



**Retirement Benefit
Trust Fund Governance
in Montgomery County**

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Office of Legislative Oversight Report 2025-14
Retirement Benefit Trust Fund Governance in Montgomery County

Table of Contents

Executive Summary i

1. Report Assignment, Scope, and Structure 1

2. Overview of Public Sector Retirement Benefit Trusts 4

3. Retirement Benefit Administration in Montgomery County 7

4. Retirement Benefit Governance in Other Jurisdictions 16

5. Governance Responsibilities - Research Findings and Expert Guidance 23

6. Board of Trustees Structure - Research Findings and Expert Guidance 29

7. Comments from Trustees and the CAO 38

8. OLO Recommendations 68

EXECUTIVE SUMMARY

As part of the [Office of Legislative Oversight \(OLO\) Fiscal Year 2026 Work Program](#), the County Council directed OLO to review the current governance structures for County retirement and retiree health benefit trust funds. A trust fund is a legally separate pool of money that holds and invests contributions for a specific use, such as payment of retirement benefits. Retirement trust fund assets are held for the exclusive benefit of eligible retirement plan members. Most public sector retirement benefit trust funds in the United States are governed by a board of trustees. The composition and responsibilities of these boards vary from jurisdiction to jurisdiction. However, the common element among these boards is the fiduciary responsibility of trustees. A fiduciary is a person or entity that manages assets on behalf of others with a legal and ethical obligation to act in the best interests of the beneficiary.

Montgomery County has created two trust funds, one for the County Government retirement system and another for County Government, MCPS, and Montgomery College retiree health benefits. The County's Board of Investment Trustees (BIT) manages assets for the County Government's retirement trust; the Consolidated Retiree Health Benefits Trust (CRHBT) Board of Trustees manages the assets of the multi-agency retiree health benefit trust.

Boards of trustees in some other jurisdictions hold responsibility for day-to-day management of the retirement programs. The duties include functions such as determining employee eligibility for benefits, calculating benefit amounts for individual employees, authorizing the distribution of benefit payments, and overseeing the preparation of financial reports. These administrative functions are not performed by the BIT and CRHBT.

Actuarial Services and Actuarial Assumptions: Public sector retirement systems typically secure assistance of an external actuarial service to support the management of retirement benefit trust funds. Actuaries prepare annual valuations that calculate a fund's assets and liabilities as of a certain date based on a series of investment, economic, and demographic assumptions. Actuaries build their calculations based on assumptions about future changes in a fund's asset and liabilities. Commonly, a retirement fund actuary also provides guidance regarding these assumptions, but the client retains the ultimate authority to determine the assumptions used in actuarial calculations.

In Montgomery County, the County Code assigns to the Chief Administrative Officer (CAO) responsibility for selecting the County Government's retirement system's actuary and for determining the actuarial assumptions. The County's actuary also assists other elements of the retirement system. For example, the actuary prepares annual comprehensive financial reports for County retirement plans as well as valuations that calculate a fund's assets and liabilities as of a certain date.

Legal Framework: The County Code assigns CAO responsibility for administering the County Government's retirement system and lists specific duties assigned to the CAO. The County Code generally describes the BIT as responsible for investing trust assets but does not list specific

duties. The County Code assigns the CRHBT Board of Trustees authority to invest the retiree health benefit trust asset but says little about the CAO's CRHBT responsibilities.

Montgomery County Employee Retirement Plans: The County Government office that supports the BIT and the CRHBT Board is the Montgomery County Employee Retirement Plans (MCERP). As of the writing of this report, MCERP performs three types of services: (a) investing trust assets; (b) administering pension benefits and providing retirement counseling; and (c) preparing financial statements and other accounting and tax reports. In May, the CAO announced a plan to move all functions not related to asset management and investment from MCERP to the Finance Department.

MCERP is led by an Executive Director appointed by the CAO. The MCERP Executive Director is responsible for the day-to-day management of BIT and the CRHBT activities including any responsibilities delegated by the boards of trustees. By far, the predominant practice among public sector investment trusts is for the board of trustees to hire the Executive Director.

Size and Composition of County Trust Boards: The BIT consists of 13 voting members including:

- Four *ex officio* members: the Directors of the Office of Management and Budget, the Director of Finance, the Chief Labor Relations Officer, and the Executive Director of the Office of the County Council.
- Three labor organization representatives: one nominated each by the Municipal and County Government Employees Organization, the International Association of Fire Fighters, and the Fraternal Order of Police.
- One active County employee who is a vested member of the retirement system and is not a member of a collective bargaining unit.
- One retired County employee.
- Four persons knowledgeable in pensions, investments, or financial matters.

The Consolidated Retiree Health Benefits Trust (CRHBT) Board consists of 19 voting members. The Board includes the 13 BIT members plus one designee of the MCPS Superintendent, one active MCPS employee, one MCPS retiree, one designee of the Montgomery College President, one active Montgomery College employee, and one Montgomery College retiree.

Trust Board Size and Composition: The number of trustees on public sector retirement benefit trust boards varies greatly among jurisdictions. Most boards in the United States range in size from five to 19 members with the median board size of ten to 11 voting trustees.

The composition of public sector retirement benefit trust boards typically includes two categories of trustees: subject matter experts and stakeholders. Subject matter experts are individuals with demonstrated knowledge and skills relating to investments and related financial matters. Stakeholders are trustees appointed to represent the viewpoint of particular groups

who have an interest in one or more elements of the retirement benefit plan. Common stakeholder groups on public sector trust boards include active plan members, retired plan members, labor representatives, and government officials. All trustees are obligated to fulfill their fiduciary responsibilities, and as such, must make decisions solely for the benefit of plan beneficiaries. The predominant, but not universal, practice among public sector investment trusts in the United States is to have a majority of the trustees represent stakeholder interests with a minority of board seats reserved for disinterested subject matter experts.

The County's 13-member BIT and 19-member the CRHBT are both larger than the national median size. Also, both County boards have a strong stakeholder alignment. Stakeholders comprise 69% of BIT members and 79% of CRHBT members.

Chapter 6 of this report cites separate studies that present evidence that over-representation of government officials, labor representatives, and retirees, respectively, hamper trust fund functionality and investment performance. OLO received guidance from retirement benefit experts that one antidote to real or perceived stakeholder bias is to construct a board of trustees with the proper mix of stakeholders to produce checks and balances in board decision-making. Other experts interviewed by OLO are proponents of reserving the majority of board of trustee seats for subject matter experts who do not represent any interested constituency.

Comments from Trustees and the CAO: OLO invited each BIT and CRHBT member, as well as the CAO, to submit written comments reflecting their perspectives on board governance. Chapter 7 of this report includes the full text of comments received from trustees and the CAO.

OLO Recommendations: OLO's first two recommendations seek to clarify the assignment of retirement benefit related responsibilities.

- A. ***OLO recommends the Council amend [Section 33-60 of the County Code](#) to clarify that the BIT's responsibilities include trust fund asset management and investment but do not include any other retirement system administrative functions.***
- B. ***OLO recommends the Council amend [Section 33-159 of the County Code](#) to enumerate the specific responsibilities of the CAO in administering the CRHBT.***

OLO Recommendations C, D, and E address the assignment of retirement benefit responsibilities among the CAO, BIT, and CRHBT based on the findings of a literature review and interviews of subject matter experts.

- C. ***OLO recommends that the Council retain the current practice of assigning the CAO with the responsibility to select the retirement benefit actuary.*** The retirement system actuary serves multiple functions, many of which support activities beyond the investment responsibilities of the BIT. OLO believes that the broad scope of services provided by the actuary is best managed by the CAO who is responsible for most elements of the County Government's retirement system.

- D. ***OLO recommends the Council amend the County Code to shift responsibility for determining most actuarial assumptions from the CAO to the BIT.*** The determination of actuarial assumptions, particularly the anticipated rate of investment returns, is an essential component of the investment process and strongly influences the selection of the appropriate investment strategies for a trust fund. While actuarial assumptions affect the amount the employer must budget each year to fund the benefit, the determination of these assumptions, particularly the anticipated investment rate of return, is fundamentally an element of the investment process managed by the BIT. As the determination of most actuarial assumptions is primarily an investment-related duty, OLO recommends that the BIT assume this responsibility. Nonetheless, OLO sees a potential advantage in the CAO retaining authority over select assumptions such as future year employee salary increases.
- E. ***OLO recommends the Council amend the County Code to assign responsibility for hiring the MCERP Executive Director after the CAO oversees the recruitment process, vets applicants' qualifications, and provides a short-list of qualified candidates to the BIT.*** Under the CAO's restructuring plan, the sole responsibility of MCERP and its Executive Director will be to serve the two County boards of trustees. As such, OLO believes that the BIT (and to some extent, the CRHBT) should assume the role of hiring the merit MCERP Executive Director position. Nonetheless, OLO acknowledges that trustees do not have the expertise to manage all stages of the recruitment and hiring processes. Therefore, OLO suggests that the CAO and the Executive Branch oversee the recruitment and hiring process up to, but not including, the final selection of the MCERP Executive Director.

OLO Recommendation F addresses the size and composition of the BIT and CRHBT.

- F. For most public sector retirement benefit boards of trustees, the majority of members represent particular interests or constituencies such as active and retired plan members, labor representatives, and government officials. OLO believes an unavoidable tension exists when any trustee simultaneously represents the best interest of their constituency as well as the best interest of all plan beneficiaries. Therefore, if asked to design the optimal board of trustees at the initial creation of a trust fund, OLO would unwaveringly recommend a board consisting of a majority unaffiliated subject matter experts. However, OLO acknowledges it is more challenging to reconstitute existing boards of trustees, particularly if the reconstitution results in eliminating the participation of some stakeholders. ***OLO recommends that Councilmembers assess whether the current size and composition of the BIT and CRHBT foster sound and healthy stewardship of the retirement and retiree health benefit trusts. To the extent Councilmembers feel confident that the current board structures work well and can be expected to remain functional in the future, then there may be no reason to restructure the BIT and CRHBT. However, should Councilmembers believe that the current structure of the boards hampers their ability to function properly, then OLO would recommend amending the County Code to create smaller-sized boards, each with a majority of subject matter experts.***

CHAPTER 1: REPORT ASSIGNMENT, SCOPE, AND STRUCTURE

This chapter summarizes the assignment given to the Office of Legislative Oversight (OLO) by the Montgomery County Council, discusses the scope of this report, and outlines the structure of the report. This chapter also includes a racial equity statement and acknowledges people who contributed to the development of this report.

A. Assignment

As part of the [OLO Fiscal Year 2026 Work Program](#), the County Council directed OLO to review the current governance structures for County retirement and retiree health benefit trust funds. The Council asked the OLO report to include a summary of governance best practices for retirement and retiree health benefit trusts; a discussion of the comparative advantages and disadvantages to different governance models; and identification of issues the Council should consider related to potential governance structure changes.

B. Report Scope

This report discusses the governance of retirement benefit trust funds. The report focuses on certain governance topics, most notably, the assignment of responsibilities among boards of trustees and other parties as well as the size and composition of boards of trustees. This report does not include an exhaustive review of other trust fund governance topics. For a more complete listing of governance topics, please see the Government Finance Officers Association's [Best Practices for the Governance of Public Employee Postretirement Benefits Systems](#).

While this report includes information about trust fund governance models in other jurisdictions, this report does not attempt to compare BIT and CRHBT trust fund performance (that is, investment returns) against the performance of other specific state and local governments.

C. Report Structure

This OLO report consists of eight chapters.

- Chapter 2, *Overview of Public Sector Retirement Benefit Trusts*, provides background information on public sector retirement benefit trusts and introduces terms used later in this report.
- Chapter 3, *Retirement Benefit Administration in Montgomery County*, provides an overview of County retirement benefit systems and describes the entities responsible for administering different elements of these systems.

Retirement Benefit Trust Fund Governance in Montgomery County

- Chapter 4, *Retirement Benefit Governance in Other Jurisdictions*, summarizes the retirement benefit trust governance structures in five area jurisdictions.
- Chapter 5, *Governance Responsibilities - Research Findings and Expert Guidance*, presents the findings of academic studies and guidance from experts on governance responsibilities assigned to boards of trustees and other entities involved in administering public sector post-employment benefits.
- Chapter 6, *Board of Trustees Structure - Research Findings and Expert Guidance*, presents the findings of academic studies and guidance from experts on the structure of public sector retirement benefit boards of trustees.
- Chapter 7, *Comments from Trustees and the CAO*, presents comments received from current County trustees and from the CAO in response to trust fund governance questions posed by OLO.
- Chapter 8, *OLO Recommendations*, summarizes key report findings and presents OLO's recommendations to the County Council.

D. Racial Equity Statement

In 2019, the County Council established the Racial Equity and Social Justice Act. This law directs County departments and offices to apply a racial equity and social justice (RESJ) lens to their work. To apply a RESJ lens, OLO pays attention to race, ethnicity, and other social constructs when analyzing problems, looking for solutions, and defining success. For this report, OLO interviewed subject matter experts of multiple racial and ethnic identities.

E. Acknowledgements

OLO acknowledges the insights, support, guidance, and assistance provided for this report by:

- Jean-Pierre Aubry, Center for Retirement Research at Boston College
- Keith Brainard, National Association of State Retirement Administrators
- Alex Brown, National Association of State Retirement Administrators
- David Crow, Montgomery County Employee Retirement Plans
- Matt Eckel, National Conference on Public Employee Retirement Systems
- Phoebe Kuan, Montgomery County Public Schools
- Dean Kenderdine, National Council on Teacher Retirement
- Hank Kim, National Conference on Public Employee Retirement Systems
- Katherine L'Heureux, Center for Retirement Research at Boston College
- Karen Pecoraro, Office of Legislative Oversight
- Kevin D. Reed, Baltimore County Government
- Scott Southern, Howard County Government
- Odd J. Stalebrink, Pennsylvania State University
- Jeffrey Weiler, Fairfax County Government
- Christine Wellons, Montgomery County Council

CHAPTER 2: OVERVIEW OF PUBLIC SECTOR RETIREMENT BENEFIT TRUSTS

This chapter provides background information on public sector retirement benefit trusts and introduces terms used later in this report.

