

## Chapter 479

(Senate Bill 477)

AN ACT concerning

### State Retirement and Pension System – Employment of Retirees – Required Break in Service

FOR the purpose of prohibiting certain retired members of the State Retirement and Pension System from being employed on a certain basis by certain employers within a certain period of time; deleting certain obsolete provisions; making certain clarifying changes; providing for the effective date of certain provisions of this Act; providing for the termination of certain provisions of this Act; and generally relating to the requirement of a break in service prior to the employment of certain retirees of the State Retirement and Pension System.

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions

Section 22–406(b), (d), (n), (o), and (p), 23–407(b), (d), (n), (o), and (p), 24–405.1, 25–403(h), 26–403(f), ~~27–406(b)~~ 27–406(a) and (b), and 28–402(g)

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,

Article – State Personnel and Pensions

Section 25–403(a), 26–403(a), ~~27–406(a)~~, and 28–402(a)

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY repealing

Article – State Personnel and Pensions

Section 22–406(m) and 23–407(m)

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY adding to

Article – State Personnel and Pensions

Section 29–117(e)

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,

Article – State Personnel and Pensions

Section 27–406(a) ~~and (b)~~

Annotated Code of Maryland  
 (2009 Replacement Volume and 2012 Supplement)  
 (As enacted by Chapter 688 of the Acts of the General Assembly of 2010)

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions

Section 27–406(b)

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

(As enacted by Chapter 688 of the Acts of the General Assembly of 2010)

BY adding to

Article – State Personnel and Pensions

Section 27–406(e)

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

(As enacted by Chapter 688 of the Acts of the General Assembly of 2010)

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

**Article – State Personnel and Pensions**

22–406.

(b) Except as provided in subsection [(m)] **(D)** of this section, an individual who is receiving a service retirement allowance or vested allowance may accept employment with a participating employer on a permanent, temporary, or contractual basis, if:

(1) the individual immediately notifies the Board of Trustees of the individual's intention to accept this employment; and

(2) the individual specifies the compensation to be received.

(d) An individual who is [rehired under this section] **RECEIVING A SERVICE RETIREMENT ALLOWANCE UNDER THIS TITLE ~~AND WHO IS EMPLOYED BY THE STATE OR OTHER PARTICIPATING EMPLOYER~~** may not be [rehired] **EMPLOYED** within 45 days of the date the individual retired, **ON A PERMANENT, TEMPORARY, OR CONTRACTUAL BASIS, BY:**

**(1) THE STATE OR OTHER PARTICIPATING EMPLOYER; OR**

**(2) A WITHDRAWN PARTICIPATING GOVERNMENTAL UNIT, IF THE RETIREE WAS AN EMPLOYEE OF THE WITHDRAWN PARTICIPATING**

**GOVERNMENTAL UNIT WHILE THE WITHDRAWN GOVERNMENTAL UNIT WAS A PARTICIPATING EMPLOYER [if:**

(1) the individual's current employer is a participating employer other than the State and is the same participating employer that employed the individual at the time of the individual's last separation from employment with a participating employer before the individual commenced receiving a service retirement allowance;

(2) (i) at the time of retirement, the individual was a member of the Employees' Retirement System as an employee of a withdrawn governmental unit; and

(ii) the individual's current employer is the same withdrawn governmental unit that employed the individual at the time of the individual's last separation from employment with a withdrawn governmental unit before the individual commenced receiving a service retirement allowance; or

(3) the individual's current employer is any unit of State government and the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance was also a unit of State government].

**[(m)]** An individual who is rehired under this section may not be rehired within 45 days of the date the individual retired if:

(1) the individual's current employer is a participating employer other than the State and is the same participating employer that employed the individual at the time of the individual's last separation from employment with a participating employer before the individual commenced receiving a service retirement allowance; or

(2) the individual's current employer is any unit of State government and the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance was also a unit of State government.]

