

## Chapter 348

**(House Bill 1379)**

AN ACT concerning

**Optional Retirement Program – Membership**

FOR the purpose of prohibiting certain individuals who are members of the Employees' Pension System of the State Retirement and Pension System from becoming a member of the Optional Retirement Program of the State Retirement and Pension System on or after a certain date; and generally relating to membership in the Optional Retirement Program of the State Retirement and Pension System.

BY repealing and reenacting, without amendments,  
 Article – State Personnel and Pensions  
 Section 30–302, 30–303, and 30–307  
 Annotated Code of Maryland  
 (2015 Replacement Volume and 2018 Supplement)

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

**Article – State Personnel and Pensions**

30–302.

(a) An election to participate in the program shall be made by an eligible employee at commencement of employment.

(b) An eligible employee's election to participate in the program is a one-time irrevocable election.

(c) An individual who previously participated in a State system as an employee of an employing institution or any other unit of State government may not elect to participate in the program.

30–303.

(a) An eligible employee shall elect to:

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

(2) participate in the program.

(b) An eligible employee shall:

- (1) make an election under this section in writing; and
  - (2) file the election with the Board of Trustees and the employing institution at commencement of employment.
- (c) An eligible employee's election under this section is a one-time, irrevocable election.
- (d) The effective date of the election shall be the day of commencement of employment.

30-307.

(a) (1) This subsection applies to an election to participate in the program made on or before June 30, 2017.

(2) Except as otherwise provided in this section, an election to participate in the program is a waiver of all rights and benefits provided by the retirement or pension system in which the participating employee was a member on the effective date of the election.

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

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

(5) (i) This paragraph applies only to a participating employee whose last employer prior to joining the program was a participating employer that does not participate in the employer pick-up program as defined in § 414(h)(2) of the Internal Revenue Code.

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

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

(b) (1) A participating employee is ineligible for membership in a retirement system or pension system while the participating employee is employed in any eligible position by any employing institution.

(2) A participating employee who is subsequently appointed, promoted, or transferred to another position that is eligible for membership in a State system but is not eligible for participation in the program shall participate in a State system with respect to that position as a condition of employment.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) This section applies to an individual who:

(1) on or before July 1, 1993, began employment with the Maryland General Assembly and enrolled in the Employees' Pension System of the State Retirement and Pension System as a condition of employment;

(2) on or before December 1, 1997, accepted employment as a legislative liaison for Towson University and elected to participate in the Optional Retirement Program of the State Retirement and Pension System instead of membership in the Teachers' Pension System of the State Retirement and Pension System;

(3) on or before November 1, 2010, began employment in an executive position with the Maryland Department of Transportation and enrolled in the Employees' Pension System as a condition of employment; and

(4) on or before March 1, 2015, began employment with the University of Maryland University College and maintained the individual's membership in the Employees' Pension System.

(b) Notwithstanding §§ 30–302, 30–303, and 30–307 of the State Personnel and Pensions Article, an individual described under subsection (a) of this section may not participate in the Optional Retirement Program on or after February 1, 2015.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2019.

**Approved by the Governor, April 30, 2019.**