A. Public Sector Retirement Trust Funds

A trust fund is a legally separate pool of money that holds and invests contributions for a specific use, such as payment of retirement benefits. Retirement trust fund assets are held for the exclusive benefit of eligible retirement plan members. Most public sector retirement benefit trust funds in the United States are governed by a board of trustees. As discussed in this report, the composition and responsibilities of these boards vary from jurisdiction to jurisdiction. However, the common element among these boards is the fiduciary responsibility of trustees.

B. Fiduciary Responsibilities

A fiduciary is a person or entity that manages assets on behalf of others with a legal and ethical obligation to act in the best interests of the beneficiary. In their [Best Practices for the Governance of Public Employee Postretirement Benefits Systems](#), the Government Finance Officers Association (GFOA) states that trustees:

... are obligated to act in accordance with certain fiduciary standards, including:

Duty of loyalty: The obligation to act for the exclusive benefit of the plan participants and beneficiaries. Trustees must put the interest of all plan participants and beneficiaries above their own interests or those of any third parties. Regardless of their selection process, fiduciaries must be reminded that they do not represent a specific constituency, interest group, or individual plan members. In addition, the fiduciary's decisions must not be motivated by advancing or expressing the trustee's personal views concerning social or political issues or causes.

Duty of prudence/Duty of care: The obligation to act prudently in exercising authority or discretion over the interests of the fiduciary relationship. This includes investment decisions but also other acts of discretion. The general standard is that a trustee should act in a way that a reasonable or prudent person would act in a similar situation or in the conduct of their own affairs....

[Section 33-61C of the Montgomery County Code](#) establishes a “standard of care” for those entrusted in managing the assets of the County retirement trust fund. The Code states that:

Retirement Benefit Trust Fund Governance in Montgomery County

A fiduciary must discharge the fiduciary's duties regarding the retirement systems:

- (a) only in the best interest of the participants and their beneficiaries;*
- (b) only to provide benefits to the participants and their beneficiaries, and defray reasonable expenses of administering the retirement systems;*
- (c) 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;*
- (d) by diversifying the investments of the retirement systems to minimize the risk of large losses, unless it is clearly not prudent to diversify under the circumstances;*
- (e) according to a good faith interpretation of the law governing the retirement systems;*
- (f) according to a good faith interpretation of the documents and instruments governing the retirement systems, if they comply with this Article.*

C. Investment Managers

Most large public sector retirement benefit trusts employ the services of external investment managers. The role of these managers is to execute the investment strategy developed by the board of trustees. Investment managers research and evaluate market conditions and investment options consistent with the board's investment strategy. Investment managers also may advise their clients on compliance with applicable legal and reporting requirements.

D. Actuarial Services and Actuarial Assumptions

Public sector retirement systems typically secure assistance of an external actuarial service to support the management of retirement benefit trust funds. Actuaries prepare annual valuations that calculate a fund's assets and liabilities as of a certain date based on a series of investment, economic, and demographic assumptions. Actuarial valuations also determine a retirement plan's funded status (that is, the percentage of the plan's liabilities covered by the value of the plan's assets).

Actuaries build their calculations based on assumptions about future changes in a fund's asset and liabilities. Commonly, a retirement fund actuary also provides guidance regarding these assumptions, but the client retains the ultimate authority to determine the assumptions used in actuarial calculations. The most significant retirement fund actuarial assumptions include:

- Cost Method: the method employed to estimate the lifetime costs of providing a benefit to a cohort of current and future retirees.
- Anticipated Investment Rate of Return: the profits or losses an investor assumes to receive on a set of investments over a designated period of time.

Retirement Benefit Trust Fund Governance in Montgomery County

- Mortality Rates: an estimate of the life expectancy of a cohort of current and future retirees.
- Future Salary Increases: a projection of the growth in future salaries of employees eligible to receive a retirement benefit.

Based on current funding status and actuarial assumptions, the actuary calculates the fund's annual actuarially determined contribution (ADC). The ADC is the recommended annual contribution paid by the retirement plan sponsor (the government employer) to ensure the plan is adequately funded to meet its long-term obligations.

CHAPTER 3: RETIREMENT BENEFIT ADMINISTRATION IN MONTGOMERY COUNTY

This chapter provides an overview of the retirement benefit system for the Montgomery County Government and, to a lesser extent, for Montgomery County Public Schools (MCPS) and Montgomery College. More specifically, this chapter describes different elements of the retirement benefit systems and the entities responsible for administering each of these elements.

A. Montgomery County Government Retirement Benefits

The County Council establishes retirement benefits and plan design through legislation. The County Executive may propose amendments to retiree benefits, often as a result of collective bargaining with employee organizations. Different categories of County Government employees are eligible for different retirement benefits dependent on their job type and original hire date. In general, County Government employees participate in one of three retirement plans:

- Employees' Retirement System
- Retirement Savings Plan
- Guaranteed Retirement Income Plan

The Employees' Retirement System (ERS) is a defined benefit plan¹, also known as a pension plan. Uniformed public safety employees as well as general government employees hired before October 1, 1994, participate in the ERS. To support this benefit, both the County Government and ERS plan participants make regular contributions to the retirement trust fund.

General government (non-public safety) employees hired since October 1, 1994, may elect to participate in either the Retirement Savings Plan (RSP) or the Guaranteed Retirement Income Plan (GRIP). The RSP is a defined contribution plan.² The County Government contributes a defined percentage of salary (currently 8% for most employees) and the employee contributes a percentage of salary (currently a minimum of 4% for most employees) into the employee's retirement savings account. The employee manages all investments in the account. The employer does not guarantee post-retirement benefit level. As such, the RSP has minimal effect on the County's retirement trust fund.

¹ A defined benefit plan provides a retiree with a guaranteed monthly payment after retirement. The amount of the monthly payment is formula-derived based on the employee's salary history, years of service, and other factors.

² A defined contribution plan is a retirement savings plan for which the employee (and sometimes also the employer) makes regular contributions into an investment account, The employee manages all investments in the account. The employer does not guarantee post-retirement benefit level.

Retirement Benefit Trust Fund Governance in Montgomery County

The Guaranteed Retirement Income Plan (GRIP) is a cash balance plan.³ The County Government contributes a defined percentage of salary (currently 8% for most employees) and the employee contributes a percentage of salary (currently a minimum of 4% for most employees) for this benefit. The County guarantees GRIP participants a 7.25% annual return on the accumulated contribution balance. Contributions to this retirement plan are deposited in the County's retirement trust fund with payout to the employee at termination of employment. As described below, the County's Board of Investment Trustees is responsible for managing the assets of the ERS and GRIP plans.

B. County Government, MCPS, and Montgomery College Retiree Health Benefits

The County Government, MCPS, and Montgomery College each provide eligible retirees with a health insurance benefit, also known as an "other post-employment benefit" (or "OPEB"). Each agency sets retiree health benefit levels, eligibility criteria, and cost share structure for their own retirees. The County Government, MCPS, and Montgomery College make annual contributions to pre-fund a portion of future retiree health benefit liabilities. In 2011, the County Council approved [Bill 17-11](#) that established the Consolidated Retiree Health Benefits Trust (CRHBT) as a repository for County Government, MCPS, and Montgomery College contributions to pre-fund retiree health benefits. The legislation also created the CRHBT Board of Trustees to manage the trust's assets.

C. County Trust Funds

Montgomery County has created two trust funds, one for the County Government retirement system and another for County Government, MCPS, and Montgomery College retiree health benefits. (See Chapter 2 of this report for a definition of the term, "trust fund.") The County Government retirement trust fund is established in [Section 33-58 of the County Code](#); the CRHBT fund (serving the County Government, MCPS, and Montgomery College⁴) is established in [Section 33-159 of the County Code](#).

D. Legal Framework – County Retirement System Duties and Responsibilities

Different sections of the County Code assign duties and responsibilities for different elements of County Government retirement benefit management and oversight. [Section 33-47 of the County Code](#) states that the CAO is responsible for the administration of the retirement system. That section of the Code further stipulates that:

³ A cash balance plan is a type of defined benefit plan in which the employee contributes a percent of salary into an account managed by the employer. The employer guarantees an annual rate of return on the account for tenure of the employee's employment.

⁴ [Section 33-167 of the County Code](#) allows other agencies to participate in the retiree health benefit trust.

Retirement Benefit Trust Fund Governance in Montgomery County

“except for the powers of the Board [of Investment Trustees] , the Chief Administrative Officer has the power and the duty to take all actions and to make all decisions to administer the retirement system.”

The Code then explicitly lists duties assigned to the CAO, including:

- Interpreting the provisions of the retirement system;
- Deciding the eligibility of any employee to participate in the retirement system and the rights of any member or beneficiary to receive benefits;
- Computing the amount of benefits payable to any member or beneficiary;
- Authorizing disbursements of benefits;
- Selecting the actuary for the retirement system;
- Determining (after consultation with the BIT and the actuary for the retirement system) the actuarial assumptions used in computations for the retirement system;
- Incurring expenses as necessary to administer the retirement system; and
- Preparing and filing reports that required by law.

Of particular note for this report, as specified in the County Code, the CAO is responsible for selecting the actuary for the retirement system and for determining the actuarial assumptions used for retirement system investments. A [bill](#) introduced by the County Council in December 2024 would shift these responsibilities from the CAO to the BIT. The Council has yet to have a worksession on the bill.

The Code also describes the duties assigned to BIT, albeit in much less detail than for the duties of the CAO. [Section 33-60 of the Code](#) states:

Except as provided [in sections of the Code that describe the duties of the CAO], the powers and duties with respect to the administration and the investments of the retirement system are hereby vested in the board of investment trustees.

The Code clearly charges BIT with responsibility for managing retirement trust fund investments. However, OLO is unclear as the meaning and intent of the word “administration” in the above cited section of the Code. Other than investment and asset management related duties, BIT currently does not perform any retirement system administrative functions.

In sum, the County Code, as currently written, appears to task the CAO with most management functions for the County Government’s retirement system, with one exception. The Code assigns the Board exclusive responsibility for managing and investing retirement trust fund assets.

E. Other Board of Investment Trust Activities

In addition to managing and investing assets for the County Government's defined benefit retirement plans, the BIT also plays an implementation role for other retirement plans. As mentioned above, some County Government employees participate in Retirement Savings Plan (RSP). As the RSP is a defined contribution plan, individual employees (not the BIT) manage all investments in their own accounts. Employees may invest their RSP assets from a group of pre-selected investment instruments. The BIT selects the menu of investment options available to RSP members. Similarly, the BIT selects the menu of investment options for participants in the County Government's voluntary deferred compensation program.⁵

F. Legal Framework – CRHBT Duties and Responsibilities

The County Code says little about the CAO's duties and responsibilities related to the CRHBT. [Section 33-159 of the Code](#) directs the CAO to "include the terms of any County retiree benefit plan, including eligibility and benefits, including those benefits collectively bargained, in a plan document." [Section 33-161](#) authorizes the CAO to direct payments to cover health benefits accrued by eligible County Government retirees. However, the Code does not assign the CAO (nor any other person or entity) with any management functions parallel to ones enumerated for the BIT in [Section 33-47](#). In practice, the current CAO performs the same responsibilities for retiree health benefits as he performs for the retirement system.

The County Code assigns the CRHBT Board of Trustees asset management authority for the retiree health benefit trust, similar to the authority granted to the BIT for the retirement trust. As stated in [Section 33-162 of the Code](#), the CRHBT Board of Trustees:

... has the exclusive authority to manage the Trust Fund's assets. All powers and duties required to manage the Trust Fund are vested in the Board ...

The County Code does not charge the CRHBT Board of Trustees with any retiree health benefit administrative functions other than those related to asset management and investment. More specifically, the County Code does not assign any person or entity responsibility for selecting an actuary for the CRHBT; each agency selects their own retiree health benefit actuary. Nonetheless, the CRHBT Board uses the same actuary selected by the CAO for the County's retirement system. Similarly, the CAO sets the actuarial assumptions for the CRHBT.

⁵ A deferred compensation plan allows employees to postpone receiving a portion of their pay until a later date. The employer transfers deferred pay into individual accounts managed by each plan member. Employees may access funds in their account after reaching a specified milestone, such as retirement.

Retirement Benefit Trust Fund Governance in Montgomery County

As mentioned above, a [bill](#) introduced by the County Council in December 2024 would shift responsibilities for selecting a retirement system actuary and for determining retirement system actuarial assumptions from the CAO to the BIT. As introduced, the bill does not address these responsibilities for the CRHBT.

G. Montgomery County Employee Retirement Plans

The Montgomery County Employee Retirement Plans (MCERP) is the County Government office that provides professional and administrative support to the BIT and CRHBT. As of the writing of this report, MCERP is comprised of three divisions:

- The [Investment Division](#) is responsible for managing and growing ERS and CRHBT assets to secure their financial health and to meet future pension obligations. The Investment Division works in conjunction with the BIT and CRHBT Board to implement investment strategies across various asset classes, including public equities, fixed income, and private markets. The Investment Division conducts due diligence, monitors performance, and manages risk with the intent to achieve a balance between long-term returns and financial stability. This division also oversees investment options for participants in the Retirement Savings Plan and the Deferred Compensation Plan (DCP).
- The [Division of Member Services](#) administers pension benefits for retirees and other beneficiaries in compliance with plan provisions and regulations. This division also provides retirement counseling and education for members of ERS, RSP and DCP, oversees communication with employees and retirees, and responds to member inquiries.
- The [Division of Financial Services](#) prepares financial statements and other accounting reports for the ERS, RSP, DCP and CRHBT. Division staff collaborate with external auditors and actuaries to prepare annual comprehensive financial reports and required audits for the pension and retiree health benefit funds under Generally Accepted Accounting Principles and Governmental Accounting Standards Board standards. The Division also oversees pension distribution funding and IRS tax reporting.

