

Expedited Bill No. 11-17
Concerning: Retirement - Board of Investment Trustees - Consolidated Retiree Health Benefit Trust Board of Trustees - Powers and Duties - Montgomery County Group Trust
Revised: April 25, 2017 Draft No. 2
Introduced: April 18, 2017
Enacted: May 2, 2017
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the request of the County Executive

AN EXPEDITED ACT to:

- (1) create a group trust to permit the County's employee benefit trusts to invest through one vehicle to create investment opportunities and efficiencies; and
- (2) generally amend the law regarding the Employees' Retirement System, Retirement Savings Plan, Deferred Compensation Plan and Consolidated Retiree Health Benefits Trust.

By amending

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

By adding

Montgomery County Code
Chapter 33, Personnel and Human Resources
Section 33-170

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:

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(d) *Trustee powers.* Except as otherwise provided in this Division, the Board may:

* * *

(16) pool all or any of the assets of the trust, from time to time, with assets belonging to any other [qualified pension or profit sharing trust] retirement plan trust or retiree health benefit trust created by the County, and commingle such assets and make joint or common investments and carry joint accounts on behalf of this trust and such other trust or trusts, allocating undivided shares or interests in such investments or accounts or in any pooled assets to the two or more trusts in accordance with their respective interests. Consistent with its investment authority, the [The] Board may also buy or sell any assets or undivided interests in this trust or in any other trust with which the assets of this trust may be pooled, to or from this trust or such other trusts at such prices or valuations as the Board may determine; and

* * *

33-145. Powers and duties of the board.

* * *

(e) *Trustee powers.* Except as otherwise provided in this Article, the Board may:

* * *

(14) pool all or any of the assets of the deferred compensation plan trust with assets belonging to any other [qualified pension or profit sharing trust] retirement plan trust or retiree health benefit trust created by the County. The Board may commingle the assets and

55 make joint or common investments and carry joint accounts on
56 behalf of the deferred compensation plan trust and one or more
57 other trusts, allocating undivided shares or interests in the
58 investments or accounts, or in any pooled assets, to the trusts
59 according to the trusts' respective interests. Consistent with its
60 investment authority in this Article, the [The] Board also may buy
61 or sell any assets or undivided interests in any trust where the assets
62 of the deferred compensation plan trust are pooled at the prices or
63 valuations that the Board determines; and

64 * * *

65 **33-162. Trust Fund management.**

66 * * *

67 (h) *Board Powers.* Except as otherwise provided in this Article, the Board
68 may:

69 * * *

70 (13) hold, buy, transfer, surrender, and exercise all other incidents of
71 ownership of any insurance or annuity contract; [and]

72 (14) pool all or any of the assets of the trust, from time to time, with
73 assets belonging to any retirement plan trust or other retiree health
74 benefit trust created by the County, and commingle such assets and
75 make joint or common investments and carry joint accounts on
76 behalf of this trust and such other trust or trusts, allocating
77 undivided shares or interests in such investments or accounts or in
78 any pooled assets to the two or more trusts in accordance with their
79 respective interests. Consistent with the authority granted in this
80 Article, the Board may also buy or sell any assets or undivided
81 interests in this trust or in any other trust with which the assets of

82 this trust may be pooled, to or from this trust or such other trusts at
 83 such prices or valuations as the Board may determine; and
 84 (15) do any act that the Board finds necessary and exercise the power
 85 of this Article to manage the Trust Fund. The Board may exercise
 86 all powers to manage the assets that an individual could exercise
 87 to manage property owned by that individual.

88 * * *

89 **Article XII. MONTGOMERY COUNTY GROUP TRUST.**

90 **33-170. Montgomery County Group Trust.**

91 (a) Creation of Group Trust. The Board of Investment Trustees established
 92 under Article III and the Consolidated Retiree Health Benefits Trust
 93 Board of Trustees established under Article XI may create a combined,
 94 common or commingled trust fund known as the Montgomery County
 95 Group Trust for the commingling of assets of any retirement plan and any
 96 retiree health benefit trust created by the County under this Chapter.

97 (b) Purpose. The Montgomery County Group Trust is established solely for
 98 the purpose of creating a collective investment vehicle intended to create
 99 investment opportunities and efficiencies for the investment of
 100 Montgomery County's employee benefit plan trusts. The interests of
 101 each investing trust must be accounted for separately and the assets
 102 attributable to an investing trust must be held for the benefit of that trust
 103 only within the general holdings of the Montgomery County Group Trust.
 104 No employee benefit plan trust must be deemed to have an individual
 105 ownership interest in any asset held by the Montgomery County Group
 106 Trust. Instead, each employee benefit plan trust must have an undivided
 107 ownership interest in the Montgomery County Group Trust, with each
 108 trust owning an undivided ownership interest in its respective subtrust

109 within the Montgomery County Group Trust, and must share
110 proportionately with all other employee benefit plan trusts participating
111 in the Montgomery County Group Trust in the net income, profits, and
112 losses thereof.

