

HOUSE BILL 780

K4

3lr1714

By: **Delegates Aumann, Afzali, Bates, Boteler, Cluster, Eckardt, Fisher, Frank, George, Haddaway–Ricchio, Hershey, Hogan, Hough, Impallaria, Jacobs, Kipke, Krebs, McComas, McDermott, McDonough, McMillan, Minnick, Myers, Norman, O’Donnell, Otto, Parrott, Ready, Schuh, Schulz, Serafini, Smigiel, Stocksdale, Szeliga, Vitale, and Weir**

Introduced and read first time: February 6, 2013

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **State Employees Pension Choice Act**

3 FOR the purpose of providing that certain employees are not members of the
4 Employees’ Pension System or the Teachers’ Pension System of the State
5 Retirement and Pension System if the employees make certain elections to join
6 a certain other retirement program; requiring that certain participating
7 employers provide certain employees with the opportunity to participate in the
8 optional retirement program of the State Retirement and Pension System;
9 providing that certain supervising employers are not responsible for the
10 payment of certain benefits payable under the optional retirement program;
11 requiring certain supervising employers to administer certain aspects of the
12 participation of certain employees participating in the optional retirement
13 program; providing that certain employees who are hired on or after a certain
14 date are eligible to participate in the optional retirement program; requiring
15 that certain employees who elect to participate in the optional retirement
16 program make such an election within a certain period of time; defining a
17 certain term; and generally relating to providing the opportunity for certain
18 employees to choose to participate in the optional retirement program of the
19 State Retirement and Pension System.

20 BY repealing and reenacting, with amendments,
21 Article – State Personnel and Pensions
22 Section 23–201, 30–101, 30–201, 30–202, 30–207, 30–210, 30–301,
23 30–302, 30–303, 30–305, and 30–307
24 Annotated Code of Maryland
25 (2009 Replacement Volume and 2012 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – State Personnel and Pensions**

4 23–201.

5 (a) Except as provided in subsection (b) of this section, §§ 23–203 through
6 23–205 of this subtitle apply only to:

7 (1) a regular employee whose compensation is provided by State
8 appropriation or paid from State funds;

9 (2) an appointed or elected official of the State, including:

10 (i) a clerk of the circuit court;

11 (ii) a register of wills;

12 (iii) a State’s Attorney; and

13 (iv) a sheriff;

14 (3) an employee or official of a participating governmental unit who is
15 eligible to participate under Title 31, Subtitle 1 of this article;

16 (4) an employee of the Office of the Sheriff of Baltimore City;

17 (5) an additional employee or agent of the State Racing Commission
18 authorized by § 11–207 of the Business Regulation Article;

19 (6) a permanent employee of the board of supervisors of elections of a
20 county;

21 (7) a full–time master in chancery or in juvenile causes who is
22 appointed on or after July 1, 1989, in any county by the circuit court for that county;

23 (8) an employee of the Maryland Environmental Service who is a
24 member of the Employees’ Pension System on June 30, 1993, or transfers from the
25 Employees’ Retirement System on or after July 1, 1993;

26 (9) a former Baltimore City jail employee who became an employee of
27 the Baltimore City Detention Center and a member of the Employees’ Pension System
28 on July 1, 1991;

29 (10) a nonfaculty employee of the Baltimore City Community College
30 who:

1 (i) is a member of the Employees' Pension System on October 1,
2 2002;

3 (ii) transfers from the Employees' Retirement System on or
4 after October 1, 2002;

5 (iii) transfers from the Teachers' Pension System in accordance
6 with § 23-202.1 of this subtitle; or

7 (iv) becomes an employee of the Baltimore City Community
8 College on or after October 1, 2002;

9 (11) a court reporter for the Circuit Court for Charles County who is a
10 member of the Employees' Pension System on July 1, 1994, or transfers from the
11 Employees' Retirement System on or after July 1, 1994;

12 (12) a staff employee of the University System of Maryland, Morgan
13 State University, or St. Mary's College who is:

14 (i) a member of the Employees' Pension System on January 1,
15 1998, or transfers from the Employees' Retirement System on or after January 1,
16 1998; or

17 (ii) a staff employee of the University System of Maryland,
18 Morgan State University, or St. Mary's College who becomes an employee on or after
19 January 1, 1998;

20 (13) on or after the date that the Board of Education of Kent County
21 begins participation in the Employees' Pension System, a supportive service employee
22 of the Board of Education of Kent County;

23 (14) an employee of the Town of Oakland on or after the date that the
24 Town of Oakland begins participation in the Employees' Pension System;

25 (15) an employee of the City of Frostburg on or after the date that the
26 City of Frostburg begins participation in the Employees' Pension System;

27 (16) an employee of the Town of Berwyn Heights on or after the date
28 that the Town of Berwyn Heights begins participation in the Employees' Pension
29 System;

30 (17) an employee of the Town of Sykesville on or after the date that the
31 Town of Sykesville begins participation in the Employees' Pension System; and

1 (18) an employee of the Town of University Park on or after the date
2 that the Town of University Park begins participation in the Employees' Pension
3 System.

