



Committee: GO
Committee Review: At a future date
Staff: Christine Wellons, Chief Legislative Attorney
Purpose: To introduce agenda item – no vote expected

AGENDA ITEM #3B
December 3, 2024
Introduction

SUBJECT

Bill 28-24, Employees' Retirement System and Other Post Employment Benefits – Administration – Powers and Duties

Lead Sponsors: Councilmembers Stewart, Friedson, and Katz

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- N/A

DESCRIPTION/ISSUE

Bill 28-24 would:

- (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.

SUMMARY OF KEY DISCUSSION POINTS

- N/A

This report contains:

Staff Report
Bill 28-24

Pages 1-2
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MEMORANDUM

November 27, 2024

TO: County Council

FROM: Christine Wellons, Chief Legislative Attorney

SUBJECT: Bill 28-24, Employees' Retirement System and Other Post Employment Benefits – Administration – Powers and Duties

PURPOSE: Introduction – no Council votes required

Bill 28-24, Employees' Retirement System and Other Post Employment Benefits – Administration – Powers and Duties, is scheduled for introduction on December 3, 2024. Its Lead Sponsors are Councilmembers Stewart, Friedson, and Katz. A public hearing is tentatively scheduled for January 21, 2024 at 1:30 p.m.

Bill 28-24 would:

- (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.

BACKGROUND

The Montgomery County Code (Chapter 33, Article III, Division 4) established the Board of Investment Trustees for the Employee Retirement Plans (ERP) and the Board of Trustees of the Consolidated Retiree Health Benefits Trust (CRHBT) (collectively, the "Boards"). The missions of the Boards are as follows:

- "The mission of the Board of Investment Trustees is to manage prudent investment programs for the members, and their beneficiaries, of the Employee Retirement Plans."
- "The Consolidated Retiree Health Benefits Trust was established in 2008 as a Section 115 Trust to provide funding for retiree health benefits for retirees and their dependents. The Board is responsible for the management of the Trust. In investing the Trust, an appropriate balance

must be struck between risk taken and returns sought to ensure the financial wellbeing of the Trust.”

[Trustees - Montgomery County Employee Retirement Plans and Consolidated Retiree Health Benefits Trust](#)

Together with the Chief Administrative Officer (CAO), the Boards administer and invest ERP and CRHBT funds for the benefit of County retirees. Each Board has adopted a Governance Manual, as well as a Statement of Investment Policy and Objectives.

The purpose of Bill 28-24 is to alter and clarify the governing structures and responsibilities of the Boards and the CAO.

BILL SPECIFICS

Bill 28-24 would move from the CAO to the Board for ERP the responsibilities: (1) to select and retain an actuary for the retirement system; and (2) to determine the actuarial cost method, and the mortality, turnover, interest rates, and other assumptions to be used in actuarial and other computations for the retirement system.

This packet contains:
Bill 28-24

Circle #
1

Bill No. 28-24
Concerning: Employees' Retirement System and Other Post Employment Benefits – Administration – Powers and Duties
Revised: 11/20/2024 Draft No. 1
Introduced: _____
Expires: December 7, 2026
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: Councilmembers Stewart, Friedson, and Katz

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

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:

Sec. 1. Sections 33-47, 33-60, and 33-162 are amended as follows:

33-47. Administration.

- (a) *Responsibility for administration.* The [chief administrative officer] Chief Administrative Officer shall be responsible for the administration of the retirement system.
- (b) *Regulations for administration.* The [county executive] County Executive must establish regulations, adopted under method (1) of [section] Section 2A-15 of this Code, for the administration of the retirement system, within the limitations of this [article] Article. However, the county executive must establish regulations, adopted under method (3) of [section] Section 2A-15, for the administration of the elected officials' plan.
- (c) *Chief administrative officer.* Except for the powers of the board, the [chief administrative officer] Chief Administrative Officer has the power and the duty to take all actions and to make all decisions to administer the retirement system.
- (d) *Powers and duties of the Chief Administrative Officer.* The [chief] Chief Administrative Officer has, but is not limited to, the following powers and duties:
 - (1) [Interpret] interpret the provisions of the retirement system;
 - (2) [Decide] decide the eligibility of any employee and the rights of any member or beneficiary to receive benefits;
 - (3) [Compute] compute the amount of benefits payable to any member or beneficiary;
 - (4) [Authorize] authorize disbursements of benefits;
 - (5) [Keep] keep records;
 - [(6) Select and retain the actuary for the retirement system;]

