



BALTIMORE CITY COUNCIL TAXATION, FINANCE AND ECONOMIC DEVELOPMENT COMMITTEE

Mission Statement

On behalf of the Citizens of Baltimore City, the mission of the Taxation, Finance and Economic Development Committee of the Baltimore City Council is to legislate policy that will deter unnecessary tax burdens while seeking and supporting projects and initiatives that will generate and increase our tax base. Reviewing and considering financing tools that impact the retention and sustainability of our economic base is essential. Introducing and enhancing legislation that perpetuates equal access to economic development for African Americans/Minorities/Women and other members of our community that will result in an improved quality of life for all citizens of Baltimore is a critical component of Baltimore's success.

**The Honorable Sharon Green Middleton
Chairwoman**

PUBLIC HEARING

**Thursday, October 29, 2020
10:00 AM
VIRTUAL "WEBEX" HEARING**

***City Council Bill 20-0603
Retirement Savings Plan - Clarification***

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BILL SYNOPSIS

Committee: Taxation, Finance and Economic Development

Bill 20-0603

Retirement Savings Plan - Clarifications

Sponsor: *President Scott (Administration)*

Introduced: *September 21, 2020*

Purpose:

For the purpose of clarifying the definition of "earnable compensation" for the members of the Retirement Savings Plan; clarifying that any employee of the Enoch Pratt Free Library System, who is not eligible to participate in the Maryland State Retirement and Pension System, is considered able to be a member of the Retirement Savings Plan; clarifying that any employee of the Baltimore Museum of Art or the Walters Art Gallery is not considered to be an employee for purposes of the Retirement Savings Plan; eliminating the time period limit for when an employer contribution made by mistake may be returned to the participating employer after payment of the mistaken contribution; modifying the composition of the Board of Trustees of the Retirement Savings Plan; modifying the qualifications needed by certain Trustees appointed to the Board; clarifying the term of office for appointed Trustees; clarifying that the Board is responsible for any other assets assigned to the Board by the City; clarifying certain provisions and language regarding the selection of Board Officers and their compensation; clarifying that administrative expenses of the Retirement Savings Plan and in the management of Plan assets may only be paid out of certain forfeitures or the unallocated Plan Asset Account; clarifying which City Benefit Plans a Trustee or Board employee may not do business; clarifying certain provisions concerning when members will commence participation in the Plan; modifying the definition of "service" for purposes of the retirement Savings Plan; clarifying provisions concerning contributions to the Plan; clarifying certain provisions regarding forfeiture of non-vested employer contributions and adding a provision that if a vested member of the Plan transfers service to another City retirement plan, the Employer Contribution Sub-Account is forfeited; providing that a member who terminates employment and transfers service to another city retirement plan is entitled to receive the value of the member's mandatory employee contribution sub-account and, if applicable, rollover contribution sub-account; clarifying certain provisions regarding beneficiary distribution, after a member's death;

providing for distribution of small account balances; defining "minor beneficiary"; and generally relating to the Retirement Savings Plan.

Effective: Thirty (30) days after Enactment

Agency Reports

Employees Retirement System	Favorable
Department of Law	
Labor Commissioner	
Department of Finance	
Retirement Savings Plan	Favorable
Department of Human Resources	

Analysis

Current Law

Article 22A - Retirement Savings Plan

Sections 1-1(g) and (h), 1-7(b)(1), 2-2-2 - 6(b) and (c), 2-7(b), 2-10, 2-13, 2-20(b)(2), 3-2 (a) and (b), 4-1, 5-3 (d), 5-4(c)(1), 8-1, 9-4(d)(1), and 10-7 - Baltimore City Code, Edition 2000)

Background

City Council Bill 20-0603 main purpose is to clarify various segments of the Article 22A of the Retirement Savings Plan (RSP) that are considered ambiguous in the Baltimore City Code. Additionally, the legislation seeks to strengthen the Board of Trustees which provides oversight to the RSP. Since there are no changes or improvements to the benefit structure of the Plan, there is **no fiscal cost** to the City or the Plan.

