

Expedited Bill No. 15-14
Concerning: Personnel - Board of
Investment Trustees - Consolidated
Retiree Health Benefits Trust Board of
Trustees - Investments - Amendments
Revised: January 16, 2014 Draft No. 1
Introduced: February 4, 2014
Enacted: March 4, 2014
Executive: March 13, 2014
Effective: March 13, 2014
Sunset Date: None
Ch. 3, Laws of Mont. Co. 2014

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

- (1) repeal the requirement that investments made by the Board of Investment Trustees and the Consolidated Retiree Health Benefits Board of Trustees retain U.S. indicia of ownership;
- (2) repeal the prohibition on investments in County related bonds by the Board of Investment Trustees and the Consolidated Retiree Health Benefits Board of Trustees;
- (3) repeal the restriction on real estate investment by the Consolidated Retiree Health Benefits Board of Trustees; and
- (4) generally amend the law regarding the Employees' Retirement System, Retirement Savings Plan, the Deferred Compensation Plan, and the Consolidated Retiree Health Benefits Trust Fund.

By amending

Montgomery County Code
Chapter 33, Personnel and Human Resources
Sections 33-59, 33-60, 33-125, 33-145, 33-160 and 33-162

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:

28 (D) Two individuals knowledgeable in pensions, investments,
 29 or financial matters. Before nominating these trustees, the
 30 Executive must consider, and should select from,
 31 individuals recommended by citizens or countywide
 32 citizens' groups. An individual recommended by a
 33 citizens' group need not be a member of the group. The
 34 Executive must notify the Council when nominating an
 35 individual not recommended by a citizens' group. A 3-
 36 year term for these trustees ends on March 1 of every
 37 third year after each trustee is confirmed by the Council.

38 (5) A trustee appointed under paragraph [(3)] (4) continues to serve
 39 after the trustee's term ends until the Council confirms a
 40 successor, but the term for each position is not affected by any
 41 holdover. A trustee who, after appointment and before the end
 42 of a term, is no longer qualified for the trustee's position is
 43 removed from the Board by operation of law.

44 * * *

45 (l) In this Section, "retirement system" means the Employees'
 46 Retirement System, [or] the Retirement Savings Plan, or the Deferred
 47 Compensation Plan under Article IX.

48 **33-60. The board of investment trustees-Powers and duties.**

49 * * *

50 (b) *Agents for transfer of property.*

51 * * *

52 [(6) Except as authorized by executive regulation adopted under
 53 method (3) that is substantially equivalent to federal ERISA
 54 regulations on maintenance of indicia of ownership of plan

55 assets, the board must maintain the indicia of ownership of the
56 assets of the retirement system within the jurisdiction of the
57 district courts of the United States.]

58 (c) *Authorized investments.*

59 * * *

60 [(3) The board or an investment manager must not invest any
61 retirement system asset in any bond, note, or debt instrument
62 issued by:

- 63 (A) The County;
- 64 (B) Any political subdivision within the County;
- 65 (C) Any agency supported or financed wholly or partly by
66 taxes levied by the County Council; or
- 67 (D) Any agency supported by bond issues underwritten by
68 the County.]

69 * * *

70 **33-125. Powers and duties of the Board.**

71 * * *

72 (b) *Agents for transfer of property.*

73 * * *

74 [(6) The Board must maintain the indicia of ownership of the assets
75 of the retirement savings plan within the jurisdiction of the
76 district courts of the United States.]

77 * * *

78 **33-145. Powers and duties of the board.**

79 * * *

80 (c) *Agents for transfer of property.*

81 * * *

82 [(6) The Board must maintain the indicia of ownership of the
 83 assets of the deferred compensation plan within the jurisdiction
 84 of the district courts of the United States, except as authorized
 85 in regulations adopted under method (3) that are substantially
 86 equivalent to federal regulations under the Employee
 87 Retirement and Income Security Act (ERISA) regarding indicia
 88 of ownership of plan assets.]