4 (b) Sections 23–203 through 23–205 of this subtitle do not apply to:

5 (1) an individual who is or is entitled to be a member of any State
6 system other than the Employees' Pension System;

7 (2) a contractual, emergency, or temporary extra employee;

8 (3) an individual who is employed under a federal public service
9 employment program;

10 (4) an assessor who is a member of a retirement or pension system
11 operated by a political subdivision of the State;

12 (5) an employee of a local board of elections who chooses to stay in a
13 local merit system under § 2–207 of the Election Law Article;

14 (6) a nonclerical or nonprofessional employee of the Baltimore City
15 Community College who:

16 (i) was an employee of the New Community College of
17 Baltimore during the 1989–1990 academic year;

18 (ii) was employed by the New Community College of Baltimore
19 on or before December 31, 1990, as a “Class A” member of the Baltimore City
20 Retirement Plan; and

21 (iii) elected to remain a member of the Baltimore City
22 Retirement Plan;

23 (7) an employee who is not a member of a State system and who
24 accepts a position for which the budgeted hours per fiscal year are less than 500 hours
25 in the first fiscal year of employment;

26 (8) an employee of the Domestic Relations Division of the Anne
27 Arundel County Circuit Court who:

28 (i) was transferred on or after July 1, 2002, into the State
29 Personnel Management System as an employee of the Child Support Enforcement
30 Administration of the Maryland Department of Human Resources;

31 (ii) elected, under § 2–510 of the Courts Article, to remain as a
32 participant in the Anne Arundel County Retirement and Pension System; and

1 (iii) remains as an employee of the Child Support Enforcement
2 Administration of the Maryland Department of Human Resources or an attorney
3 employed to represent the Child Support Enforcement Administration;

4 (9) a nonfaculty employee of the Baltimore City Community College
5 who is eligible to participate and elects to participate in an optional retirement
6 program under Title 30 of this article;

7 (10) an appointed or elected official who on or after July 1, 2007, is a
8 member of any other State or local retirement or pension system as defined under
9 Title 37 of this article; [or]

10 (11) the Director of the Department of Social Services in Montgomery
11 County who:

12 (i) was transferred into the State Personnel Management
13 System as an employee of the Social Services Administration of the Maryland
14 Department of Human Resources;

15 (ii) elected, under § 3–403.1 of the Human Services Article, to
16 remain as a participant in the Montgomery County Employees’ Retirement System;
17 and

18 (iii) remains as an employee of the Social Services
19 Administration of the Maryland Department of Human Resources; **OR**

20 **(12) AN INDIVIDUAL WHO HAS ELECTED TO PARTICIPATE IN THE**
21 **OPTIONAL RETIREMENT PROGRAM ESTABLISHED UNDER TITLE 30 OF THIS**
22 **ARTICLE.**

23 30–101.

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

25 (b) (1) “Annuity contract” means a fixed or variable annuity contract or
26 combination of fixed or variable annuity contracts authorized under § 403(a) or (b) of
27 the Internal Revenue Code.

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

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

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

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

2 (d) "Eligible employee" means an individual eligible to participate in the
3 program.

4 (e) "Employing institution" means:

5 (1) the University System of Maryland;

6 (2) Morgan State University;

7 (3) St. Mary's College;

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

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

12 (f) "Participating employee" means an eligible employee who elects to
13 participate in the program.

14 (g) "Pension system" means the Employees' Pension System or the Teachers'
15 Pension System.

16 (h) "Program" means the optional retirement program established under §
17 30-201 of this title.

18 (i) "Retirement system" means the Employees' Retirement System or the
19 Teachers' Retirement System.

20 (j) **"SUPERVISING EMPLOYER" MEANS:**

21 **(1) ANY UNIT OF STATE GOVERNMENT;**

22 **(2) A COUNTY BOARD OF EDUCATION OR THE BALTIMORE CITY**
23 **BOARD OF SCHOOL COMMISSIONERS;**

24 **(3) A LIBRARY THAT IS ESTABLISHED UNDER THE EDUCATION**
25 **ARTICLE; OR**

26 **(4) AN EMPLOYING INSTITUTION.**

27 **(K)** "Supplemental retirement plans" means plans established pursuant to §
28 30-401 of this title.

1 30-201.

2 (a) There is an optional retirement program in which eligible employees may
3 participate.

