

SENATE BILL 540

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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

A BILL ENTITLED

1 AN ACT concerning

2 **State Retirement Choice for the 21st Century Workforce**

3 FOR the purpose of establishing the State Retirement Choice Plan; authorizing certain
4 individuals who are employed by certain participating employers on or after a certain
5 date to become members of the State Retirement Choice Plan; prohibiting certain
6 individuals from participation in the State Retirement Choice Plan; requiring certain
7 individuals to make a certain election between the Employees' Pension System and
8 the State Retirement Choice Plan within a certain period of time and requiring
9 notification of the election to be filed with the Board of Trustees for the State
10 Retirement and Pension System; requiring certain individuals to be enrolled in the
11 Employees' Pension System if a certain election is not made; requiring the Board of
12 Trustees to administer the State Retirement Choice Plan; requiring the Board of
13 Trustees to adopt certain regulations; providing that an election to participate in the
14 State Retirement Choice Plan is a one-time, irrevocable election; providing for the
15 computation of certain benefits; prohibiting employees who are participating in the
16 State Retirement Choice Plan from participation in the Employees' Pension System
17 under certain circumstances; requiring employee contributions to the State
18 Retirement Choice Plan to be a certain amount; requiring certain employer
19 contributions of a certain amount to the State Retirement Choice Plan; requiring
20 contributions by participating employees and the State under the State Retirement
21 Choice Plan to be made in a certain manner; providing the vesting requirements for
22 contributions made by participating employees and the State and interest earned on
23 the contributions under the State Retirement Choice Plan; requiring the Governor
24 to include a certain amount in the annual budget bill for the State Retirement Choice
25 Plan; authorizing certain retirees of the State Retirement Choice Plan and their
26 surviving spouses and dependent children to participate in the State Employees and
27 Retirees Health and Welfare Benefits Program under certain circumstances;
28 defining certain terms; providing for a delayed effective date; and generally relating
29 to the establishment of the State Retirement Choice Plan.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to

2 Article – State Personnel and Pensions

3 Section 2–509.2; and 33–101 through 33–206 to be under the new title “Title 33.
4 State Retirement Choice Plan”

5 Annotated Code of Maryland

6 (2015 Replacement Volume and 2016 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article – State Personnel and Pensions

9 Section 23–201

10 Annotated Code of Maryland

11 (2015 Replacement Volume and 2016 Supplement)

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

14 **Article – State Personnel and Pensions**

15 **2–509.2.**

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

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

22 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN
23 INDIVIDUAL MAY ENROLL AND PARTICIPATE IN THE HEALTH INSURANCE BENEFIT
24 OPTIONS ESTABLISHED UNDER THE PROGRAM IF THE INDIVIDUAL RETIRED UNDER
25 THE STATE RETIREMENT CHOICE PLAN UNDER TITLE 33 OF THIS ARTICLE AND:

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

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

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

1 **(2) (I) FOR PURPOSES OF THIS SUBSECTION ONLY, “YEAR OF**
2 **SERVICE” MEANS A PERIOD OF 12 MONTHS DURING WHICH AN EMPLOYEE WAS A**
3 **PARTICIPANT IN THE STATE RETIREMENT CHOICE PLAN UNDER TITLE 33 OF THIS**
4 **ARTICLE AND THE PARTICIPANT’S EMPLOYER MADE CONTRIBUTIONS TO THE**
5 **PARTICIPANT’S ACCOUNT IN THE PROGRAM.**

6 **(II) TO DETERMINE ELIGIBILITY FOR HEALTH INSURANCE**
7 **BENEFITS UNDER THIS SECTION, EACH YEAR OF SERVICE SHALL BE MULTIPLIED BY**
8 **THE PARTICIPANT’S PERCENTAGE OF FULL-TIME EMPLOYMENT FOR THAT YEAR OF**
9 **SERVICE.**

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

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

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

26 23-201.

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

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

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

32 (i) a clerk of the circuit court;

33 (ii) a register of wills;

34 (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:

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

3 (ii) a staff employee of the University System of Maryland, Morgan
4 State University, or St. Mary's College who becomes an employee on or after January 1,
5 1998;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (i) was an employee of the New Community College of Baltimore
30 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.

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

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

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

8 **(1) SHALL IMMEDIATELY BE 100% VESTED;**

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

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

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

18 **(1) SHALL BEGIN 3 YEARS AFTER THE PARTICIPATING EMPLOYEE**
19 **BECOMES AN ELIGIBLE EMPLOYEE;**

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

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

25 **33-203.**

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

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

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

3 **(B) AN ELIGIBLE EMPLOYEE'S ELECTION IS A ONE-TIME, IRREVOCABLE**
4 **ELECTION.**

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

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

10 **(E) THE EFFECTIVE DATE OF THE ELECTION SHALL BE THE FIRST DAY OF**
11 **THE MONTH AFTER THE ELECTION.**

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

15 **33-204.**

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

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

21 **33-205.**

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

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

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

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

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

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

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

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

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

15 **33-206.**

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

19 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July**
20 **1, 2018.**