Summary of Proposed Changes to the Retirement Savings Plan:

- **Definition of Earnable Compensation:** Update the plan document to include definition for earnable and earned compensation. Earnable compensation (annual salary) is for hybrid employer contribution and Earned compensation (pensionable earnings each payroll period) would be the non-hybrid contribution.
- **Definition of Employee:** Include a section listing Enoch Pratt Free Library that are not currently eligible to participate in the Maryland State Retirement and Pension System Plans as eligible to participate in the Retirement Savings Plan (RSP). Also, add a section excluding the Baltimore Museum of Art and Walters Art Gallery employees as eligible to participate in the RSP.
- **Exclusive Benefit:** Allows mistaken employer contributions to be sent to the Plan after a year.
- **Board Composition:** Increase the Board of Trustees membership to thirteen (13) and all members have voting privileges. The Director of ERS would no longer have voting rights, but the President or President's designee of AFSCME, CUB and MAPS will now have voting rights on the Board. The Board of trustees will have two (2) Mayoral appointed trustees as opposed to three (3). And the President of the City Council will have the authority to appoint one (1) trustee to the Board. The non-voting section of the Plan would be eliminated.
- **Compensation; Expenses:** This section would be removed.
- **Plan Expenses:** Revised the definition of the Unallocated Plan Asset (UPA) account instead of just the Forfeitures. UPA account includes a revenue reimbursement bucket and the plan document should indicate that expenses can now be paid out of that account.
- **Commencement of Participation:** Update to reflect that City employer contributions will begin at 12 months for the hybrid plan to coincide with the 12 month start date of employee contributions to ERS.
- **Service:** Revise the definition of service time and how it also applies to the Retirement Saving Plan. Add a bullet point that excludes from service and periods of employment when the member wasn't in Pay Status. Also, include a section to cover service time in the plan and how transfers of service to the Fire & Pension system or any other applicable retirement system would work.
- **Contributions:** Revise these sections to ensure contribution definitions collaborate with earned vs. earnable compensation.

- Employer Compensation: Change to the most recent funding status.
 - Rollovers: Clarify to include the plan will now accept Roth rollovers.
 - Failure to designate beneficiary: Update the section to ensure the DCP Plan coincide with the document. If there is no beneficiary listed, the proceeds would go to the surviving spouse (if applicable). If there is no surviving spouse, the proceeds would go the member's estate.
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Additional Information

Fiscal Note: Not Available

Information Source(s): ERS and Retirement Savings Plan agency reports.

Analysis by: Larry E. Greene
Analysis Date: October 20, 2020

Direct Inquiries to: 410-396-7215

**CITY OF BALTIMORE
COUNCIL BILL 20-0603
(First Reader)**

Introduced by: The Council President

At the request of: The Administration (Employees' Retirement Systems)

Introduced and read first time: September 21, 2020

Assigned to: Taxation, Finance and Economic Development Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Employees' Retirement System, Labor Commissioner, Department of Human Resources, Retirement Savings Plan, Department of Finance

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Retirement Savings Plan – Clarifications**

3 FOR the purpose of clarifying the definition of “earnable compensation” for the members of the
4 Retirement Savings Plan; clarifying that any employee of the Enoch Pratt Free Library
5 System, who is not eligible to participate in the Maryland State Retirement and Pension
6 System, is considered able to be a member of the Retirement Savings Plan; clarifying that any
7 employee of the Baltimore Museum of Art or the Walters Art Gallery is not considered to be
8 an employee for purposes of the Retirement Savings Plan; eliminating the time period limit
9 for when an employer contribution made by mistake may be returned to the participating
10 employer after payment of the mistaken contribution; modifying the composition of the
11 Board of Trustees of the Retirement Savings Plan; modifying the qualifications needed by
12 certain Trustees appointed to the Board; clarifying the term of office for appointed Trustees;
13 clarifying that the Board is responsible for any other assets assigned to the Board by the City;
14 clarifying certain provisions and language regarding the selection of Board Officers and their
15 compensation; clarifying that administrative expenses of the Retirement Savings Plan and in
16 the management of Plan assets may only be paid out of certain forfeitures or the unallocated
17 Plan Asset Account; clarifying which City Benefit Plans a Trustee or Board employee may
18 not do business; clarifying certain provisions concerning when members will commence
19 participation in the Plan; modifying the definition of “service” for purposes of the Retirement
20 Savings Plan; clarifying certain provisions concerning contributions to the Plan; clarifying
21 certain provisions regarding forfeiture of non-vested employer contributions and adding a
22 provision that if a vested member of the Plan transfers service to another City retirement
23 plan, the Employer Contribution Sub-Account is forfeited; providing that a member who
24 terminates employment and transfers service to another city retirement plan is entitled to
25 receive the value of the member’s mandatory employee contribution sub-account and, if
26 applicable, rollover contribution sub-account; clarifying certain provisions regarding
27 beneficiary distribution, after a member’s death; providing for distribution of small account
28 balances; defining “minor beneficiary”; and generally relating to the Retirement Savings
29 Plan.