MCERP is led by an Executive Director appointed by the CAO. The MCERP Executive Director is responsible for the day-to-day management of BIT and CRHBT activities including any responsibilities delegated by the boards of trustees (see Sections [33-58\(c\)](#) and [33-162\(k\)](#) of the County Code). In addition, the MCERP Executive Director hires investment professionals to support the activities of the two boards of trustees.⁶ As of the writing of this report, the CAO was recruiting candidates to fill the vacant Executive Director position. The MCERP Executive

⁶ The Board of Investment Trustee's General Counsel who assists the Board on tax and fiduciary matters is hired by the County Attorney.

Retirement Benefit Trust Fund Governance in Montgomery County

Director position is a merit position (Manager I) and is not subject to approval by the County Council.

In May, the CAO announced a plan to restructure functions currently assigned to MCERP. In the near future, the CAO intends to move Member Services and Financial Services responsibilities to the Finance Department. The CAO provided the following justification for the planned restructuring:

Due to the growing size of the investment assets, this move is necessary to attract a top investment talent focused entirely on managing the investment of the Board of Investment Trustees and the Consolidated Retiree Health Benefits Trust Board. Although the two functions of MCERP will soon be moved to Finance, the grade and compensation level of the new Executive Director/Chief Investment Officer will remain unchanged.

The [job announcement](#) for the MCERP Executive Director position reflects the CAO's restructuring of MCERP functions. The job announcement includes the following Executive Director responsibilities:

- *Ensure that the Boards' investment policies are implemented efficiently and effectively to accomplish the investment objectives.*
- *Ensure that policies and procedures provide adequate controls to safeguard assets.*
- *Present to the Boards on the strategic direction of the investment programs, coordinate activities with investment consultants, and create strong lines of communication between all parties involved in the investment programs.*
- *Monitor and evaluate investment managers to ensure that assets are managed in accordance with established policies, performance expectations, and contractual obligations, and resolve any issues, as needed.*
- *Work with the investment consultant on investment matters, such as development of the asset allocation and implementation strategies, manager due diligence, development of investment policy recommendations, etc.*
- *Oversee day-to-day activities of the investment office and develop and monitor the budget to ensure adequate internal and external resources are in place to execute on the investment plans.*

Each of the above responsibilities are related to investment management. Consistent with the CAO's restructuring plan, the MCERP Executive Director job announcement does not mention any financial and accounting services or employee benefits management duties. The CAO's plan to restructure MCERP aligns with the division of duties spelled out in the County Code. The Code assigns BIT the responsibility to manage and invest trust fund assets. Similarly, the CAO's plan focuses MCERP activities on asset management and investment duties. Meanwhile, the

Code assigns the CAO with most other retirement system administrative functions; and the restructuring plan shifts retirement system financial, accounting, budgeting, and member services functions to the Department of Finance, whose Director reports to the CAO.

H. Board of Investment Trustees Composition

The Montgomery County Board of Investment Trustees consists of 13 voting members. As stipulated in [Section 33-59 of the Montgomery County Code](#), the Board includes:

- Four *ex officio*⁷ members: the Director of the Office of Management and Budget, the Director of Finance, the Chief Labor Relations Officer, and the Executive Director of the Office of the County Council.
- Three employee organization representatives: one member nominated by the Office, Professional, and Technical (OPT) and Service, Labor and Trades (SLT) bargaining units (currently, the Municipal and County Government Employees Organization), one member nominated by the fire and rescue employee unit (currently, the International Association of Fire Fighters, Local #1664), and one member nominated by the police employee bargaining (currently, the Montgomery County Fraternal Order of Police, Lodge No. 35).
- One active County employee appointed by the Executive and confirmed by the Council who is a vested member of the retirement system and the Merit System and is not a member of a collective bargaining unit.
- One retired County employee appointed by the Executive and confirmed by the Council who is a member of the retirement system.
- Two persons appointed by the County Executive who are knowledgeable in pensions, investments, or financial matters.
- Two persons recommended by the County Council who are knowledgeable in pensions, investments, or financial matters.

With the exception of the *ex officio* and employee organization members, BIT members serve three year terms. *Ex officio* and employee organization members serve for the duration of their tenure in office. Board members do not receive compensation for their service.

⁷ The term, *ex officio*, refers who are members of a body as a result of another position that they hold.

I. Consolidated Retiree Health Benefit Trust Board Composition

The CRHBT Board consists of 19 voting members. As stipulated in [Section 33-160 of the Montgomery County Code](#), the CRHBT is comprised of the 13 BIT members plus six additional trustees.

The CRHBT Board includes three members nominated by the Board of Education, appointed by the County Executive, and confirmed by the County Council:

- One designee of the Montgomery County Public Schools (MCPS) Superintendent;
- One active MCPS employee who is a member of a bargaining unit; and
- One MCPS retiree.

In addition, the CRHBT Board includes three members nominated by the Montgomery College Board of Trustees, appointed by the County Executive, and confirmed by the County Council:

- One designee of the President of Montgomery College;
- One active Montgomery College employee who is a member of a bargaining unit; and
- One Montgomery College retiree.

The three MCPS and three Montgomery College trustees serve indefinite terms and receive no compensation for their service.

J. Montgomery County Group Trust

[Section 33-170 of the County Code](#) establishes the “Montgomery County Group Trust.” The Code authorizes the BIT and CHBT to:

create a combined, common or commingled trust fund known as the Montgomery County Group Trust for the commingling of assets of any retirement plan and any retiree health benefit trust created by the County...

The Code further stipulates that the sole purpose of the Montgomery County Group Trust is to create a:

a collective investment vehicle intended to create investment opportunities and efficiencies for the investment of Montgomery County’s employee benefit plan trusts. The interests of each investing trust must be accounted for separately and the assets attributable to an investing trust must be held for the benefit of that trust only

Retirement Benefit Trust Fund Governance in Montgomery County

In other words, the BIT and CRHBT may pool assets into shared investments but the retirement trust fund and retiree health benefit trust fund each must maintain undivided ownership of its assets including proportional allocation of returns on investments.

K. Trust Net Position and Recent Investment Performance

Investment trusts collect employer and employee contributions in an investment fund held for the purpose of meeting future obligations. Fund assets include these contributions as well as the value of investments. A trust may also have liabilities such as investment and professional services fees. The term, “net position,” refers to the total value of trust assets minus the total value of its liabilities.

As documented in the [Montgomery County Annual Comprehensive Financial Report](#) (ACFR), the County’s retirement benefit trust fund had a net position of \$6.368 billion while the County’s retiree health benefit trust fund had a net position of \$1.818 billion as of June 30, 2024.

According to the most recent [BIT annual report](#), “the fund has delivered first-quartile annualized returns of 7.44% over the last ten-year period.” However, for the 12-month period ending March 31, 2025, the retirement fund “was up 6.09%..., trailing the policy benchmark by 1.23%.” According to the most recent [CRHBT annual report](#), “the fund has delivered second-quartile annualized returns of 7.02% over the last ten-year period.” However, for the 12-month period ending March 31, 2025, the CRHBT “was up 6.08% ..., trailing the policy benchmark by 0.99%.”

CHAPTER 4: RETIREMENT BENEFIT GOVERNANCE IN OTHER JURISDICTIONS

This chapter summarizes the retirement benefit trust fund governance structures in five area jurisdictions:

- State of Maryland;
- Montgomery County Public Schools;
- Baltimore County;
- Howard County; and
- Fairfax County.

This chapter presents information on the size and composition of the board of trustees in each jurisdiction. In addition, this chapter describes the entities responsible for establishing retirement benefits, selecting an actuary, determining actuarial assumptions, hiring professional support staff, and preparing trust budgets.

A. Maryland State Retirement and Pension System Board of Trustees

The Maryland State Retirement and Pension System (SRPS) Board of Trustees is responsible for the management of State Government (and other participating governments) employment retirement plans. This section presents information about the SRPS governance structure.

Board Composition: The SRPS Board of Trustees consists of 15 voting members. As stipulated in the [Maryland State Personnel and Pensions Code § 21-104](#), the Board of Trustees consists of:

- Three *ex officio* members: the Secretary of Budget and Management or designee, the State Comptroller or designee, and the State Treasurer or designee.
- Seven members are appointed by the Governor: five public members, one representative of participating governments, and one county representative.
- Five members are elected by their peers: one active plan member working for the State Government, one retired State Government plan member, one active teacher plan member, one retired teacher plan member, and one active or retired State Police plan member.

Appointed and elected trustees serve four year terms. *Ex officio* members serve for the duration of their tenure in office. Board members do not receive compensation for their service.

Establishment and Modification of Retiree Benefits: The Maryland General Assembly establishes retirement benefits and plan design through legislation.

Retirement Benefit Trust Fund Governance in Montgomery County

Selecting Actuary: The SRPS Board of Trustees selects the retirement system actuary for Maryland State employee retirement benefit trust funds.

Determining Actuarial Assumptions: The SRPS Board of Trustees determines actuarial assumptions for Maryland State employee retirement benefit trust funds.

Appointment of Executive Director: As stipulated in [Maryland State Personnel and Pensions Code § 21-118](#), the SRPS Board of Trustees appoints the Executive Director of the State Retirement Agency.

Hiring Professional Staff: Senior managers of the Maryland State Retirement Agency Finance Office hire investment professionals to support activities of the SRPS Board of Trustees.

Budget Preparation: Senior managers of the Maryland State Retirement Agency Finance Office are responsible for preparing the Board of Trustee's operating budget.

Fund Net Position: As documented in the [Maryland State Retirement and Pension System Annual Comprehensive Financial Report](#) (ACFR), The MSRP pension trust fund had a net position (assets minus liabilities of \$67.910 billion as of June 30, 2024).

B. MCPS Board of Investment Trustees

The Montgomery County Public Schools (MCPS) Board of Investment Trustees is responsible for the investment and management of the assets of MCPS' local retirement and pension benefit plans. MCPS employees in instructional positions participate in the Maryland State Teachers' Pension Plan. MCPS provides a core pension benefit for employees in permanent positions who are not eligible for the State pension plan. In addition, MCPS offers a supplemental pension benefit for all (both instructional and non-instruction) permanent employees.⁸ This section presents information about the MCPS Board of Investment Trustees' governance structure.

Board Composition: Montgomery County Public Schools Board of Investment Trustees consists of 11 voting members. As indicated in the [MCPS website](#), the Board of Investment Trustees consists of:

- One *ex officio* member, the MCPS Associate Superintendent of Finance.
- Ten members nominated by the Superintendent and appointed by the Board of Education

⁸ MCPS is the only school district in the State of Maryland to provide a pension supplement.

Retirement Benefit Trust Fund Governance in Montgomery County

With the exception of the *ex officio* member, all Board members serve three-year terms. The *ex officio* member serves for the duration of his or her tenure in office. Board members do not receive compensation for their service.

Establishment and Modification of Retiree Benefits: The Board of Education establishes retirement benefits and plan design for local retirement benefits.

Selecting Actuary: The Board of Education selects the retirement system actuary.

Determining Actuarial Assumptions: The Board of Education determines actuarial assumptions.

Appointment of Director of Investments: The Board of Education appoints the MCPS Director of Investments.

Hiring Professional Staff: The Office of the Chief Financial Officer hires investment professionals to support the activities of the Board of Investment Trustees.

Budget Preparation: The Office of the Chief Financial Officer is responsible for preparing the Board of Investment Trustees' operating budget.

Fund Net Position: As documented in the [MCPS Annual Comprehensive Financial Report](#) (ACFR), the MCPS pension trust fund had a net position (assets minus liabilities of \$2.406 billion as of June 30, 2024).

C. Baltimore County Retirement System Board of Trustees

The Baltimore County Retirement System Board of Trustees is responsible for the operation of the County's Retirement System.

Board Composition: The Baltimore County Retirement System Board of Trustees consists of 11 voting members. As stipulated in [Article 3, Title 3, Subtitle 9, Section 3-3-902 of the Baltimore County Code](#), the Board includes:

- Two persons appointed by the County Council who (a) do not hold elective or appointed office; (b) are not members or beneficiaries of a state or local retirement system; (c) are not employees or members of a public or private sector employee union; and (d) are knowledgeable and experienced in the administration and operation of pension systems, investments, or trust funds.
- One person appointed by the County Executive who (a) does not hold elective or appointed office; (b) is not a member or beneficiary of a state or local retirement system; (c) is not an employee or member of a public or private sector employee union;

Retirement Benefit Trust Fund Governance in Montgomery County

and (d) is knowledgeable and experienced in the administration and operation of pension systems, investments, or trust funds.

- Five *ex officio* members: the County Executive (or designee); the Director of Budget and Finance; the Director of Human Resources; the Director of Public Works and Transportation; and the Chief of the Police Department.
- Two active retirement system members elected by retirement system members.
- One retired member of the retirement system elected by retired system members.

Except for the *ex officio* members, all Board members serve four-year terms. *Ex officio* members serve for the duration of their tenure in office. Board members do not receive compensation for their service.

Establishment and Modification of Retiree Benefits: The County Council establishes retirement benefits and plan design through legislation.

Selecting Actuary: The County Director of Budget and Finance, who is an *ex officio* member of the Board and serves as the Secretary to the Board, receives input from other Board members and then selects the retirement system actuary.

Determining Actuarial Assumptions: The Board of Trustees determines actuarial assumptions after receiving advice from the retirement system actuary and investment consultants.

Hiring Professional Staff: The County Director of Budget and Finance hires investment professionals to support the activities of the Board.

Budget Preparation: The County Director of Budget and Finance is responsible for preparing the Board's operating budget.

Fund Net Position: As documented in the [Baltimore County Annual Comprehensive Financial Report](#) (ACFR), the County's pension trust fund had a net position (assets minus liabilities) of \$3.106 billion as of June 30, 2024.

