



Committee: GO
Committee Review: Completed
Staff: Ludeen McCartney-Green, Legislative Attorney
Purpose: Final action – vote expected
Keywords: #boardofinvestmenttrustees

AGENDA ITEM 3A
February 28, 2023
Action

SUBJECT

Expedited Bill 2-23, Board of Investment Trustees - Membership - Amendments
Lead Sponsor: Council President at the request of the County Executive

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Action – Roll call vote required

DESCRIPTION/ISSUE

Expedited Bill 2-23 would:

- (1) modify the membership of the Board of Investment Trustees by removing the Director of Human Resources and replacing with the Chief Labor Relations Officer as an *ex-officio* member; and
- (2) generally amend the law regarding the administration of employees' retirement benefits.

SUMMARY OF KEY DISCUSSION POINTS

- Expedited Bill 2-23, is necessary for the Board of Investment Trustees' ex-officio membership to reflect members whose duties and responsibilities are aligned with fulfilling the purpose of the board.

This report contains:

Expedited Bill 2-23	©1
Legislative Request Report	©3
County Executive Memorandum	©4
Fiscal Impact Statement	©5
Economic Impact Statement	©7
Racial Equity and Social Justice Impact Statement	©9
Climate Assessment	©11

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M E M O R A N D U M

February 23, 2023

TO: County Council

FROM: Ludeen McCartney-Green, Legislative Attorney

SUBJECT: Expedited Bill 2-23, Board of Investment Trustees - Membership – Amendments

PURPOSE: Action – roll call vote required

<p>Government Operations and Fiscal Policy Committee recommendation (3-0): enact the Bill as introduced.</p>

Expected Attendees

Fariba Kassiri, Deputy Chief Administrator

Expedited Bill 2-23, Board of Investment Trustees - Membership – Amendments, sponsored by Lead Sponsor Council President at the request of the County Executive, was introduced on January 17, 2023, and a public hearing was held on February 7, 2023, with one speaker.¹ The Government Operations and Fiscal Policy Committee (GO) held a worksession on February 19, 2023.

Expedited Bill 2-23 would modify the membership of the Board of Investment Trustees (BIT) by removing the Director of Human Resources and replacing the *ex-officio* member with the Chief Labor Relations Officer and generally amend the law regarding the administration of employees' retirement benefits.

BACKGROUND

Under the County Code Section 33-59, the Board of Trustees as established by law is required to have a membership that includes 13 trustees of which 4 are *ex-officio* members appointed by the County Executive and confirmed by the County Council. Currently, the 4 *ex-officio* members are: (1) the Director of Management and Budget; (2) the Director of Finance; (3) the Director of Human Resources; and (4) the Executive Director of the Office of the County Council. The Board of Investment Trustees is responsible for managing the investments in the Employees' Retirement System Trust Fund and the Retiree Health Benefits Trust Fund. The Board is also responsible for selecting the investment choices for employees in the Retirement Savings Plan.

¹ #BoardofInvestmentTrustees

The County Executive Memorandum states, “the Office of Human Resources (OHR) is no longer involved in the bargaining or administration of employee retirement benefits. The OHR Director had been included since a working knowledge of the benefits and the value of the trust funds are useful in negotiations. With this responsibility now transferred to the Chief Labor Relations Officer, it is more appropriate for that individual to serve on the Board.” ©6

The general role and duties of the Chief Labor Relations Officer include:

The Chief Relations Officer is an appointed, non-merit full-time position in the County Government reporting to the Chief Administrative Officer (CAO). Under the general direction of the County Executive’s Office, an incumbent of this position is responsible for both the formulation of the County’s labor relations policy and its implementation. In fulfilling this function, the incumbent is responsible for representing management in labor relations including contract negotiations, interpretation and administration of collective bargaining agreements (CBA), and the maintenance of positive and effective labor-management relations.

The Chief Labor Relations Officer counsels and advises managers and supervisors of all departments on labor relations matters and maintains contact with state and local labor relations groups and individuals.” *COMCOR 01A.104.24.01.*

The purpose of Expedited Bill 2-23 is to modify the Board of Investment Trustees members to allow the Chief Labor Relations to be appointed to the Board.

Public Hearing

The Council held a public hearing on Bill 2-23 on February 7. The only speaker, Judith Koenick, testified but the comments presented to the Council were not related to the Bill.

GO COMMITTEE WORKSESSION

The Council held a worksession on February 19. The Council reviewed Expedited Bill 2-23 with Legislative Attorney Ludeen McCartney-Green. The Committee did not discuss any amendments and indicated support for the Bill.

Discussion

1. Should the Bill be amended to provide for an *ex officio* member nominated by the County Executive appointed to the BIT?

