

Bill No. 28-24
Concerning: Employees' Retirement System and Other Post Employment Benefits – Administration – Powers and Duties
Revised: 3/17/26 Draft No. 4
Introduced: December 3, 2024
Enacted: March 17, 2026
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: then-Council Vice President Stewart, then-Council President Friedson, and
Councilmember Katz
Co-Sponsor: Councilmember Luedtke

AN ACT to:

- (1) alter powers and duties regarding administration of the Montgomery County Employee Retirement Plans; and
- (2) generally amend the law regarding the Employees' Retirement System and Other Post Employment Benefits.

By amending

Montgomery County Code
Chapter 33, Personnel and Human Resources
Sections 33-47, ~~[[and]] 33-60, and 33-162~~

By adding

Chapter 33, Personnel and Human Resources
Section 33-60C

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Sections 33-47, 33-60, and 33-162 are amended, and Section 33-60C**
 2 **is added, as follows:**

3 **33-47. Administration.**

4 (a) *Responsibility for administration.* ~~[[The]]~~ [chief administrative officer]
 5 Except as otherwise provided in this chapter, the Chief Administrative
 6 Officer ~~[[shall be responsible for the administration of]]~~ has the exclusive
 7 authority to manage and administer the eligibility for benefits, mandatory
 8 financial reporting, and calculation and distribution of benefits under the
 9 retirement system.

10 (b) *Regulations for administration.* The [county executive] County
 11 Executive must establish regulations, adopted under method (1) of
 12 [section] Section 2A-15 of this Code, for the administration of the
 13 retirement system, within the limitations of this [article] Article.
 14 However, the ~~[[county executive]]~~ County Executive must establish
 15 regulations, adopted under method (3) of [section] Section 2A-15, for
 16 the administration of the elected officials' plan.

17 (c) ~~[[Chief administrative officer. Except for the powers of the board, the]]~~
 18 [chief administrative officer] ~~[[Chief Administrative Officer has the~~
 19 power and the duty to take all actions and to make all decisions to
 20 administer the retirement system]] Reserved.

21 (d) *Powers and duties of the Chief Administrative Officer.* The [chief]
 22 Chief Administrative Officer has, but is not limited to, the following
 23 powers and duties:

- 24 (1) [Interpret] interpret the provisions of the retirement system;
 25 (2) [Decide] decide the eligibility of any employee and the rights of
 26 any member or beneficiary to receive benefits;

- 27 (3) [Compute] compute the amount of benefits payable to any
 28 member or beneficiary;
- 29 (4) [Authorize] authorize disbursements of benefits;
- 30 (5) [Keep] keep records;
- 31 [(6) Select and retain the actuary for the retirement system;]
- 32 [(7) After consultation with the board and the actuary for the
 33 retirement system, determine the actuarial cost method, and the
 34 mortality, turnover, interest rates, and other assumptions to be
 35 used in actuarial and other computations for the retirement
 36 system;]
- 37 [(8)] (6) [Consider] consider the recommendation of the actuary for
 38 the retirement system on contributions the [[county]] County
 39 makes under this article;
- 40 [(9)] (7) [Incur] incur expenses as necessary for the [[chief
 41 administrative officer]] Chief Administrative Officer to
 42 administer the retirement system;
- 43 [(10)] (8) [Disclose] disclose the reports prepared under [[section]]
 44 Section 33-51;
- 45 [(11)] (9) [Prepare] prepare and file reports that are required by law;
 46 [and]
- 47 [(12)] (10) [In] in connection with the participation or withdrawal of
 48 an agency as a participating agency in the retirement system:
- 49 (A) obtain any data and require any documentation that the
 50 Chief Administrative Officer finds necessary;
- 51 (B) retain an independent actuary not otherwise under contract
 52 to the system to compute the valuation of the accrued
 53 benefit of any member or group of members upon

54 withdrawal from the retirement system by a formula set
 55 out in regulations adopted under subsection (b); and

56 (C) authorize the transfer of accrued benefits to another
 57 retirement system qualified under the Internal Revenue
 58 Code;

59 [(13)] (11) [Authorize] authorize the refund of member contributions,
 60 and earnings thereon, to correct any contribution or withholding
 61 error; and

62 [(14)] (12) [Delegate] delegate any power or duty under this Section.

63 * * *

64 **33-60. The board of investment trustees-Powers and duties.**

65 (a) *General.*

66 (1) Except as otherwise provided in [[section 33-47, subsection (a)(2)
 67 of this section, and other sections of]] this chapter, the [[powers
 68 and duties with respect to the administration and the investments
 69 of the retirement system are hereby vested in the]] board of
 70 investment trustees has the exclusive authority to manage and
 71 administer the investments of the assets of the retirement system.
 72 However, the powers and duties of the board must not become
 73 effective until all of the trustees have accepted the trust in writing.