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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1 BY repealing and reordaining with amendments

2 Article 22A - Retirement Savings Plan

3 Sections 1-1(g) and (h), 1-7(b)(1), 2-2, 2-6(b) and (c), 2-7(b), 2-10, 2-13, 2-20(b)(2),
4 3-2 (a) and (b), 4-1, 5-3(d), 5-4(c)(1), 8-1, 9-4(d)(1), and 10-7

5 Baltimore City Code
6 (Edition 2000)

7 BY adding

8 Article 22A - Retirement Savings Plan

9 Sections 2-3(d), 8-1A, 9-2A, and 9-9

10 Baltimore City Code
11 (Edition 2000)

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

14 **Baltimore City Code**

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

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

17 **§ 1-1. Definitions.**

18 (g) *Earnable compensation.*

19 (1) [*In general.*] *HYBRID MEMBER.*

20 “Earnable compensation” means the annual salary authorized for a HYBRID member.

21 (2) [*Exclusions.*] *NON-HYBRID MEMBER.*

22 “Earnable Compensation” [does not include overtime pay, differential pay,
23 environmental pay, hazardous duty pay, pay for conversion of leave or other fringe
24 benefits, or any like additional payments.] MEANS THE ACTUAL PAY RECEIVED EACH
25 PAYROLL PERIOD (IF ANY) BY A NON-HYBRID MEMBER.

26 (3) *EXCLUSIONS.*

27 FOR BOTH HYBRID AND NON-HYBRID MEMBERS, “EARNABLE COMPENSATION” DOES
28 NOT INCLUDE OVERTIME PAY, DIFFERENTIAL PAY, ENVIRONMENTAL PAY, HAZARDOUS
29 DUTY PAY, PAY FOR CONVERSION OF LEAVE, BONUS PAY OR OTHER FRINGE BENEFITS,
30 OR ANY LIKE ADDITIONAL PAYMENTS.

31 (h) *Employee.*

32 (1) *In general.*

33 “Employee” means any of the following, if in a job classification that requires at least
34 500 hours per year:

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1 (i) except as provided in paragraph (2) of this subsection, any permanent officer
2 or employee of the Mayor and City Council of Baltimore, including any
3 officer or employee of an agency, department, unit, subdivision, or
4 instrumentality of the Mayor and City Council; and

5 (ii) any employee of the Baltimore City Public School System who is not eligible
6 to participate in the Maryland State Retirement and Pension System.

7 (III) ANY EMPLOYEE OF THE ENOCH PRATT FREE LIBRARY WHO IS NOT ELIGIBLE TO
8 PARTICIPATE IN THE MARYLAND STATE RETIREMENT AND PENSION SYSTEM.

9 (2) *Exclusions.*

10 “Employee” does not include:

11 (i) any “elected official”, as defined in City Code Article 22, § 17A(2), for
12 purposes of membership in the Elected Officials’ Retirement System of the
13 City of Baltimore; or

14 (ii) any “employee”, as defined in City Code Article 22, § 30(2), for purposes of
15 membership in the Fire and Police Employees’ Retirement System of the City
16 of Baltimore.

17 (III) ANY “EMPLOYEE” OF THE BALTIMORE MUSEUM OF ART OR THE WALTERS ART
18 MUSEUM.

19 **§ 1-7. Exclusive benefit.**

20 (b) *Exception for mistake of fact.*

21 (1) An employer contribution made by mistake of fact may be returned to the appropriate
22 participating employer [within, but not later than, 1 year] after payment of the
23 mistaken contribution.

24 **Subtitle 2**

25 **Administration**

26 **§ 2-2. Board composition.**

27 (a) *In general.*

28 (1) The Board consists of [14 trustees.] THE FOLLOWING 13 TRUSTEES, ALL OF WHOM
29 SERVE WITH VOTING PRIVILEGES:
30

31 [(2) Of these:]

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

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1 [(ii) 3 trustees serve in an advisory capacity only, without voting privileges
2 (“non-voting trustees”).]

3 [(b) *Voting trustees.*]

4 [(1) *In general.*]

5 [The 11 voting trustees are:]

6 (i) the Director of Finance or the Director’s designated representative, who must
7 be either the Deputy Director of Finance or the Budget Director;

8 (ii) the City Comptroller;

9 (iii) the Director of Human Resources;

10 (iv) the City Labor Commissioner;

11 (v) [the Executive Director of the Employees’ Retirement System of the City of
12 Baltimore] 2 REPRESENTATIVES OF THE BALTIMORE CITY PUBLIC SCHOOL
13 SYSTEM, TO BE DESIGNATED BY THE CHIEF EXECUTIVE OFFICER OF THE
14 BALTIMORE CITY PUBLIC SCHOOL SYSTEM;

15 (vi) [2 representatives of the Baltimore City Public School System, to be
16 designated by the Chief Executive Officer of the Baltimore City Public School
17 System] THE PRESIDENT OF AFSCME LOCAL 44 OR THE PRESIDENT’S
18 DESIGNATED REPRESENTATIVE;

19 (vii) [a representative designated jointly by AFSCME Local 44, the City Union of
20 Baltimore (“CUB”), and the Managerial and Professional Society of
21 Baltimore, Inc. (“MAPS”); and] THE PRESIDENT OF THE CITY UNION OF
22 BALTIMORE (“CUB”) OR THE PRESIDENT’S DESIGNATED REPRESENTATIVE;

23 [(viii) 3 residents and registered voters of the City of Baltimore, to be appointed
24 by the Mayor in accordance with City Charter Article IV, § 6.]