113 (c) Participation in Group Trust. The Board of Investment Trustees may
114 elect to invest assets of the Employees' Retirement System, Retirement
115 Savings Plan, and/or Deferred Compensation Plan through the
116 Montgomery County Group Trust, and the Consolidated Retiree Health
117 Benefits Trust Board of Trustees may elect to invest assets of the
118 Consolidated Retiree Health Benefits Trust through the Montgomery
119 County Group Trust. Each board must discharge its duties with respect
120 to its respective employee benefit plan trust in accordance with the
121 provisions of Sections 33-61 or 33-163, as applicable, and this Section
122 33-170.

123 (d) Implementation and Administration Authority. The Board of Investment
124 Trustees established under Article III and the Consolidated Retiree
125 Health Benefits Trust Board of Trustees established under Article XI
126 must have the authority to:

- 127 (1) implement the Montgomery County Group Trust, as authorized by
128 subsection (a), after consulting any other participating retirement
129 plan trust or retiree health benefits trust with a separate Board of
130 Trustees;
- 131 (2) develop and maintain the Montgomery County Group Trust;
- 132 (3) modify or amend the terms of the Montgomery County Group
133 Trust; and
- 134 (4) retain any service providers it deems appropriate to carry out these
135 actions.

136 The terms of the Montgomery County Group Trust must be contained in
137 a written document.

138 (e) Custodian. The Director of Finance must serve as the custodian of the
139 Montgomery County Group Trust and must give bond with a surety and
140 for a period and in an amount as the Boards determine. If the Boards
141 approve, the Director of Finance may make written contracts with banks,
142 trust companies, insurance companies, or investment companies
143 authorized to do business in any state for the safe custody of investments,
144 banking services, the payment of benefits and expenses, and any other
145 function necessary to manage and safeguard the assets of the Group Trust.

146 (f) Trustees. The Chair of the Board of Investment Trustees and the Chair
147 of the Consolidated Retiree Health Trust Board of Trustees must be the
148 Trustees of the Montgomery County Group Trust. The Trustees may take
149 administrative action by joint action taken at a meeting, by unanimous
150 written consent, or by any other method as set forth in the Montgomery
151 County Group Trust Declaration of Trust approved in writing by both
152 Trustees. The Trustees may appoint a directed Trustee.

153 (g) Investment Authority. The Board of Investment Trustees and the
154 Consolidated Retiree Health Benefits Trust Board of Trustees have the
155 authority to select the investments of the Montgomery County Group
156 Trust consistent with the authority granted under Articles III, Article VIII,
157 Article IX and Article XI.

158 (h) Delegation of Signature Authority. In its written policies and
159 procedures, the Board of Investment Trustees and the Consolidated
160 Retiree Health Benefits Trust Board of Trustees may authorize a
161 Trustee, the Executive Director or a similarly situated Montgomery

162 County employee to execute instruments on behalf of the Montgomery
163 County Group Trust.

164 (i) Withdrawal of an Employee Benefit Plan Trust. An employee benefit
165 plan trust may withdraw, in whole or in part, from the Montgomery
166 County Group Trust at any time upon action by its board. The amount
167 distributed to the employee benefit plan trust upon the withdrawal in
168 whole or in part will be equal to the value of the employee benefit plan
169 trust, or part thereof, on the date as of the effective date of the withdrawal.

170 (j) Termination of Group Trust. Termination of an employee benefit plan
171 trust's participation in the Montgomery County Group Trust or an
172 employee benefit plan trust's interest in the Montgomery County Group
173 Trust must have no effect on the continuance of the Montgomery County
174 Group Trust with respect to any other employee benefit plan trust whose
175 participation or interest is not so terminated. Notwithstanding this
176 Section, the County Council may terminate the Montgomery County
177 Group Trust at any time. If the Montgomery County Group Trust is
178 terminated, the assets of the Montgomery County Group Trust must be
179 returned to the board of the respective employee benefit plan trusts
180 participating in the Montgomery County Group Trust. Assets of the
181 Montgomery County Group Trust may only be used for the exclusive
182 purpose of providing benefits to members and beneficiaries and defraying
183 reasonable expenses of administering each respective employee benefit
184 plan trust and the Montgomery County Group Trust.

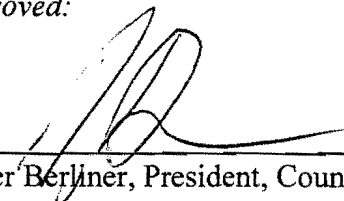
185 (k) Procurement. Chapter 11B does not apply to the procurement of goods
186 and services for the Montgomery County Group Trust.

187 **Sec. 2. Expedited Effective Date.**

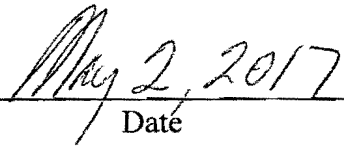
188 The Council declares that this legislation is necessary for the immediate

189 protection of the public interest. This Act takes effect on the date on which it becomes
190 law.
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Approved:



Roger Berliner, 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