

Expedited Bill No. 15-14
Concerning: Personnel - Board of
Investment Trustees - Consolidated
Retiree Health Benefits Trust Board
of Trustees - Investments -
Amendments
Revised: January 16, 2014 Draft No. 1
Introduced: February 4, 2014
Enacted: March 4, 2014
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

- (1) repeal the requirement that investments made by the Board of Investment Trustees and the Consolidated Retiree Health Benefits Board of Trustees retain U.S. indicia of ownership;
- (2) repeal the prohibition on investments in County related bonds by the Board of Investment Trustees and the Consolidated Retiree Health Benefits Board of Trustees;
- (3) repeal the restriction on real estate investment by the Consolidated Retiree Health Benefits Board of Trustees; and
- (4) generally amend the law regarding the Employees' Retirement System, Retirement Savings Plan, the Deferred Compensation Plan, and the Consolidated Retiree Health Benefits Trust Fund.

By amending

Montgomery County Code
Chapter 33, Personnel and Human Resources
Sections 33-59, 33-60, 33-125, 33-145, 33-160 and 33-162

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

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

Sec. 1. Sections 33-59, 33-60, 33-125, 33-145, 33-160 and 33-162 are amended as follows:

33-59. Board of investment trustees.

* * *

(b) *Membership.*

* * *

(4) The following 6 trustees must be appointed by the Executive and confirmed by the Council:

(A) An active County employee who is a vested member of the retirement system and the Merit System, and not a member of a collective bargaining unit. A 3-year term for this trustee ends on March 1 of every third year after the trustee is confirmed by the Council.

(B) A retired County employee who is a member of the retirement system. Before appointing this trustee, the Executive must consider, and should select from, a list of 3 to 5 individuals recommended by the Montgomery County Retired Employees' Association. The Executive must notify the Council when nominating an individual not recommended by the Association. A 3-year term for this trustee ends on March 1 of every third year after the trustee is confirmed by the Council.

(C) Two persons recommended by the Council who are knowledgeable in pensions, investments, or financial matters. A 3-year term for these trustees ends on March 1 of every third year after each trustee is confirmed by the Council.

(D) Two individuals knowledgeable in pensions, investments, or financial matters. Before nominating these trustees, the Executive must consider, and should select from, individuals recommended by citizens or countywide citizens' groups. An individual recommended by a citizens' group need not be a member of the group. The Executive must notify the Council when nominating an individual not recommended by a citizens' group. A 3-year term for these trustees ends on March 1 of every third year after each trustee is confirmed by the Council.

(5) A trustee appointed under paragraph [(3)] (4) continues to serve after the trustee's term ends until the Council confirms a successor, but the term for each position is not affected by any holdover. A trustee who, after appointment and before the end of a term, is no longer qualified for the trustee's position is removed from the Board by operation of law.

* * *

(l) In this Section, "retirement system" means the Employees' Retirement System, [or] the Retirement Savings Plan, or the Deferred Compensation Plan under Article IX.

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

* * *

(b) *Agents for transfer of property.*

* * *

[(6) Except as authorized by executive regulation adopted under method (3) that is substantially equivalent to federal ERISA regulations on maintenance of indicia of ownership of plan

assets, the board must maintain the indicia of ownership of the assets of the retirement system within the jurisdiction of the district courts of the United States.]

(c) *Authorized investments.*

* * *

[(3) The board or an investment manager must not invest any retirement system asset in any bond, note, or debt instrument issued by:

(A) The County;

(B) Any political subdivision within the County;

(C) Any agency supported or financed wholly or partly by taxes levied by the County Council; or

(D) Any agency supported by bond issues underwritten by the County.]

* * *

33-125. Powers and duties of the Board.

* * *

(b) *Agents for transfer of property.*

* * *

[(6) The Board must maintain the indicia of ownership of the assets of the retirement savings plan within the jurisdiction of the district courts of the United States.]

* * *

33-145. Powers and duties of the board.

* * *

(c) *Agents for transfer of property.*

* * *

[(6) The Board must maintain the indicia of ownership of the assets of the deferred compensation plan within the jurisdiction of the district courts of the United States, except as authorized in regulations adopted under method (3) that are substantially equivalent to federal regulations under the Employee Retirement and Income Security Act (ERISA) regarding indicia of ownership of plan assets.]

* * *

33-160. Board of Trustees.

* * *

(f) *Officers.* The Board must select a chair, vice chair, and secretary from the Board's members.

(1) The chair must preside at meetings of the Board and may take administrative action, including executing an instrument, on behalf of the Board. A person may rely in good faith on an act of the chair as legally valid.

(2) The vice chair must perform the duties and exercise the powers of the chair when the chair is [absent from the County or disabled] unavailable, or the Board determines is otherwise unable to perform the duties of the chair.

(3) The secretary must record the proceedings and actions of the Board and may certify a document or action of the Board. A person may rely in good faith on the secretary's certification as proof of the document or action.

* * *

33-162. Trust Fund management.

* * *

(c) *Transfer Agents.*

* * *

[(6) The Board must maintain the indicia of ownership of the Trust Fund's assets within the jurisdiction of the United States federal courts, except as authorized in regulations that the Executive adopts under method (2). Those regulations must be substantially equivalent to federal regulations under the Employee Retirement Income Security Act (ERISA) regarding indicia of ownership of plan assets.]

(d) *Authorized investments.*

* * *

[(2) The Board or any investment manager must not invest in real property, including securities based on ownership or other interests in real property, unless the investment is a pooled investment in which the Board has no power to manage the real property. A pooled investment must not invest more than 10 percent of its assets in real property located in the County. This 10 percent limit applies to the market value of the total assets on the preceding June 30. If the market value of investments in real property in the County exceeds the 10-percent limit as a result of market forces, the Board or the investment manager need not sell an existing equity investment. The Board may obtain valuations and take appropriate steps to comply with this 10-percent limit.]

[(3)] (2) * * *

[(4) The Board and any investment manager must not invest any Trust Fund asset in any bond, note, or debt instrument issued by:

(A) the County;

(B) a political subdivision in the County; or

(C) an agency supported by bond issues underwritten by the County.

However, the Board or any investment manager may invest plan assets in bonds, notes, and debt instruments of any of these entities if the investment is held indirectly through a mutual fund or other pooled, investment vehicle and complies with any limit in the Internal Revenue Code.]

* * *

Sec. 2. Expedited Effective Date.

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

Approved:



Craig L. Rice, President, County Council



Date

Approved: _____

Isiah Leggett, County Executive Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council Date