

HOUSE BILL 494

K4

3lr1327
CF SB 477

By: **Delegate Griffith (Chair, Joint Committee on Pensions)**

Introduced and read first time: January 30, 2013

Assigned to: Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 20, 2013

CHAPTER _____

1 AN ACT concerning

2 **State Retirement and Pension System – Employment of Retirees – Required**
3 **Break in Service**

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

11 BY repealing and reenacting, with amendments,
12 Article – State Personnel and Pensions
13 Section 22–406(b), (d), (n), (o), and (p), 23–407(b), (d), (n), (o), and (p), 24–405.1,
14 25–403(h), 26–403(f), ~~27–406(b)~~ 27–406(a) and (b), and 28–402(g)
15 Annotated Code of Maryland
16 (2009 Replacement Volume and 2012 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article – State Personnel and Pensions
19 Section 25–403(a), 26–403(a), ~~27–406(a)~~, and 28–402(a)
20 Annotated Code of Maryland
21 (2009 Replacement Volume and 2012 Supplement)

22 BY repealing

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – State Personnel and Pensions
 2 Section 22–406(m) and 23–407(m)
 3 Annotated Code of Maryland
 4 (2009 Replacement Volume and 2012 Supplement)

5 BY adding to
 6 Article – State Personnel and Pensions
 7 Section 29–117(e)
 8 Annotated Code of Maryland
 9 (2009 Replacement Volume and 2012 Supplement)

10 BY repealing and reenacting, without amendments,
 11 Article – State Personnel and Pensions
 12 Section 27–406(a) ~~and (b)~~
 13 Annotated Code of Maryland
 14 (2009 Replacement Volume and 2012 Supplement)
 15 (As enacted by Chapter 688 of the Acts of the General Assembly of 2010)

16 BY repealing and reenacting, with amendments,
 17 Article – State Personnel and Pensions
 18 Section 27–406(b)
 19 Annotated Code of Maryland
 20 (2009 Replacement Volume and 2012 Supplement)
 21 (As enacted by Chapter 688 of the Acts of the General Assembly of 2010)

22 BY adding to
 23 Article – State Personnel and Pensions
 24 Section 27–406(e)
 25 Annotated Code of Maryland
 26 (2009 Replacement Volume and 2012 Supplement)
 27 (As enacted by Chapter 688 of the Acts of the General Assembly of 2010)

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

30 **Article – State Personnel and Pensions**

31 22–406.

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

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

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

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

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

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

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

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

23 [(m) An individual who is rehired under this section may not be rehired within
24 45 days of the date the individual retired if:

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

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

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

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

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

5 (ii) whether the school:

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

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

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

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

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

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

22 (5) the salary of each rehired retiree;

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

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

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

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

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

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

6 (1) the number of rehired retirees under subsection (c)(4)(x) of this
7 section;

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

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

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

14 23–407.

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

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

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

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

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

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

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

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

12 [(m) An individual who is rehired under this section may not be rehired within
13 45 days of the date the individual retired if:

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

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

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

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

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

29 (ii) whether the school:

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

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

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

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

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

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

12 (5) the salary of each rehired retiree;

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

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

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

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

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

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

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

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

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

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

5 24-405.1.

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

16 25-403.

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

21 (1) of the individual's intention to accept the employment; and

22 (2) of the compensation that the individual will receive.

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

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

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

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

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

9 26-403.

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

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

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

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

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

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

35 27-406.

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

5 (1) the retiree's intention to accept the employment; and

6 (2) the compensation that the retiree will receive.

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

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

17 28-402.

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

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

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

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

34 29-117.

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

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

8 **Article – State Personnel and Pensions**

9 27–406.

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

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

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

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

19 (1) the retiree’s intention to accept the employment; and

20 (2) the compensation that the retiree will receive.

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

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

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