

SENATE BILL 958

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2lr2741
CF HB 653

By: **Senator Brinkley**

Introduced and read first time: February 14, 2012

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **State Retirement and Pension Systems – Cash Balance Plan**

3 FOR the purpose of establishing a cash balance plan under the State Retirement and
4 Pension System; requiring that certain members of the Employees' Pension
5 System or the Teachers' Pension System become members of the cash balance
6 plan on a certain date; requiring that certain individuals who are employed by
7 certain participating employers on or after a certain date become members of
8 the cash balance plan; providing that certain individuals are not eligible to
9 participate in the optional retirement program; requiring the Board of Trustees
10 of the State Retirement and Pension System to administer the cash balance
11 plan; requiring participation in the cash balance plan as a condition of
12 employment for certain individuals; providing the vesting requirements for
13 participating employees in the cash balance plan; requiring that employee
14 contributions to the cash balance plan be a certain amount and be made in a
15 certain manner; requiring certain participating employees of the cash balance
16 plan to be a certain age with a certain number of years of service as an eligible
17 employee prior to receiving certain distributions; requiring certain participating
18 employees of the cash balance plan who elect to receive certain distributions
19 before reaching a certain age with a certain number of years of service to wait
20 until a certain time to receive the distribution; providing for distribution of
21 certain benefits from the cash balance plan to a participating employee on
22 retirement; providing that certain participating employees in the cash balance
23 plan may make certain elections with regard to the method of distribution for
24 certain benefits payable under the cash balance plan; requiring the State to
25 make certain employer contributions to the cash balance plan in a certain
26 manner; providing that certain participating employees in the cash balance plan
27 may receive a certain benefit from the Employees' Pension System or the
28 Teachers' Pension System; providing that certain eligible employees in the cash
29 balance plan may elect to convert a certain accrued benefit to the cash balance
30 plan or receive a return of certain member contributions plus regular interest;
31 prohibiting certain eligible employees who elect to convert a certain benefit to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 the cash balance plan from receiving certain member contributions; defining
 2 certain terms; making certain provisions of this Act subject to a certain
 3 contingency; and generally relating to the establishment of a cash balance plan
 4 for State employees and teachers.

5 BY repealing and reenacting, with amendments,
 6 Article – State Personnel and Pensions
 7 Section 23–203, 23–204(c), 23–208, and 30–302
 8 Annotated Code of Maryland
 9 (2009 Replacement Volume and 2011 Supplement)

10 BY adding to
 11 Article – State Personnel and Pensions
 12 Section 41–101 through 41–209 to be under the new title “Title 41. Cash
 13 Balance Plan”
 14 Annotated Code of Maryland
 15 (2009 Replacement Volume and 2011 Supplement)

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

18 **Article – State Personnel and Pensions**

19 23–203.

20 **(A) (1)** Except as provided in § 23–204 of this subtitle, an individual
 21 described in § 23–201(a) of this subtitle who becomes an employee of a participating
 22 employer on or after January 1, 1980, **AND ON OR BEFORE JUNE 30, 2012**, or who
 23 transfers membership from the Employees’ Retirement System **ON OR BEFORE JUNE**
 24 **30, 2012**, is a member of the Employees’ Pension System as a condition of
 25 employment.

26 **(2) AN INDIVIDUAL DESCRIBED IN § 23–201(A) OF THIS SUBTITLE**
 27 **WHO IS A MEMBER OF THE EMPLOYEES’ PENSION SYSTEM ON JUNE 30, 2012,**
 28 **AND REMAINS AN EMPLOYEE OF A PARTICIPATING EMPLOYER ON JULY 1, 2012:**

29 **(I) SHALL BECOME A MEMBER OF THE CASH BALANCE PLAN**
 30 **UNDER TITLE 41 OF THIS ARTICLE ON JULY 1, 2012; AND**

31 **(II) SHALL NO LONGER BE CONSIDERED A MEMBER OF THE**
 32 **EMPLOYEES’ PENSION SYSTEM.**

33 **(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
 34 **SUBSECTION, AN INDIVIDUAL WHO IS NOT A MEMBER OF THE EMPLOYEES’**
 35 **PENSION SYSTEM ON JUNE 30, 2012, IS NOT ELIGIBLE FOR MEMBERSHIP IN**
 36 **THE EMPLOYEES’ PENSION SYSTEM.**

1 **(2) AN INDIVIDUAL IS A MEMBER OF THE EMPLOYEES' PENSION**
2 **SYSTEM IF THE INDIVIDUAL COMMENCES EMPLOYMENT ON OR AFTER JULY 1,**
3 **2012, FOR A PARTICIPATING GOVERNMENTAL UNIT THAT ELECTED TO JOIN THE**
4 **EMPLOYEES' PENSION SYSTEM ON OR BEFORE JUNE 30, 2012.**

5 23-204.