The duties and responsibilities of the BIT include, among other things, the exclusive authority to manage the assets of the retirement savings plan, develop record keeping for account balances, designate appropriate investment options; designate methods of accounting for investments; and select annuity contracts for distribution of participant account balances. See, Code § 33-125.

Further, a trustee has a fiduciary duty to "act with the care, skill, prudence, and diligence under the circumstances that a prudent person acting in a similar capacity and familiar with the same matters would use to conduct a similar enterprise with similar purposes." See Code §33-61 C(c).

A Chief Relations Labor Officer would have the capacity, skill, expertise, and knowledge to manage the retirement assets because the County Executive has transferred the primary responsibilities of bargaining and administration of employee retirement benefits from the Director of Humans Resources to the new labor officer position. Therefore, the Chief Labor Relations Officer would meet the requirements to serve as an *exofficio* trustee member of the Board. **Council staff recommendation: approve the Bill as introduced.**

2. What is the summary of the impact statements?

- a. **Fiscal Impact Statement:** This Bill is not expected to impact County revenues or expenditures. See © 5
- b. **Economic Impact Statement:** The Office of Legislative Oversight (OLO) anticipates that enacting Expedited Bill 2-23 would have an insignificant impact on economic conditions in the County in terms of the Council's priority indicators. See © 7
- c. **Racial Equity and Social Justice Statement:** OLO anticipates the Bill will have a minimal impact on racial equity and social justice (RESJ) in the County, as it does not appear to have effects on constituents by race and ethnicity nor on racial and social inequities in the County. See © 9
- d. **Climate Assessment:** OLO anticipates that the Bill will have no impact on the County's contribution to addressing climate change as the bill is proposing a minor administrative change to the membership of the Board of Investments Trustees. See © 11

Next Steps: Whether the GO Committee recommends approval of the Bill to the full Council? The Committee voted unanimously (3-0) to recommend the Bill for action.

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Expedited Bill No. 2-23
Concerning: Board of Investment
Trustees – Membership –
Amendments
Revised: 12/21/2022 Draft No. 1
Introduced: January 17, 2023
Expires: July 17, 2024
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the request of the County Executive

AN EXPEDITED ACT to:

- (1) modify the membership of the Board of Investment Trustees by removing the Director of Human Resources and replacing with the Chief Labor Relations Officer as an *ex-officio* member; and
- (2) generally amend the law regarding the administration of employees' retirement benefits.

By amending

Montgomery County Code
Chapter 33, Personnel and Human Resources
Section 33-59

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:

Sec. 1. Section 33-59 is amended as follows:

33-59. Board of Investment Trustees.

* * *

(b) Membership.

(1) The Board has 13 trustees.

(2) The County Executive must appoint 4 voting, *ex officio* members of the Board, subject to County Council confirmation as members, who serve indefinitely while each holds the respective office. These *ex officio* trustees should be:

(A) the Director of Management and Budget;

(B) the Director of Finance;

(C) the [Director of Human Resources] Chief Labor Relations Officer; and

(D) the Executive Director of the Office of the County Council.

* * *

Sec. 2. Expedited Effective Date.

The Council declares that this legislation is necessary for the immediate protection of the public interest.

LEGISLATIVE REQUEST REPORT

BILL: XX-XX, Board of Investment Trustees

DESCRIPTION:	Adjust the membership of the Board of Investment Trustees to reflect that the Office of Human Resources is no longer involved in the bargaining or administration of employee retirement benefits.
PROBLEM:	The Director of Human Resources cannot be an ex officio member of the Board.
GOALS AND: OBJECTIVES	Replace the Director Human Resources with Chief of Labor Relations as the ex officio member of the Board of Investment Trustees.
COORDINATION:	Office of the County Executive
FISCAL IMPACT:	Office of Management and Budget
ECONOMIC: IMPACT	Office of Legislative Oversight
EVALUATION:	N.A
EXPERIENCE: ELSEWHERE	N.A
SOURCE OF: INFORMATION	Ken Hartman, Director of Strategic Partnerships, Office of the County Executive. Ken.Hartman@montgomerycountymd.gov Sylvia C. Kinch, Division of Labor Relations and Public Safety, Office of County Attorney, Montgomery County Sylvia.Kinch@montgomerycountymd.gov
APPLICATION: WITHIN MUNICIPALITIES	N.A
PENALTIES:	N.A



OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

M E M O R A N D U M

November 16, 2022

TO: Gabe Albornoz, President
Montgomery County Council

FROM: Marc Elrich, County Executive *Marc Elrich*

SUBJECT: Bill XX-XX, Board of Investment Trustees

I am writing to request Council support of the attached legislation to adjust the membership of the Board of Investment Trustees by replacing the Director of the Office of Human Resources (OHR) with the Chief Labor Relations Officer as an ex-officio member on the Board of Investment Trustees.

