **IS** an employee of the University System of Maryland who is in a
24 position designated as exempt under a policy adopted by the University System of
25 Maryland Board of Regents;

26 (4) **IS** an employee of Morgan State University who is in a position
27 designated as professional or administrative by the Board of Regents of Morgan State
28 University; [or]

29 (5) **IS** an employee of St. Mary's College of Maryland who is in a
30 position determined by the Board of Trustees of the College to be a professional or
31 faculty position; **OR**

32 (6) **ON OR AFTER JULY 1, 2011, BECOMES AN EMPLOYEE OF A**
33 **PARTICIPATING EMPLOYER AS:**

1 **(I) A REGULAR EMPLOYEE WHOSE COMPENSATION IS**
2 **PROVIDED BY STATE APPROPRIATION OR PAID FROM STATE FUNDS;**

3 **(II) AN APPOINTED OR ELECTED OFFICIAL OF THE STATE**
4 **WHO IS APPOINTED OR ELECTED FOR A TERM OF OFFICE THAT BEGINS ON OR**
5 **AFTER JULY 1, 2011, INCLUDING:**

6 1. **A CLERK OF THE CIRCUIT COURT;**

7 2. **A REGISTER OF WILLS;**

8 3. **A STATE'S ATTORNEY; AND**

9 4. **A SHERIFF;**

10 **(III) AN EMPLOYEE OF A DAY SCHOOL IN THE STATE UNDER**
11 **THE AUTHORITY AND SUPERVISION OF A COUNTY BOARD OF EDUCATION OR THE**
12 **BALTIMORE CITY BOARD OF SCHOOL COMMISSIONERS EMPLOYED AS:**

13 1. **A CLERK;**

14 2. **A HELPING TEACHER;**

15 3. **A PRINCIPAL;**

16 4. **A SUPERINTENDENT;**

17 5. **A SUPERVISOR; OR**

18 6. **A TEACHER;**

19 **(IV) A LIBRARIAN OR CLERICAL EMPLOYEE OF A LIBRARY**
20 **THAT IS ESTABLISHED OR OPERATES UNDER THE EDUCATION ARTICLE;**

21 **(V) AN EMPLOYEE OR OFFICIAL OF A PARTICIPATING**
22 **GOVERNMENTAL UNIT THAT, ON OR AFTER JULY 1, 2011, HAS ELECTED TO**
23 **PARTICIPATE IN THE OPTIONAL RETIREMENT PROGRAM;**

24 **(VII) AN EMPLOYEE OF THE OFFICE OF THE SHERIFF OF**
25 **BALTIMORE CITY;**

1 (VIII) AN EMPLOYEE OR AGENT OF THE STATE RACING
2 COMMISSION AUTHORIZED BY § 11-207 OF THE BUSINESS REGULATION
3 ARTICLE;

4 (IX) A PERMANENT EMPLOYEE OF THE BOARD OF
5 SUPERVISORS OF ELECTIONS OF A COUNTY;

6 (X) A FULL-TIME MASTER IN CHANCERY OR IN JUVENILE
7 CAUSES WHO WAS APPOINTED ON OR AFTER JULY 1, 2011, IN ANY COUNTY BY
8 THE CIRCUIT COURT FOR THAT COUNTY;

9 (XI) A NONFACULTY EMPLOYEE OF THE BALTIMORE CITY
10 COMMUNITY COLLEGE; OR

11 (XII) A STAFF EMPLOYEE OF THE UNIVERSITY SYSTEM OF
12 MARYLAND, MORGAN STATE UNIVERSITY, OR ST. MARY'S COLLEGE OF
13 MARYLAND.

14 (C) (1) MEMBERSHIP IN THE OPTIONAL RETIREMENT PROGRAM IS
15 OPTIONAL FOR:

16 (I) A MEMBER OF THE FACULTY OF AN EMPLOYING
17 INSTITUTION ON JUNE 30, 2011;

18 (II) A PROFESSIONAL EMPLOYEE AT A COMMUNITY
19 COLLEGE OR REGIONAL COMMUNITY COLLEGE, ESTABLISHED UNDER TITLE 16
20 OF THE EDUCATION ARTICLE, ON JUNE 30, 2011;

21 (III) AN EMPLOYEE OF THE UNIVERSITY SYSTEM OF
22 MARYLAND WHO IS IN A POSITION DESIGNATED AS EXEMPT UNDER A POLICY
23 ADOPTED BY THE UNIVERSITY SYSTEM OF MARYLAND BOARD OF REGENTS ON
24 JUNE 30, 2011;

25 (IV) AN EMPLOYEE OF MORGAN STATE UNIVERSITY WHO IS
26 IN A POSITION DESIGNATED AS PROFESSIONAL OR ADMINISTRATIVE BY THE
27 BOARD OF REGENTS OF MORGAN STATE UNIVERSITY ON JUNE 30, 2011; OR

28 (V) AN EMPLOYEE OF ST. MARY'S COLLEGE OF MARYLAND
29 WHO IS IN A POSITION DETERMINED BY THE BOARD OF TRUSTEES OF THE
30 COLLEGE TO BE A PROFESSIONAL OR FACULTY POSITION ON JUNE 30, 2011.

