

SENATE BILL 540

K4

7lr0189
CF HB 748

By: The President (By Request – Administration) and Senators Bates, Eckardt, Edwards, Hershey, Hough, Jennings, Ready, Salling, Serafini, and Simonaire

Introduced and read first time: February 1, 2017

Assigned to: Rules

Re-referred to: Budget and Taxation, February 15, 2017

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 17, 2017

CHAPTER _____

1 AN ACT concerning

2 ~~State Retirement Choice for the 21st Century Workforce~~
3 Study of Retirement Plan Alternatives

4 FOR the purpose of ~~establishing the State Retirement Choice Plan; authorizing certain~~
5 ~~individuals who are employed by certain participating employers on or after a certain~~
6 ~~date to become members of the State Retirement Choice Plan; prohibiting certain~~
7 ~~individuals from participation in the State Retirement Choice Plan; requiring certain~~
8 ~~individuals to make a certain election between the Employees' Pension System and~~
9 ~~the State Retirement Choice Plan within a certain period of time and requiring~~
10 ~~notification of the election to be filed with the Board of Trustees for the State~~
11 ~~Retirement and Pension System; requiring certain individuals to be enrolled in the~~
12 ~~Employees' Pension System if a certain election is not made; requiring the Board of~~
13 ~~Trustees to administer the State Retirement Choice Plan; requiring the Board of~~
14 ~~Trustees to adopt certain regulations; providing that an election to participate in the~~
15 ~~State Retirement Choice Plan is a one time, irrevocable election; providing for the~~
16 ~~computation of certain benefits; prohibiting employees who are participating in the~~
17 ~~State Retirement Choice Plan from participation in the Employees' Pension System~~
18 ~~under certain circumstances; requiring employee contributions to the State~~
19 ~~Retirement Choice Plan to be a certain amount; requiring certain employer~~
20 ~~contributions of a certain amount to the State Retirement Choice Plan; requiring~~
21 ~~contributions by participating employees and the State under the State Retirement~~
22 ~~Choice Plan to be made in a certain manner; providing the vesting requirements for~~

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.



~~contributions made by participating employees and the State and interest earned on the contributions under the State Retirement Choice Plan; requiring the Governor to include a certain amount in the annual budget bill for the State Retirement Choice Plan; authorizing certain retirees of the State Retirement Choice Plan and their surviving spouses and dependent children to participate in the State Employees and Retirees Health and Welfare Benefits Program under certain circumstances; defining certain terms; providing for a delayed effective date; and generally relating to the establishment of the State Retirement Choice Plan.~~ requiring the Department of Legislative Services to examine potential retirement plan options that may be offered to employees as an alternative to certain defined benefit pension plans; requiring the study to include certain elements; requiring the Department of Legislative Services to report its findings and recommendations to the Joint Committee on Pensions on or before a certain date; providing for the termination of this Act; and generally relating to a study of alternative retirement plans.

~~BY adding to~~

~~Article — State Personnel and Pensions~~

~~Section 2-509.2; and 33-101 through 33-206 to be under the new title “Title 33: State Retirement Choice Plan”~~

~~Annotated Code of Maryland~~

~~(2015 Replacement Volume and 2016 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article — State Personnel and Pensions~~

~~Section 23-201~~

~~Annotated Code of Maryland~~

~~(2015 Replacement Volume and 2016 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~~

~~2-509.2.~~

~~(A) IN THIS SECTION, “STATE SERVICE” MEANS SERVICE WITH THE STATE BY AN INDIVIDUAL DESCRIBED IN § 23-201(A) OF THIS ARTICLE WHO IS ELIGIBLE TO PARTICIPATE AND ELECTS TO PARTICIPATE IN THE STATE RETIREMENT CHOICE PLAN ESTABLISHED UNDER TITLE 33 OF THIS ARTICLE.~~

~~(B) THIS SECTION APPLIES TO A RETIREE OF THE STATE RETIREMENT CHOICE PLAN UNDER TITLE 33 OF THIS ARTICLE.~~

~~(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN INDIVIDUAL MAY ENROLL AND PARTICIPATE IN THE HEALTH INSURANCE BENEFIT~~

~~OPTIONS ESTABLISHED UNDER THE PROGRAM IF THE INDIVIDUAL RETIRED UNDER THE STATE RETIREMENT CHOICE PLAN UNDER TITLE 33 OF THIS ARTICLE AND:~~

~~(I) ENDED STATE SERVICE WITH AT LEAST 10 YEARS OF SERVICE AND WAS AT LEAST AGE 57;~~

~~(II) ENDED STATE SERVICE WITH AT LEAST 25 YEARS OF SERVICE; OR~~

~~(III) RETIRED DIRECTLY FROM STATE SERVICE AND HAD AT LEAST 10 YEARS OF STATE SERVICE WITH A PERIODIC DISTRIBUTION OF BENEFITS ON OR AFTER JULY 1, 2018.~~