**[(n)] (M)** On or before October 1 of each year, the State Superintendent of Schools shall submit a report for the previous school year, to the Joint Committee on Pensions, in accordance with § 2-1246 of the State Government Article, that provides:

(1) the number of rehired retirees under subsection (c)(4)(v) and (vi) and (8) of this section;

(2) (i) the school and school system where each retiree was rehired; and

(ii) whether the school:

1. was not making adequate yearly progress or was a school in need of improvement as defined under the federal No Child Left Behind Act of 2001 and as implemented by the State Department of Education;

2. was receiving funds under Title 1 of the federal No Child Left Behind Act of 2001;

3. has more than 50% of the students attending that school who are eligible for free and reduced-price meals established by the United States Department of Agriculture; or

4. provided an alternative education program for adjudicated youths or students who have been expelled, suspended, or identified for suspension or expulsion from a public school;

(3) a copy of the annual staffing report generated by the State Superintendent of Schools in accordance with § 18-703(g)(1) of the Education Article certifying areas of critical shortage for the previous school year as evidenced by projected employment vacancies substantially exceeding projected qualified graduates;

(4) the subject matter that each rehired retiree was teaching;

(5) the salary of each rehired retiree;

(6) the total number of years each retiree has been reemployed at the school where the retiree was rehired for the previous school year; and

(7) the percentage of student population composed of children in poverty that is required to be present in a school in that school system in order for that school to qualify as a Title 1 school.

**[(o)] (N)** On or before October 1 of each year, the Board of Trustees shall submit a report for the previous calendar year to the Joint Committee on Pensions, in accordance with § 2-1246 of the State Government Article, that provides:

(1) the number of individuals in each local school system that the Board of Trustees and the State Department of Education agree were rehired and did not satisfy the criteria provided in subsection (c)(4)(v) or (vi) and (5), (6), or (8) of this section; and

(2) any reimbursements a local school system made under subsection (c)(9)(iii) of this section.

**[(p)] (O)** On or before September 1 of each year, the Secretary of Public Safety and Correctional Services shall submit a report in accordance with § 2-1246 of the State Government Article to the Joint Committee on Pensions that provides:

- (1) the number of rehired retirees under subsection (c)(4)(x) of this section;
- (2) the annual salary of each rehired retiree at the time of retirement and the current annual salary of each rehired retiree;
- (3) the number of parole and probation employees hired who are not retirees; and
- (4) the annual salary of each parole and probation employee who is hired.

23-407.

(b) Except as provided in subsection **[(m)] (D)** of this section, an individual who is receiving a service retirement allowance or a vested allowance may accept employment with a participating employer on a permanent, temporary, or contractual basis, if:

- (1) the individual immediately notifies the Board of Trustees of the individual's intention to accept this employment; and
- (2) the individual specifies the compensation to be received.

(d) An individual who is [rehired under this section] **RECEIVING A SERVICE RETIREMENT ALLOWANCE UNDER THIS TITLE ~~AND WHO IS EMPLOYED BY THE STATE OR OTHER PARTICIPATING EMPLOYER~~** may not be [rehired] **EMPLOYED** within 45 days of the date the individual retired, **ON A PERMANENT, TEMPORARY, OR CONTRACTUAL BASIS, BY:**

**(1) THE STATE OR OTHER PARTICIPATING EMPLOYER; OR**

**(2) A WITHDRAWN PARTICIPATING GOVERNMENTAL UNIT, IF THE RETIREE WAS AN EMPLOYEE OF THE WITHDRAWN PARTICIPATING GOVERNMENTAL UNIT WHILE THE WITHDRAWN GOVERNMENTAL UNIT WAS A PARTICIPATING EMPLOYER** [if:

- (1) the individual's current employer is a participating employer other than the State and is the same participating employer that employed the individual at the time of the individual's last separation from employment with a participating employer before the individual commenced receiving a service retirement allowance;

(2) (i) at the time of retirement, the individual was a member of the Employees' Pension System as an employee of a withdrawn governmental unit; and

(ii) the individual's current employer is the same withdrawn governmental unit that employed the individual at the time of the individual's last separation from employment with a withdrawn governmental unit before the individual commenced receiving a service retirement allowance; or

(3) the individual's current employer is any unit of State government and the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance was also a unit of State government].