31 (2) AN INDIVIDUAL DESCRIBED IN PARAGRAPH (1) OF THIS
32 SUBSECTION IS SUBJECT TO §§ 30-302 THROUGH 30-306 OF THIS SUBTITLE.

1 **[(b)] (D)** (1) This subsection applies to an individual who:

2 (i) on August 22, 2004, was eligible to participate in the
3 program; and

4 (ii) is in a position that, as of August 23, 2004, was reclassified
5 by the University System of Maryland Board of Regents or the Board of Regents of
6 Morgan State University and would no longer be eligible for participation in the
7 program under subsection (a) of this section.

8 (2) An individual described under paragraph (1) of this subsection may
9 continue to participate in the program if the individual:

10 (i) would otherwise be eligible for membership in a system
11 under the State Retirement and Pension System; and

12 (ii) is employed by an employing institution.

13 30–302.

14 (a) An election to participate in the program shall be made by an eligible
15 employee **UNDER § 30–301(C)(1) OF THIS SUBTITLE** within 1 year of first becoming
16 an eligible employee of [an employing institution] **A SUPERVISING EMPLOYER**.

17 (b) An eligible employee’s election to participate in the program **UNDER**
18 **THIS SECTION** is a one–time irrevocable election.

19 30–303.

20 (a) An eligible employee **UNDER § 30–301(C)(1) OF THIS SUBTITLE** shall
21 elect to:

22 (1) join a pension or retirement system in accordance with the
23 provisions of this Division II applicable to that system; or

24 (2) participate in the program.

25 (b) An eligible employee **UNDER § 30–301(C)(1) OF THIS SUBTITLE** shall:

26 (1) make an election under this section in writing; and

27 (2) file the election with the Board of Trustees and the [employing
28 institution] **SUPERVISING EMPLOYER** within 1 year of first becoming an eligible
29 employee of [an employing institution] **A SUPERVISING EMPLOYER**.

30 (c) An eligible employee **UNDER § 30–301(C)(1) OF THIS SUBTITLE** may
31 not participate in the program if both the Board of Trustees and the [employing

1 institution] **SUPERVISING EMPLOYER** have not received the eligible employee's
2 written election required under subsection (b) of this section, within 1 year of first
3 becoming an eligible employee with [an employing institution] **A SUPERVISING**
4 **EMPLOYER**.

5 (d) The effective date of the election shall be the first day of the month after
6 the election.

7 30-305.

8 (a) This section applies only to a State employee who becomes eligible to
9 elect participation in the program if the employee is appointed, promoted, transferred,
10 or reclassified to a position as an eligible employee **ON OR BEFORE JUNE 30, 2011**.

11 (b) A State employee described in subsection (a) of this section may elect to
12 participate in the program.

13 (c) An eligible employee shall:

14 (1) make an election under this section in writing; and

15 (2) file the election with the Board of Trustees and the [employing
16 institution] **SUPERVISING EMPLOYER** within 1 year of first becoming an eligible
17 employee of [an employing institution] **A SUPERVISING EMPLOYER**.

18 (d) An eligible employee may not participate in the program if both the
19 Board of Trustees and the [employing institution] **SUPERVISING EMPLOYER** have
20 not received the eligible employee's written election required under subsection (c) of
21 this section, within 1 year of first becoming an eligible employee with [an employing
22 institution] **A SUPERVISING EMPLOYER**.

23 30-306.

24 An election of the program by an eligible employee **UNDER § 30-301(C)(1) OF**
25 **THIS SUBTITLE** is only effective when the election is accompanied by an appropriate
26 application, if required, for the issuance of an annuity contract under the program.

27 30-307.

28 (e) [A participating employee] **AN ELIGIBLE EMPLOYEE UNDER §**
29 **30-301(C)(1) OF THIS SUBTITLE** is ineligible for membership in a retirement system
30 or pension system while the [participating employee] **ELIGIBLE EMPLOYEE** is
31 employed in any eligible position by any [employing institution] **SUPERVISING**
32 **EMPLOYER**.

