

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 14-0457

Introduced by: The Council President
At the request of: The Administration (Department of Finance)
Introduced and read first time: December 4, 2014
Assigned to: Taxation, Finance and Economic Development Committee
Committee Report: Favorable
Council action: Adopted
Read second time: February 9, 2015

AN ORDINANCE CONCERNING

1 Employees' Retirement System – Retirement Savings Plan – Clarifications

2 FOR the purpose of clarifying certain reemployment rules for Class D members of the Employees'
3 Retirement System; characterizing the Retirement Savings Plan more specifically; changing
4 the composition of the Plan's Board of Trustees; providing that members may elect to invest
5 non-vested employer contributions in certain investment funds; clarifying the Plan's
6 matching contribution formula; providing a special rule for certain Plan death benefits;
7 providing for a special effective date; and generally relating to the Employees' Retirement
8 System and the Retirement Savings Plan.

9 BY repealing and reordaining, with amendments
10 Article 22 - Retirement Systems
11 Section(s) 9.2(1)(1)(ii), (2)(i)(A), and (2)(ii)(A)
12 Baltimore City Code
13 (Edition 2000)

14 BY repealing and reordaining, with amendments
15 Article 22A - Retirement Savings Plan
16 Section(s) 1-5(a)(1), 2-2, 2-3(c)(2), 2-7(b), 2-10(b), 5-3(d)(1), and
17 6-2(a)(1), (b)(2), (b)(4), (c), (d), and (e)
18 Baltimore City Code
19 (Edition 2000)

20 BY repealing
21 Article 22A - Retirement Savings Plan
22 Section(s) 6-2(h)
23 Baltimore City Code
24 (Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

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1 BY adding
2 Article 22A - Retirement Savings Plan
3 Section(s) 9-4(f)
4 Baltimore City Code
5 (Edition 2000)

6 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
7 Laws of Baltimore City read as follows:

8 **Baltimore City Code**

9 **Article 22. Retirement Systems**

10 **Subtitle -- Employees' Retirement System**

11 **§ 9.2. Class D membership.**

12 (l) *Reemployment.*

13 (1) *Following termination of Class D member.*

14 (ii) *Before becoming eligible for certain benefits.*

15 If a Class D member terminates City employment before becoming eligible for a
16 retirement benefit or a deferred vested pension benefit under this section and is
17 subsequently reemployed as an employee, the employee:

18 (A) on the 1st annual anniversary of her or his reemployment, will again
19 become a Class D member; and

20 (B) [immediately on reemployment,] will be credited with his or her prior
21 Class D service AS FOLLOWS:

- 22 1. IMMEDIATELY ON REEMPLOYMENT, UNLESS BEFORE
23 REEMPLOYMENT THE MEMBER RECEIVED THE VALUE OF HIS OR HER
24 ACCUMULATED CONTRIBUTIONS UNDER SUBSECTION (K)(6)(I) OF
25 THIS SECTION; OR
- 26 2. IF BEFORE REEMPLOYMENT THE MEMBER RECEIVED THE VALUE OF
27 HIS OR HER ACCUMULATED CONTRIBUTIONS UNDER SUBSECTION
28 (K)(6)(I) OF THIS SECTION, THEN ONLY IF THE MEMBER PURCHASES
29 THE SERVICE CREDIT UNDER SUBSECTION (C)(6)(I) OF THIS SECTION.

30 (2) *Following pre-July 1, 2014, City employment.*

31 (i) *Termination after earning vested benefit.*

32 (A) This subparagraph applies to any employee who:

- 33 1. was employed by the City on or before June 30, 2014;

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1 2. terminated that employment FOR MORE THAN 30 CONSECUTIVE DAYS
2 after earning a vested benefit under this System or another City
3 retirement plan; and

4 3. is reemployed by the City on or after July 1, 2014.

5 (ii) *Termination before earning vested benefit.*

6 (A) This subparagraph applies to any employee who:

7 1. was employed by the City on or before June 30, 2014;

8 2. terminated that employment FOR MORE THAN 30 CONSECUTIVE DAYS
9 before earning a vested benefit under this System or another City
10 retirement plan, and;

11 3. is reemployed by the City on or after July 1, 2014.

