

Chapter 561

(Senate Bill 489)

AN ACT concerning

Employees' and Teachers' Retirement and Pension Systems – Reemployment – Clarification

FOR the purpose of clarifying that a reemployed retiree of the Employees' and Teachers' Retirement System or the Employees' and Teachers' Pension System is subject to a certain reduction in their retirement allowance if the retiree's compensation is derived from certain State funds; requiring the funding for a reemployed retiree's position to be funded in a certain manner to qualify for a certain exemption from a reduction in a retirement allowance; specifying the manner in which an employer shall establish that a reemployed retiree's compensation does not include any State funds; and generally relating to the reemployment of retirees of the Employees' and Teachers' Retirement and Pension Systems.

BY repealing and reenacting, with amendments,
 Article – State Personnel and Pensions
 Section 22–406(c)(1), (4)(xii), and (11) and 23–407(c)(1), (4)(x), and (11)
 Annotated Code of Maryland
 (2015 Replacement Volume and 2019 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

22–406.

(c) (1) Except as provided in § 22–407 of this subtitle, the Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (b) of this section if:

(i) 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 vested allowance;

(ii) 1. the individual's current employer is any unit of State government;

2. 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 or vested allowance was also a unit of State government; and

3. any portion of the individual's compensation for the individual's current employment [comes] **IS DERIVED** from State funds, **INCLUDING ANY FEES OR PENALTIES COLLECTED OR RECEIVED BY A UNIT OF STATE GOVERNMENT**; or

(iii) the individual becomes reemployed within 12 months of receiving an early service retirement allowance under § 22-402 of this subtitle.

(4) Except for an individual whose allowance is subject to a reduction as provided under paragraphs (1)(iii) and (3) of this subsection, the reduction of an allowance under this subsection does not apply to:

(xii) a retiree whose:

1. current employer is any unit of State government; [and]
2. compensation from the retiree's current employer does not include any State funds; **AND**

3. POSITION IS FULLY FUNDED BY A GRANT FROM A NON-STATE SOURCE THAT SPECIFICALLY REQUIRES THE USE OF THE GRANT FUNDS TO PAY THE FULL AMOUNT OF THE COMPENSATION FOR THE POSITION.

(11) (i) Within 30 days after rehiring an individual under paragraph (4)(xii) of this subsection, and on or before January 31 each year for the 5 calendar years immediately following the individual's date of retirement, the appointing authority of the unit of State government employing the individual shall complete and file with the Board of Trustees a form provided by the Board of Trustees that certifies that the individual rehired by the individual's current employer under paragraph (4)(xii) of this subsection satisfied the criteria provided in paragraph (4)(xii) of this subsection.

(II) TO ESTABLISH THAT AN INDIVIDUAL'S COMPENSATION FROM THE CURRENT EMPLOYER DOES NOT INCLUDE ANY STATE FUNDS, THE CURRENT EMPLOYER SHALL PROVIDE THE STATE RETIREMENT AGENCY WITH THE FOLLOWING:

1. EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, A COPY OF THE GRANT AGREEMENT THAT PROVIDES FULL FUNDING FOR THE INDIVIDUAL'S POSITION, AND SPECIFIES THAT THE GRANT FUNDS MUST BE USED TO PAY THE FULL COST OF THE POSITION'S COMPENSATION;

2. PAYROLL RECORDS OF THE CURRENT EMPLOYER THAT DEMONSTRATE THAT THE GRANT FUNDS WERE USED TO PAY THE INDIVIDUAL’S COMPENSATION; AND

3. ANY ADDITIONAL INFORMATION REQUIRED BY THE STATE RETIREMENT AGENCY.

(III) A BLOCK GRANT OR MATCHING GRANT MAY NOT BE USED TO SATISFY THE REQUIREMENT UNDER SUBPARAGRAPH (II)1 OF THIS PARAGRAPH.

