

Chapter 458

**(Senate Bill 979)**

AN ACT concerning

**Optional Retirement Program – Eligibility – Alterations**

FOR the purpose of altering the eligibility provisions of the Optional Retirement Program to include individuals in certain position categories designated by certain governing boards of institutions of higher education or the Secretary of Higher Education; ~~authorizing~~ requiring an individual who was a participant in the Optional Retirement Program as of a certain date to continue to participate in the Program under certain circumstances; conforming certain terminology to current institutional policies regarding employment categories; and generally relating to eligibility for the Optional Retirement Program.

BY repealing and reenacting, with amendments,  
Article – State Personnel and Pensions  
Section 30–301  
Annotated Code of Maryland  
(2015 Replacement Volume)

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

**Article – State Personnel and Pensions**

30–301.

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

- (1) a member of the faculty of an employing institution;
- (2) a professional employee at a community college or regional community college established under Title 16 of the Education Article;
- (3) an employee of the University System of Maryland who is in a position designated as exempt under a policy adopted by the University System of Maryland Board of Regents;
- (4) an employee of Morgan State University who is in a position designated as **EXECUTIVE OR** professional [or] administrative by the Board of Regents of Morgan State University;

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

(6) an employee of the Maryland Higher Education Commission who is in a position determined by the Secretary of Higher Education to be a professional position.

(b) (1) This subsection applies to an individual who:

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

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

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

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

(ii) is employed by an employing institution.

**(C) (1) THIS SUBSECTION APPLIES TO AN INDIVIDUAL WHO:**

**(I) IS IN A POSITION THAT WAS ELIGIBLE TO PARTICIPATE IN THE PROGRAM BUT WAS RECLASSIFIED BY THE GOVERNING BOARD OF THE INDIVIDUAL'S EMPLOYING INSTITUTION OR THE SECRETARY OF HIGHER EDUCATION TO A POSITION THAT WOULD NO LONGER BE ELIGIBLE FOR PARTICIPATION IN THE PROGRAM UNDER SUBSECTION (A) OF THIS SECTION; AND**

**(II) WAS A PARTICIPANT IN THE PROGRAM ON THE DATE IMMEDIATELY PRECEDING THE RECLASSIFICATION.**

**(2) AN INDIVIDUAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION ~~MAY~~ SHALL CONTINUE TO PARTICIPATE IN THE PROGRAM IF THE INDIVIDUAL:**

**(I) WOULD OTHERWISE BE ELIGIBLE FOR MEMBERSHIP IN A SYSTEM UNDER THE STATE RETIREMENT AND PENSION SYSTEM; AND**

**(II) IS EMPLOYED BY AN EMPLOYING INSTITUTION.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2016.

**Approved by the Governor, May 10, 2016.**