74 * * *

75 (d) *Trustee powers.* Subject to the limitations under subsection (a)(2) of this
 76 section, the board has the power to:

77 (1) select and retain the actuary for the retirement system [[and the
 78 Consolidated Retiree Health Benefits Trust]];

79 (2) after consultation with the actuary for the retirement system,
 80 determine the actuarial cost method, and the mortality, turnover,

81 interest rates, and other assumptions to be used in actuarial and
 82 other computations for the retirement system [[and the
 83 Consolidated Retiree Health Benefits Trust]];

84 [(1)] (3) [With] with any cash, purchase or subscribe for any
 85 investment, at a premium or discount, and retain the investment[.];

86 [(2)] (4) [Sell] sell, exchange, convey, transfer, lease for any period,
 87 pledge, mortgage, grant options, contract with respect to, or
 88 otherwise encumber or dispose, at public or private sale, for cash
 89 or credit or both, any part of the retirement system[.];

90 [(3)] (5) [Except] except as provided in [[section]] Section 33-
 91 61A(h)(2), sue, defend, compromise, arbitrate, compound, and
 92 settle any debt, obligation, claim, suit, or legal proceeding
 93 involving the retirement system, and reduce the rate of interest on,
 94 extent or otherwise modify, foreclose upon default or otherwise
 95 enforce any debt, obligation, or claim[.];

96 [(4)] (6) [Retain] retain uninvested that part of the retirement system
 97 fund described in subsection (f) without being liable for the
 98 payment of interest[.];

99 [(5)] (7) [Exercise] exercise any option on any investment for
 100 conversion into another investment, exercise any rights to
 101 subscribe for additional investments, and make all necessary
 102 payments[.];

103 [(6)] (8) [Join] join in, consent to, dissent from, oppose, or deposit in
 104 connection with the reorganization, recapitalization, consolidation,
 105 sale, merger, foreclosure, or readjustment of the finances of any
 106 corporation or property in which the assets of the retirement
 107 system are invested, or the sale, mortgage, pledge, or lease of that

108 property or the property of any such corporation upon such terms
 109 and conditions that the board considers prudent; exercise any
 110 options, make any agreements or subscriptions, pay any expenses,
 111 assessments, or subscriptions, and take any other action in
 112 connection with these transactions that the board considers
 113 prudent; and accept and hold any investment that may be issued in
 114 or as a result of any such proceeding[.];

115 [(7)] (9) [Vote] vote, in person or by any proxy, at any election of
 116 any corporation in whose stock the assets of the retirement system
 117 are invested, and exercise, personally or by any power of attorney,
 118 any right appurtenant to any investment held in the retirement
 119 system; and give general or specific proxies or powers of attorney
 120 with or without power of substitution[.];

121 [(8)] (10) [Sell] sell, either at public or private sale, option to sell,
 122 mortgage, lease for a term of years less than or continuing beyond
 123 the possible date of the termination of the trust, partition or
 124 exchange any real property for such prices and upon such terms as
 125 the board considers prudent, and execute and deliver deeds of
 126 conveyance and all assignments, transfers, and other legal
 127 instruments for passing the ownership to the purchaser, free and
 128 discharged of all liens[.];

129 [(9)] (11) [Renew] renew or extend any mortgage, upon such terms
 130 that the board considers prudent, and increase or reduce the rate of
 131 interest on any mortgage or modify the terms of any mortgage or
 132 of any guarantee as the board considers prudent to protect the
 133 retirement system or preserve the value of the investment; waive
 134 any default or enforce any default in a manner that the board

135 considers prudent; exercise and enforce any right of foreclosure,
 136 bid on property in foreclosure, take a deed in lieu of foreclosure
 137 with or without paying a consideration, and release the obligation
 138 on the bond secured by the mortgage; and exercise and enforce in
 139 any action, suit, or proceeding at law or in equity any rights or
 140 remedies in respect to any mortgage or guarantee[.];

141 [(10)] (12) [Form] form a corporation or corporations under the laws of
 142 any jurisdiction or acquire an interest in or otherwise make use of
 143 any corporation already formed to invest in and hold title to any
 144 property[.];

145 [(11)] (13) [For] for the purpose of investing in and holding title to real
 146 or personal property or part interests therein, as described in
 147 subsection (c)(1)h., including equipment pertaining thereto,
 148 leaseholds, and mortgages, to take any action it considers
 149 prudent[.];

150 [(12)] (14) [Incur] incur and pay expenses for agents, financial
 151 advisors, actuaries, accountants, and counsel, if those expenses are
 152 incurred solely to perform the board's duties under this [article]
 153 Article[.];