6 (c) (1) [Subject] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
7 **SUBSECTION AND SUBJECT to paragraph [(2)] (3) of this subsection, membership in**
8 **the Employees' Pension System is optional for an individual described in**
9 **§ 23-201(a)(2)(iv) of this subtitle who is elected or appointed as the Baltimore City**
10 **Sheriff ON OR BEFORE JUNE 30, 2012.**

11 **(2) AN INDIVIDUAL DESCRIBED IN § 23-201(A)(2)(IV) OF THIS**
12 **SUBTITLE WHO IS A MEMBER OF THE EMPLOYEES' PENSION SYSTEM ON JUNE**
13 **30, 2012, AND REMAINS AS THE BALTIMORE CITY SHERIFF ON JULY 1, 2012:**

14 **(I) SHALL BECOME A MEMBER OF THE CASH BALANCE PLAN**
15 **UNDER TITLE 41 OF THIS ARTICLE ON JULY 1, 2012; AND**

16 **(II) SHALL NO LONGER BE CONSIDERED A MEMBER OF THE**
17 **EMPLOYEES' PENSION SYSTEM.**

18 **(3) (I)** An individual who is elected or appointed as the Baltimore
19 City Sheriff **ON OR BEFORE JUNE 30, 2012**, and who does not elect to join the
20 Employees' Pension System is a member of the Law Enforcement Officers' Pension
21 System under Title 26 of this article as a condition of employment.

22 **(II) AN INDIVIDUAL WHO IS ELECTED AS THE BALTIMORE**
23 **CITY SHERIFF ON OR AFTER JULY 1, 2012, AND WHO DOES NOT ELECT TO JOIN**
24 **THE CASH BALANCE PLAN UNDER TITLE 41 OF THIS ARTICLE IS A MEMBER OF**
25 **THE LAW ENFORCEMENT OFFICERS' PENSION SYSTEM UNDER TITLE 26 OF**
26 **THIS ARTICLE AS A CONDITION OF EMPLOYMENT.**

27 **[(3)] (4) (I)** To elect to be a member of the Employees' Pension
28 System **ON OR BEFORE JUNE 30, 2012**, under this subsection, an individual shall
29 file a written application with the State Retirement Agency.

30 **[(4)] (II)** An individual who does not elect membership within 6
31 months of the date the individual begins serving as the Baltimore City Sheriff shall
32 become a member of the Law Enforcement Officers' Pension System.

33 23-208.

1 **(A) (1)** Except as provided in § 23–209 of this subtitle, an individual
 2 described in § 23–206(a) of this subtitle who becomes employed by a participating
 3 employer on or after January 1, 1980, **AND ON OR BEFORE JUNE 30, 2012**, or who
 4 transfers membership from the Teachers’ Retirement System **ON OR BEFORE JUNE**
 5 **30, 2012**, is a member of the Teachers’ Pension System as a condition of employment.

6 **(2) AN INDIVIDUAL DESCRIBED IN § 23–206(A) OF THIS SUBTITLE**
 7 **WHO IS A MEMBER OF THE TEACHERS’ PENSION SYSTEM ON JUNE 30, 2012,**
 8 **AND REMAINS AN EMPLOYEE OF A PARTICIPATING EMPLOYER ON JULY 1, 2012:**

9 **(I) SHALL BECOME A MEMBER OF THE CASH BALANCE PLAN**
 10 **UNDER TITLE 41 OF THIS ARTICLE ON JULY 1, 2012; AND**

11 **(II) SHALL NO LONGER BE CONSIDERED A MEMBER OF THE**
 12 **TEACHERS’ PENSION SYSTEM.**

13 **(B) AN INDIVIDUAL WHO IS NOT A MEMBER OF THE TEACHERS’**
 14 **PENSION SYSTEM ON JUNE 30, 2012, IS NOT ELIGIBLE FOR MEMBERSHIP IN**
 15 **THE TEACHERS’ PENSION SYSTEM.**

16 30–302.

17 **(a) (1) [An] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
 18 **SUBSECTION, AN** election to participate in the program shall be made by an eligible
 19 employee within 1 year of first becoming an eligible employee of an employing
 20 institution.

