

MEMORANDUM

November 10, 2016

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Action:** Expedited Bill 40-16, Consolidated Retiree Health Benefits Trust Board
– Authority to Delegate - Amendments

Government Operations and Fiscal Policy Committee recommendation (3-0): enact Bill as introduced.

Expedited Bill 40-16, Consolidated Retiree Health Benefits Trust Board – Authority to Delegate – Amendments, sponsored by Lead Sponsor Council President Floreen at the request of the County Executive, was introduced on October 4, 2016. A public hearing was held on October 25 and a Government Operations and Fiscal Policy Committee worksession was held on November 3.

The Consolidated Retiree Health Benefits Trust (CRHBT) Board of Trustees is responsible for investing the funds designated to pay for all or a portion of benefits provided under the County retiree benefit plans or a County-funded agency retiree benefit plan, such as retiree health insurance. Bill 40-16 would amend the County’s law to authorize the Board of Trustees to delegate signature authority to the Executive Director, or a similarly situated County employee, consistent with its fiduciary duties, in its written policies and procedures. This authority would better align the roles and responsibilities of the Board Staff in the oversight of the investment program and increase the efficiency of the operation.

Public Hearing

The sole speaker at the October 25 public hearing, Linda Herman, Executive Director of the Employees’ Retirement Plans, speaking on behalf of the Executive, supported the Bill. See ©10.

GO Worksession

Linda Herman, Executive Director for the Retirement Plans, represented the Executive Branch. Robert Drummer, Senior Legislative Attorney, represented the Council staff. The Committee reviewed the Bill and recommended approval (3-0) as introduced.

Discussion

In 2012, the Council enacted Bill 24-12, which approved similar delegation authority for the Board of Investment Trustees who oversee the investment programs for the County's retirement plans. In addition, the State of Maryland, along with numerous other pension systems, currently provide for the Boards, overseeing the investment of the Trust Fund assets, to delegate certain functions to the Executive Director, or other staff, if such delegation is established in policies and procedures. The County's Chief Administrative Officer, in his role as Plan Administrator, currently has the authority within the Code to delegate his duties. **Committee recommendation (3-0):** enact the Bill as introduced.

This packet contains:

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Expedited Bill No. 40-16
Concerning: Consolidated Retiree Health
Benefits Trust Board – Authority to
Delegate - Amendments
Revised: 9-26-2016 Draft No. 1
Introduced: October 4, 2016
Expires: April 4, 2018
Enacted: [date]
Executive: [date signed]
Effective: [date takes effect]
Sunset Date: None
Ch. [#], Laws of Mont. Co. [year]

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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

AN EXPEDITED ACT to:

- (1) permit the Board of Trustees for the Consolidated Retiree Health Benefits Trust to assign or delegate signature authority through a written policy; and
- (2) generally amend the law regarding the Consolidated Retiree Health Benefits Trust Fund.

By amending

Montgomery County Code
Chapter 33, Personnel and Human Resources
Section 33-160

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:

1 **Sec. 1. Section 33-160 is amended as follows:**

2 **33-160. Board of Trustees.**

3 * * *

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

6 (1) The chair must preside at meetings of the Board and may take
7 administrative action [, including executing an instrument,] on
8 behalf of the Board. [A person may rely in good faith on an act
9 of the chair as legally valid.]

10 (2) The vice chair must perform the duties and exercise the powers
11 of the chair when the chair is unavailable, or the Board
12 determines is otherwise unable to perform the duties of the chair.

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

17 (g) Meetings and actions.

18 (1) The Board must meet at least once during each calendar quarter.
19 The chair, or 10 members of the Board, may call a meeting of the
20 Board, in the manner and at times and places provided under the
21 policies of the Board. The Board is a public body under the State
22 Open Meetings Act.

23 (2) (A) Ten trustees constitute a quorum.

24 (B) Each trustee has one vote.

25 (C) Ten trustees must agree for the Board to act.

26 (3) The Board may act without a meeting. All of the trustees must
27 concur in writing for the Board to approve any action the Board
28 takes without a meeting.