D. Howard County Retirement Plan Committees

Howard County has two Retirement Plan Committees, one for the General Employees' Pension Plan and one for the Police and Fire Employees' Pension Plan.

As stipulated in [Title 1, Subtitle 4, Article VIII, Section 1.482 of the Howard County Code](#), Howard County has established a Pension Oversight Commission. This Commission is composed of five County residents knowledgeable in pension administration and funding who are appointed by the County Council. Commission members may not be government officials nor

Retirement Benefit Trust Fund Governance in Montgomery County

participants in a County retirement plan. The Pension Oversight Commission has three functions:

- Vetting and recommending candidates to serve as an employee trustee on the General Employees' Pension Plan (see below);
- Making annual recommendations regarding pension fund actuarial assumptions, investment strategies, plan costs, and plan administration; and
- Making recommendations regarding proposed modifications to pension plan design and benefit levels.

Board Composition: Each of the two Howard County Retirement Plan Committees has seven voting members. As stipulated in [Title 1, Subtitle 4, Article V, Section 1.455 of the Howard County Code](#), the General Employees' Retirement Plan Committee consists of:

- Four *ex officio* members: the Chief Administrative Officer or designee; the Director of Finance or designee; the Budget Administrator or designee; and the Human Resources Administrator.
- Two members selected by labor organization members, one representing general government employees and one representing correctional officers.
- One representative of general government employees appointed by the County Executive after vetting and recommendation by the Pension Oversight Committee.

As stipulated in [Title 1, Subtitle 4A, Article VA, Section 1.455A of the Howard County Code](#), the Police and Fire Employees' Retirement Plan Committee consists of:

- Four *ex officio* members: the Chief Administrative Officer or designee; the Director of Finance or designee; the Budget Administrator or designee; and the Human Resources Administrator.
- Two members selected by labor organization members, one representing police officers and one representing firefighters.
- One representative of public safety supervisory employees. In even-numbered fiscal years, this seat on the board is held by a representative of police supervisors. In odd-numbered years, this seat is held by a representative of fire and rescue supervisors.
- One representative of general government employees appointed by the County Executive after vetting and recommendation by the Pension Oversight Committee.

The trustee representing general government employee serves a five-year term. All other trustees serve throughout the tenure of their position. Board members do not receive compensation for their service.

Retirement Benefit Trust Fund Governance in Montgomery County

Establishment and Modification of Retiree Benefits: The Howard County Council establishes retirement benefits and plan design through legislation after receiving comments and recommendations from the Pension Oversight Commission.

Selecting Actuary: The Retirement Plan Committees select the actuary for the Howard County pension trust funds.

Determining Actuarial Assumptions: The Retirement Plan Committees determine the actuarial assumptions for the Howard County pension trust funds.

Appointment of Retirement Coordinator: The Howard County Retirement Coordinator administers County retirement services but does not play a role in trust fund investment decisions. The Retirement Plan Committees have sole authority to invest trust assets. The Retirement Coordinator is an employee of the Howard County Department of Human Resources.

Hiring Professional Staff: The Retirement Plan Committees select outside legal and investment advisory services.

Budget Preparation: The Howard County Departments of Finance and Human Resources prepare the operating budgets for the Retirement Plan Committees.

Fund Net Position: As documented in the [Howard County Annual Comprehensive Financial Report](#) (ACFR), Howard County's pension trust fund had a net position (assets minus liabilities) of \$1.851 billion as of June 30, 2024.

E. Fairfax County Employees' Retirement System Board of Trustees

The Fairfax County, Virginia, Employees' Retirement System Board of Trustees is responsible for the administration of the County's retirement system.

Board Composition: The Fairfax County Employees' Retirement System Board of Trustees consists of 10 voting members. As stipulated in [Chapter 3, Article 2, Division 2, Section 3-2-11 of the Fairfax County Code](#), the Board includes:

- Three *ex officio* members: the Director of the County Department of Finance, the Director of the County Department of Human Resources, and the Chief Human Resources Officer for the Fairfax County Public Schools.
- One School Board employee elected by members of the System.
- One County employee elected by members of the System who are County employees.
- One retired member elected by retired members of the System.
- Four persons appointed by the County Board of Supervisors.

Retirement Benefit Trust Fund Governance in Montgomery County

Except for the *ex officio* members, all Board members serve four-year terms. *Ex officio* members serve for the duration of their tenure in office. Board members do not receive compensation for their service.

Establishment and Modification of Retiree Benefits: The County Board of Supervisors establishes retirement benefits and plan design through legislation.

Selecting Actuary: Fairfax County Retirement System staff recommend a retirement fund actuary for approval by the Board.

Determining Actuarial Assumptions: Fairfax County Retirement System staff and the County's retirement fund actuary recommend actuarial assumptions for Board approval.

Appointment of Executive Director: The County Executive appoints the Retirement Systems Executive Director in Fairfax County.

Hiring Professional Staff: Fairfax County Retirement System staff hire investment professionals to support activities of the Board.

Budget Preparation: Fairfax County Retirement System are responsible for preparing the Board's operating budget.

Fund Net Position: As documented in the [Fairfax County Annual Comprehensive Financial Report](#) (ACFR), Fairfax County's pension trust fund had a net position (assets minus liabilities) of \$9.010 billion as of June 30, 2024.

CHAPTER 5: GOVERNANCE RESPONSIBILITIES - RESEARCH FINDINGS AND EXPERT GUIDANCE

In this chapter, OLO presents the findings of academic studies and guidance from experts on governance responsibilities assigned to boards of trustees and other entities involved in administering public sector post-employment benefit plans. More specifically, this chapter addresses the entities responsible for:

- Establishing the level of retirement benefits;
- Making day-to-day investment decisions;
- Selecting an actuary;
- Determining actual assumptions; and
- Selecting the trust fund’s senior staff manager (the “Executive Director”).

OLO notes that many boards of trustees in other jurisdictions hold responsibility for day-to-day management of retirement programs. The duties include functions such as determining employee eligibility for benefits, calculating benefit amounts for individual employees, authorizing the distribution of benefit payments, and overseeing the preparation of financial reports. As these administrative functions are not performed by the BIT and CRHBT in Montgomery County, OLO does not discuss these responsibilities in this chapter.

A. Methodology

OLO conducted a literature review of academic articles on the assignment of responsibilities to boards of trustees and other entities involved in administering public sector post-employment benefits. This chapter includes verbatim excerpts from relevant studies on the topic. All article excerpts appear in *italics* and are presented verbatim as published. This chapter includes hyperlinks to all cited articles.

OLO also interviewed experts in the field of public sector retirement benefit governance. This chapter includes statements shared by these experts with OLO. Expert statements appear in *italics* and are presented verbatim as told to OLO. Each interviewee cited in this chapter approved their statements for publication. This chapter includes hyperlinks to information about each expert cited.

OLO made an intentional decision not to interview current members of the BIT or CRHBT for this report. Given that disagreements among board members have become public in recent months, OLO sought to avoid using a methodology that may result in an unequal degree of input from board members. Instead, OLO invited each current board member to submit comments for inclusion in this report (see Chapter 7). Councilmembers will have an

opportunity to seek additional input from current board members following the release of this report.

B. Retirement Benefits, Plan Design, and Funding

OLO's research found retirement benefit boards of trustees seldom are involved in setting or modifying retiree benefit levels and plan design. Similarly, trustees generally do not participate in setting annual employer or employee contributions to the benefit trust. Most commonly, legislative bodies set benefit levels and plan design through legislation. In most jurisdictions, elected officials determine annual employer contributions to a retirement benefit trust as part of the budgeting process. As summarized in a publication by the National Association of State Retirement Administrators (NASRA) entitled, [*Public Retirement System Governance Stakeholder Roles*](#) (hereafter, "NASRA Governance Roles"):

With rare exceptions, public retirement system boards determine neither benefit levels provided to members nor do they approve the plan funding responsibility of the plan sponsor. These are the two most consequential factors affecting the cost and funding condition of a public pension plan.

In Montgomery County, the County Council establishes retirement benefits and plan design through legislation. The County Executive may propose amendments to retiree benefits, often as a result of collective bargaining with employee organizations. County funding for retiree benefits is determined through the annual budget process. As such, County practice aligns with predominant nationwide practices.

C. Responsibility for Day-to-Day Investment Decisions

Most commonly, public sector retirement benefit boards of trustees oversee a fund's overall investment approach including policies such as asset allocation and risk tolerance. In preparation for this report, OLO interviewed [*Hank Kim, the Executive Director of the National Conference on Public Employee Retirement Systems*](#) (NCPERS). Mr. Kim offered the following observation:

Most public sector investment trust boards provide overall direction regarding investment strategies, risk tolerance, and funding goals, but delegate specific investment decisions to professional staff.

As authorized in [Section 33-162\(k\) of the County Code](#), the County Board of Investment Trustees delegates to the Montgomery County Employee Retirement Plans Executive Director the responsibility to make day-to-day investment decisions. As such, the County aligns with the predominant nationwide practice.

D. Selection of Actuary

Retirement benefit trust boards rely on actuaries to provide information and guidance related to demographic trends, and reporting requirements. (See Chapter 2 for additional details on the role of an actuary in supporting trust oversight and decision-making.) NCPERS Executive Director [Hank Kim](#) noted that:

The predominant practice is for an investment trust board, not government officials, to select the trust’s actuary.

[NASRA Governance Roles](#) lists the hiring of an actuary as one of the “typical” duties of a board of trustees:

Most public retirement systems are overseen by a board of trustees. Typically, the primary responsibility of a retirement system board is to ensure that the system is fulfilling its statutory duties in the sole interest of the members and beneficiaries of the system. ... Executing these responsibilities requires the board to hire (and sometimes fire) key retirement system staff; set staff compensation levels; hire and fire external consultants (for example, auditors, actuaries, asset managers, etc.), or, depending on the system, to approve rules authorizing retirement system staff to do so; and to set actuarial assumptions.

In Montgomery County, the County Code assigns most retirement system responsibilities, including the selection of an actuary, to the CAO. The County Code does not assign any person or entity responsibility for selecting a CRHBT actuary. In this respect, the County does not align with predominant nationwide practices.

A [bill](#) introduced by the County Council in December 2024 would shift responsibility for selecting an actuary from the CAO to the BIT. As introduced, the bill does not address selection of an actuary for the CRHBT.

E. Determination of Actuarial Assumptions

As presented in Chapter 2 of this report, retirement system costs and the selection of appropriate trust fund investment strategies are heavily dependent on actuarial assumptions, including those related to:

- Cost Method: the method employed to estimate the lifetime costs of providing a benefit to a cohort of current and future retirees.
- Anticipated Investment Rate of Return: the profits or losses an investor assumes to receive on a set of investments over a designated period of time.
- Mortality Rates: an estimate of the life expectancy of a cohort of current and future retirees.
- Future Salary Increases: a projection of the growth in future salaries of employees eligible to receive a retirement benefit.

The choice of actuarial assumptions also greatly affects the annual contribution paid by the employer to adequately fund long-term obligations. NASRA addresses the significance of actuarial assumptions in the previously cited [NASRA Governance Roles](#):

One important area of governance within the area of responsibility of most public retirement system boards is the selection of actuarial methods and assumptions. These factors affect the cost and funding condition of a pension plan. Not every board, however, is authorized to select every actuarial method and assumption. In a few states, another entity, particularly the legislature, is responsible for setting the plan's investment return assumption, which is the most consequential actuarial assumption in terms of its effect on the plan's cost and funding level.

The consequence of actuarial assumptions, particularly the anticipated rate of investment returns is discussed in another NASRA publication entitled, [Public Pension Plan Investment Return Assumptions](#) (hereafter, "NASRA Return Assumptions"). In this document, NASRA emphasizes the need for expert guidance when selecting actuarial assumptions:

In terms of its effect on a pension plan's finances and funding level, the investment return assumption is the single most consequential of all actuarial assumptions.... The process for evaluating a pension plan's investment return assumption should (and typically does) include abundant input and feedback from investment experts and actuarial professionals, and also should reflect consideration of the factors prescribed in actuarial standards of practice.

NCPERS Executive Director [Hank Kim](#) offered the following observation about the assignment of responsibility for selecting actuarial assumptions:

Retirement Benefit Trust Fund Governance in Montgomery County

The predominant practice is for an investment trust board's actuary to recommend actuarial assumptions to the board for approval by trustees.

Consistent with Mr. Kim's observation, a recent NASRA survey of state and local retirement benefit plans found that for the large majority of public pension plans, the trust board was solely responsible for setting the investment return assumption (see Appendix B in [NASRA Return Assumptions](#)).

In addition, OLO interviewed [Dean Kenderdine](#), the current Executive Director of the National Council on Teacher Retirement and the former Executive Director of the Maryland State Retirement Agency. Mr. Kenderdine suggested the following guidance for setting actuarial assumptions:

What has worked well for public pensions is to have a board of investment trustees, with the assistance of a professional actuary, determine and periodically re-evaluate actuarial assumptions based on experience studies under past/current assumptions and stress testing of potential assumption modifications.

In Montgomery County, the County Code assigns most retirement system responsibilities, including the determination of actuarial assumptions, to the CAO. The County Code does not assign any person or entity responsibility for determining CRHBT actuarial assumptions. In this respect, the County does not align with predominant nationwide practices.

A [bill](#) introduced by the County Council in December 2024 would shift responsibility for determining actuarial assumptions from the CAO to the BIT. As introduced, the bill does not address actuarial assumptions for the CRHBT.

F. Selection of Executive Director

Most public sector retirement benefits trusts receive professional and administrative staff support under the leadership of an Executive Director (also known as a "Chief Executive Officer," "Chief Investment Officer," and other similar titles). The Executive Director works with the board of trustees to establish the fund's strategic direction and to implement the board's investment policies and goals. Commonly, the Executive Director also monitors portfolio performance and oversees investment managers.