25 (VIII) THE PRESIDENT OF THE MANAGERIAL AND PROFESSIONAL SOCIETY OF
26 BALTIMORE, INC. (“MAPS”) OR THE PRESIDENT’S DESIGNATED
27 REPRESENTATIVE;

28 (IX) A REPRESENTATIVE JOINTLY DESIGNATED BY THE BALTIMORE FIRE OFFICERS
29 ASSOCIATION AND BALTIMORE CITY LODGE #3 FRATERNAL ORDER OF POLICE;

30 (X) 2 RESIDENTS AND REGISTERED VOTERS OF THE CITY OF BALTIMORE, TO BE
31 APPOINTED BY THE MAYOR IN ACCORDANCE WITH CITY CHARTER ARTICLE IV,
32 §6; AND

33 (XI) A REPRESENTATIVE APPOINTEE TO BE DESIGNATED BY THE CITY COUNCIL
34 PRESIDENT.

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1 (2) *Appointed trustees – Qualifications.*

2 [(i) The 3 voting trustees] EACH OF THE 2 TRUSTEES appointed under paragraph
3 [(1)(viii)] (1)(X) of this subsection must each have at least 10 years of relevant
4 institutional investment management expertise OR OTHER EQUIVALENT
5 EXPERIENCE[.

6 (ii) None of these appointed trustees] AND may NOT be an official or employee of the
7 City at the time of his or her appointment or during the entire term of office.

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

9 (i) Each of the [3] 3 [voting] trustees appointed under paragraph [(1)(viii)]
10 PARAGRAPHS (1)(X) AND (XI) of this subsection serves for a term of 4 years,
11 concurrent with the term of the Mayor AND THE CITY COUNCIL PRESIDENT.

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

14 (iii) [A trustee] IF appointed to fill a vacancy in an unexpired term, A TRUSTEE serves
15 only for the remainder of that term.

16 [(c) *Non-voting trustees.*]

17 [The 3 non-voting trustees are:]

18 [(1) the President of AFSCME Local 44];

19 [(2) the President of the City Union of Baltimore (“CUB”); and]

20 [(3) the President of the Managerial and Professional Society of Baltimore, Inc.
21 (“MAPS”)].

22 (B) [(d)] *Service without regard to political affiliation.*

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

25 **§ 2-3. Board functions.**

26
27 (D) *OTHER ASSETS.*

28 SUBJECT TO § 2-8 {“RETENTION OF SERVICES; RIGHT OF RELIANCE”} OF THIS SUBTITLE,
29 THE BOARD IS RESPONSIBLE FOR ANY OTHER ASSETS ASSIGNED TO THE BOARD BY THE
30 CITY. THE SCOPE OF THE BOARD’S RESPONSIBILITY IS DETERMINED BY THE TERMS OF THE
31 ASSIGNMENT.

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1 **§ 2-6. Officers.**

2 . . .
3 (b) *Vice-Chair.*

4 The [voting] trustees may elect a [voting] trustee to serve as Vice-Chair of the Board.

5 (c) *Secretary.*

6 (1) If an Executive Director has been appointed by the Board under § 2-8(a) {"Services"}
7 of this subtitle, the Executive Director serves as the Board's Secretary.

8 (2) If no Executive Director has been appointed, the [voting] trustees may elect a [voting]
9 trustee to serve as the Board's Secretary.

10 **§ 2-7. Meetings; Voting; Records.**

11 . . .
12 (b) *Voting.*

13 (1) Each [voting] trustee is entitled to 1 vote on the Board.

14 (2) 6 [voting] trustees constitute a quorum.

15 (3) An affirmative vote by the majority of a quorum is needed for any action by the Board
16 [of Trustees].

17 . . .

18 **§ 2-10. Compensation; Expenses.**

19 (a) *In general.*

20 Except as provided in subsection (b) of this section, each [Trustee] TRUSTEE serves
21 without compensation.

22 [(b) *Stipend for appointed trustees.*]

23 [(1) Each of the 3 trustees appointed under § 2-2(b)(1)(viii) of this subtitle is entitled to a
24 stipend, in an amount determined by the Board of Estimates, for attending meetings of
25 the Board of Trustees.]