28 [(7) After consultation with the board and the actuary for the
 29 retirement system, determine the actuarial cost method, and the
 30 mortality, turnover, interest rates, and other assumptions to be
 31 used in actuarial and other computations for the retirement
 32 system;]

33 [(8)] (6) [Consider] consider the recommendation of the actuary for
 34 the retirement system on contributions the county makes under
 35 this article;

36 [(9)] (7) [Incur] incur expenses as necessary for the chief
 37 administrative officer to administer the retirement system;

38 [(10)] (8) [Disclose] disclose the reports prepared under section 33-
 39 51;

40 [(11)] (9) [Prepare] prepare and file reports that are required by law;
 41 [and]

42 [(12)] (10) [In] in connection with the participation or withdrawal of
 43 an agency as a participating agency in the retirement system:

44 (A) obtain any data and require any documentation that the
 45 Chief Administrative Officer finds necessary;

46 (B) retain an independent actuary not otherwise under contract
 47 to the system to compute the valuation of the accrued
 48 benefit of any member or group of members upon
 49 withdrawal from the retirement system by a formula set
 50 out in regulations adopted under subsection (b); and

51 (C) authorize the transfer of accrued benefits to another
 52 retirement system qualified under the Internal Revenue
 53 Code;

54 [(13)] (11) [Authorize] authorize the refund of member contributions,
55 and earnings thereon, to correct any contribution or withholding
56 error; and

57 [(14)] (12) [Delegate] delegate any power or duty under this Section.

58 * * *

59 **33-60. The board of investment trustees-Powers and duties.**

60 * * *

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

63 (1) select and retain the actuary for the retirement system;

64 (2) after consultation with the actuary for the retirement system,
65 determine the actuarial cost method, and the mortality, turnover,
66 interest rates, and other assumptions to be used in actuarial and
67 other computations for the retirement system;

68 [(1)] (3) [With] with any cash, purchase or subscribe for any
69 investment, at a premium or discount, and retain the investment[.];

70 [(2)] (4) [Sell] sell, exchange, convey, transfer, lease for any period,
71 pledge, mortgage, grant options, contract with respect to, or
72 otherwise encumber or dispose, at public or private sale, for cash
73 or credit or both, any part of the retirement system[.];

74 [(3)] (5) [Except] except as provided in section 33-61A(h)(2), sue,
75 defend, compromise, arbitrate, compound and settle any debt,
76 obligation, claim, suit, or legal proceeding involving the retirement
77 system, and reduce the rate of interest on, extent or otherwise
78 modify, foreclose upon default or otherwise enforce any debt,
79 obligation, or claim[.];

80 [(4)] (6) [Retain] retain uninvested that part of the retirement system
 81 fund described in subsection (f) without being liable for the
 82 payment of interest[.];

83 [(5)] (7) [Exercise] exercise any option on any investment for
 84 conversion into another investment, exercise any rights to
 85 subscribe for additional investments, and make all necessary
 86 payments[.];

87 [(6)] (8) [Join] join in, consent to, dissent from, oppose, or deposit in
 88 connection with the reorganization, recapitalization, consolidation,
 89 sale, merger, foreclosure, or readjustment of the finances of any
 90 corporation or property in which the assets of the retirement
 91 system are invested, or the sale, mortgage, pledge or lease of that
 92 property or the property of any such corporation upon such terms
 93 and conditions that the board considers prudent; exercise any
 94 options, make any agreements or subscriptions, pay any expenses,
 95 assessments, or subscriptions, and take any other action in
 96 connection with these transactions that the board considers
 97 prudent; and accept and hold any investment that may be issued in
 98 or as a result of any such proceeding[.];

99 [(7)] (9) [Vote] vote, in person or by any proxy, at any election of
 100 any corporation in whose stock the assets of the retirement system
 101 are invested, and exercise, personally or by any power of attorney,
 102 any right appurtenant to any investment held in the retirement
 103 system; and give general or specific proxies or powers of attorney
 104 with or without power of substitution[.];