In some jurisdictions, the Executive Director is solely responsible for investment and portfolio management duties; in other jurisdictions, the Executive Director also supervises additional functions such as administering pension benefits, providing retirement counseling and education, preparing financial statements and accounting reports, and compiling tax reports.

Retirement Benefit Trust Fund Governance in Montgomery County

In conducting research for this report, OLO sought information about public sector trust fund hiring practices. More specifically, OLO sought to learn whether the predominant practice is for government officials or for boards of trustees to hire a retirement trust fund Executive Director. As told to OLO by NCPERS Executive Director [Hank Kim](#):

It is most common for the chief executive (often called the “Executive Director” or “Chief Executive Officer”) who serves an investment trust board to be hired by, and be an employee of, the board, not the plan sponsor.

At the request of OLO, NCPERS conducted a September 2025 survey and found that in 87% of responding jurisdictions, the retirement plan's board of trustees is responsible for hiring the Executive Director.

Similarly, in [NASRA Governance Roles](#), NASRA describes the “typical” management structure in which boards of trustees select senior trust fund professional staff:

Top staff members of public retirement systems typically are hired or appointed by the board and serve at the board’s discretion. As a result, top staff and consultants could be considered agents of the board, responsible for fulfilling the board’s directives. The board-staff relationship is symbiotic: the board is responsible for giving top staff direction to carry out the board’s instructions, and the staff is responsible for advising the board regarding information the board needs to make knowledgeable decisions.

In Montgomery County, the CAO hires the MCERP Executive Director. The County practice differs from the predominant practice in the United States in which boards of trustees appoint the senior investment trust manager.

CHAPTER 6: BOARD OF TRUSTEES STRUCTURE - RESEARCH FINDINGS AND EXPERT GUIDANCE

In this chapter, OLO presents the findings of academic studies and guidance from experts on the structure of public sector retirement benefit boards of trustees. This chapter addresses composition of these boards, specifically, the size (number of members) of a board and the requisite qualifications for specific seats on a board.

A. Methodology

OLO conducted a literature review of academic articles on the optimal size and composition of public sector retirement benefit boards of trustees. This chapter includes verbatim excerpts from relevant studies on the topic. All article excerpts appear in *italics* and are presented verbatim as published. This chapter includes hyperlinks to all cited articles.

OLO also interviewed experts in the field of public sector retirement benefit governance. This chapter includes statements shared by these experts with OLO. Expert statements appear in *italics* and are presented verbatim as told to OLO. Each interviewee cited in this chapter approved their statements for publication. This chapter includes hyperlinks to information about each expert cited.

OLO made an intentional decision not to interview current members of the BIT and CRHBT for this report. Given that disagreements among board members have become public in recent months, OLO sought to avoid using a methodology that may result in an unequal degree of input from board members. Instead, OLO invited each current board member to submit comments for inclusion in this report (see Chapter 7). Councilmembers will have an opportunity to seek additional input from current board members following the release of this report.

B. Board of Trustees Size

The number of trustees on public sector retirement benefit trust boards varies greatly among U.S. jurisdictions. In a research paper published by the Center for Retirement Research at Boston College entitled, [*Does Public Pension Board Composition Impact Returns*](#), authors Jean-Pierre Aubry and Caroline V. Crawford (hereafter, “Aubry and Crawford”) state that “public pension plan boards range from 5 to 19 members ... with an average of 10 members.”

A similar finding appears in the National Association of State Retirement Administrators (NASRA) report, [*State Retirement System Governing Authority Arrangements*](#). From a survey of more than 120 public sector retirement boards, NASRA found that:

Retirement Benefit Trust Fund Governance in Montgomery County

... among boards with oversight of both administration and assets, the median number of board members is 10.5, with a range of five to 20; among the 25 boards with oversight of administration only, the median size is 11.0 members, with a range of five to 17.

Some experts express the viewpoint that the size of a board of trustees may affect its ability to function. In its publication, [Governance of Public Employee Postretirement Benefits Systems](#) (hereafter, “GFOA Governance”), the Government Finance Officers Association (GFOA) recommends avoidance of extremes in the number of trustees:

The postretirement benefit system’s board of trustees should be neither so large as to be unwieldy nor so small that it runs the risk of being led by a narrowly focused group of decision makers or of being unable to get a quorum to make decisions. Optimal board size depends on the size and complexity of the system ...

In most jurisdictions, the size of a retirement benefit fund trust board of trustees is established in law. Many jurisdictions have increased the size of these boards to include different stakeholder representatives (see Section C below). However, as presented by [Aubry and Crawford](#), smaller boards may function more effectively:

While the ideal board size can vary depending on the complexity of the system, most governance experts recommend 6-10 members, as it allows for stakeholder representation, but is small enough to function efficiently.

OLO interviewed [Jean-Pierre Aubry](#), Associate Director of Retirement Plans and Finance at the Center for Retirement Research at Boston College (and co-author of the previously cited article). Mr. Aubry reiterated his observation that larger-sized boards of trustees do not produce better outcomes:

Most boards for a major state and local pension plan consist of 6 to 10 members. Research suggests there is no benefit from having a board outside of this range.

The County’s BIT is comprised of 13 members; the CRHBT consists of 19 members. These County boards include more members than the national average.

C. Board Composition – Types of Trustees

The composition of public sector retirement benefit trust boards typically includes two categories of trustees: subject matter experts and stakeholders.

- Subject matter experts are individuals with demonstrated knowledge and skills relating to investments and associated financial matters. Often, jurisdictions require that subject matter experts who sit on a board of trustees not be associated with stakeholder groups that have an interest in the retirement plan.
- Stakeholders are trustees appointed to a board to represent the viewpoint of particular groups of people who have an interest in one or more elements of the retirement benefit plan. Stakeholders may have an interest in short-term costs, short-term benefit levels, long-term costs, long-term benefit levels, fund sustainability, or other elements of a retirement plan. Common stakeholder groups on boards of trustees include active plan members, retired plan members, labor representatives, and government officials. A stakeholder also may have subject matter expertise, but such expertise is not a prerequisite for taking a seat on the board of trustees.

The predominant practice in the U.S. is to have a majority of trustees represent stakeholder interests with a minority of board seats reserved for disinterested subject matter experts.

The County's 13-member BIT has a strong stakeholder alignment. Nine trustees represent a stakeholder group (three *ex officio* trustees who serve at the pleasure of the County Executive and one *ex officio* trustee who serves at the pleasure of the County Council), three bargaining unit plan representatives, one non-represented plan member, and one retired plan member). Some trustees may be affiliated with multiple stakeholder groups, such as an *ex officio* trustee who is also a plan member. Only four trustee seats – or 31% of the board – are reserved for subject matter experts.

The County's 19-member CRHBT Board includes the 13 members of the BIT plus six additional stakeholder members. The six additional trustees each represent a different stakeholder or stakeholder group: the MCPS Superintendent, active MCPS employees, MCPS retirees, the Montgomery College President, active Montgomery College employees, and Montgomery College retirees. The four subject matter experts comprise 21% of the total number of CRHBT trustees.

The County's practice of having strong stakeholder participation on its two boards of trustees is consistent with the predominant practice among public sector retirement trusts in the United States.

D. Board Composition – Stakeholder Involvement and Interests

As noted above, public sector retirement benefit boards of trustees commonly include stakeholders who represent the interests of groups such as plan members, retirees, and government officials. Nonetheless, all trustees, including stakeholders, are obligated to fulfill their fiduciary responsibilities, and as such, must make decisions solely for the benefit of plan beneficiaries. Appropriate education and training may be necessary to ensure all trustees, including stakeholders, act in accordance with their fiduciary responsibilities. The [Stanford Institutional Investors' Forum, Committee on Fund Governance, Best Practices Principles](#) emphasizes the importance of trustees acquiring appropriate training and skills:

A governing body should consist of appropriately qualified, experienced individuals dedicated to fulfilling their fiduciary duties to fund beneficiaries. Viewed as a group, the board should be composed of individuals with a portfolio of skills that allows it to make responsible, informed investment and legal decisions, and to discharge its fiduciary obligations to fund beneficiaries... Where trustees are elected to a board to represent a class of fund beneficiaries, the elected trustee should take reasonable steps to acquire the skills to serve appropriately as a fiduciary. Ideally, each trustee will have significant, relevant experience or expertise that can contribute to the responsible resolution of the complicated decisions likely to affect fund assets, beneficiary benefits, and related matters. The trustees should be individuals dedicated to fulfilling a fiduciary duty to fund beneficiaries and should have qualifications and experience consistent with standards for service as a fiduciary.

In conducting research for this report, OLO identified multiple academic papers that describe negative effects resulting from over-representation of stakeholders on public sector retirement benefit trust boards. More specifically, OLO found different research that quantified lowered investment performance and cited other risks associated with the appointment of government officials, labor organizations, and retirees, respectively, as retirement fund trustees.

Government Officials: A research paper by economists associated with the National Bureau of Economic Research, [Political Representation and Governance: Evidence from the Investment Decisions of Public Pension Funds](#), concludes that boards of trustees that are “heavily populated” with government officials perform worse than other boards despite the officials’ relatively strong financial education and experience. As stated by the authors, Aleksandar Andonov, Yael V. Hochberg, and Joshua D. Rauh:

We find that pension funds governed by boards heavily populated by state-appointed, state-ex officio and participant-elected trustees invest in PE [private equity] funds that deliver lower net IRR [internal rate of return] and multiple of invested capital.... We document three failures that explain approximately half of the underperformance of pension funds with boards heavy in state-appointed and state-ex officio members. First, such pension funds invest more in real estate, a category

Retirement Benefit Trust Fund Governance in Montgomery County

that has delivered lower returns. Second, these board members overweigh local in-state investments in real estate and venture capital, which negatively affects performance. Third, poorly governed pension funds are more likely to invest in small funds with few other investors and managed by inexperienced [professional managers] ...

Further, Andonov, Hochberg, and Rauh assert that poor performance resulting from over-representation of government officials cannot be attributed to lack of investment knowledge or experience:

We find no support for a [conclusion] that ... lack of knowledge, skills or experience would drive the underperformance of politically-dominated boards. While prior asset management, financial or related experience is valuable and associated with selection of PE [private equity] funds that deliver higher performance, state-appointed and state-ex officio trustees generally score well on these experience measures. Low prior financial experience explains the poor performance by boards with high proportion of participant elected board members, but does not explain the underperformance of state-appointed and state-ex officio trustees.

OLO interviewed Keith Brainard, a pension benefit expert and an adjunct assistant professor at the LBJ School of Public Affairs at the University of Texas at Austin. Mr. Brainard offered the following commentary regarding the apparent conflict of having government officials both play role in setting retirement benefit plan design and also participate in pension fund oversight.

Board members have a fiduciary duty to serve solely in the interests of plan participants. Board members who also have authority to set or to adjust the design of the plan, including benefit levels, have an inherent conflict. Plan design should be the responsibility of the elected body—the legislature, city council, etc.—and the board should focus on overseeing the retirement system, ensuring it is complying with pertinent laws and operating in an efficient and effective manner.

Labor: A different research paper cautions against the over-representation of labor on retirement benefits boards. A research paper by political scientists from the University of California and Stanford University, entitled, [*Interest Groups on the Inside: The Governance of Public Pension Funds*](#), addresses the role of public employees and their labor organizations in managing public pension funds. The authors, Sarah F. Anzia and Terry M. Moe, contend that labor representatives have a strong interest in making decisions that downplay the costs of a retirement plan:

Pension boards are government agencies of great significance. They control trillions of dollars, with vast consequences for governments, public workers, and society as a whole—and their operation in the bureaucratic shadows, surrounded by mind-numbing technicalities, gives interest groups much opportunity to exercise inside

Retirement Benefit Trust Fund Governance in Montgomery County

influence over policy... Almost all of these boards are designed to enable public workers and their unions to play official roles in governing their own pension systems.... [F]or public workers and their unions — the supposed guardians of the system — chronic underfunding is simply smart politics. Their pension benefits are legally protected, whether properly funded or not; and underfunding, by promoting the fiscal illusion that benefits are inexpensive and affordable, works to their great advantage. It is the key to gaining political support for generous benefit levels. It also frees up public money for other government services, and thus for higher public employment, salaries, and raises.

Moreover, Anzia and Moe present analysis they say demonstrates that public employee participation in pension plan investment decisions produces less fiscally responsible plan management.

Our empirical analysis of 109 state-run pension plans demonstrates that, as our theory suggests, public employees and their unions are not the champions of fiscal integrity. Indeed, the evidence shows that, in their key pension decisions—regarding the discount rate and the percentage of the ARC [annual required contribution] paid—they are consistently less fiscally responsible than the ex-officio politicians and (most) political appointees are.

Retirees: A research paper by two University of Pennsylvania economists entitled, [*Public Pension Governance, Funding, and Performance: A Longitudinal Appraisal*](#) (hereafter, “Mitchell and Yang”), studies how public pension plan investment performance and funding is related to several structural and pension design features. The authors, Olivia S. Mitchell and Tongxuan Yang, cite evidence that over-representation of retirees on a trust board can negatively affect investment performance and increase plan sponsor costs.

Supportive of previous research, we find that public plan governance has an important impact on plan investment performance and funding status. Having more retired employees on the Board can depress investment performance, stock funding, and flow funding, while having more active employee participation can depress stock funding.

E. Board Composition – Balance of Stakeholder Interests

The previous section of this chapter references research findings and expert guidance that purport to have identified negative effects resulting from the over-representation of different stakeholder groups on public sector retirement benefit trust boards. OLO cannot evaluate the relative strengths and weaknesses of these assertions. Nonetheless, OLO received guidance from multiple retirement benefit experts regarding an antidote to real or perceived stakeholder bias, that is, board composition that balances different stakeholder perspectives.