21 **(2) AN INDIVIDUAL WHO DOES NOT ELECT TO PARTICIPATE IN**
 22 **THE PROGRAM ON OR BEFORE JUNE 30, 2012, IS NOT ELIGIBLE FOR**
 23 **MEMBERSHIP IN THE PROGRAM.**

24 **(b)** An eligible employee’s election to participate in the program is a
 25 one–time irrevocable election.

26 **TITLE 41. CASH BALANCE PLAN.**

27 **SUBTITLE 1. DEFINITIONS.**

28 **41–101.**

29 **(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
 30 **INDICATED.**

1 **B. A REGISTER OF WILLS;**

2 **C. A STATE'S ATTORNEY; AND**

3 **D. A SHERIFF;**

4 **3. AN EMPLOYEE OF A DAY SCHOOL IN THE STATE**
5 **UNDER THE AUTHORITY AND SUPERVISION OF A COUNTY BOARD OF EDUCATION**
6 **OR THE BALTIMORE CITY BOARD OF SCHOOL COMMISSIONERS EMPLOYED AS:**

7 **A. A CLERK;**

8 **B. A HELPING TEACHER;**

9 **C. A PRINCIPAL;**

10 **D. A SUPERINTENDENT;**

11 **E. A SUPERVISOR; OR**

12 **F. A TEACHER;**

13 **4. A LIBRARIAN OR CLERICAL EMPLOYEE OF A**
14 **LIBRARY THAT IS ESTABLISHED OR OPERATES UNDER THE EDUCATION**
15 **ARTICLE;**

16 **5. AN EMPLOYEE OF THE OFFICE OF THE SHERIFF**
17 **OF BALTIMORE CITY;**

18 **6. AN EMPLOYEE OR AGENT OF THE STATE RACING**
19 **COMMISSION AUTHORIZED BY § 11-207 OF THE BUSINESS REGULATION**
20 **ARTICLE;**

21 **7. A PERMANENT EMPLOYEE OF THE BOARD OF**
22 **SUPERVISORS OF ELECTIONS OF A COUNTY;**

23 **8. A FULL-TIME MASTER IN CHANCERY OR IN**
24 **JUVENILE CAUSES WHO WAS APPOINTED ON OR AFTER JULY 1, 2012, IN ANY**
25 **COUNTY BY THE CIRCUIT COURT FOR THAT COUNTY;**

26 **9. A NONFACULTY EMPLOYEE OF THE BALTIMORE**
27 **CITY COMMUNITY COLLEGE; OR**

1 **10. A STAFF EMPLOYEE OF THE UNIVERSITY SYSTEM**
2 **OF MARYLAND, MORGAN STATE UNIVERSITY, OR ST. MARY'S COLLEGE OF**
3 **MARYLAND.**

4 **(3) "ELIGIBLE EMPLOYEE" DOES NOT INCLUDE AN INDIVIDUAL**
5 **WHO ON OR BEFORE JUNE 30, 2012, IS A MEMBER OF THE OPTIONAL**
6 **RETIREMENT PROGRAM UNDER TITLE 30 OF THIS ARTICLE.**

7 **(D) "PARTICIPATING EMPLOYEE" MEANS AN ELIGIBLE EMPLOYEE WHO**
8 **PARTICIPATES IN THE CASH BALANCE PLAN.**

9 **SUBTITLE 2. CASH BALANCE PLAN.**

10 **41-201.**

11 **THERE IS A CASH BALANCE PLAN.**

12 **41-202.**

13 **THE BOARD OF TRUSTEES SHALL ADMINISTER THE CASH BALANCE PLAN.**

14 **41-203.**

15 **(A) THE BOARD OF TRUSTEES SHALL ADOPT, IMPLEMENT, AND**
16 **MAINTAIN THE CASH BALANCE PLAN.**

17 **(B) THE BOARD OF TRUSTEES SHALL ADOPT REGULATIONS TO CARRY**
18 **OUT THIS TITLE.**

19 **(C) A PARTICIPATING EMPLOYEE'S INTEREST IN THE CASH BALANCE**
20 **PLAN:**

21 **(1) SHALL BEGIN 3 YEARS AFTER THE PARTICIPATING EMPLOYEE**
22 **BECOMES AN ELIGIBLE EMPLOYEE;**

23 **(2) SHALL BE 100% VESTED ON THE FIRST DAY OF THE FOURTH**
24 **YEAR AFTER THE PARTICIPATING EMPLOYEE BECOMES AN ELIGIBLE**
25 **EMPLOYEE; AND**