[(ii)] (IV) If the Board of Trustees finds that an appointing authority has rehired an individual that does not satisfy the criteria provided in paragraph (4)(xii) of this subsection:

1. on or before July 1 of the year of the finding, the Board of Trustees shall notify the appointing authority for the unit of State government employing this individual; and

2. the unit of State government employing the individual under paragraph (4)(xii) of this subsection shall reimburse the Board of Trustees the amount equal to the reduction to the individual’s retirement allowance that would have been made in paragraph (2) of this subsection.

23–407.

(c) (1) Except as provided in § 23–408 of this subtitle, the Board of Trustees shall reduce the allowance of an individual who accepts employment as provided under subsection (b) of this section if:

(i) 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 vested allowance;

(ii) 1. the individual’s current employer is any unit of State government;

2. 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 or vested allowance was also a unit of State government; and

3. any portion of the individual’s compensation for the individual’s current employment **[comes] IS DERIVED** from State funds, **INCLUDING ANY**

FEES OR PENALTIES COLLECTED OR RECEIVED BY A UNIT OF STATE GOVERNMENT;
or

(iii) the individual becomes reemployed within 12 months of receiving an early service retirement allowance or an early vested allowance computed under § 23–402 of this subtitle.

(4) Except for an individual whose allowance is subject to a reduction as provided under paragraphs (1)(iii) and (3) of this subsection, the reduction of an allowance under this subsection does not apply to:

(x) a retiree whose:

1. current employer is any unit of State government; [and]
2. compensation from the retiree's current employer does not include any State funds; **AND**

3. POSITION IS FULLY FUNDED BY A GRANT FROM A NON-STATE SOURCE THAT SPECIFICALLY REQUIRES THE USE OF THE GRANT FUNDS TO PAY THE FULL AMOUNT OF THE COMPENSATION FOR THE POSITION.

(11) (i) Within 30 days after rehiring an individual under paragraph (4)(x) of this subsection, and on or before January 31 each year for the 5 calendar years immediately following the individual's date of retirement, the appointing authority of the unit of State government employing the individual shall complete and file with the Board of Trustees a form provided by the Board of Trustees that certifies that the individual rehired by the individual's current employer under paragraph (4)(x) of this subsection satisfied the criteria provided in paragraph (4)(x) of this subsection.

(II) TO ESTABLISH THAT AN INDIVIDUAL'S COMPENSATION FROM THE CURRENT EMPLOYER DOES NOT INCLUDE ANY STATE FUNDS, THE CURRENT EMPLOYER SHALL PROVIDE THE STATE RETIREMENT AGENCY WITH THE FOLLOWING:

1. EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, A COPY OF THE GRANT AGREEMENT THAT PROVIDES FULL FUNDING FOR THE INDIVIDUAL'S POSITION, AND SPECIFIES THAT THE GRANT FUNDS MUST BE USED TO PAY THE FULL COST OF THE POSITION'S COMPENSATION;

2. PAYROLL RECORDS OF THE CURRENT EMPLOYER THAT DEMONSTRATE THAT THE GRANT FUNDS WERE USED TO PAY THE INDIVIDUAL'S COMPENSATION; AND

3. ANY ADDITIONAL INFORMATION REQUIRED BY THE STATE RETIREMENT AGENCY.

(III) A BLOCK GRANT OR MATCHING GRANT MAY NOT BE USED TO SATISFY THE REQUIREMENT UNDER SUBPARAGRAPH (II)1 OF THIS PARAGRAPH.

[(ii)] (IV) If the Board of Trustees finds that an appointing authority has rehired an individual that does not satisfy the criteria provided in paragraph (4)(x) of this subsection:

1. on or before July 1 of the year of the finding, the Board of Trustees shall notify the appointing authority for the unit of State government employing this individual; and

2. the unit of State government employing the individual under paragraph (4)(x) of this subsection shall reimburse the Board of Trustees the amount equal to the reduction to the individual's retirement allowance that would have been made in paragraph (2) of this subsection.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2020.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 8, 2020.