Retirement Benefit Trust Fund Governance in Montgomery County

An imbalance of stakeholder groups may result in a board of trustees skewing from their fiduciary responsibilities to act in the best interests of plan beneficiaries. As stated to OLO by [Aubry](#):

Research has found that boards with an imbalance of stakeholders (for example, significantly greater representation of ex officio members than plan participants) achieve poorer investment outcomes than boards with a balance of stakeholder representation.

OLO interviewed [Hank Kim, the Executive Director of the National Conference on Public Employee Retirement Systems](#) (NCPERS). Mr. Kim offered the following guidance on how to assemble a functional public sector retirement trust board:

The composition of an investment trust board is more significant than the number of trustees. The optimal board composition includes trustees with a mixture of backgrounds and affiliations to create a balance of perspectives.

An investment board should have a mix of members representing different viewpoints. Both stakeholders (trustees representing the employer, labor, and beneficiaries) as well as public board members all have biases and blind spots. Having trustees with a range of interest provides beneficial checks and balances in board decision-making.

In a similar vein, the [GFOA Governance](#) publication emphasizes the value of maintaining a mix of backgrounds skills, and perspectives on public sector trust boards.

To operate effectively, a board should include members who have a diverse mix of skills, competencies, and behaviors, including leadership, teamwork, communication, planning and organizational abilities, and knowledge of sound decision-making principles. A successful board actively pursues and makes use of these skills and behaviors. Board composition should reflect the varied interests of those responsible for funding the plan and may include plan participants and retirees, citizens of the governmental unit, and officers of the plan sponsor, as well as independent directors. This assures balanced deliberations and decision making.

In an article entitled, [Protecting and Politicizing Public Pension Fund Assets: Empirical Evidence on the Effects of Governance Structures and Practices](#), University of Michigan Ross School of Business Professor of Business Law, David Hess, presents research supporting the notion that no one class of stakeholders should dominate a board of trustees.

There may be a curvilinear (or inverted-U shape) relationship where an increasing proportion of member-elected trustees have a positive impact on performance, but

after crossing a certain threshold, it has a decreasing impact. Presumably, there are benefits from the independence and motivation of member-elected trustees, but at some point their nontechnical expertise may work against those benefits. This suggests that there is a need for a well-balanced board and not a board dominated by any particular class of trustees. This is further reflected in the positive association between trustees appointed by an executive (who perhaps are more likely to have investment expertise) and plan performance.

F. Board Composition – Subject Matter Experts

The [Stanford Institutional Investors’ Forum, Committee on Fund Governance, Best Practices Principles](#) emphasizes the necessity of having a sufficient number of board members who are well versed in financial and accounting matters:

Every governing body should have a sufficient number of members skilled in the disciplines necessary for effective fund management so that the governing body, acting as a collective entity, possesses a portfolio of skills and abilities that allow it to effectively discharge its fiduciary obligations. A governing body should, in particular, consist of a sufficient number of trustees competent in financial and accounting matters so that the body is capable of understanding modern portfolio theory, diversification principles, basic financial analysis, and fundamental accounting principles.

Nonetheless, most U.S. jurisdictions populate their retirement benefit boards of trustees with a stakeholder majority. However, this is not a universal practice as some governments have elevated the prominence of subject matter experts on boards of trustees.

For this report, OLO interviewed [Dean Kenderdine](#), the current Executive Director of the National Council on Teacher Retirement and the former Executive Director of the Maryland State Retirement Agency. Mr. Kenderdine suggests there is an alternative to the stakeholder-majority model.

While the predominant model for public pension plans in the United States is to have stakeholder representation on boards of trustees, a few jurisdictions (such as the States of Minnesota, South Dakota, Wisconsin, and Washington) have fund asset management responsibilities assigned to separate investment boards comprised largely of members with investment expertise as well stakeholders, legislators, and/or ex officio state officials, or in the case of Minnesota, all ex officio state officials. A fairly common model for public pension plans has a significant number of trustees to be non-stakeholder investment experts with the balance of seats for ex officio public officials and a number of seats reserved for stakeholders. One seat on

Retirement Benefit Trust Fund Governance in Montgomery County

the board of trustee could be reserved for the retirement plan executive director who would represent the interests of the plan's board, including all stakeholder groups.

In the research article cited above, [Mitchell and Yang](#) suggest that board member expertise is essential to sound investment management.

To make public plans more resilient to [investment market] shocks, plan governance structure could be enhanced to boost investment performance and funding status. One way would be to include more expert Board members; another might be to provide better training to Board representatives, especially if they are active or retired employees.

[Aubry](#) shared a similar sentiment with OLO and suggested a possible untapped source of expertise for retirement benefit boards of trustees:

Many boards have insufficient investment expertise among their members. Lack of board member investment expertise can cloud decisions. Often, boards rely heavily on external actuaries and investment consultants who strongly influence actuarial assumptions and investment approaches.

Adding retired actuaries and investment consultants (not retired members of the retirement system but retired from their profession) could be a novel means of adding independent expertise to investment trust boards.

CHAPTER 7: COMMENTS FROM TRUSTEES AND THE CAO

As mentioned in Chapters 4 and 5, OLO made an intentional decision not to interview current members of the BIT or CRHBT for this report. Given that disagreements among board members have become public in recent months, OLO sought to avoid using a methodology that may result in an unequal degree of input from board members. For similar reasons, OLO did not interview the CAO for this report. Instead, OLO invited each current board member and the CAO to submit comments for inclusion in this report.

A. OLO Request for Comments

OLO invited each BIT and CRHBT member, as well as the CAO, to submit written comments reflecting their perspectives on the following:

1. What are the advantages and disadvantages of the current size and compositions of the BIT and CRHBT?
2. Which person(s) or entities (e.g. elected officials, appointed officials, board of trustee members, professional staff, outside consultants, etc.) are best suited to assume the following investment management responsibilities?
 - a. Selecting an actuary.
 - b. Determining actuarial assumptions (cost method, anticipated investment rates of return, mortality rates, etc.).
 - c. Hiring investment professionals and support staff.
 - d. Preparing the board's operating budget and managing board expenses.
3. Is there any other input you would like to share about trust governance.

B. Comments Received

OLO received four responses from trustees and a response from the CAO, presented below in order of when OLO received the comments.

- Comments from Trustee Beryl L. Feinberg appear in their entirety beginning on page 40.
- Comments from Trustees Lee Holland, Jeff Buddle, and Gino Renne appear in their entirety beginning on page 44.

Retirement Benefit Trust Fund Governance in Montgomery County

- Comments from Trustee Michael J. Coveyou appear in their entirety beginning on page 51. Note: Mr. Coveyou’s comments reference a document known as the “Clapman Report.” This document is available online [here](#).
- Comments from Trustee Linda Herman appear in their entirety beginning on page 54.
- Comments from Chief Administrative Officer Richard S. Madaleno, appear in their entirety beginning on page 63.

TO: Aron Trombka
Office of Legislative Oversight

FROM: Beryl L. Feinberg
BIT and CRHBT Trustee

RE: OLO Project #17
Retirement and Retiree Health Benefit Trust Governance: Trustee Input

DATE: September 30, 2025

Thank you for the opportunity to offer my perspective on various aspects of the above referenced OLO Project # 17. Should you have any follow-up questions, please contact me via email or phone.

My brief time as a trustee is such that I chose to comment on those areas where my knowledge and experience is the greatest.

1. What are the advantages and disadvantages of the current size and compositions of the BIT and CRHBT?

a. Meeting schedule.

Currently, the BIT and CRHBT Boards meet four times a year with one quarterly meeting incorporating the retreat, so the governance meetings are less than four times per year to discuss investment issues and to receive briefings from investment managers and staff. The meetings generally last about an hour and a half for each board. Given the trustee turnover on both boards during the last two years, suggest that meetings return to the previous convention of six meetings per year plus an all-day retreat.

b. Inconsistent Trustee Term Limits

Terms vary as follows: BIT 4 Ex-Officio Members - no term limit as long as they serve in their positions; Public trustees and retirees and non-represented employees have term limits; 2 persons recommended by the County Council and 2 persons nominated by the County Executive who are knowledgeable in pensions, investments or financial matters, all have term limits; 3 bargaining unit designees serve without any term limit. Similar inconsistencies exist on the CRHBT terms, including MCPS and Montgomery College trustees who have no term limits. Recommend that OLO consider changes so there is no domination by one sector or interest group.

2. Which person(s) or entities (e.g. elected officials, appointed officials, board of trustee members, professional staff, outside consultants, etc.) are best suited to assume the following investment management responsibilities?

a. Selecting an actuary.

As I understand the process, it is a collaborative effort, comprised of MCERP (representing the boards for the investment return assumption and the CAO for the retirement benefits), OMB, Finance, OHR together drafting the Request For Information and then evaluating the candidates. Subject matter experts thus evaluate the expertise of candidates and the data presented in the actuarial assumptions in their respective areas of investments, budget, finance, and benefits. The group's recommendation then is reviewed and recommended by the CAO. While to my knowledge this has ever been challenged, it serves as an important check and balance or guardrail and should remain in place.

- c. Determining actuarial assumptions (cost method, anticipated investment rates of return, mortality rates, etc.).
- d. Hiring investment professional and support staff.
- e. Preparing the board's operating budget and managing board expenses.**

In accordance with the Governance Policy, the staff provides input into the revised current year and estimate of the next the year's MCERP annual operating budget (AOB) which is approved by the boards. The boards possess the fiduciary responsibility of reviewing the operating revenues, operating expenses as well as the administrative expenses. This last category includes salaries and benefits, Due Diligence – Staff, Continuing Education – Trustees and Office Management. The County's Office of Management and Budget and the Chief Administrative Officer (or his delegated staff) review the proposed budget prior to its transmission to the County Council. When these checks and balances are adhered to and respected, robust discussions may ensue. However, if these guardrails are eliminated, or ignored, abused and not promulgated to all stakeholders, serious consequences can occur.

Without rehashing aberrations from governance processes during 2024, suffice it to say that one may characterize a failure on the part of multiple players. The result was that a ten-year, \$3 million lease was signed without the board approving the terms, without approval by the County Attorney and without the protection of the trust assets from an early lease termination due to the lease structure. Instead of rent-free space in the Leggett Executive Office Building, trust assets are charged for space that will be only 50-60% occupied. The previous Executive Director (ED) never disclosed the lease terms and costs to the boards until the February 2025 meeting...but executed the lease in November 2024 without sign off by the County Attorney, without including changes recommended by the County's Department of General Services and the County Attorney, and without the boards' approval.

In lieu of soliciting the boards' approval for the lease, it was incorporated into the next year's operating budget. The lease passed as a budget recommendation without unanimity and with strong objections by multiple trustees.

Similarly, staff expenses for 'due diligence' travel to Paris, London, and other European cities by the then ED and four MCERP staff or 70% of the investment team cost the trust funds more than \$30,000. The full boards did not review this travel request and had no knowledge of it taking place. Over two years, similar travel/training costs total over

\$200,000. No reports forthcoming, and the outstanding question is what added value is there to these excessive travels? Understand that the consultants who recommend most of the investments conduct their own due diligence prior to the recommendation which the trust funds are being charged for via the consultant's fees. So, why are we also paying for staff's travel costs?

Given the politics observed on these boards, it is critical that strong guardrails are in place by the CAO. There must be ongoing, time-sensitive two-way communication between trustees and the ED and staff. This will ensure that the County Code and the governance policies of the boards are adhered to and prevent future shenanigans.

3. Is there any other input you would like to share about trust governance.

Nonexistent Access to BIT/CRHBT Open Meeting Discussions and Training Sessions

Current practice is that trustee meetings are not recorded during the meetings. Minutes are taken but they do not reflect the discussions by the boards. No recording is archived; nothing is available to trustees who may have been unable to attend the meeting either in person or via a hybrid virtual platform. Retirees/beneficiaries, Executive Branch or Councilmembers and staff, too, may only watch or attend these trustee meetings in real time to understand the workings of the boards, and listen to discussions. Multiple MCERP staff take transactional minutes, recording motions and votes. On multiple occasions, draft minutes required corrections to the exact wording and votes of motions. However, no corroborating documentation exists. If recordings existed, then draft minutes eliminate needless meeting time to edit/correct them for accuracy. With meetings only four times per year and requiring board approval, the time lag to post these transactional minutes oftentimes takes two months, again denying stakeholders current information about votes taken.

While this may seem minor, in fact, its significance is major. Trustees are empowered to ensure that current and future assets exist to underwrite the liabilities owed to retirees and their beneficiaries. As such, creating artificial barriers to accessing the work of trustees is a form of indirect disenfranchisement and contrary to government best practices and open communication. The National Conference on Public Employee Retirement Systems (NCPERS) states this as a best practice to record meetings and post them where all stakeholders may review them. The State of Maryland Pension System records its meetings.

As a new trustee, attempting to expedite the learning curve, I was surprised and disappointed to learn that I would be unable to listen to previous trustee meetings. I had hoped to understand the current issues facing the boards and nuances of how the boards function. Without archived recordings, significant learning is foreclosed. Trustees unable to attend the in-person and hybrid training session on September 25th are similarly precluded from gaining the tangible benefit of recorded and archived sessions.

At the July 25, 2025 meeting, a motion was made to permit recordings. Nothing exists in the minutes of the meeting to hear differing viewpoints. Unfortunately, the motion failed. Ironically, only two months later the trustee most vocal against recorded meetings later requested recording a September 25th training session. Without a change to the governance procedures, this was not possible.

Retirees and others have been deprived of the opportunity to witness the disrespect and bullying of a trustee. From other trustees, I understand that this person's behavior has been a recurrent theme in previous trustee meetings. Without archived recorded meetings, there is no verification that this has occurred and likely will be denied. Recorded meetings would serve as a deterrent to this behavior.

I urge you to seriously consider how this governance change would permit more open communication, transparency, access to the important work of the BIT/CRHBT and reduce the disrespectful and polarized discussions.