12 **Article 22A. Retirement Savings Plan**

13 **Subtitle 1. Definitions; General Provisions**

14 **§ 1-5. Qualification under Internal Revenue Code.**

15 (a) *In general.*

16 The Retirement Savings Plan is intended to be:

17 (1) A qualified PROFIT-SHARING PLAN under IRC § 401(a); and

18 (2) a “governmental plan” under IRC § 414(d).

19 **Subtitle 2. Administration**

20 **§ 2-2. Board composition.**

21 (a) *In general.*

22 (1) The Board consists of [12] 14 trustees.

23 (2) Of these:

24 (i) [9] 11 trustees serve with voting privileges (“voting trustees”); and

25 (ii) 3 trustees serve in an advisory capacity only, without voting privileges (“non-
26 voting trustees”).

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1 (b) *Voting trustees.*

2 (1) *In general.*

3 The [9] 11 voting trustees are:

4 (i) the Director of Finance or the Director's designated representative, who must
5 be either the Deputy Director of Finance or the Budget Director;

6 (ii) the City Comptroller;

7 (iii) the Director of Human Resources;

8 (iv) the City Labor Commissioner;

9 (v) the Executive Director of the Employees' Retirement System of the City of
10 Baltimore;

11 (VI) THE CHIEF EXECUTIVE OFFICER OF THE BALTIMORE CITY PUBLIC SCHOOL
12 SYSTEM OR THE CEO'S DESIGNATED REPRESENTATIVE;

13 (VII) THE CHIEF FINANCIAL OFFICER OF THE BALTIMORE CITY PUBLIC SCHOOL
14 SYSTEM;

15 (VIII) THE HUMAN CAPITAL OFFICER OF THE BALTIMORE CITY PUBLIC SCHOOL
16 SYSTEM ; and

17 (IX) [(vi)] [4] 3 residents and registered voters of the City of Baltimore, to be
18 appointed by the Mayor in accordance with City Charter Article IV, § 6[;].

19 (2) *Appointed trustees – Qualifications.*

20 (i) The [4] 3 voting trustees appointed under paragraph [(1)(vi)] 1(IX) of this
21 subsection must each have at least 10 years of relevant institutional investment
22 management expertise.

23 (ii) None of these appointed trustees may be an official or employee of the City at the
24 time of his or her appointment or during the entire term of office.

25 (3) *Appointed trustees – Term of office.*

26 (i) Each of the [4] 3 VOTING trustees appointed under paragraph [(1)(vi)] 1(IX) of this
27 subsection serves for a term of 4 years, concurrent with the term of the Mayor.

28 (ii) At the end of a term, an appointed member continues to serve until a successor is
29 appointed and qualifies.

30 (iii) A trustee appointed to fill a vacancy in an unexpired term serves only for the
31 remainder of that term.

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1 (c) *Non-voting trustees.*

2 The 3 non-voting trustees are:

3 (1) [The president] THE PRESIDENT of AFSCME Local 44;

4 (2) [The president] THE PRESIDENT of the City Union of Baltimore (“CUB”); and

5 (3) [The president] THE PRESIDENT of the Managerial and Professional Society of
6 Baltimore, Inc. (“MAPS”).

7 (d) *Service without regard to political affiliation.*

8 Notwithstanding City Charter Article IV, § 8, trustees may be appointed or hold their
9 positions without regard to political affiliation.

10 **§ 2-3. Board functions.**

11 (c) *Trustee of Plan assets.*

12 (2) Subject to § 2-8 {“Retention of services; Right of reliance”} of this subtitle, the Board
13 is responsible for:

14 [(i) determining the manner of investing Employer Contribution Sub-Accounts
15 that have not vested under § 7-2 {“Vesting: Employer Contribution Sub-
16 Account”} of this article;]

17 (I) [(ii)] selecting investment funds (including a default investment fund) under
18 § 6-2 {“Accounts: Investments”} of this article;

19 (II) [(iii)] monitoring these investment funds on an ongoing basis; and

20 (III) [(iv)] adding or replacing these investment funds as the Board considers
21 prudent.

22 **§ 2-7. Meetings; Voting; Records.**

23 (b) *Voting.*

24 (2) [5] 6 voting trustees constitute a quorum.