89 * * *

90 **33-160. Board of Trustees.**

91 * * *

92 (f) *Officers.* The Board must select a chair, vice chair, and secretary
 93 from the Board's members.

94 (1) The chair must preside at meetings of the Board and may take
 95 administrative action, including executing an instrument, on
 96 behalf of the Board. A person may rely in good faith on an act
 97 of the chair as legally valid.

98 (2) The vice chair must perform the duties and exercise the powers
 99 of the chair when the chair is [absent from the County or
 100 disabled] unavailable, or the Board determines is otherwise
 101 unable to perform the duties of the chair.

102 (3) The secretary must record the proceedings and actions of the
 103 Board and may certify a document or action of the Board. A
 104 person may rely in good faith on the secretary's certification as
 105 proof of the document or action.

106 * * *

107 **33-162. Trust Fund management.**

108 * * *

109 (c) *Transfer Agents.*

110 * * *

111 [(6) The Board must maintain the indicia of ownership of the Trust
 112 Fund's assets within the jurisdiction of the United States federal
 113 courts, except as authorized in regulations that the Executive
 114 adopts under method (2). Those regulations must be
 115 substantially equivalent to federal regulations under the
 116 Employee Retirement Income Security Act (ERISA) regarding
 117 indicia of ownership of plan assets.]

118 (d) *Authorized investments.*

119 * * *

120 [(2) The Board or any investment manager must not invest in real
 121 property, including securities based on ownership or other
 122 interests in real property, unless the investment is a pooled
 123 investment in which the Board has no power to manage the real
 124 property. A pooled investment must not invest more than 10
 125 percent of its assets in real property located in the County. This
 126 10 percent limit applies to the market value of the total assets on
 127 the preceding June 30. If the market value of investments in real
 128 property in the County exceeds the 10-percent limit as a result of
 129 market forces, the Board or the investment manager need not sell
 130 an existing equity investment. The Board may obtain valuations
 131 and take appropriate steps to comply with this 10-percent limit.]

132 [(3)] (2) * * *

133 [(4) The Board and any investment manager must not invest any
 134 Trust Fund asset in any bond, note, or debt instrument issued by:

135 (A) the County;

- 136 (B) a political subdivision in the County; or
- 137 (C) an agency supported by bond issues underwritten by the
- 138 County.

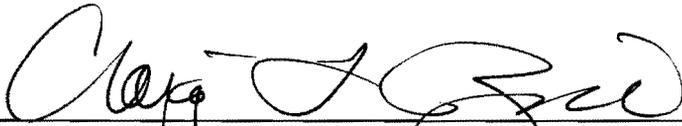
139 However, the Board or any investment manager may invest plan assets
 140 in bonds, notes, and debt instruments of any of these entities if the
 141 investment is held indirectly through a mutual fund or other pooled,
 142 investment vehicle and complies with any limit in the Internal Revenue
 143 Code.]

144 * * *

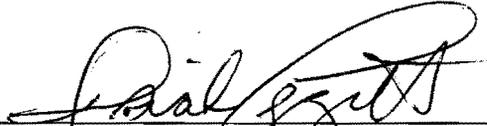
145 **Sec. 2. Expedited Effective Date.**

146 The Council declares that this legislation is necessary for the immediate
 147 protection of the public interest. This Act takes effect on the date on which it
 148 becomes law.

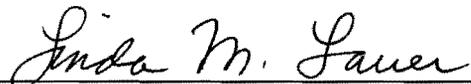
149 *Approved:*

150 
 151 _____ 3/4/14
 Craig L. Rice, President, County Council Date

152 *Approved:*

153 
 _____ 3/13/14
 Isiah Leggett, County Executive Date

154 *This is a correct copy of Council action.*

155 
 _____ 3/17/14
 Linda M. Lauer, Clerk of the Council Date