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

28 (B) [(c)] *Expenses.*

29 [All voting and non-voting trustees] TRUSTEES SERVE WITHOUT COMPENSATION, BUT are
30 entitled to reimbursement for reasonable expenses incurred in the performance of their
31 duties.

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§ 2-13. Plan expenses.

Except for investment fund fees and expenses paid under § 6-2(e) {"Investments: Fund fees and expenses"} of this article, all expenses incurred in the administration of the Retirement Savings Plan and in the management of Plan assets may only be paid as follows:

- (1) first, out of EITHER forfeitures under Subtitle 8 {"Forfeitures"} of this article; [and] or
- (2) [then, to the extent expenses remain unpaid, by the City] THE UNALLOCATED PLAN ASSET ACCOUNT THAT HOLDS REVENUE SHARING OR SIMILAR PAYMENTS RECEIVED BY THE PLAN FROM OR WITH RESPECT TO AN INVESTMENT OPTION, AS DETERMINED BY THE BOARD.

§ 2-20. Conflicts of interest.

...
(b) *Additional standards and requirements.*

...
(2) *Business with City Benefit Plan.*

No Trustee or Board employee may do business with any system, plan, or trust administered by any of the following (collectively, "the City Benefit Plans"):

- (i) the Board of Trustees of the Employees' Retirement System of the City of Baltimore;
- (ii) the Board of Trustees of the Fire and Police Employees' Retirement System of the City of Baltimore;
- (iii) the Board of Trustees of the Elected Officials' Retirement System of the City of Baltimore; AND
- (iv) the Board of Trustees of the Retirement Savings Plan of the City of Baltimore[; and
- (v) the Committee of the City of Baltimore Deferred Compensation Plan].

Subtitle 3

Plan Membership

§ 3-2. Commencement of participation.

(a) *Initial employment ON OR AFTER JULY 1, 2014.*

An employee initially employed by a participating employer on or after July 1, 2014, must make an election under City Code Article 22, § 9.1, and, based on that election, will commence participation [as a hybrid member or a non-hybrid member of] IN the Plan [on the 180th day after the date on which his or her initial employment began] AS FOLLOWS:

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1 (I) A HYBRID MEMBER WILL COMMENCE PARTICIPATION ON THE 1ST ANNIVERSARY OF
2 THE DATE ON WHICH HIS OR HER INITIAL EMPLOYMENT BEGAN.

3 (II) A NON-HYBRID MEMBER WILL COMMENCE PARTICIPATION ON THE 180TH DAY
4 AFTER THE DATE ON WHICH HIS OR HER INITIAL EMPLOYMENT BEGAN.

5 (b) *Reemployment IF INITIALLY EMPLOYED BEFORE JULY 1, 2014.*

6 (1) *Prior employment terminated after earning vested benefit.*

7 An employee who was employed by a participating employer [on or] before [June 30]
8 JULY 1, 2014, and who, after having terminated that employment [and earning] WITH
9 a vested benefit under a City retirement plan, is reemployed by that or another
10 participating employer on or after July 1, 2014, automatically commences
11 participation in the Plan as a non-hybrid member on the 30th day after the date [on
12 which his or her] OF reemployment [began].

13 (2) *Prior employment terminated before earning vested benefit.*

14 An employee who was employed by a participating employer [on or] before [June 30]
15 JULY 1, 2014, and who, after having terminated that employment before earning a
16 vested benefit under a City retirement plan, is reemployed by that or another
17 participating employer on or after July 1, 2014, must make an election under City
18 Code Article 22, § 9.1, and, based on that election, will commence participation as a
19 hybrid member or a non-hybrid member [of the Plan] on the [180th day after the] date
20 [on which his or her reemployment began] PROVIDED IN SUBSECTION (A) OF THIS
21 SECTION.
22 . . .

23 **Subtitle 4**

24 **Service**

25 **§ 4-1. “Service” defined.**

26 (a) *In general.*

27 Except as otherwise provided in this section, “service” means the sum of each period of a
28 member’s employment with a participating employer.

29 (b) *Exclusions.*

30 Except as provided in subsection (c) of this section, “service” does not include any period
31 [that] OF EMPLOYMENT:

32 (1) THAT has been credited as service under any other City retirement plan[; and] FOR
33 CALCULATING THE AMOUNT OF A RETIREMENT BENEFIT OR A DEFERRED VESTED
34 RETIREMENT BENEFIT; OR

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1 (2) [was used by that plan for calculating a retirement benefit or a deferred vested
2 retirement benefit] DURING WHICH THE MEMBER WAS NOT ON THE ACTIVE
3 PAYROLL OF THE PARTICIPATING EMPLOYER.