[(m) An individual who is rehired under this section may not be rehired within 45 days of the date the individual retired if:

(1) the individual's current employer is a participating employer other than the State and is the same participating employer that employed the individual at the time of the individual's last separation from employment with a participating employer before the individual commenced receiving a service retirement allowance; or

(2) the individual's current employer is any unit of State government and the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance was also a unit of State government.]

[(n) (M) On or before October 1 of each year, the State Superintendent of Schools shall submit a report for the previous school year, to the Joint Committee on Pensions, in accordance with § 2-1246 of the State Government Article, that provides:

(1) the number of rehired retirees under subsection (c)(4)(iv) and (v) and (8) of this section;

(2) (i) the school and school system where each retiree was rehired; and

(ii) whether the school:

1. was not making adequate yearly progress or was a school in need of improvement as defined under the federal No Child Left Behind Act of 2001 and as implemented by the State Department of Education;

2. was receiving funds under Title 1 of the federal No Child Left Behind Act of 2001;

3. has more than 50% of the students attending that school who are eligible for free and reduced-price meals established by the United States Department of Agriculture; or

4. provided an alternative education program for adjudicated youths or students who have been expelled, suspended, or identified for suspension or expulsion from a public school;

(3) a copy of the annual staffing report generated by the State Superintendent of Schools in accordance with § 18-703(g)(1) of the Education Article certifying areas of critical shortage for the previous school year as evidenced by projected employment vacancies substantially exceeding projected qualified graduates;

(4) the subject matter that each rehired retiree was teaching;

(5) the salary of each rehired retiree;

(6) the total number of years each retiree has been reemployed at the school where the retiree was rehired for the previous school year; and

(7) the percentage of student population composed of children in poverty that is required to be present in a school in that school system in order for that school to qualify as a Title 1 school.

**[(o)] (N)** On or before October 1 of each year, the Board of Trustees shall submit a report for the previous calendar year to the Joint Committee on Pensions, in accordance with § 2-1246 of the State Government Article, that provides:

(1) the number of individuals in each local school system that the Board of Trustees and the State Department of Education agree were rehired and did not satisfy the criteria provided in subsection (c)(4)(iv) or (v) and (5), (6), or (8) of this section; and

(2) any reimbursements a local school system made under subsection (c)(9)(ii) of this section.

**[(p)] (O)** On or before September 1 of each year, the Secretary of Public Safety and Correctional Services shall submit a report in accordance with § 2-1246 of the State Government Article to the Joint Committee on Pensions that provides:

(1) the number of rehired retirees under subsection (c)(4)(viii) of this section;

(2) the annual salary of each rehired retiree at the time of retirement and the current annual salary of each rehired retiree;

(3) the number of parole and probation employees hired who are not retirees; and

(4) the annual salary of each parole and probation employee who is hired.

24-405.1.

~~A retiree of the State Police Retirement System who is [rehired] EMPLOYED BY THE STATE OR OTHER PARTICIPATING EMPLOYER on a permanent, temporary, or contractual basis~~ **AN INDIVIDUAL WHO IS RECEIVING A SERVICE RETIREMENT ALLOWANCE UNDER THIS TITLE** may not be [rehired] **EMPLOYED BY THE STATE OR OTHER PARTICIPATING EMPLOYER ON A PERMANENT, TEMPORARY, OR CONTRACTUAL BASIS** within 45 days of the date the individual retired [if the individual's current employer is any unit of State government and the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance was also a unit of State government].

25-403.