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Robert Alexander
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September 30, 2025

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Aron Trombka
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By email to: Aron.Trombka@montgomerycountymd.gov

Dear Mr. Trombka,

Thank you for the opportunity to submit comments relating to the report requested by the Council on the governance of public sector investment trusts. It is our understanding that this report will include information on retiree benefit trust governance structures in other jurisdictions, and will identify governance best practices. In inviting the Trustees of the Board to submit comments, you identified several specific questions as to which you were soliciting the Trustees' viewpoints. This letter is submitted on behalf of Trustees Lee Holland, Jeff Buddle, and Gino Renne, in response to those questions.

We note at the outset that many of these issues are addressed in our June 26, 2025, letter to the Council setting forth certain concerns about the current governance structure of the retiree benefit trusts, and the effect on Trustees' ability to properly exercise their fiduciary role. That letter is attached here for your reference. In addition, we refer you to the governance recommendations and report provided by Global Governance Advisors (GGA), the consultant that the Board hired to study these issues, which was presented at the February 2025 Board meeting. Each question you raised is addressed below.

September 30, 2025

1. *What are the advantages and disadvantages of the current size and composition of the BIT and CRHBT?*

As expressed in our June letter to the Council, the undersigned Trustees have concerns that the size and the composition of the Boards impedes the proper functioning of the fiduciary roles. To begin, the current size of the Board—thirteen members—is somewhat larger than is typical for Funds of this type, which can make scheduling and discussion more difficult. (By comparison, the M-NCPPC ERS Board is only eleven Trustees, the Howard County Retirement Plan Committee is seven members, and the Howard County Police and Fire Retirement Plan Committee is eight members.) But more troublesome is the outsized weight of Trustees appointed by the County Executive’s office – for the BIT, the County Executive essentially appoints eight of the 13 Trustees, as opposed to the three appointed by the employees’ certified representatives. As a point of comparison, for private sector collectively-bargained pensions, federal law requires that union-appointed Trustees have equal voting power with management-appointed trustees, with an impartial arbitrator to resolve any deadlocks. *See* 29 USC 186(c)(5). For public pensions, it is not uncommon for the sponsoring governmental entity to have majority voting power – however, such an extreme weighting towards management can be detrimental to the independence of the Board.

Moreover, as we have pointed out, a practice has developed in the County to appoint a former employee of the Retirement System to the Board. In the experience of the undersigned Trustees, that further impedes the independence and transparency of the Board’s operations, as a former employee of the Retirement System may be operating based on information not presented through the usual channels to the Board, and may, by virtue of their former role, have an outsized influence on Board deliberations or plan operations. As a result, we have suggested a revision to the statute prohibiting current or former employees of the Retirement System from serving as Trustees. We have also suggested a revision to the selection of the retiree representative that is not appointed by the certified bargaining representative of unionized employee. The current allocation of a seat selected by a group that may not be representative of the non-unionized retiree participants raises transparency issues and is not typical for funds of this nature; we have instead suggested a more democratic process for filling that seat.

- 2. *Which person(s) or entities (e.g. elected officials, appointed officials, board of trustee members, professional staff, outside consultants, etc.) are best suited to assume the following investment management responsibilities?***
- a. *Selecting an actuary.***
 - b. *Determining actuarial assumptions (cost method, anticipated investment rates of return, mortality rates, etc.).***
 - c. *Hiring investment professional and support staff.***
 - d. *Preparing the board’s operating budget and managing board expenses.***

Selecting an Actuary and Determining Actuarial Assumptions:

In our view, it is incontrovertible that the Board of Trustees is best suited to select and supervise the actuary to the Retirement System. The Board of Trustees has a fiduciary duty to ensure proper management of the funds’ assets. The work of the funds actuaries is essential to

September 30, 2025

this task, and is an essential part of the Trustees' fiduciary duty to appropriately select professionals to perform the tasks that cannot be performed by the Board itself. This is acknowledged as best practice among pension funds, and is by far the dominant practice for public pension funds of similar size and scope to the Retirement System.. Following are just some examples of various statutes that explicitly provide this authority to the trustees of public pension funds:

- Maryland State Retirement System: “The Board of Trustees shall designate an actuary who shall... give technical advice to the Board of Trustees on the operation of the funds of the several systems; and perform other related duties that the Board of Trustees requires.” MD State Personnel and Pensions Code § 21-125 (2024).
- Baltimore City Pension: “The Board shall designate a qualified actuary who shall be the technical adviser of the Board of Trustees on matters regarding the operation of the funds.” Baltimore City Code Art. 22 Sec. 5(m).
- Howard County Police and Fire Employees' Retirement Plan: “[R]etirement plan Committee... shall have the ... powers .. [t]o employ or engage actuaries to: make actuarial evaluation of the liabilities under the plan” Howard County Code, Tit. 1, Subtit. 4A, Art. 5A, Sec. 1.454A.
- Anne Arundel County Retirement System: “The Board shall select an actuary who shall give technical advice to the Board on the operation of the funds of the System and perform other related duties that the Board requires.” Anne Arundel County Code Sec. 5-2-208.
- Pennsylvania state law providing for the creation of County retirement systems specifies that the Board of Trustees of each system “may appoint and fix the compensation of an actuary.” 16 Penn. Stat. Sec. 11655.¹

The question of who has ultimate authority for setting the actuarial assumptions is somewhat more complicated. As a fiduciary matter, it is clear that the plan fiduciaries (the Trustees) have a fiduciary obligation to the plan to ensure that the plan valuation is prepared using assumptions that would meet at least the prudent person test. And any prudent person would receive expert advice from an actuary prior to undertaking a specialized task such as setting actuarial assumptions. Actuaries have extensive training, are subject to accreditation, testing and continuing education obligations, and must adhere to professional standards when determining these assumptions. *See, e.g.*, https://www.actuarialstandardsboard.org/standards-of-practice/#filter=* (standards of practice); <https://www.actuary.org/wp-content/uploads/2011/08/CE-requirements-2022.pdf> (describing annual continuing education requirements). For this reason, for private sector pension plans, federal law (ERISA) requires that the assumptions “in combination, offer the *actuary's* best estimate of anticipated experience under the plan.” 29 USC Sec. 1085(c)(3) (emphasis added).

¹ As an example of a different model, Massachusetts law provides for a statewide Commission that completes actuarial valuations for public plans in the state, *see* Mass. Gen. Laws, Chap. 32, Sec. 21, so that the trustees of the individual plans do not need to hire their own actuary.

September 30, 2025

In the public sector, because state and local statutes vary, the Actuarial Standards of Practice (ASOP) recognize that a legislative body, plan sponsor, a governing board of trustees may determine a particular assumption and provide that determination to the actuary. This is permitted as a “prescribed assumption or method set by another party” under ASOP 27. However, in such cases where the assumption is “prescribed” to the actuary, the actuary has a professional duty to disclose if the assumption “significantly conflicts with what, in the actuary’s professional judgment,” would be reasonable for purposes of the assignment. ASOP 41, Section 3.4.4(b)(2). The resulting disclosure could jeopardize a public entity’s financial ratings—because a disclosure that a plan is using a valuation rate that is not, in the actuary’s professional judgment, reasonable means that the plan is more underfunded than its valuation reports, and therefore the statements do not fairly reflect the full extent of the public entity’s liabilities. Accordingly, it is highly desirable to avoid a situation where the governmental entity “prescribes” an actuarial assumption that deviates from the actuary’s professional judgment.

As you know, the current Montgomery County statute gives the CAO the power to, “[a]fter consultation with the board and the actuary for the retirement system, determine the actuarial cost method, and the mortality, turnover, interest rates, and other assumptions to be used in actuarial and other computations for the retirement system.” County Code Section 33-47(d)(7). This is not standard practice among public pension plans of similar size and scope. Among such plans, it is far more common for these assumptions to be set by the Board of Trustees. This makes sense as a matter of prudent plan management, as the Trustees have a fiduciary duty to manage the plan assets, and that duty of prudence would generally require the Board to defer to the professional expertise of the actuary. Following are just some examples of public plans that explicitly assign this role to the Trustees:

- Maryland State Retirement System: The Board of Trustees shall: review the results of the investigations and valuations of the actuary; and adopt the actuarial assumptions for each of the several systems as the Board of Trustees considers necessary.” MD State Personnel and Pensions Code § 21-125 (2024).
- Baltimore City Retirement Systems: “[B]ased on the results [of an experience study conducted by the actuary], the Board shall adopt and certify for the System the mortality, service, compensation, and other actuarial assumptions it deems necessary for the actuary to determine the annual contribution by the City to this System.” Baltimore City Code Art. 22, Sec. 5(o).
- M-NCPPC Employee Retirement System: “The Consulting Actuary will present recommendations (and accompanying reports, discussion, etc.) to the Board, which will have the option to accept or reject such... Economic assumptions- which include inflation, investment return, and employee salary increases... adopted by the Board represent the actuary's best estimate of anticipated experience under the ERS and are intended to be long term in nature.” M-NCPPC Employee Retirement System Governance Manual, pp. 54-55.
- Howard County Police and Fire Retirement System: Retirement Plan Committee has the authority “to determine the mortality and other tables and interest rates to be used from

September 30, 2025

time to time in actuarial or other computations for any purpose of the plan” Howard County Code, Art. V, Sec. 1.454A(a)(15).

- Anne Arundel County Retirement System: By statute, the Board adopts the actuarial assumptions but (in addition to the Board’s general fiduciary duties), the statute mandates that, for purposes of the actuarial valuation, “the Board shall adopt a generally accepted method for determining the value of the assets held by the System.” Anne Arundel County Code 5-2-208.
- California Public Employee Retirement System: “Upon the basis of any investigation, valuation, or determination, or all of these, the board shall adopt mortality, service and other tables and annual and actuarial interest rates it deems necessary.” CA Govt Code § 20132 (2024).

Moreover, while the above examples contain instances in which the Boards set both economic assumptions and demographic assumptions, it is more common, even in the world of public plans, for the actuary to determine the demographic assumptions, such as mortality. *See ASOP 27, Appendix* (noting that, even for public plans that “most demographic assumptions are not” set by someone other than the actuary); *see also* 16 Penn. Stat 11656 (stating that, for public pensions in Pennsylvania, “[t]he actuary of the board shall . . . adopt for the retirement system one or more mortality tables.”)

Hiring professionals, staff, preparing budgets and managing expenses:

Again, the under-signed Trustees’ position is that, in order for the Trustees to be able to properly exercise their fiduciary duties, the Board must be able to hire appropriate staff and outside professionals to manage the fund, including to perform such ordinary administrative tasks such as preparing budgets and managing expenses. It is our position that the County law already provides the Board with this authority, as the County Code currently authorizes the Board to “[d]o all acts which it considers necessary and exercise any and all powers of this article with respect to the management of the retirement system, and in general, exercise all powers in the management of the assets which an individual could exercise in the management of property owned in the individual’s own right except for making an individual investment selection.” County Code Sec. 33-60(d)(17). Further, “[t]he board has the exclusive authority to manage the assets of the retirement system.” County Code Sec. 33-60(a)(1), (2)(A). To the extent that the CAO claims this authority for himself, we believe that to be an incorrect interpretation of the statute, but one that is worth clarification from the Council.

Giving the Trustees authority to hire and supervise plan professionals and staff comports with the best practices for public pension funds. As noted in the GGA Report to the Board of Trustees, the “typical governance structure” for a public pension fund is for the fund’s Executive Director to oversee support staff performing functions such as budgeting, legal services and investments, with the Executive Director reporting directly to the Board of Trustees, which in turn is subject to oversight by the legislative branch. [GGA Report, page 5.] GGA recommended that the Board have “direct ED oversight & control” to “enhance[e] accountability” and the Board’s ability to act as fiduciaries. {Id, p. 6.] As noted in the GGA Report, “[a]s fiduciaries, the Board members should consistently be involved in the setting of performance objectives, expected targets, and monitoring of performance outcomes for the

September 30, 2025

pensions and/or health trust as well as the ED position.” [Id. p 12.] It is difficult to imagine how a fiduciary of a plan could exercise any real authority over a plan’s management, if the fiduciaries do not have the authority to hire and supervise the individuals who perform the work of the plan.

Again, this is the most common governance structure for public pension plans of similar size and scope. As examples:

- Maryland State Retirement System: “The responsibility for the management, general administration, and proper operation of the several systems is vested in the Board of Trustees.” MD State Personnel and Pensions Code § 21-108 (2024).
- M-NCPPC Employee Retirement System: “The Board shall appoint an Executive Director who shall serve as executive officer to the Board, and under the general direction of the Board shall plan, organize, direct, and supervise the activities, budget, and operations of the ERS and Staff. The Executive Director shall be directed by, serve at the pleasure of, and may be dismissed at the will of the Board.” M-NCPPC Employee Retirement System Governance Manual at p. 8.
- Howard County Investment Committee has the statutory authority to engage accountants, legal counsel or other experts “as it deems necessary or desirable,” “to appoint any persons or firms, or otherwise act to secure specialized advice or assistance, as it deems necessary or desirable in connection with the administration and operation of the plan,” to delegate authority to specified employees of the County who may be designated by the Personnel Administrator of the County (and to revoke that delegation). Howard County Code Art. V, Sec. 1.45A(a),(d).
- Massachusetts County pension systems are empowered by state statute to employ attorneys as necessary, and clerical and other assistants as necessary. *E.g.* Mass. Gen. Laws Tit. IV, Sec. 20(3)(d)(e).

3. Is there any other input you would like to share about trust governance.

The undersigned Trustees refer the Council to their letter of June 26, 2025, along with the accompanying proposed legislative changes. As further detailed in that letter, the Trustees believe that these changes are important and necessary to enable the Trustees to fulfill their fiduciary responsibilities to ensure that the Retirement System and its assets are managed in a prudent manner for the benefit of the participant and beneficiaries. The proposed changes to the governance structure will increase transparency and accountability for the Retirement System, decrease the risk of future undisclosed liability to the County and its residents, and bring the Retirement System into alignment with current best practices and standards.