33 31-101.

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

2 (c) “Effective date” means the date that an eligible governmental unit
3 commenced or commences participation in an employees’ system **OR THE OPTIONAL**
4 **RETIREMENT PROGRAM.**

5 (d) “Eligible governmental unit” means:

6 (1) a governmental unit that is eligible to participate in the employees’
7 systems under § 31–102 of this subtitle **ON OR BEFORE JUNE 30, 2011; OR**

8 (2) **A GOVERNMENTAL UNIT THAT IS ELIGIBLE TO PARTICIPATE**
9 **IN THE OPTIONAL RETIREMENT PROGRAM UNDER TITLE 30 OF THIS ARTICLE**
10 **ON OR AFTER JULY 1, 2011.**

11 31–102.

12 Subject to § 22–202(b) of this article, the governmental units that are eligible to
13 participate in the employees’ systems **OR THE OPTIONAL RETIREMENT PROGRAM**
14 are:

15 (1) a political subdivision of the State, including:

16 (i) a county;

17 (ii) a municipal corporation; and

18 (iii) a special taxing area; and

19 (2) the following governmental units:

20 (i) an agency on aging, as designated by the legislative body of
21 the agency on aging;

22 (ii) the Allegany County Transit Authority;

23 (iii) subject to § 31–104 of this subtitle, the Baltimore
24 Metropolitan Council;

25 (iv) a board or commission created by an Act of the General
26 Assembly for public purpose and not for the profit of a private person;

27 (v) subject to § 31–105 of this subtitle, the Canal Place
28 Preservation and Development Authority;

29 (vi) the Chesapeake Bay Commission;

- 1 (vii) a cooperative library commission;
- 2 (viii) subject to § 31–103 of this subtitle, a community action
3 agency, as designated by the legislative body of the community action agency;
- 4 (ix) a fire department that receives any of its funds from or
5 through a county, municipal corporation, special taxing area, or other political
6 subdivision of the State;
- 7 (x) the Health Planning Council of Appalachia;
- 8 (xi) the Howard County Economic Development Authority;
- 9 (xii) the Interstate Commission on the Potomac River Basin;
- 10 (xiii) the Lower Shore Private Industry Council, Inc.;
- 11 (xiv) the Maryland Environmental Service;
- 12 (xv) subject to § 31–106 of this subtitle, the Maryland Stadium
13 Authority;
- 14 (xvi) a public library association or organization;
- 15 (xvii) the St. Mary’s County Nursing Home;
- 16 (xviii) the Tri–County Council for Western Maryland, Inc.;
- 17 (xix) the Tri–County Council for Southern Maryland;
- 18 (xx) subject to § 31–107 of this subtitle, the University of
19 Maryland Medical System Corporation;
- 20 (xxi) the Upper Potomac River Commission;
- 21 (xxii) subject to § 31–106.1 of this subtitle, the Maryland African
22 American Museum Corporation; and
- 23 (xxiii) the Garrett County Office for Children, Youth and Families.
- 24 31–109.

25 Except as provided in § 31–110 of this subtitle, an employee of an eligible
26 governmental unit is entitled to be a member of the Employees’ Pension System if:

- 27 (1) (i) the employee is not a member of a local pension system; and

1 (ii) the legislative body of the eligible governmental unit
2 approves participation of the eligible governmental unit in the Employees' Pension
3 System **ON OR BEFORE JUNE 30, 2011**; or

4 (2) (i) the employee is a member of a local pension system;

5 (ii) at least 60% of the members of the local pension system
6 petition to become members of the Employees' Pension System **ON OR BEFORE JUNE**
7 **30, 2011**; and

8 (iii) the legislative body of the eligible governmental unit
9 approves participation of the eligible governmental unit in the Employees' Pension
10 System **ON OR BEFORE JUNE 30, 2011**, as though the local pension system were not
11 in operation.