105 [(8)] (10) [Sell] sell, either at public or private sale, option to sell,
 106 mortgage, lease for a term of years less than or continuing beyond

107 the possible date of the termination of the trust, partition or
 108 exchange any real property for such prices and upon such terms as
 109 the board considers prudent, and execute and deliver deeds of
 110 conveyance and all assignments, transfers, and other legal
 111 instruments for passing the ownership to the purchaser, free and
 112 discharged of all liens[.];

113 [(9)] (11) [Renew] renew or extend any mortgage, upon such terms
 114 that the board considers prudent, and increase or reduce the rate of
 115 interest on any mortgage or modify the terms of any mortgage or
 116 of any guarantee as the board considers prudent to protect the
 117 retirement system or preserve the value of the investment; waive
 118 any default or enforce any default in a manner that the board
 119 considers prudent; exercise and enforce any right of foreclosure,
 120 bid on property in foreclosure, take a deed in lieu of foreclosure
 121 with or without paying a consideration, and release the obligation
 122 on the bond secured by the mortgage; and exercise and enforce in
 123 any action, suit or proceeding at law or in equity any rights or
 124 remedies in respect to any mortgage or guarantee[.];

125 [(10)] (12) [Form] form a corporation or corporations under the laws of
 126 any jurisdiction or acquire an interest in or otherwise make use of
 127 any corporation already formed to invest in and hold title to any
 128 property[.];

129 [(11)] (13) [For] for the purpose of investing in and holding title to real
 130 or personal property or part interests therein, as described in
 131 subsection (c)(1)h., including equipment pertaining thereto,
 132 leaseholds, and mortgages, to take any action it considers
 133 prudent[.];

134 [(12)] (14) [Incur] incur and pay expenses for agents, financial
 135 advisors, actuaries, accountants and counsel, if those expenses are
 136 incurred solely to perform the board's duties under this [article]
 137 Article[.];

138 [(13)] (15) [Borrow] borrow, raise or lend moneys, for the purposes of
 139 the retirement system, in such amounts and upon such terms and
 140 conditions as the board in its discretion considers prudent; for any
 141 money borrowed, issue a promissory note and secure the
 142 repayment of this note by pledging or mortgaging all or any part
 143 of the retirement system[.];

144 [(14)] (16) [Hold] hold, buy, transfer, surrender, and exercise all other
 145 incidents of ownership of any annuity contract[.];

146 [(15)] (17) [If] if payments to a member or beneficiary are to be made
 147 in the form of an annuity based upon one (1) or more lives or life
 148 expectancies, buy from any legal reserve life insurance company a
 149 single premium, nontransferable annuity contract providing for the
 150 payment of the benefits[.];

151 [(16)] (18) [Pool] pool all or any of the assets of the trust, from time to
 152 time, with assets belonging to any other retirement plan trust or
 153 retiree health benefit trust created by the County, and any subtrust
 154 thereof, and commingle such assets and make joint or common
 155 investments and carry joint accounts on behalf of this trust, such
 156 other trust or trusts, or subtrusts, allocating undivided shares or
 157 interests in such investments or accounts or in any pooled assets to
 158 the two or more trusts or subtrusts in accordance with their
 159 respective interests. Any such trusts or subtrusts may be unitized
 160 for investment purposes. Consistent with its investment authority

161 in this Article, the Board or its delegate may also buy or sell any
 162 assets or undivided interests in this trust or in any other trust with
 163 which the assets of this trust may be pooled, to or from this trust or
 164 such other trusts at such prices or valuations as the Board or its
 165 delegate may determine in reasonable good faith. For the
 166 avoidance of doubt, the Board must determine that it is consistent
 167 with its fiduciary duties to participate in a pooled investment that
 168 permits the sale or purchase of its units as an investment option
 169 under another retirement plan or retiree health benefit trust created
 170 by the County[.]; and

171 ~~[(17)]~~ (19) [Do] do all acts which it considers necessary and exercise
 172 any and all powers of this article with respect to the management
 173 of the retirement system, and in general, exercise all powers in the
 174 management of the assets which an individual could exercise in
 175 the management of property owned in the individual's own right
 176 except for making an individual investment selection[.];

177 * * *

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

181 * * *