~~(2) (I) FOR PURPOSES OF THIS SUBSECTION ONLY, "YEAR OF SERVICE" MEANS A PERIOD OF 12 MONTHS DURING WHICH AN EMPLOYEE WAS A PARTICIPANT IN THE STATE RETIREMENT CHOICE PLAN UNDER TITLE 33 OF THIS ARTICLE AND THE PARTICIPANT'S EMPLOYER MADE CONTRIBUTIONS TO THE PARTICIPANT'S ACCOUNT IN THE PROGRAM.~~

~~(II) TO DETERMINE ELIGIBILITY FOR HEALTH INSURANCE BENEFITS UNDER THIS SECTION, EACH YEAR OF SERVICE SHALL BE MULTIPLIED BY THE PARTICIPANT'S PERCENTAGE OF FULL TIME EMPLOYMENT FOR THAT YEAR OF SERVICE.~~

~~(3) THE SURVIVING SPOUSE OR DEPENDENT CHILD OF A DECEASED INDIVIDUAL WHO WAS ELIGIBLE TO ENROLL MAY ENROLL AND PARTICIPATE IN THE HEALTH INSURANCE BENEFIT OPTIONS ESTABLISHED UNDER THE PROGRAM AS LONG AS THE SPOUSE OR CHILD IS RECEIVING A PERIODIC DISTRIBUTION OF BENEFITS UNDER THE STATE RETIREMENT CHOICE PLAN UNDER TITLE 33 OF THIS ARTICLE.~~

~~(D) (1) AN ENROLLEE UNDER THIS SECTION WHO WAS IN STATE SERVICE AT THE TIME OF RETIREMENT IS ENTITLED TO THE SAME STATE SUBSIDY ALLOWED A RETIREE UNDER § 2-508(C)(4) OF THIS SUBTITLE. HOWEVER, EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE SUBSIDY SHALL APPLY ONLY TO THE COSTS OF COVERAGE FOR THE ENROLLEE AND MAY NOT APPLY TO ANY ADDITIONAL COSTS OF COVERAGE FOR THE ENROLLEE'S SPOUSE OR CHILDREN.~~

~~(2) IF THE ENROLLEE HAS 25 OR MORE YEARS OF STATE SERVICE, THE ENROLLEE OR THE ENROLLEE'S SURVIVING SPOUSE OR DEPENDENT CHILD IS ENTITLED TO THE SAME STATE SUBSIDY ALLOWED A RETIREE WITH 25 OR MORE YEARS OF CREDITABLE SERVICE UNDER § 2-508(C)(4)(I) OF THIS SUBTITLE.~~

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

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

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

~~(i) a clerk of the circuit court;~~

~~(ii) a register of wills;~~

~~(iii) a State's Attorney; and~~

~~(iv) a sheriff;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(13) An individual who, on and before the effective date of participation as defined under § 31-101(c) of this article, is:~~

~~(i) a supportive service employee of the Board of Education of Kent County;~~

~~(ii) an employee of the Town of Oakland;~~

~~(iii) an employee of the City of Frostburg;~~

~~(iv) an employee of the Town of Sykesville; or~~

~~(v) an employee of the Town of University Park; and~~

~~(14) an employee of the Maryland Automobile Insurance Fund on or after the date that the Maryland Automobile Insurance Fund begins participation in the Employees' Pension System.~~

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

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

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

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

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

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

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

~~(i) was an employee of the New Community College of Baltimore during the 1989-1990 academic year;~~

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

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

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

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

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

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

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

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

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

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

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

~~(ii) elected, under § 3-403.1 of the Human Services Article, to remain as a participant in the Montgomery County Employees' Retirement System; and~~

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

~~(12) AN INDIVIDUAL WHO IS ELIGIBLE TO PARTICIPATE AND ELECTS TO PARTICIPATE IN THE STATE RETIREMENT CHOICE PLAN ESTABLISHED UNDER TITLE 33 OF THIS ARTICLE.~~

~~TITLE 33. STATE RETIREMENT CHOICE PLAN.~~

~~SUBTITLE 1. DEFINITIONS.~~

~~33-101.~~

~~(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(B) (1) "ELIGIBLE EMPLOYEE" MEANS AN INDIVIDUAL ELIGIBLE TO PARTICIPATE IN THE STATE RETIREMENT CHOICE PLAN ESTABLISHED UNDER THIS TITLE.~~

~~(2) "ELIGIBLE EMPLOYEE" INCLUDES AN INDIVIDUAL DESCRIBED IN § 23-201(A) OF THIS ARTICLE WHO BECOMES AN EMPLOYEE OF A PARTICIPATING EMPLOYER ON OR AFTER JULY 1, 2018.~~