29 (4) The Board may adopt procedures consistent with this Section.

30 (5) In its written policies and procedures, the [The] Board may
31 authorize a trustee, the Executive Director, or a similarly situated
32 County employee, to execute instruments on behalf of the Board.
33 [The authority must be in writing and specifically describe the
34 instrument and how the trustee must execute the instrument.]

35 * * *

36 **Sec. 2. Expedited Effective Date.**

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

40 *Approved:*

41

Nancy Floreen, President, County Council Date

42 *Approved:*

43

Isiah Leggett, County Executive Date

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

45

Linda M. Lauer, Clerk of the Council Date

46

LEGISLATIVE REQUEST REPORT

Expedited Bill 40-16

Consolidated Retiree Health Benefits Trust Board – Authority to Delegate - Amendments

DESCRIPTION: The Bill would amend the County's law to authorize the Board of Trustees, which oversees the investment program for the County's Consolidated Retiree Health Benefits Trust (CRHBT), to delegate signature authority to the Executive Director, or a similarly situated County employee, consistent with its fiduciary duties and its written policies and procedures.

PROBLEM: The Bill would permit the Board to delegate signature authority, such as the execution of contracts. This authority would better align the roles and responsibilities of the Board Staff in the oversight of the investment program and increase the efficiency of the operation.

GOALS AND OBJECTIVES: The goal of the Bill is to provide the Board with the necessary authority to meet its fiduciary duties in overseeing the investment programs for the County's CRHBT in the appropriate manner.

COORDINATION: The Board of Trustees and the County Attorney's Office have reviewed this Bill.

FISCAL IMPACT: Office of Management and Budget

ECONOMIC IMPACT: Office of Management and Budget

EVALUATION: N/A

EXPERIENCE ELSEWHERE: In 2012, in Bill 24-12, the County Council approved similar legislation for the Board of Investment Trustees which oversees the investment programs for the County's retirement plans. In addition, the State of Maryland, along with numerous other pension systems, currently provide for the Boards, overseeing the investment of the Trust Fund assets, to delegate certain functions to the Executive Director, or other staff, if such delegation is established in policies and procedures. The County's Chief Administrative Officer, in his role as Plan Administrator, currently has the authority within the Code to delegate his duties.

SOURCE OF

INFORMATION: Linda Herman, Board of Trustees
Amy Moskowitz, Office of the County Attorney

APPLICATION

WITHIN

MUNICIPALITIES: N/A

PENALTIES: N/A

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Bill



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OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

RECEIVED
MONTGOMERY COUNTY
COUNCIL

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Isiah Leggett
County Executive

MEMORANDUM

September 21, 2016

TO: Nancy Floreen, Council President
FROM: Isiah Leggett, County Executive 
SUBJECT: Expedited Bill to Amend the County's Law on the Consolidated Retiree Health Benefits Trust

I am attaching for the Council's consideration a bill that would amend the County's law to allow the Board of Trustees, which oversees the investment program for the County's Consolidated Retiree Health Benefits Trust, to delegate signature authority to the Executive Director, or a similarly situated employee, to execute instruments on behalf of the Board consistent with its fiduciary duties and its written policies and procedures.

The County Code establishes the Board of Trustees in Section 33-160 and gives the Board the power to invest the assets of the trust fund, authority to direct the payment of benefits, and describes other actions to be taken in Section 33-160. The Board has been advised by its legal counsel that the delegation of its duties is permitted under common law. However, the Board's counsel has advised them that the delegation authority should be provided in its governing document, the County Code. The legislation would provide similar delegation of duties as set forth in Section 33-47(d)(14) which allows the Chief Administrative Officer to delegate any power or duty. In addition, in 2012 Bill 24-12, the County Council approved similar legislation for the Board of Investment Trustees which oversees the investment programs for the County's retirement plans.

Thank you for your prompt consideration of this bill.

Attachments



Fiscal Impact Statement

Bill XX-16 - Consolidated Retiree Health Benefits Trust Fund – Delegation of Authority

1. Legislative Summary

The bill would permit the Board of Trustees to delegate certain duties as it deems appropriate and consistent with its fiduciary duties and its written policies and procedures. The authority to delegate certain duties was provided to the Board of Investment Trustees in Bill 24-12, and this bill provides the same authority to the Board of Trustees.