25 **§ 2-10. Compensation; Expenses.**

26 (b) *Stipend for appointed trustees.*

27 (1) Each [trustee] OF THE 3 TRUSTEES appointed under [§ 2-2(b)(1)(vi)] § 2-2(B)(1)(IX) of
28 this subtitle is entitled to a stipend, in an amount determined by the Board of
29 Estimates, for attending meetings of the Board of Trustees.

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1 (2) The Board of Trustees may establish meeting-attendance standards that THE appointed
2 trustees must satisfy to be eligible for the stipend.

3 **Subtitle 5. Contributions**

4 **§ 5-3. Employer contributions.**

5 (d) *Non-hybrid members also contributing to Deferred Compensation Plan.*

6 (1) For each payroll period in which a non-hybrid member makes a voluntary deferral to
7 the City's Deferred Compensation Plan, the member's employer must contribute to
8 the Retirement Savings Plan an amount equal to 50% of the [first 2% of]
9 compensation deferred by the member for that payroll period, BUT TAKING INTO
10 ACCOUNT ONLY COMPENSATION DEFERRED THAT DOES NOT EXCEED 2% OF THE
11 MEMBER'S COMPENSATION FOR THAT PAYROLL PERIOD.

12 **Subtitle 6. Accounts**

13 **§ 6-2. Investments.**

14 (a) *Board to select available investment funds.*

15 (1) The Board of Trustees must select:

16 (i) 1 or more separate investment funds in which a member may elect to have the
17 member's [vested] account invested; and

18 (ii) a default investment fund for the automatic investment of the [vested] account
19 of a member who fails to make an affirmative investment election under
20 subsection (b) of this section.

21 (b) *Members' investment elections.*

22 (2) In accordance with procedures established by the Board, each member may
23 affirmatively elect to have the member's [vested] account invested in 1 or more of the
24 listed investment funds.

25 (4) As soon as administratively practicable after a member's affirmative investment
26 election is received, the member's [vested] account must be invested in accordance
27 with that election.

28 (c) *Default investments.*

29 Unless and until a member makes an affirmative investment election under subsection (b)
30 of this section, the member is deemed to have made an election to have the member's
31 [vested] account invested automatically in the default investment fund.

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1 (d) *Fund gains and losses.*

2 All gains and losses of an investment fund in which a member's [vested] account is
3 invested will be allocated to that account based on established procedures applied on a
4 uniform and nondiscriminatory basis.

5 (e) *Fund fees and expenses.*

6 All fees charged and expenses incurred by an investment fund in which a member's
7 [vested] account is invested, including servicing fees paid by the investment fund to the
8 Plan's third-party administrator, will be charged to that account based on established
9 procedures applied on a uniform and nondiscriminatory basis.

10 [(h) *Non-vested Employer Contribution Sub-Accounts.*

11 Employer Contribution Sub-Accounts that have not vested under § 7-2 {"Vesting:
12 Employer Contribution Sub-Account"} of this article will be invested as the Board of
13 Trustees, in its sole discretion, determines.]

14 **Subtitle 9. Distributions**

15 **§ 9-4. Distributable events – Death.**

16 (F) *WHILE PERFORMING QUALIFIED MILITARY SERVICE.*

17 TO THE EXTENT REQUIRED BY IRC § 401(A)(37), THE VALUE OF A MEMBER'S ACCOUNT
18 PAYABLE TO THE BENEFICIARY OF A MEMBER WHO DIES WHILE PERFORMING "QUALIFIED
19 MILITARY SERVICE", AS DEFINED IN IRC § 414(U)(5), WILL BE DETERMINED AS IF THE
20 MEMBER DIED WHILE AN ACTIVE EMPLOYEE.

21 **SECTION 2. AND BE IT FURTHER ORDAINED**, That the catchlines contained in this Ordinance
22 are not law and may not be considered to have been enacted as a part of this or any prior
23 Ordinance.

24 **SECTION 3. AND BE IT FURTHER ORDAINED**, That this Ordinance takes effect on the date it is
25 enacted.

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Certified as duly passed this _____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,
this _____ day of _____, 20__

Chief Clerk

Approved this _____ day of _____, 20__

Mayor, Baltimore City