~~(3) "ELIGIBLE EMPLOYEE" DOES NOT INCLUDE AN INDIVIDUAL DESCRIBED IN § 23-201(A) OF THIS ARTICLE WHO IS ENROLLED AS A MEMBER OF THE EMPLOYEES' PENSION SYSTEM UNDER TITLE 23 OF THIS ARTICLE BEFORE JULY 1, 2018.~~

~~(C) "PARTICIPATING EMPLOYEE" MEANS AN ELIGIBLE EMPLOYEE WHO PARTICIPATES IN THE STATE RETIREMENT CHOICE PLAN.~~

~~(D) "STATE RETIREMENT CHOICE PLAN" MEANS THE PLAN ESTABLISHED UNDER § 33-201 OF THIS TITLE.~~

~~SUBTITLE 2. STATE RETIREMENT CHOICE PLAN.~~

~~33-201.~~

~~(A) THERE IS A STATE RETIREMENT CHOICE PLAN IN WHICH ELIGIBLE EMPLOYEES MAY PARTICIPATE.~~

~~(B) THE PLAN IS A DEFINED CONTRIBUTION PLAN AUTHORIZED UNDER § 401(A) OF THE INTERNAL REVENUE CODE.~~

~~33-202.~~

~~(A) THE BOARD OF TRUSTEES OF THE STATE RETIREMENT AND PENSION SYSTEM SHALL ADMINISTER THE STATE RETIREMENT CHOICE PLAN.~~

~~(B) THE BOARD OF TRUSTEES SHALL ADOPT REGULATIONS TO CARRY OUT THIS TITLE.~~

~~(C) A PARTICIPATING EMPLOYEE'S INTEREST IN THE CONTRIBUTIONS MADE BY THE PARTICIPATING EMPLOYEE AND THE INTEREST EARNED ON THOSE CONTRIBUTIONS UNDER THE STATE RETIREMENT CHOICE PLAN:~~

~~(1) SHALL IMMEDIATELY BE 100% VESTED;~~

~~(2) SHALL BE HELD IN TRUST FOR THE EXCLUSIVE BENEFIT OF THE PARTICIPATING EMPLOYEE; AND~~

~~(3) MAY BE DISTRIBUTED ONLY AT THE TIMES, IN THE MANNER, TO THE EXTENT, AND TO THE INDIVIDUALS THAT ALLOW THE PLAN TO MAINTAIN ITS TAX QUALIFIED STATUS UNDER THE INTERNAL REVENUE CODE.~~

~~(D) A PARTICIPATING EMPLOYEE'S INTEREST IN THE CONTRIBUTIONS MADE BY THE STATE ON BEHALF OF THE PARTICIPATING EMPLOYEE AND THE INTEREST EARNED ON THOSE CONTRIBUTIONS UNDER THE STATE RETIREMENT CHOICE PLAN:~~

~~(1) SHALL BEGIN 3 YEARS AFTER THE PARTICIPATING EMPLOYEE BECOMES AN ELIGIBLE EMPLOYEE;~~

~~(2) SHALL BE 100% VESTED ON THE FIRST DAY OF THE FOURTH YEAR AFTER THE PARTICIPATING EMPLOYEE BECOMES AN ELIGIBLE EMPLOYEE; AND~~

~~(3) MAY BE DISTRIBUTED ONLY AT THE TIMES, IN THE MANNER, TO THE EXTENT, AND TO THE INDIVIDUALS THAT ALLOW THE PLAN TO MAINTAIN ITS TAX-QUALIFIED STATUS UNDER THE INTERNAL REVENUE CODE.~~

~~33-203.~~

~~(A) AT THE COMMENCEMENT OF EMPLOYMENT, AN ELIGIBLE EMPLOYEE SHALL MAKE AN ELECTION TO EITHER:~~

~~(1) PARTICIPATE IN THE STATE RETIREMENT CHOICE PLAN; OR~~

~~(2) JOIN THE EMPLOYEES' PENSION SYSTEM IN ACCORDANCE WITH THE PROVISIONS OF THIS DIVISION II APPLICABLE TO THAT SYSTEM.~~

~~(B) AN ELIGIBLE EMPLOYEE'S ELECTION IS A ONE TIME, IRREVOCABLE ELECTION.~~

~~(C) AN ELIGIBLE EMPLOYER SHALL PROVIDE TO AN ELIGIBLE EMPLOYEE INFORMATION REGARDING THE OPTIONS SET FORTH IN SUBSECTION (A) OF THIS SECTION AND A FORM FOR MAKING THE ELECTION.~~