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 has no impact to revenues or expenditures.

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

This bill has no impact to revenues or expenditures.

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

Not applicable.

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

Not applicable.

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

Not applicable.

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

Not applicable.

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.

Not applicable.

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.

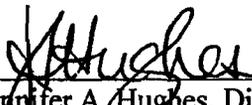
Not applicable.

13. Other fiscal impacts or comments.

Not applicable.

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

Corey Orlosky, Office of Management and Budget



Jennifer A. Hughes, Director
Office of Management and Budget

9/6/16

Date

**Economic Impact Statement
Bill #-16E, Consolidated Retiree Health Benefits Trust Fund**

Background:

This legislation would permit the Board of Trustees (Board) to assign or delegate signature authority through policy. The purpose of Bill #-16E is to better align the roles and responsibilities of Board Staff in the oversight of the investment program for the County's Consolidated Retiree Health Benefits Trust (CRHBT) and further enhance the efficiency of the operation of the investment program.

Bill #-16E amends Section 33-160(g)(5) of the County Code to add the phrase "In its written policies and procedures" before "the Board may authorize a trustee" and add the phrase "the Executive Director or a similarly situated County employee" immediately after "the Board may authorize a trustee." The legislation deletes the phrase related to "the authority must be in writing and specifically describe the instrument and how the trustee must execute the instrument."

1. The sources of information, assumptions, and methodologies used.

There are no sources of information, assumptions, or methodologies used by the Department of Finance in the preparation of the economic impact statement.

2. A description of any variable that could affect the economic impact estimates.

There are no variables that could affect the economic impact estimates.

3. The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.

Bill #-16E would have no effect on employment, spending, savings, investment, incomes, and property values in the County.

4. If a Bill is likely to have no economic impact, why is that the case?

Bill #-16E amends County Code 33-160 to allow the Board to delegate certain duties and therefore has no economic impact.

5. The following contributed to or concurred with this analysis:

David Platt and Robert Hagedoorn, Finance; Linda Herman, Executive Director, Montgomery County Employee Retirement Plans; and Corey Orlosky, OMB.

FOR

Alexandre A. Espinosa, Director
Department of Finance

8/4/16

Date

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**TESTIMONY on BEHALF OF COUNTY EXECUTIVE ISIAH LEGGETT
and the BOARD OF TRUSTEES ON EXPEDITED BILL 40-16E,
CONSOLIDATED RETIREE HEALTH BENEFITS TRUST BOARD -
AUTHORITY TO DELEGATE - AMENDMENTS**

October 25, 2016

Good afternoon. I am Linda Herman, Executive Director of the Montgomery County Employee Retirement Plans, which oversees the assets and the administration of the County's three retirement plans as well as the investment program for the Consolidated Retiree Health Benefits Trust. I am here today on behalf of the County Executive and the Board of Trustees of the Consolidated Retiree Health Benefits Trust to testify in support of Bill 40-16E.

The bill would amend the County's law to allow the Board of Trustees, which oversees the investment program for the County's Consolidated Retiree Health Benefits Trust, to delegate signature authority to the Executive Director, or a similarly situated employee, to execute instruments on behalf of the Board consistent with its fiduciary duties and its written policies and procedures.

The County Code establishes the Board of Trustees in Section 33-160 and gives the Board the power to invest the assets of the trust fund, authority to direct the payment of benefits, and describes other actions to be taken in Sections 33-160. The Board has been advised by its legal counsel that the delegation of its duties is permitted under common law. However, the Board's counsel has advised that the delegation authority should be provided in its governing document, the County Code. The legislation would provide similar delegation of duties as set forth in Section 33-47(d)(14) which allows the Chief Administrative Officer to delegate any power or duty. In addition, in 2012 the County Council approved similar legislation for the Board of Investment Trustees which oversees the investment programs for the County's retirement plans.

We look forward to working with the Council in its deliberations on this legislation.