(a) Except as provided in subsection (h) of this section, an individual who is receiving a service retirement allowance or vested allowance may accept employment with a participating employer on a permanent, temporary, or contractual basis, if the individual immediately notifies the Board of Trustees:

- (1) of the individual's intention to accept the employment; and
- (2) of the compensation that the individual will receive.

(h) An individual who is [rehired under this section] **RECEIVING A SERVICE RETIREMENT ALLOWANCE UNDER THIS TITLE** ~~AND WHO IS EMPLOYED BY THE STATE OR OTHER PARTICIPATING EMPLOYER~~ may not be [rehired] **EMPLOYED** within 45 days of the date the individual retired, **ON A PERMANENT, TEMPORARY, OR CONTRACTUAL BASIS, BY:**

**(1) THE STATE OR OTHER PARTICIPATING EMPLOYER; OR**

**(2) A WITHDRAWN PARTICIPATING GOVERNMENTAL UNIT, IF THE RETIREE WAS AN EMPLOYEE OF THE WITHDRAWN PARTICIPATING GOVERNMENTAL UNIT WHILE THE WITHDRAWN GOVERNMENTAL UNIT WAS A PARTICIPATING EMPLOYER** [if:

(1) the individual's current employer is a participating employer other than the State and is the same participating employer that employed the individual at the time of the individual's last separation from employment with a participating employer before the individual commenced receiving a service retirement allowance;

(2) (i) at the time of retirement, the individual was a member of the Correctional Officers' Retirement System as an employee of a withdrawn governmental unit; and

(ii) the individual's current employer is the same withdrawn governmental unit that employed the individual at the time of the individual's last separation from employment with a withdrawn governmental unit before the individual commenced receiving a service retirement allowance; or

(3) the individual's current employer is any unit of State government and the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance was also a unit of State government].

26-403.

(a) Except as provided in subsection (f) of this section, a retiree who is receiving a service retirement allowance may accept employment with a participating employer on a permanent, temporary, or contractual basis, without any reduction in retirement allowance.

(f) An individual who is [rehired under this section] **RECEIVING A SERVICE RETIREMENT ALLOWANCE UNDER THIS TITLE ~~AND WHO IS EMPLOYED BY THE STATE OR OTHER PARTICIPATING EMPLOYER~~** may not be [rehired] **EMPLOYED** within 45 days of the date the individual retired, **ON A PERMANENT, TEMPORARY, OR CONTRACTUAL BASIS, BY:**

**(1) THE STATE OR OTHER PARTICIPATING EMPLOYER; OR**

**(2) A WITHDRAWN PARTICIPATING GOVERNMENTAL UNIT, IF THE RETIREE WAS AN EMPLOYEE OF THE WITHDRAWN PARTICIPATING GOVERNMENTAL UNIT WHILE THE WITHDRAWN GOVERNMENTAL UNIT WAS A PARTICIPATING EMPLOYER [if:**

(1) the individual's current employer is a participating employer other than the State and is the same participating employer that employed the individual at the time of the individual's last separation from employment with a participating employer before the individual commenced receiving a service retirement allowance;

(2) (i) at the time of retirement, the individual was a member of the Law Enforcement Officers' Pension System as an employee of a withdrawn governmental unit; and

(ii) the individual's current employer is the same withdrawn governmental unit that employed the individual at the time of the individual's last separation from employment with a withdrawn governmental unit before the individual commenced receiving a service retirement allowance; or

(3) the individual's current employer is any unit of State government and the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance was also a unit of State government].

27-406.

(a) ~~A~~ **SUBJECT TO SUBSECTION (B) OF THIS SECTION, A** retiree may accept employment in which all or part of the compensation for the employment comes from municipal, county, or State funds, if the retiree immediately notifies the Board of Trustees of:

- (1) the retiree's intention to accept the employment; and
- (2) the compensation that the retiree will receive.

(b) (1) This subsection does not apply to a retiree who is temporarily assigned to sit in a court of this State under the authority of Article IV, § 3A of the Maryland Constitution.