~~(D) THE ELIGIBLE EMPLOYEE'S EMPLOYER SHALL FILE THE EMPLOYEE'S ELECTION FORM WITH THE BOARD OF TRUSTEES.~~

~~(E) THE EFFECTIVE DATE OF THE ELECTION SHALL BE THE FIRST DAY OF THE MONTH AFTER THE ELECTION.~~

~~(F) IF AN ELIGIBLE EMPLOYEE DOES NOT MAKE AN ELECTION UNDER SUBSECTION (A) OF THIS SECTION, THE ELIGIBLE EMPLOYEE SHALL BE ENROLLED IN THE EMPLOYEES' PENSION SYSTEM.~~

~~33-204.~~

~~(A) A PARTICIPATING EMPLOYEE'S CONTRIBUTION RATE IS 5% OF THE PARTICIPATING EMPLOYEE'S ANNUAL EARNABLE COMPENSATION.~~

~~(B) THE PARTICIPATING EMPLOYEE CONTRIBUTIONS SHALL BE MADE AS PAYROLLS ARE PAID BY PAYROLL DEDUCTION OR BY A REDUCTION IN SALARY IN ACCORDANCE WITH THE INTERNAL REVENUE CODE.~~

~~33-205.~~

~~(A) ON BEHALF OF EACH PARTICIPATING EMPLOYEE, THE EMPLOYER SHALL CONTRIBUTE TO THE STATE RETIREMENT CHOICE PLAN 5% OF THE PARTICIPATING EMPLOYEE'S ANNUAL EARNABLE COMPENSATION.~~

~~(B) (1) THIS SUBSECTION APPLIES TO PARTICIPATING EMPLOYEES WHO ARE PAID THROUGH THE CENTRAL PAYROLL BUREAU.~~

~~(2) AS PAYROLLS ARE PAID, THE CENTRAL PAYROLL BUREAU SHALL PAY THE EMPLOYER CONTRIBUTIONS TO THE STATE RETIREMENT CHOICE PLAN.~~

~~(3) THE PAYMENTS SHALL BE CHARGED AGAINST THE BUDGETS OF THE UNITS EMPLOYING THE PARTICIPATING EMPLOYEES.~~

~~(4) IF A PARTICIPATING EMPLOYEE'S SALARY IS PAID FROM SPECIAL FUNDS OR FEDERAL FUNDS, OR BOTH, THE EMPLOYER CONTRIBUTION FOR THAT EMPLOYEE SHALL BE PAID FROM THOSE FUNDS.~~

~~(C) (1) THIS SUBSECTION APPLIES TO PARTICIPATING EMPLOYEES WHO ARE NOT PAID THROUGH THE CENTRAL PAYROLL BUREAU.~~

~~(2) THE BOARD OF TRUSTEES SHALL PROVIDE BY REGULATION HOW EMPLOYER CONTRIBUTIONS AND PARTICIPATING EMPLOYEE CONTRIBUTIONS ARE TO BE MADE.~~

~~(3) THE PAYMENTS SHALL BE CHARGED AGAINST THE BUDGETS OF THE UNITS EMPLOYING THE PARTICIPATING EMPLOYEES WHO ARE EMPLOYED BY THE STATE.~~

~~(4) IF A PARTICIPATING EMPLOYEE'S SALARY IS PAID FROM SPECIAL FUNDS OR FEDERAL FUNDS, OR BOTH, THE EMPLOYER CONTRIBUTION SHALL BE PAID FROM THOSE FUNDS.~~

~~33-206.~~

~~THE GOVERNOR SHALL INCLUDE IN THE ANNUAL STATE BUDGET BILL AN APPROPRIATION THAT IS SUFFICIENT TO PAY THE EMPLOYER CONTRIBUTIONS FOR PARTICIPATING EMPLOYEES REQUIRED UNDER § 33-205 OF THIS SUBTITLE.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2018.~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND.
That:

1 (a) The Department of Legislative Services shall examine potential retirement
2 plan options that may be offered to new employees as an alternative to the defined benefit
3 pension plans of the State Retirement and Pension System.

4 (b) The study shall examine:

5 (1) retirement plan alternatives, such as defined contribution (401k) plans
6 and cash balance plans;

7 (2) the costs and benefits of offering retirement plan alternatives,
8 including:

9 (i) recruitment and retention of employees;

10 (ii) retirement security for employees;

11 (iii) the effect on the State's contribution rate for the defined benefit
12 plans of the State Retirement and Pension System; and

13 (iv) the effect on the asset allocation policy and projected investment
14 returns of the State Retirement and Pension System;

15 (3) the experiences of other states that currently offer or have previously
16 offered alternative retirement plans to employees; and

17 (4) the legal requirements to set up an alternative retirement plan.

18 (c) On or before December 1, 2017, the Department of Legislative Services shall
19 report its findings and recommendations to the Joint Committee on Pensions.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
21 1, 2017. It shall remain effective for a period of 1 year and, at the end of June 30, 2018,
22 with no further action required by the General Assembly, this Act shall be abrogated and
23 of no further force and effect.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.