26 **(3) MAY BE DISTRIBUTED AS PROVIDED UNDER § 41-206 OF THIS**
27 **SUBTITLE.**

28 **41-204.**

1 AN INDIVIDUAL IS A MEMBER OF THE CASH BALANCE PLAN AS A
2 CONDITION OF EMPLOYMENT IF THE INDIVIDUAL:

3 (1) COMMENCES EMPLOYMENT AS AN ELIGIBLE EMPLOYEE ON OR
4 AFTER JULY 1, 2012; OR

5 (2) WAS A MEMBER OF THE EMPLOYEES' PENSION SYSTEM OR
6 TEACHERS' PENSION SYSTEM ON OR BEFORE JUNE 30, 2012, AND BECOMES AN
7 ELIGIBLE EMPLOYEE ON JULY 1, 2012.

8 41-205.

9 (A) A PARTICIPATING EMPLOYEE'S CONTRIBUTION RATE IS 5% OF THE
10 PARTICIPATING EMPLOYEE'S ANNUAL EARNABLE COMPENSATION.

11 (B) THE PARTICIPATING EMPLOYEE CONTRIBUTIONS SHALL BE MADE
12 AS PAYROLLS ARE PAID BY PAYROLL DEDUCTION OR BY A REDUCTION IN
13 SALARY IN ACCORDANCE WITH THE INTERNAL REVENUE CODE AND AS
14 PROVIDED BY THE CASH BALANCE PLAN.

15 41-206.

16 (A) (1) A PARTICIPATING EMPLOYEE MAY RETIRE FROM THE CASH
17 BALANCE PLAN IF THE PARTICIPATING EMPLOYEE HAS ATTAINED AT LEAST AGE
18 62 AND AT LEAST 10 YEARS OF SERVICE AS AN ELIGIBLE EMPLOYEE.

19 (2) IF A PARTICIPATING EMPLOYEE ELECTS TO RETIRE BEFORE
20 ATTAINING AGE 62 AND 10 YEARS OF SERVICE, THE PARTICIPATING EMPLOYEE
21 MAY NOT RECEIVE ANY DISTRIBUTION UNDER SUBSECTION (C) OF THIS SECTION
22 UNTIL JULY 1 FOLLOWING THE NEXT ACTUARIAL EVALUATION FOLLOWING THE
23 PARTICIPATING EMPLOYEE'S ELECTION.

24 (B) ON RETIREMENT UNDER THIS SECTION, A PARTICIPATING
25 EMPLOYEE SHALL RECEIVE A DISTRIBUTION UNDER SUBSECTION (C) OF THIS
26 SECTION THAT EQUALS THE PARTICIPATING EMPLOYEE'S ACCOUNT WITH 5%
27 INTEREST COMPOUNDED ANNUALLY FOR EACH YEAR OF SERVICE AS AN
28 ELIGIBLE EMPLOYEE.

29 (C) BENEFITS UNDER THE CASH BALANCE PLAN:

30 (1) SHALL BE PAYABLE TO A PARTICIPATING EMPLOYEE AS:

1 **(I) A LUMP SUM PAYMENT; OR**

2 **(II) AN ANNUITY BEGINNING AT THE TIME OF RETIREMENT**
3 **OF THE PARTICIPATING EMPLOYEE WITH:**

4 **1. NO SURVIVOR BENEFIT;**

5 **2. A 100% JOINT AND SURVIVOR BENEFIT; OR**

6 **3. A 50% JOINT AND SURVIVOR BENEFIT; AND**

7 **(2) SHALL BE PAYABLE IN ACCORDANCE WITH THE INTERNAL**
8 **REVENUE CODE AND AS PROVIDED BY THE CASH BALANCE PLAN.**

9 **41-207.**

10 **ON BEHALF OF EACH PARTICIPATING EMPLOYEE WHO MAKES**
11 **CONTRIBUTIONS UNDER § 41-205 OF THIS SUBTITLE, THE STATE SHALL**
12 **CONTRIBUTE 5% OF THE PARTICIPATING EMPLOYEE'S ANNUAL EARNABLE**
13 **COMPENSATION.**

14 **41-208.**

15 **THE GOVERNOR SHALL INCLUDE IN THE ANNUAL STATE BUDGET BILL AN**
16 **APPROPRIATION THAT IS SUFFICIENT TO PAY THE EMPLOYER CONTRIBUTIONS**
17 **FOR PARTICIPATING EMPLOYEES REQUIRED UNDER § 41-207 OF THIS**
18 **SUBTITLE.**