(2) A retiree may not be [rehired] **EMPLOYED BY THE STATE OR OTHER PARTICIPATING EMPLOYER, ON A PERMANENT, TEMPORARY, OR CONTRACTUAL BASIS** within 45 days of the date the individual retired [if the individual's current employer is any unit of State government and the individual's employer at the time of the individual's last separation from employment with the State before the individual commenced receiving a service retirement allowance was also a unit of State government].

28-402.

(a) Except as provided in subsection (g) of this section, an individual who is receiving a service retirement allowance or vested allowance may accept employment with a participating employer on a permanent, temporary, or contractual basis, without any reduction in the allowance, if:

(1) the individual immediately notifies the Board of Trustees of the individual's intention to accept the employment; and

(2) the individual specifies the compensation to be received.

(g) An individual who is [rehired under this section] **RECEIVING A SERVICE RETIREMENT ALLOWANCE UNDER THIS TITLE ~~AND WHO IS EMPLOYED BY THE STATE OR OTHER PARTICIPATING EMPLOYER~~** may not be [rehired] **EMPLOYED BY THE STATE OR OTHER PARTICIPATING EMPLOYER ON A PERMANENT, TEMPORARY, OR CONTRACTUAL BASIS** within 45 days of the date the individual retired [if the individual's current employer is a participating employer other than the State and is the same participating employer that employed the individual at the time of the individual's last separation from employment with a participating employer before the individual commenced receiving a service retirement allowance].

29-117.

**(E) AN INDIVIDUAL WHO IS RECEIVING A DISABILITY RETIREMENT ALLOWANCE UNDER THIS TITLE ~~AND WHO IS EMPLOYED BY THE STATE OR OTHER PARTICIPATING EMPLOYER~~ MAY NOT BE EMPLOYED WITHIN 45 DAYS OF THE DATE THE INDIVIDUAL RETIRED, ON A PERMANENT, TEMPORARY, OR CONTRACTUAL BASIS, BY:**

**(1) THE STATE OR OTHER PARTICIPATING EMPLOYER; OR**

**(2) A WITHDRAWN PARTICIPATING GOVERNMENTAL UNIT, IF THE RETIREE WAS AN EMPLOYEE OF THE WITHDRAWN PARTICIPATING GOVERNMENTAL UNIT WHILE THE WITHDRAWN GOVERNMENTAL UNIT WAS A PARTICIPATING EMPLOYER.**

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

**Article - State Personnel and Pensions**

27-406.

(a) This section does not apply to a retiree who:

(1) is temporarily assigned to sit in a court of this State under the authority of Article IV, § 3A of the Maryland Constitution; or

(2) is employed as a member of the faculty of a public institution of higher education in the State.

(b) ~~A~~ **SUBJECT TO SUBSECTION (E) OF THIS SECTION,** A retiree may accept employment in which all or part of the compensation for the employment comes

from municipal, county, or State funds, if the retiree immediately notifies the Board of Trustees of:

- (1) the retiree's intention to accept the employment; and
- (2) the compensation that the retiree will receive.

**(E) A RETIREE MAY NOT BE EMPLOYED BY THE STATE OR OTHER PARTICIPATING EMPLOYER ON A PERMANENT, TEMPORARY, OR CONTRACTUAL BASIS WITHIN 45 DAYS OF THE DATE THE INDIVIDUAL RETIRED.**

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect on the taking effect of the termination provision specified in Section 2 of Chapter 688 of the Acts of the General Assembly of 2010. If that termination provision takes effect, § 27-406(a) and (b) of the State Personnel and Pensions Article of the Annotated Code of Maryland, as enacted by Section 1 of this Act, shall be abrogated and of no further force and effect. This Act may not be interpreted to have any effect on that termination provision.

SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 3 of this Act, this Act shall take effect July 1, 2013.

**Approved by the Governor, May 16, 2013.**