

Roselyn H. Spencer

FROM	NAME & TITLE	Roselyn H. Spencer, Executive Director
	AGENCY NAME & ADDRESS	Employees' & Elected Officials' Retirement Systems 7 E. Redwood Street, 12th Floor
	SUBJECT	<i>City Council Bill 12-0088--Employees', Elected Officials', and Fire and Police Employees' Retirement Systems – Technical Amendments</i>

CITY of
BALTIMORE
MEMO



TO DATE: June 6, 2012

The Honorable President and Members of the Baltimore City Council
Attention: Karen Randle, Executive Secretary
Room 400 City Hall

Dear Mr. President and Members of the City Council:

This report on Council Bill 12-0088 is submitted on behalf of the Board of Trustees of the Employees' and Elected Officials' Retirement Systems (the ERS/EOS Board).

The Bill proposes to amend provisions of Article 22 of the Baltimore City Code applicable to the Employees', Elected Officials', and Fire & Police Employees' Retirement Systems (the Systems) for the purpose of providing that the Systems need comply only with a "reasonable good faith interpretation" of Internal Revenue Code § 401(a)(9); expanding the vehicles into which eligible distributions from the Systems can be rolled over, to include qualified defined benefit plans, § 403(b) tax-deferred annuity plans, certain § 457(b) plans, and Roth IRAs; permitting non-spouse beneficiaries of Systems' members to make rollovers; removing a restriction on rollovers by surviving spouses of Employees' Retirement System (ERS) and Elected Officials' Retirement System (EOS) members; clarifying the availability of the non-line-of-duty death benefit for members of the Fire and Police Employees' Retirement System (F&P) who are on military service; applying cost-of-living adjustments to increase the \$160,000 limit on annual F&P benefits under § 415 of the Internal Revenue Code and applying those cost-of-living adjustments to retired F&P members; conforming certain provisions to the Internal Revenue Code; correcting, clarifying, and conforming related provisions; providing for a special effective date; and generally relating to the Systems.

The changes to Article 22 have been proposed by Boards of the three City Retirement Systems. As one of the proponents of this legislation, the ERS/EOS Board **SUPPORTS** Council Bill 12-0088 as it applies to its two Systems.

Background

Changes in federal tax laws, including Heroes Earnings and Assistance Relief Tax Act (HEART Act) and the Pension Protection Act (PPA), require amendments to the ERS, EOS, and F&P provisions of Article 22. The proposed amendments to Article 22 incorporate the mandated changes and are required by June 30, 2012 in order to assure compliance with the Internal Revenue Code.

Summary of Proposed ERS and EOS Changes

§§9(r) and 22(m) – Compliance with Internal Revenue Code §401(a)(9). The Internal Revenue Code specifies the earliest permissible date by which plan distributions must begin and the longest permissible period over which distributions must be paid. IRS regulations traditionally have been complicated and difficult for governmental plans to comply with. Recent federal tax legislation provides that governmental plans must only comply with a “reasonable good faith interpretation” of the Internal Revenue Code – and not the detailed provisions of the regulations. The Bill would amend §§9(r) and 22(m) to adopt this “reasonable good faith interpretation” requirement. The amendment will lower the risk of non-compliance and reduce administrative burdens.

§§9(t) and 22(o) – Eligible rollover distributions. Under the tax laws, a plan participant can roll over certain plan distributions (e.g., lump sums) to other retirement vehicles without paying current income tax on the distribution. Recent federal tax legislation has liberalized the rollover rules in the following ways:

- 1) Expanding the list of “eligible retirement plans” to which rollover distributions can be made by adding section 403(b) tax sheltered annuity plans, section 457(b) plans of state and local governments, and Roth IRA’s to the list;
- 2) Allowing rollovers by non-spouse beneficiaries under certain circumstances; and
- 3) Removing a restriction on rollovers by surviving spouses.

The Bill would amend §§9(t) and 22(o) to adopt these more liberal rollover rules.

Cost Impact. A cost analysis (attached) prepared by the ERS and EOS actuary, Cheiron, Inc., estimates that the bill would have no cost impact on the ERS and EOS.

I am available to answer questions and to comment at the hearing.

RHS/JK/dsb

Attachment

CC: Angela Gibson, Mayor’s Legislative Liaison to the City Council
Kimberly Washington, Mayor’s Office (via email)
Andrew Smullian, Senior Policy Advisor, Mayor’s Office (via email)
Avery Aisenstark, Department of Legislative Reference
Kenneth Kent, Cheiron, Inc.

June 6, 2012

Ms. Rosslyn Spencer
Executive Director
Elected Officials' Retirement System
of the City of Baltimore
7 East Redwood Street, 12th Floor
Baltimore, MD 21202-3470

***Re: City Council Bill 12-0088--Employees', Elected Officials',
and Fire and Police Employees' Retirement Systems –
Technical Amendments***

Dear Ms Spencer:

At your request we have reviewed this Bill to determine if it has any financial impact on the Employees' and/or Elected Officials' Retirement Systems. From my review of the Bill the changes to the City Code appear to be intended to bring the language into compliance with sections of the federal law applicable to governmental plans. Changes in federal tax law including the Pension Protection Act as well as the Heart Act require additional language to the City Code.

Therefore none of the changes in this Bill propose changes in the benefits, rights or features for current participants of either of the Employees' or Elected Officials' Retirement Systems. We therefore do not believe that any of these provisions are expected to have an impact on the cost of the Retirement Systems.

Please call if you have any additional questions about the implications of this Bill.

Sincerely,
Cheiron



Kenneth A. Kent, FSA, FCA, EA
Principal Consulting Actuary