4 (c) *[Inclusions] EXCEPTIONS.*

5 [Notwithstanding subsection (b) of this section, “service” includes any period credited to
6 a hybrid member of the Retirement Savings Plan for service as a Class D member of the
7 Employees’ Retirement System.]

8 THE EXCLUSIONS OF SUBSECTION (B) OF THIS SECTION DO NOT APPLY TO ANY PERIOD OF
9 EMPLOYMENT CREDITED TO A HYBRID MEMBER FOR SERVICE AS A CLASS D MEMBER OF
10 THE EMPLOYEES’ RETIREMENT SYSTEM.

11 (D) *TRANSFERS OF SERVICE.*

12 IF A MEMBER TRANSFERS SERVICE TO ANY OTHER CITY RETIREMENT PLAN, THAT
13 TRANSFERRED SERVICE WILL NO LONGER BE COUNTED TO DETERMINE WHETHER THE
14 MEMBER IS VESTED IN THEIR EMPLOYER CONTRIBUTION SUB-ACCOUNT.

15 **Subtitle 5**

16 **Contributions**

17 **§ 5-3. Employer contributions.**

18 . . .
19 (d) *Non-hybrid members also contributing to Deferred Compensation Plan.*

20 (1) For each payroll period in which a non-hybrid member makes a voluntary deferral to
21 the City’s Deferred Compensation Plan, the member’s employer must contribute to
22 the Retirement Savings Plan an amount equal to 50% of the [compensation] AMOUNT
23 deferred by the member for that payroll period, but taking into account only
24 [compensation] THE AMOUNT deferred that does not exceed 2% of the member's
25 EARNABLE compensation for that payroll period.

26 **§ 5-4. Rollover contributions.**

27 . . .
28 (c) *Conditions of rollover.*

29 (1) Every rollover contribution must be:

30 (I) [(1) an “eligible rollover distribution”, as defined in IRC § 402(F)(2)(A)] EITHER
31 AN “ELIGIBLE ROLLOVER DISTRIBUTION” AS DEFINED IN IRC § 402(F)(2)(A),
32 INCLUDING ELIGIBLE DISTRIBUTIONS OF DESIGNATED ROTH CONTRIBUTIONS
33 DESCRIBED IN IRC § 402A(C)(3); OR

34 (II) ELIGIBLE FOR ROLLOVER TREATMENT UNDER IRC § 408(D)(3), INCLUDING
35 ELIGIBLE DISTRIBUTIONS FROM A ROTH IRA DESCRIBED IN IRC § 408(A) ELIGIBLE

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FOR ROLLOVER TREATMENT UNDER IRC § 408(D)(3), INCLUDING ELIGIBLE DISTRIBUTIONS FROM A ROTH IRA DESCRIBED IN IRC § 408(A).

...

Subtitle 8

Forfeitures

§ 8-1. Forfeiture of non-vested Employer Contributions.

The Employer Contribution Sub-Account of a member who terminates employment with a participating employer before that sub-account is vested under § 7-2 {"Vesting: Employer Contribution Sub-Account"} of this article is forfeited as of the date of the member's termination of employment, UNLESS THAT MEMBER IS REEMPLOYED BY A PARTICIPATING EMPLOYER WITHIN 30 DAYS AFTER TERMINATION OF EMPLOYMENT.

§ 8-1A. FORFEITURE OF VESTED EMPLOYER CONTRIBUTIONS - TRANSFERS OF SERVICE.

THE EMPLOYER CONTRIBUTION SUB-ACCOUNT OF A MEMBER WHO TERMINATES EMPLOYMENT UNDER § 1-1(H) OF THIS ARTICLE {"DEFINITIONS: EMPLOYEE-EXCLUSIONS"} WITH A PARTICIPATING EMPLOYER UNDER § 1-1(Q) OF THIS ARTICLE {"DEFINITIONS: PARTICIPATING EMPLOYER; EMPLOYER"} AFTER THAT SUB-ACCOUNT IS VESTED UNDER § 7-2 OF THIS ARTICLE {"VESTING: EMPLOYER CONTRIBUTION SUB-ACCOUNT"} IS FORFEITED AS OF THE DATE OF THE MEMBER'S TERMINATION OF EMPLOYMENT, IF THE MEMBER TRANSFERS HIS OR HER HYBRID OR NON-HYBRID SERVICE TO ANOTHER CITY RETIREMENT PLAN UNDER § 1-1(P) OF THIS ARTICLE {"DEFINITIONS: OTHER CITY RETIREMENT PLAN"}.

Subtitle 9

Distributions

§ 9-2A. DISTRIBUTABLE EVENTS - TRANSFERS.