This legislation is needed as the Office of Human Resources is no longer involved in the bargaining or administration of employee retirement benefits. The OHR Director had been included since a working knowledge of the benefits and the value of the trust funds are useful in negotiations. With this responsibility now transferred to the Chief Labor Relations Officer, it is more appropriate for that individual to serve on the Boards.

Enclosure

Fiscal Impact Statement
Bill XX-XX
Board of Investment Trustees - Amendment

1. Bill Summary.

This Bill changes the membership of the Board of Investment Trustees by removing the Director of Human Resources as an *ex officio* trustee and adding in its place the Chief Labor Relations Officer.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

This Bill is not expected to impact County revenues or expenditures.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

This Bill is not expected to impact County revenues or expenditures over the next 6 fiscal years.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

The Bill is not expected to impact retiree pension or group insurance costs.

5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

The Bill is not expected to impact the County's IT or ERP systems.

6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

This Bill does not authorize future spending.

7. An estimate of the staff time needed to implement the bill.

No staff time is needed for implementation of the Bill.

8. An explanation of how the addition of new staff responsibilities would affect other duties.

Not applicable.

9. An estimate of costs when an additional appropriation is needed.

No additional appropriation is needed to implement this Bill.

10. A description of any variable that could affect revenue and cost estimates.

Not applicable.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

Not applicable.

12. If a bill is likely to have no fiscal impact, why that is the case.

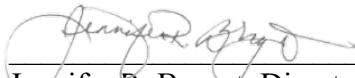
This Bill has no fiscal impact as it only changes the *ex officio* members of the Board of Investment Trustees.

13. Other fiscal impacts or comments.

Not applicable.

14. The following contributed to and concurred with this analysis:

Shantée Jackson, Office of Management and Budget



Jennifer R. Bryant, Director
Office of Management and Budget

10/14/22

Date

Economic Impact Statement

Montgomery County, Maryland

Expedited Bill 2-23

Board of Investment Trustees – Membership – Amendments

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that enacting Expedited Bill 2-23 would have an insignificant impact on economic conditions in the County in terms of the Council's priority indicators.

BACKGROUND AND PURPOSE OF EXPEDITED BILL 2-23

The purpose of Bill 2-23 is to replace the Director of Human Resources (OHR) with the Chief Labor Relations officer as an ex-officio member of the Board of Investment Trustees, as requested by the County Executive. The responsibility of bargaining and the administration of employee retirement benefits was transferred from OHR to the Chief Labor Relations Officer, whose responsibility is to formulate and implement the County's labor relations policy, including contract negotiations and administration of collective bargaining agreements. As the bargaining responsibilities have been transferred from OHR to the Chief Labor Relations Officer, it is more appropriate for that individual to serve on the Board of Investment Trustees, according to the County Executive.¹

INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

Per Section 2-81B of the Montgomery County Code, the purpose of this Economic Impact Statement is to assess the impacts of Bill 2-23 on County-based private organizations and residents in terms of the Council's priority economic indicators and whether the Bill would likely result in a net positive or negative impact on overall economic conditions in the County.² The Office of Management and Budget concludes that transferring the responsibility of bargaining and administering employee retirement benefits from OHR to the Chief Labor Office would not impact County revenues or expenditures.³ Because County employee compensation is not expected to change, OLO concludes that the Bill would have no impact on private organizations, residents, and overall economic conditions in the County in terms of the indicators prioritized by the Council.

VARIABLES

Not applicable

¹ [Expedited Bill 2-23](#); McCartney-Green to Council, [Memorandum](#); Elrich to Albornoz, [Memorandum](#).

² Montgomery County Code, [Sec. 2-81B](#).

³ Fiscal Impact Statement, [Expedited Bill 2-23](#).

IMPACTS

WORKFORCE ▪ TAXATION POLICY ▪ PROPERTY VALUES ▪ INCOMES ▪ OPERATING COSTS ▪ PRIVATE SECTOR CAPITAL INVESTMENT ▪ ECONOMIC DEVELOPMENT ▪ COMPETITIVENESS

Not applicable

DISCUSSION ITEMS

Not applicable

WORKS CITED

Jackson, Shantée. [Fiscal Impact Statement: Expedited Bill 2-23, Board of Investment Trustees – Membership – Amendments](#). October 14, 2022.

McCartney-Green, Ludeen to County Council. [Memorandum](#). January 12, 2023.

Montgomery County Code. [Sec. 2-81B, Economic Impact Statements](#).

Montgomery County Council. [Expedited Bill 2-23, Board of Investment Trustees – Membership – Amendments](#). January 17, 2023.

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the Bill under consideration.

CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

EXPEDITED BOARD OF INVESTMENT TRUSTEES - MEMBERSHIP - BILL 2-23: AMENDMENTS

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Expedited Bill 2-23 will have a minimal impact on racial equity and social justice (RESJ) in the County, as it does not appear to have effects on constituents by race and ethnicity nor on racial and social inequities in the County.

PURPOSE OF RESJ IMPACT STATEMENTS

The purpose of RESJ impact statements (RESJIS) is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, leadership, and power of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.¹ Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.²

PURPOSE OF EXPEDITED BILL 2-23

The purpose of Expedited Bill 2-23 is to replace the Director of the Office of Human Resources (OHR) with the Chief Labor Relations officer as an ex-officio member of the Board of Investment Trustees.³

The responsibility of bargaining and the administration of employee retirement benefits was transferred from OHR to the Chief Labor Relations Officer, whose responsibility is to formulate and implement the County's labor relations policy, including contract negotiations and administration of collective bargaining agreements. As the bargaining responsibilities have been transferred from OHR to the Chief Labor Relations Officer, it is more appropriate for that individual to serve on the Board of Investment Trustees, according to the County Executive.

At the request of the County Executive, Expedited Bill 2-23 was introduced by the Council on January 17, 2023.

ANTICIPATED RESJ IMPACTS

OLO anticipates Bill 2-23 will have a minimal impact on RESJ in the County, as it does not appear to have effects on constituents by race and ethnicity nor on racial and social inequities in the County.

RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.⁴ OLO anticipates Bill 2-23 will have a minimal impact on RESJ in the County. As such, OLO does not offer recommended amendments.

RESJ Impact Statement

Expedited Bill 2-23

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

OLO staffer Janmarie Peña, Performance Management and Data Analyst, drafted this RESJ impact statement.

¹ Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools. <https://www.racialequitytools.org/glossary>

² Ibid

³ Introduction Staff Report for Expedited Bill 2-23, Board of Investment Trustees – Membership – Amendments, Montgomery County Council, Montgomery County, Maryland, Introduced January 17, 2023.

https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2023/20230117/20230117_2B.pdf

⁴ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

Climate Assessment

Bill 2-23E

Expedited Bill 2-23 | Board of Investment Trustees – Membership – Amendments

Summary

The Office of Legislative Oversight (OLO) anticipates that Bill 2-23E will have no impact on the County's contribution to addressing climate change as the bill is proposing a minor administrative change to the membership of the Board of Investments Trustees.

Background and Purpose of Bill 2-23

The purpose of Bill 2-23E is to replace the Director of the Office of Human Resources (OHR) with the Chief Labor Relations officer as an ex-officio member of the Board of Investment Trustees, as requested by the County Executive. Bill 2-23E – Board of Investments Trustees – Membership – Amendments was introduced to the Council on 1/17/23.¹

The responsibility of bargaining and the administration of employee retirement benefits was transferred from OHR to the Chief Labor Relations Officer, whose responsibility is to formulate and implement the County's labor relations policy, including contract negotiations and administration of collective bargaining agreements. As bargaining responsibilities have been transferred from OHR to the Chief Labor Relations Officer, it is more appropriate for that individual to serve on the Board of Investment Trustees, according to the County Executive.

Anticipated Impacts

As the bill proposes a minor administrative change to the membership of the Board of Investment Trustees, OLO anticipates that there will be no impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptive capacity.

Recommended Amendments

The Climate Assessment Act requires OLO to offer recommendations, such as amendments or other measures to mitigate any negative climate impacts.² OLO does not offer recommendations or amendments as Bill 2-23E is likely to have no impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

Caveats

OLO notes two caveats to this climate assessment. First, predicting the impacts of legislation upon climate change is a challenging analytical endeavor due to data limitations, uncertainty, and the broad, global nature of climate change. Second, the analysis performed here is intended to inform the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration

Purpose of Climate Assessments

The purpose of the Climate Assessments is to evaluate the anticipated impact of pending legislation on the County's contribution to addressing climate change. These climate assessments will provide Council with a more thorough understanding of the potential climate impacts and implications of proposed legislation, at the County level. The scope of the Climate Assessments is limited to the County's contribution to addressing climate change, specifically upon the County's contribution to greenhouse gas emissions and how actions suggested by legislation could help improve the County's adaptative capacity to climate change, and therefore, increase community resilience.

While co-benefits such as health and cost savings may be discussed, the focus is on how proposed County bills may impact GHG emissions and community resilience.

Climate Assessment

Bill 2-23E

Contributions

OLO staffer Kaitlyn Simmons drafted this assessment.

¹ [Bill 2-23E](#)

² Bill 3-22, Legislative Branch – Climate Assessments – Required, Montgomery County Council, Effective date October 24, 2022