
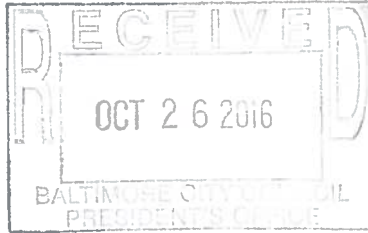


<b>FROM</b>	NAME & TITLE	Henry J. Raymond, Director <span style="float: right;">HJR</span>	CITY of <b>BALTIMORE</b>  <b>MEMO</b>	
	AGENCY NAME & ADDRESS	Department of Finance Room 454, City Hall (396-4940)		
	SUBJECT	<b>City Council Bill 16-0756</b> <b>Retirement Savings Plan Clarifications</b>		

**TO**

DATE:

The Honorable President and Members  
 Of the City Council  
 400 City Hall  
 100 N. Holliday Street  
 Attention: Natawna Austin



October 24, 2016

The Department of Finance has reviewed City Council Bill 16-0756 *Retirement Savings Plan – Definition of “Employee” – Composition of Board of Trustees - Forfeitures* which changes the composition of the RSP Board of Trustees; provides for clarifications to the definition of the word “Employee,” as it relates to eligibility for the membership in the Retirement Savings Plan; and revises the rules for the forfeiture of non-vested employer-funded 401(a) accounts.

***Comments and Analysis***

Council Bill 16-0756 makes several needed revisions to Article 22A – Retirement Savings Plan. The most significant revision provides for several changes to subtitle 2 of Article 22A, which guides the administration of the Retirement Savings Plan (RSP) and prescribes the composition of the RSP Board of Trustees. While revisions to the definition of “employee” and the rules concerning forfeiture are somewhat technical they are also critical to ensuring the RSP is operating in compliance with applicable statute, rules, and regulations. Each of the revisions in Council Bill 16-0756 are described below with additional comment and analysis reflecting the Department of Finance’s overall support of the Bill.

***Changes to the Board of Trustees (and Subtitle 2. Administration).***

The proposed changes to the Board of Trustees are the following:

- i. 2-2(a) is revised to reduce the total number of Trustees to 11 from 14 and reduce the number of voting Trustees to eight (8) from 11.
- ii. 2-2(b) is revised to allow for the Director of Finance to serve as a Trustee with voting rights or to designate a representative to do so and to allow for that representative to be of the Director of Finance’s choosing rather than specifying that it must be either the Deputy Director of Finance or the Budget Director. In addition, 2-2(b) is revised to remove the three Mayoral appointees from the Board entirely. The

Fav w/ comments

Mayoral appointees were to have to voting privileges. The removal of the Mayoral appointees is what reduces the number of voting Trustees to eight (8).

- iii. 2-6(a) is revised to allow the Trustees with voting privileges to elect a voting Trustee to serve as Chair of the Board. This is similar to how the Boards for the City's defined benefit plans are constituted.
- iv. 2-7(b) is revised to stipulate that a quorum now consists of five (5) voting trustees.
- v. 2-8(a) is revised to include language documenting that the retention of administrative services is subject to approval by the City's Board of Estimates as required by the City Charter and the Board of Estimates.
- vi. 2-10 is revised to remove the provision that the Mayoral appointees are to receive a stipend for certain expenses incurred in the discharge of their duties as Trustees may be reimbursed.

The Department of Finance is supportive of all of the above revisions and is of the opinion that the changes will provide for continued effective administration and operation of the RSP.

Of particular interest to the Department of Finance are the revisions to article 2-2(b) that allow the Director of the Department of Finance to continue to serve as a voting Trustee or to designate a representative and to article 2-6(a) that provide for the voting Trustees to elect the Chair. The Director of the Department of Finance has determined that, while the Department has a vested interest in the operation and administration of the RSP, the Department also has core duties that require significant attention from the Director of Finance. The revision to allow for the Director of Finance to either continue to serve as a voting Trustee or appoint a designee allows for the Department to continue playing an important role in the administration and operation of the RSP. Similarly, providing for the Trustees to elect a Board Chair helps to relieve some of the workload of the Director of Finance. Removing the three Mayoral appointees from the Board enshrines in law what has been the actual practice of the RSP Board since, despite a concerted effort, no candidates with the appropriate qualifications and interest have been identified in the two (plus) years the Board has been in existence.

***Revision of the Definition of "Employee" (and Subtitle 1. Definitions; General Provisions)***

The proposed revision to section 1-1(h) is a clarification of the definition of "Employee" in section 1-1(h). Only "employees" are permitted to join the Retirement Savings Plan (RSP) as either Hybrid or Non-Hybrid members. The revision clarifies the definition of "employees" so that it is inclusive of those employees who may be technically employed by an entity other than the City of Baltimore but whose salaries are paid by the Mayor and City Council of Baltimore. In practice, employees in this situation have been permitted to enroll in the RSP

as historically they have been allowed to enroll in the Employees' Retirement System (ERS). The clarification ensures that the actual law governing the RSP reflects practice.

The Department of Finance is supportive of the clarification to section 1-1(h) of Article 22A as it is important that the rules governing the administration and operation of the RSP align with statute. Furthermore, since the clarification will not have any effect on the number of "employees" permitted to join the RSP there is no material financial impact to the City as a result of this clarification.

***Revision to the Forfeiture of Employer-Funded 401(a) Account (and Subtitle 8. Forfeitures)***

The proposed revision to section 8-1 changes the date on which a non-vested employer-funded 401(a) account is forfeited upon an RSP member's separation from service. Currently, the employer-funded 401(a) account is forfeited immediately upon an employee's separation from service, which differs starkly from the 180 days following separation rule that the Employees' Retirement System adheres to. Analysis conducted by RSP staff with the assistance of counsel yielded no compelling rationale for the RSP to have such a stringent rule in place for the forfeiture of employer-funded 401(a) accounts. Indeed, it is actually less burdensome administratively for the RSP to wait 180 days to forfeit non-vested employer-funded 401(a) accounts than it is to forfeit those accounts immediately upon termination. Revising section 8-1 to establish the 180-day rule for forfeiture of non-vested employer-funded 401(a) accounts will ease the administrative burden on the RSP and provide for more equity for RSP participants vis-à-vis City employees that are covered by the Employees' Retirement System.

The Department of Finance is supportive of the revision to section 8-1 as it is evident that there is no compelling rationale to forfeiting non-vested employer-funded 401(a) accounts immediately upon separation from service. The Department of Finance also supports the revision as - in general - the Department is in favor of efficient and streamlined work processes, which RSP staff has indicated the 180-day forfeiture rule applied to non-vested employer-funded 401(a) accounts would be. Lastly, there will be no material impact to either the City or RSP expenses as a result of implementing the 180-day forfeiture rule.