A MEMBER WHO TERMINATES EMPLOYMENT AND TRANSFERS HIS OR HER SERVICE TO ANOTHER CITY RETIREMENT PLAN IS ENTITLED TO RECEIVE THE VALUE OF THE MEMBER'S:

- (1) MANDATORY EMPLOYEE CONTRIBUTION SUB-ACCOUNT; AND
- (2) IF APPLICABLE, ROLLOVER CONTRIBUTION SUB-ACCOUNT.

§ 9-4. Distributable events – Death.

...

(d) *Failure to designate beneficiary.*

- (1) If the Board determines that a member has died [without validly designating a beneficiary or that no validly-designated beneficiary is still alive, the value of the member's account will be paid to:] AND THERE IS NO VALID BENEFICIARY DESIGNATION, OR IF ALL DESIGNATED BENEFICIARIES PREDECEASE THE MEMBER, THE

Council Bill 20-0603

MEMBER’S ACCOUNT WILL BE PAID TO THE MEMBER’S SURVIVING SPOUSE, OR, IF THERE IS NO SURVIVING SPOUSE, TO THE MEMBER’S ESTATE.

[(i) the member’s surviving spouse;]

[(ii) if there is no surviving spouse, to the member’s surviving children, in equal shares;]

[(iii) if there are no surviving children, to the member’s surviving parents, in equal shares; and]

[(iv) if there are no surviving parents, to the member’s estate.]

...

§ 9-9. DISTRIBUTION OF SMALL ACCOUNT BALANCES.

IF A MEMBER EXPERIENCES A DISTRIBUTABLE EVENT UNDER § 9-2 {“DISTRIBUTABLE EVENTS – RETIREMENT”}, § 9-3 {“DISTRIBUTABLE EVENTS – DISABILITY”}, § 9-4 {“DISTRIBUTABLE EVENTS – DEATH”} OR § 9-5 {“DISTRIBUTABLE EVENTS – OTHER TERMINATION OF EMPLOYMENT”}, AND IF THE MEMBER’S TOTAL VESTED ACCOUNT BALANCE ON THE DATE OF THE EVENT IS LESS THAN \$1,000, THEN THE TOTAL VESTED ACCOUNT BALANCE WILL AUTOMATICALLY BE DISTRIBUTED TO THE MEMBER (OR THE MEMBER’S BENEFICIARY) WITHOUT THE MEMBER (OR BENEFICIARY) APPLYING AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER 90 DAYS FOLLOWING THE DISTRIBUTABLE EVENT.

Subtitle 10

Anti-Alienation Provisions

§ 10-7. Exceptions – Custodian under Uniform Transfers to Minors Act.

The amount otherwise due a minor beneficiary may be paid to a custodian validly appointed for the minor under the Maryland Uniform Transfers to Minors Act (State Estates and Trusts Article, Title 13, Subtitle 3) or similar provisions of another jurisdiction. A “MINOR BENEFICIARY” IS A BENEFICIARY WHO HAS NOT ATTAINED AGE 22.

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


SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 30th day after the date it is enacted.

TAXATION, FINANCE & ECONOMIC DEVELOPMENT COMMITTEE

AGENCY REPORTS CC Bill #20-0603

Department of Finance	
Employees' Retirement System	Favorable
Retirement Savings Plan	Favorable
Labor Commissioner	
Department of Human Resources	
Department of Law	

David A. Randall

FROM	NAME & TITLE	David A. Randall, Executive Director	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Employees', Elected Officials', Retirement Savings Plan Systems – 7 E. Redwood Street, 12 th floor		
	SUBJECT	City Council Bill 20-0603 – Employees' Retirement System – Clarifications		

TO

DATE: October 7, 2020

The Honorable President and Members of the Baltimore City Council
 Attn: Natawna B. Austin, Executive Secretary
 Room 409, City Hall
 100 N. Holliday Street


Dear Mr. President and City Council Members:

City Council Bill 20-0603 was referred to the Employees' Retirement System for comment. The Bill's stated purpose is to clarify various areas within Article 22A of the Baltimore City Code. The bill will clean up the language by making the terms and definitions more consistent by eliminating ambiguity. The bill will also strengthen the Board of Trustees that provide oversight of the Retirement Savings Plan (RSP). Lastly, there are no proposed benefit changes or improvements so therefore, there are no costs to the City or to the Plan.

As for the proposed changes, the Employees' Retirement System supports City Council Bill 20-0603.