12 **31-109.2.**

13 **AN EMPLOYEE OF AN ELIGIBLE GOVERNMENTAL UNIT IS ENTITLED TO BE**
14 **A MEMBER OF THE OPTIONAL RETIREMENT PROGRAM IF:**

15 **(1) (I) THE EMPLOYEE IS NOT A MEMBER OF A LOCAL PENSION**
16 **SYSTEM OR STATE SYSTEM; AND**

17 **(II) THE LEGISLATIVE BODY OF THE ELIGIBLE**
18 **GOVERNMENTAL UNIT APPROVES PARTICIPATION OF THE ELIGIBLE**
19 **GOVERNMENTAL UNIT IN THE OPTIONAL RETIREMENT PROGRAM ON OR AFTER**
20 **JULY 1, 2011; OR**

21 **(2) (I) THE EMPLOYEE IS A MEMBER OF A LOCAL PENSION**
22 **SYSTEM OR STATE SYSTEM;**

23 **(II) AT LEAST 60% OF THE MEMBERS OF THE LOCAL**
24 **PENSION SYSTEM OR STATE SYSTEM PETITION TO BECOME MEMBERS OF THE**
25 **OPTIONAL RETIREMENT PROGRAM ON OR AFTER JULY 1, 2011; AND**

26 **(III) THE LEGISLATIVE BODY OF THE ELIGIBLE**
27 **GOVERNMENTAL UNIT APPROVES PARTICIPATION OF THE ELIGIBLE**
28 **GOVERNMENTAL UNIT IN THE OPTIONAL RETIREMENT PROGRAM ON OR AFTER**
29 **JULY 1, 2011, AS THOUGH THE LOCAL PENSION SYSTEM OR STATE SYSTEM**
30 **WERE NOT IN OPERATION.**

31 **31-109.3.**

32 **THE EFFECTIVE DATE OF PARTICIPATION FOR AN ELIGIBLE**
33 **GOVERNMENTAL UNIT IS JULY 1 OF THE YEAR FOLLOWING THE FISCAL YEAR IN**

1 WHICH THE ELIGIBLE GOVERNMENTAL UNIT ELECTS TO PARTICIPATE IN THE
2 OPTIONAL RETIREMENT PROGRAM.

3 31-111.7.

4 IF AN EMPLOYEE OF A PARTICIPATING GOVERNMENTAL UNIT JOINS THE
5 OPTIONAL RETIREMENT PROGRAM ON THE EFFECTIVE DATE, THE EMPLOYEE IS
6 NOT ENTITLED TO SERVICE CREDIT FOR EMPLOYMENT WITH THE
7 PARTICIPATING GOVERNMENTAL UNIT BEFORE THE EFFECTIVE DATE.

8 31-112.1.

9 AN EMPLOYEE OF A PARTICIPATING GOVERNMENTAL UNIT WHO IS A
10 MEMBER OF THE OPTIONAL RETIREMENT PROGRAM IS ENTITLED TO THE
11 BENEFITS TO WHICH STATE EMPLOYEES ARE ENTITLED UNDER THAT SYSTEM.

12 31-113.

13 (a) Except as provided in subsection (b) of this section, the operation of the
14 local pension system of an eligible governmental unit terminates on the effective date.

15 (b) (1) An eligible governmental unit may elect to continue to operate a
16 local pension system after the effective date of participation in the Employees' Pension
17 System **OR THE OPTIONAL RETIREMENT PROGRAM** to provide benefits to a person
18 who:

19 (i) is receiving benefits from the local pension system;

20 (ii) is eligible to receive benefits from the local pension system
21 on account of the person's previous employment by the eligible governmental unit; or

22 (iii) did not elect to join the Employees' Pension System under §
23 23-204(b) of this article.

24 (2) A person may not be enrolled in the local pension system of a
25 participating governmental unit electing to continue to operate its system under
26 paragraph (1) of this subsection if the person becomes employed or is rehired by the
27 participating governmental unit on or after the effective date of participation of the
28 participating governmental unit in the Employees' Pension System **OR THE**
29 **OPTIONAL RETIREMENT PROGRAM**.

30 (c) The liability for the continuation of benefits under subsection (b) of this
31 section shall be included in the computation of the special accrued liability as provided
32 by § 21-305.3 of this article.

33 (d) (1) On the effective date:

1 (i) the assets to the credit of the local pension system of the
2 participating governmental unit that are attributable to the employees of the
3 participating governmental unit who elect to become members of the Employees'
4 Pension System under § 23-204(b) of this article shall be transferred to the
5 Employees' Pension System; and

6 (ii) the trustee or other administrative head of the local pension
7 system shall certify the proportion of the funds of the local pension system that
8 represents the accumulated contributions of the members as of that date.

9 (2) The accumulated contributions shall be credited to the respective
10 annuity savings accounts of the members in the Employees' Pension System.

11 (3) Any balance of the funds transferred to the Employees' Pension
12 System shall be offset against the special accrued liability to be funded by the
13 participating governmental unit as provided by § 21-305.3 of this article.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2011.