19 **41-209.**

20 **(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A PARTICIPATING**
21 **EMPLOYEE WHO BEFORE JULY 1, 2012, WAS A MEMBER OF THE EMPLOYEES'**
22 **PENSION SYSTEM OR THE TEACHERS' PENSION SYSTEM SHALL RECEIVE A**
23 **BENEFIT UNDER § 23-401 OF THIS ARTICLE FOR THE PERIOD OF TIME THE**
24 **PARTICIPATING EMPLOYEE WAS A MEMBER OF THE EMPLOYEES' PENSION**
25 **SYSTEM OR TEACHERS' PENSION SYSTEM.**

26 **(B) TO QUALIFY FOR A BENEFIT FROM THE EMPLOYEES' PENSION**
27 **SYSTEM OR THE TEACHERS' PENSION SYSTEM UNDER SUBSECTION (A) OF THIS**
28 **SECTION, THE PARTICIPATING EMPLOYEE IS SUBJECT TO THE PROVISIONS OF**
29 **TITLE 23 OF THIS ARTICLE.**

1 **(C) (1) THIS SECTION APPLIES TO AN ELIGIBLE EMPLOYEE WHO ON**
2 **JUNE 30, 2012, HAS LESS THAN 5 YEARS OF SERVICE CREDIT IN THE**
3 **EMPLOYEES' PENSION SYSTEM OR THE TEACHERS' PENSION SYSTEM.**

4 **(2) AN ELIGIBLE EMPLOYEE DESCRIBED IN PARAGRAPH (1) OF**
5 **THIS SUBSECTION:**

6 **(I) MAY ELECT TO RECEIVE A RETURN OF THE ELIGIBLE**
7 **EMPLOYEE'S MEMBER CONTRIBUTIONS, WITH REGULAR INTEREST, FROM THE**
8 **EMPLOYEES' PENSION SYSTEM OR TEACHERS' PENSION SYSTEM; OR**

9 **(II) MAY ELECT TO CONVERT THE BENEFIT THE ELIGIBLE**
10 **EMPLOYEE HAS ACCRUED IN THE EMPLOYEES' PENSION SYSTEM OR**
11 **TEACHERS' PENSION SYSTEM ON JUNE 30, 2012, TO AN EQUIVALENT BENEFIT**
12 **IN THE CASH BALANCE PLAN.**

13 **(3) AN ELIGIBLE EMPLOYEE WHO ELECTS TO CONVERT THE**
14 **BENEFIT THE ELIGIBLE EMPLOYEE HAS ACCRUED IN THE EMPLOYEES' PENSION**
15 **SYSTEM OR TEACHERS' PENSION SYSTEM UNDER PARAGRAPH (2)(II) OF THIS**
16 **SUBSECTION MAY NOT RECEIVE A RETURN OF THE ELIGIBLE EMPLOYEE'S**
17 **MEMBER CONTRIBUTIONS.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before July 1,
19 2012, the State Retirement Agency shall request a private letter ruling from the
20 Internal Revenue Service that confirms:

21 (1) the qualification under § 401 of the Internal Revenue Code of the
22 cash balance plan established under Section 1 of this Act;

23 (2) the continued pretax qualification under § 414(h)(2) of the Internal
24 Revenue Code of a member's contributions under the cash balance plan established
25 under Section 1 of this Act;

26 (3) that a distribution from a member's account under the cash
27 balance plan established under Section 1 of this Act constitutes an eligible rollover
28 distribution under the Internal Revenue Code.

29 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
30 take effect contingent on the receipt of a private letter ruling by the Internal Revenue
31 Service that makes the confirmations specified under Section 2 of this Act. If a private
32 letter ruling by the Internal Revenue Service is received that makes the confirmations
33 specified under Section 2 of this Act, Section 1 of this Act shall take effect the first day
34 of the month after the State Retirement Agency receives the ruling. If a private letter
35 ruling is received by the State Retirement Agency from the Internal Revenue Service
36 that does not make all of the confirmations specified in Section 2 of this Act, Section 1

1 of this Act, with no further action required by the General Assembly, shall be null and
2 void and of no force and effect. The State Retirement Agency, within 5 days after
3 receiving the ruling from the Internal Revenue Service, shall forward a copy of the
4 ruling to the Department of Legislative Services, 90 State Circle, Annapolis, Maryland
5 21401.

6 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 July 1, 2012.