DAR/dsb
 Attachment
 CC: Henry Raymond, Board Chairman
 Nichelle Lashley, Deputy Director
 Matt Stegman
 Nina Themelis
 Dominic McAlily

David A. Randall

FROM	NAME & TITLE	David A. Randall, Executive Director	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Employees', Elected Officials', Retirement Savings Plan Systems – 7 E. Redwood Street, 12 th floor		
	SUBJECT	City Council Bill 20-0603 – Retirement Savings Plan – Clarifications		

TO

DATE: October 7, 2020

The Honorable President and Members of the Baltimore City Council
 Attn: Natawna B. Austin, Executive Secretary
 Room 409, City Hall
 100 N. Holliday Street

Dear Mr. President and City Council Members:

City Council Bill 20-0603 was referred to the Retirement Savings Plan for comment. The Bill's stated purpose is to clarify various areas within Article 22A of the Baltimore City Code, as outlined in the attached Summary of Proposed Changes. The bill will clean up the language by making the terms and definitions more consistent by eliminating ambiguity. The bill will also strengthen the Board of Trustees that provide oversight of the RSP. Lastly, there are no proposed benefit changes or improvements so therefore, there are no costs to the City or to the Plan.

As the requesting agency for the proposed changes, the Retirement Savings Plan support City Council Bill 20-0603.

DAR/dsb

Attachment

CC: Henry Raymond, Board Chairman
 Nichelle Lashley, Deputy Director
 Matt Stegman
 Nina Themelis
 Dominic McAlily

Article 22A- Summary of Proposed Changes

Retirement Savings Plan

Introduction

There will be a bill to amend Article 22A in order to make changes that are needed to update and cure plan situations that have changed since the document was originally drafted

1. Article 22A is the document that governs the Retirement Savings Plan and also covers board membership for both the Retirement Savings Plan “RSP” and Deferred Compensation Plan “DCP”

Summary

Major Changes to Article 22A

Definition of Earnable Compensation- Update the document to include definitions for both earnable and earned compensation. Earnable Compensation (annual salary) would be for the Hybrid employer contribution. Earned compensation (pensionable earnings each payroll period) would be for Non-Hybrid contributions.

Definition of Employee- Add a section listing Enoch Pratt Free Library employees who are not eligible to participate in the Maryland State Retirement and Pension System as eligible to participate in the Retirement Savings Plan “RSP”. Add a section specifically excluding Baltimore Museum of Art and Walters Art Museum employees as eligible to participate in the RSP.

Exclusive Benefit – Update this section to allow mistaken employer contributions to be sent to the Plan after one year.

Board Composition- Update the Board Composition. Change the Board to thirteen members and give all members voting privileges. The Director of ERS would be removed as a voting member and the President or President’s designated representative of AFSCME, CUB, and MAPS would now be full voting members. The Trustee section would also be updated to reflect two Mayoral appointed trustees instead of three. Lastly, a section would be added to give the City Council President the ability to appoint one trustee position. The non-voting section would be removed.

Compensation; Expenses- Remove the stipend section

Plan Expenses- Update the definition to include the Unallocated Plan Asset “UPA” account instead of just the Forfeitures. The UPA account includes a revenue reimbursement bucket and the plan document should reflect that expenses could also be paid out of that account.

The reference to the Committee of the City of Baltimore Deferred Compensation Plan will be removed as this does not exist anymore.

Commencement of Participation- Update to have City employer contributions to begin at 12 months for the Hybrid plan to coincide with 12-month start date of employee contributions to ERS.

Service – Update to clarify the definition of service time and how previous plan service time applies to the RSP. Add a bullet point that excludes from service any periods of employment where the member was not In Pay Status. Add a section to cover service time in the plan and how transfers of service to the Fire & Police Pension system or any other applicable retirement system would work.

Contributions- Update these sections to have contribution definitions coincide with earned vs. earnable compensation.

Employer Compensation -updated to the most recent funding status.

Rollovers- Clarify language to allow the plan to accept Roth rollovers.

Failure to designate beneficiary- Update this section to coincide with the changes in the DCP Plan document. If no beneficiary were listed, the proceeds would go to a member's surviving spouse (if applicable). If the member did not have a surviving spouse, the proceeds would go to the member's estate.

These are the proposed changes contained in the Legislative Final draft.

**AMENDMENTS TO COUNCIL BILL 20-0603
(1st Reader Copy)**

By: Employees' Retirement Systems
{To be offered to the Taxation, Finance and Economic Development Committee}

Amendment No. 1

On page 1, in line 21, strike "contributions" and substitute "contribution"; in the same line, strike beginning with "and" down through and including "forfeited", in line 23.

Amendment No. 2

On page 2, in line 9, strike "8-1A,"; and, on page 10, strike lines 12 through 20 in their entireties.

Amendment No. 3

On page 9, in line 13, strike "WILL NO LONGER" and substitute "MAY NOT"; and, on page 9, in line 14, strike "THEIR" and substitute "HIS OR HER".