154 [(13)] (15) [Borrow] borrow, raise, or lend moneys, for the purposes of
 155 the retirement system, in such amounts and upon such terms and
 156 conditions as the board in its discretion considers prudent; for any
 157 money borrowed, issue a promissory note and secure the
 158 repayment of this note by pledging or mortgaging all or any part
 159 of the retirement system[.];

160 [(14)] (16) [Hold] hold, buy, transfer, surrender, and exercise all other
 161 incidents of ownership of any annuity contract[.];

162 ~~[(15)]~~ (17) ~~[If]~~ if payments to a member or beneficiary are to be made
 163 in the form of an annuity based upon one ~~[(1)]~~ or more lives or
 164 life expectancies, buy from any legal reserve life insurance
 165 company a single premium, nontransferable annuity contract
 166 providing for the payment of the benefits~~].;~~

167 ~~[(16)]~~ (18) ~~[Pool]~~ pool all or any of the assets of the trust, from time to
 168 time, with assets belonging to any other retirement plan trust or
 169 retiree health benefit trust created by the County, and any subtrust
 170 thereof, and commingle such assets and make joint or common
 171 investments and carry joint accounts on behalf of this trust, such
 172 other trust or trusts, or subtrusts, allocating undivided shares or
 173 interests in such investments or accounts or in any pooled assets to
 174 the two or more trusts or subtrusts in accordance with their
 175 respective interests. Any such trusts or subtrusts may be unitized
 176 for investment purposes. Consistent with its investment authority
 177 in this Article, the Board or its delegate may also buy or sell any
 178 assets or undivided interests in this trust or in any other trust with
 179 which the assets of this trust may be pooled, to or from this trust or
 180 such other trusts at such prices or valuations as the Board or its
 181 delegate may determine in reasonable good faith. For the
 182 avoidance of doubt, the Board must determine that it is consistent
 183 with its fiduciary duties to participate in a pooled investment that
 184 permits the sale or purchase of its units as an investment option
 185 under another retirement plan or retiree health benefit trust created
 186 by the County~~].;~~ ~~[[and]]~~

187 ~~[(17)]~~ (19) ~~[Do]~~ do all acts which it considers necessary and exercise
 188 any and all powers of this article with respect to the management

189 of the retirement system, and in general, exercise all powers in the
 190 management of the assets which an individual could exercise in
 191 the management of property owned in the individual's own right
 192 except for making an individual investment selection[.]; and
 193 (20) appoint, supervise, and remove an Executive Director under
 194 Section 33-60C.

195 * * *

196 (h) (1) Except as provided in subsection [(d)(12)] (d)(14), the board must
 197 pay all benefits and expenses of the retirement system as directed
 198 by the chief administrative officer.

199 * * *

200 **33-60C. Executive Director.**

201 (a) Under the merit system, including the personnel regulations under
 202 Section 33-7 and the administrative procedures under Section 33-8, the
 203 board of investment trustees must:

- 204 (1) appoint an Executive Director of the retirement system from a list
 205 of qualified applicants identified under subsection (c); and
- 206 (2) supervise the Executive Director, up to and including the removal
 207 the Executive Director.

208 (b) The Executive Director is a County employee under the merit system.

209 (c) Under the merit system, including the personnel regulations under
 210 Section 33-7 and the administrative procedures under Section 33-8, the
 211 Chief Administrative Officer must:

- 212 (1) establish minimum qualifications for the position of Executive
 213 Director;
- 214 (2) recruit applicants for the position;

- 242 (k) Actuary; actuarial assumptions.
- 243 (1) The Board has the power to determine the assumed rate of
- 244 investment return to be used in actuarial and other computations
- 245 for the Trust Fund.
- 246 (2) The County and each County-funded agency or participating
- 247 agency may:
- 248 (A) select and retain an actuary for its portion of the Trust Fund;
- 249 and
- 250 (B) except as provided under paragraph (1) of this subsection,
- 251 determine the actuarial cost method, and the mortality,
- 252 turnover, and other assumptions to be used in actuarial and
- 253 other computations for the agency’s portion of the Trust
- 254 Fund.

255 ~~[(k)]~~ (1) Delegation of Duties. The Board may delegate its duties to the

256 Executive Director or a similarly situated County employee as it deems

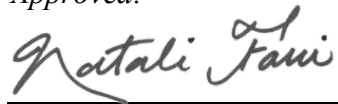
257 appropriate and consistent with its fiduciary duties in a written policy and

258 procedure. If the Board has prudently delegated its duties and monitored

259 the delegation, the trustees must not be liable for an act or omission made

260 by its delegate.

Approved:



Natali Fani-González, President, County Council

March 17, 2026

Date

Approved:

Marc Elrich, County Executive

Date

This is a correct copy of Council action.

Sara R. Tenenbaum, Clerk of the Council

Date