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

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

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

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

13 30-202.

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

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

21 (2) The Board of Trustees may also approve the form and contents of
22 additional types of annuity contracts to be offered for the first time after October 1,
23 1993, by the company designated by the governing board of an employing institution
24 on or before March 1, 1993.

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

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

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

31 (3) the suitability of the rights and benefits to the needs of the
32 participating employees and the interests of the [employing institutions]

1 **SUPERVISING EMPLOYERS** in the recruitment and retention of participating
2 employees;

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

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

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

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

11 30–207.

12 Benefits under the program:

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

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

17 30–210.

18 With respect to a participating employee who is employed by [an employing
19 institution or an institution over which the employing institution has administrative
20 authority, the employing institution] **A SUPERVISING EMPLOYER, THE
21 SUPERVISING EMPLOYER** shall administer the participating employee's enrollment,
22 termination, or retirement under the program.

23 30–301.

24 (a) An individual is eligible to participate in the program if the individual is
25 eligible for membership in a retirement system or a pension system and is:

26 (1) a member of the faculty of an employing institution;

27 (2) a professional employee at a community college or regional
28 community college established under Title 16 of the Education Article;

29 (3) an employee of the University System of Maryland who is in a
30 position designated as exempt under a policy adopted by the University System of
31 Maryland Board of Regents;

1 (4) an employee of Morgan State University who is in a position
2 designated as professional or administrative by the Board of Regents of Morgan State
3 University;

4 (5) an employee of St. Mary's College of Maryland who is in a position
5 determined by the Board of Trustees of the College to be a professional or faculty
6 position; [or]

7 (6) an employee of the Maryland Higher Education Commission who is
8 in a position determined by the Secretary of Higher Education to be a professional
9 position; **OR**

10 **(7) AN INDIVIDUAL HIRED ON OR AFTER JULY 1, 2013, WHO IS:**

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

13 **(II) AN APPOINTED OR ELECTED OFFICIAL OF THE STATE**
14 **WHO IS APPOINTED OR ELECTED TO A TERM OF OFFICE THAT BEGINS ON OR**
15 **AFTER JULY 1, 2013, INCLUDING:**

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

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

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

19 **4. A SHERIFF;**

20 **(III) AN EMPLOYEE OF A DAY SCHOOL IN THE STATE UNDER**
21 **THE AUTHORITY AND SUPERVISION OF A COUNTY BOARD OF EDUCATION OR THE**
22 **BALTIMORE CITY BOARD OF SCHOOL COMMISSIONERS, EMPLOYED AS:**

23 **1. A CLERK;**

24 **2. A HELPING TEACHER;**

25 **3. A PRINCIPAL;**

26 **4. A SUPERINTENDENT;**

27 **5. A SUPERVISOR; OR**

1 (b) An eligible employee shall:

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

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

6 (c) An eligible employee may not participate in the program if both the
7 Board of Trustees and the [employing institution] **SUPERVISING EMPLOYER** have
8 not received the eligible employee's written election required under subsection (b) of
9 this section, within 1 year of first becoming an eligible employee with [an employing
10 institution] **A SUPERVISING EMPLOYER**.

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

13 30–305.

14 (a) This section applies only to a State employee who becomes eligible to
15 elect participation in the program if the employee is appointed, promoted, transferred,
16 or reclassified to a position as an eligible employee.

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

19 (c) An eligible employee shall:

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

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

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

29 30–307.

30 (a) Except as otherwise provided in this section, an election to participate in
31 the program is a waiver of all rights and benefits provided by the retirement or

1 pension system in which the participating employee was a member on the effective
2 date of the election.

3 (b) For the purpose of determining eligibility for immediate vested rights or
4 benefits in a retirement system or pension system, an eligible employee who is a
5 member of that State system when the employee elects to participate in the program is
6 deemed to have separated from employment on the effective date of the election.

7 (c) The Board of Trustees may only compute retirement system or pension
8 system benefits on the basis of years of creditable service as a member of that State
9 system.

10 (d) (1) This section applies only to a participating employee whose last
11 employer prior to joining the program was a participating employer that does not
12 participate in the employer pick-up program as defined in § 414(h)(2) of the Internal
13 Revenue Code.

14 (2) A participating employee may withdraw any accumulated
15 contributions in the annuity savings fund on or after the effective date of the
16 participating employee's election to join the program.

17 (3) If a participating employee withdraws the accumulated
18 contributions, the participating employee forfeits any right to a benefit in the State
19 system from which the accumulated contributions were withdrawn.

20 (e) A participating employee is ineligible for membership in a retirement
21 system or pension system while the participating employee is employed in any eligible
22 position by any [employing institution] **SUPERVISING EMPLOYER.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 July 1, 2013.