We are happy to discuss any of these issues at your convenience, and urge the Council to move forward with the requested legislative changes.

Sincerely,

Kathleen Keller

Kathleen Keller

Counsel to, and on behalf of:

Lee Holland, President, FOP Lodge 35

Jeff Buddle, President, IAFF Local 1664

Gino Renne, President, UFCW Local 1994, MCGEO

Cc: Lee Holland, Jeff Buddle, Gino Renne, Roger Manno



Marc Elrich
County Executive

DEPARTMENT OF FINANCE

Michael J. Coveyou
Director

MEMORANDUM

September 30, 2025

TO: Aron Trombka
Office of Legislative Oversight

FROM: Michael J. Coveyou, Director 
Department of Finance

SUBJECT: Questions about Trusts

Thank you for allowing Board members to respond to your questions about the Retirement and Health Benefits Trusts. I will be brief. My main concern is the system's safety and sustainability, and all changes should improve these aspects. Note that I am writing both as a member of the Board as well as the County's Director of Finance where my role is, in part, to oversee County funds. The Director of Finance is responsible for securing and accounting for County funds, a role that closely resembles the duties of a fiduciary of trusts.

The review you are conducting should be of the entire system, from laws to internal governance, including the structure and membership of the Boards of Trustees. The system needs controls to address potential issues that may stem from errors or improper actions by individuals, whether internal or external. Current County law, including Chapter 2-148 of the County Code regarding board members, provides methods for addressing issues caused by internal actors. However, it is advisable to review these laws and rules to ensure they sufficiently protect the system from as many potential hazards as can be identified. The review should highlight or identify areas needing additional controls. Regardless, comprehensive and proper controls are necessary to prevent damage to the system.

With respect to the organizational structure of the system, it is essential that the Executive Director/Chief Investment Officer (ED/CIO) continues to report to the Chief Administrative Officer. The primary reason is that the Board convenes only four days annually, which inherently limits their ability to effectively oversee the staff agency led by the ED/CIO. Four days is less than 2% of the business year and is not remotely adequate for supervisory purposes. This is crucial since the Executive Director/Chief Investment Officer (ED/CIO) holds significant authority over the systems' investments and investment staff. Maintaining thorough supervision

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Memo to Mr. Trombka
September 30, 2025

to mitigate risk is best achieved by preserving the current reporting structure, which allows the Chief Administrative Officer (CAO) to maintain frequent and regular contact with the ED/CIO. Another reason to maintain the current structure is that the ED/CIO, as a merit system employee, should report to a County manager.

Regarding the Board's composition, it is not clear what an optimal size and composition would be, but the Board should be organized so it continues to successfully manage the investment process, to meet the needs of the system's beneficiaries. It may be beneficial to have proportionately more members with professional investment and pension experience. It is unclear if a fully professional board would improve investments, but that is an option that was considered a best practice not that long ago (see the attached Clapman Report from Stanford University). A more professional board would likely exercise better judgment due to their expertise and be less influenced by non-investment considerations, as the Board's sole purpose is to invest on behalf of the system's members.

The board includes multiple members from certain areas, like three from the executive branch of county government and one from the legislative branch. All three unions are also represented and none of these board seats have a term of office to ensure that there is adequate turnover (fresh eyes and fresh ideas) on the Board. It is worth discussing whether there should be fewer Board members and whether all, or nearly all, Board members should have a seat for a specified number of years, or term. Generally, there should be term limits to prevent "lifetime appointments" which may not benefit the system's members. More turnover is generally advantageous for systems.

Board members are fiduciaries responsible for making the best investments for the systems' members, they are not on the board to represent their companies, their offices or their unions. However, having members from a broad array of stakeholders (rather than members who are all investment or pension professionals) is currently considered to be a best practice by some organizations. The review should consider which constituencies should have a seat on the Board to ensure that the composition of the Board is as close to optimal as can be determined.

The Board oversees the investments of trust funds, not the benefits offered to retirees. This has always been their sole task and it should remain that way. The Chief Administrative Officer recently removed benefits administration from the Executive Director/CIO position, which had overseen both investments and benefits for the past 15 years. This change clarifies the Board's role (as well as the ED/CIO's), exclusively as overseeing investments. This clarification was overdue and is now being implemented as a new Executive Director/CIO is sought. It is a beneficial change for the system members, and it illustrates and amplifies the importance of the work of the ED/CIO and Board on investments.

The Board recently approved a memorandum of understanding with the Chief Administrative Officer to clarify their relationship—this MOU should be adopted at the October 2025 Board meeting. Among other things, the MOU deals with the Board and the CAO's responsibilities regarding the selection of actuaries and determining the investment rate of return; as well as the hiring, oversight and compensation of both the ED/CIO and staff. Much of the actuarial work is related to the benefits the system provides, rather than the investments that the Board makes, and it would be inappropriate to have the board have authority over the benefits when they have no purview over that part of the system (case in point, the Board has no experience in reviewing or

Memo to Mr. Trombka
September 30, 2025

setting assumptions related to mortality rates, and it should not have any say in matters that are not directly related to the investment function). This ensures the Board has a say in matters such as the investment rate of return, which is related to the investment function, as well as in personnel decisions for the investment staff, including the ED/CIO, but not in matters related to benefits, as neither the Board nor the ED/CIO deals directly with benefits.

In summary, my main concern is the integrity of the system, both its safety and sustainability. The system should have adequate controls to bolster both the structure and administration of the system as well as address the risks related to various internal and external factors. The organization and the membership of the Board should be reviewed to ensure the Board can adequately perform the investment function. This was the primary concern of those who developed the system decades ago, which is why the system's authority is not vested in one individual or office but is shared between the CAO and the Board.

If you have any questions, please feel free to contact me.

Response to OLO questions on governance

(Linda Herman)

Thank you for the opportunity to respond to questions about the governance of the retirement trust funds for inclusion in the pending OLO report. This invitation to trustees is an excellent effort. It will enable readers to assess the unfiltered perspectives of individual trustees.

The OLO report is welcome, a critical need. OLO is highly regarded for the quality and integrity of its work. Optimally, this report would already have been completed. During the past two years the governance of the retirement trust funds has been in turmoil. In late November 2024, amid reports that the investment boards' three union trustees (who are the unions' presidents) and the then-executive director were lobbying Councilmembers to change the governance of the retirement trust funds, leaders of the retirees' association (MCREA) and other retirees, as well as some employees, urged the Council to defer the introduction of any legislation until OLO or another respected third party had assessed the governance issues. Nonetheless, on December 3, 2024 the Council introduced Bill 28-24. This year the Council has deferred a public hearing on the bill. On July 29 the Council voted to include the governance study in OLO's FY26 work program.

My own perspective, as the trustee nominated by MCREA, is shaped by my long experience with investment boards. After 26 years at WSSC overseeing its retirement plan and investments while working with its board of trustees, I started with the County as senior investment officer in 1999 and served as executive director from 2004 until I retired in 2022. Our team's investment results were rated consistently in the top 10% of our peers nationwide. The ERS (our pension fund) achieved a funded status of over 100%, almost unheard of for public retirement plans. I deeply appreciate the confidence in me that our retirees and our elected officials have expressed.

My more recent experience as a trustee is a window on how politics has severely compromised the retirement trust funds. I did not apply to become a trustee; I was enjoying retirement. But in September 2024, when MCREA's nominee to represent County retirees on the investment boards was not approved, MCREA asked me to serve. Initially, the union trustees blocked my appointment. I was finally confirmed on October 22, 2024.

Why did the union trustees try to keep me off the boards? Why did they decide in December 2024 to demand publicly that the County Executive remove me from the boards even before I had attended my first meeting as a trustee, and as they simultaneously denounced the Chief Administrative Officer? The County Executive strongly rejected and sharply criticized these attacks. The union trustees and the then-executive director have continued to smear and defame me. No other County stakeholders and fiduciaries conduct themselves in this way.

What is behind this effort? The union trustees, along with the then-executive director – who was suspended and dismissed in April 2025 after just two years on the job – appear to have an agenda. They want the retirement trust funds, with assets of more than \$8 billion, to be “independent” of the County. No more pesky internal controls or checks and balances – they would simply report to themselves. The union trustees already dominate County labor relations. Now they seemingly want to dominate the investments and management of the retirement trust funds.

They also expressed interest in controlling the actuarial assumptions for the retirement system and the OPEB plan which are used to calculate the amount the County should contribute to the two plans. These actions could raise their leverage in collective bargaining and increase their own retirement benefits – a conflict of interest and a violation of County law – and could force County taxpayers to contribute millions more to the retirement trust funds than needed. They want to have sole authority to hire, evaluate, and compensate the executive director, who would implement their agenda. And they want the retirement office to be located far from the Rockville core and County oversight.

This factual background is essential to understanding what the governance debate is all about. The best summary of the issues -- including hyperlinks to the very different perspective of the union trustees and the then-executive director -- is in a series published by *Montgomery Perspective*:

[Where is the Oversight on the Eight Billion Dollar War? - Montgomery Perspective](#)

My own perspective appears in one of the hyperlinks:

[Response: The North Bethesda Lease is a Bad Idea and a Serious Mistake - Montgomery Perspective](#)

The two investment boards, the BIT and the CRHBT, were established 39 and 17 years ago, respectively. They have functioned very effectively -- without the “independence” agenda. **Their investment performance and funded status are among the best in the nation for public funds. Benefits have been paid accurately and on time. Annual audits by independent accounting firms have issued glowing reports year in and year out.** Employees, retirees, and taxpayers should ask what now justifies the quest of the union trustees and the then-executive director to assert total control over the retirement trust funds and their \$8 billion in assets, to crush any dissenting views, and to use political hardball to achieve their goal.

The core duty of trustees -- and of the Chief Administrative Officer, County staff and advisers, and elected officials -- is their **duty of loyalty** under County and Federal law: As fiduciaries, they may act "*only in the best interest of the participants and their beneficiaries.*" I hope the OLO report will assess whether all the plans' fiduciaries have met this standard. Over the years, most trustees have. Some have not.

One stark example came early in my tenure as executive director. In 2004 the one union trustee at that time was incensed that the BIT's rigorous competitive process to find a record-keeper for the deferred compensation plan did not result in the selection of his union's "preferred provider." The unions then made strong demands in collective bargaining: The unions must each have a trustee position on the BIT (rather than one rotating position for all three), and the County must authorize them to withdraw the deferred compensation assets of represented employees from the County plan and create a separate union deferred compensation plan they would govern (with their "preferred provider" selected as record-keeper). The Executive and the Council acceded to these demands. The resulting loss of economies of scale damaged the deferred compensation accounts of represented and non-represented employees and retirees alike.

As another stark example, in 2005 most BIT members supported a policy to prohibit trustees from soliciting donations to their organizations from ERS investment managers, as one union leader had recently done. The union trustees denounced this idea and refused to consider it. After a long stalemate, the BIT was only able to adopt a watered-down version of the policy.

These and other actions over the years do not reflect adherence to fiduciary duty. They reflect the projection of self-interest and political power that no other trustees would even think of asserting. The union trustees' current "independence" campaign to control the retirement system and trust fund assets -- in league with the then-executive director -- compounds this problem. **It is a profound threat to the integrity of the trust funds and the interests of employees, retirees, and taxpayers.**

This is the context for my replies to the questions posed by OLO. Here are my replies:

1. What are the advantages and disadvantages of the current size and compositions of the BIT and the CRHBT?

From its inception in 1986 until 2004, the BIT had nine trustees. Three were representatives of employees -- one represented, one non-represented, and one retired. Two were public trustees "knowledgeable in pensions, investments, or financial matters." Four were senior County managers (the directors of Finance, OMB, Human Resources, and the Council staff). In 2004 the addition of two union trustees and two public trustees brought the total to 13. The County's RHBT, which began in 2008 and included these 13 trustees, was expanded to the CRHBT in 2012 by adding three trustees from MCPS and three from Montgomery College.

The boards would benefit from several changes:

- a. ***Return to the pre-2004 provision of one represented employee or their designee (which rotated among the three unions) rather than three to balance the board structure.*** The union trustees dominate the investment boards, but they are not experts in investments. There is only one retiree representative (although

there are nearly 8,000 retirees and beneficiaries) and only one non-represented member. This strong imbalance results in unfair representation of specific member interests. In addition, industry studies have noted that smaller boards are able to function more efficiently and effectively. This change would make the boards more balanced as to representation from all participant groups.

- b. **Revise and balance the term limits for trustees.** On the BIT, the trustees representing the public (four) and retirees and non-represented employees (one each) have term limits. The ex-officio trustees representing County management (four) have no term limits as long as they serve in their positions. Only the three union trustees are permanent. This fact increases their dominance on the boards. The additional CRHBT trustees from MCPS and Montgomery College serve with no term limits. This inconsistent pattern affecting both boards should be reconsidered.
- c. **Review trustee qualifications more closely.** These are investment boards, but most trustees have little experience with complex investment decisions. The four public trustees are required to possess knowledge of financial, investment, or pension matters. The relative inexperience of many other trustees has led the boards to **delegate all specific investment decisions to the staff** – if the Staff Investment Committee, the boards’ consultants, and legal counsel are unanimously in agreement. **Instead of making specific investment decisions, the boards focus on monitoring investment performance and determining overall asset allocation (which ultimately accounts for most of the investment performance).**

Some changes should be considered. Trustees do not have to be investment experts, but they should have the knowledge required to assess the recommendations of the Staff Investment Committee and consultants. The County’s Chief of Labor Relations (an excellent staff member whose job is to bargain with the union trustees) was installed as an ex-officio trustee in place of the OHR director, who would be a better fit for this role to avoid the potential for a conflict of interest due to the bargaining relationship with the three union trustees.

- d. **Establish an annual review of real and potential conflicts of interest.** Several national studies have concluded that no pension board trustee should be a current or future trust fund beneficiary because of inherent conflicts of interest. One prominent study from Stanford University (the 2007 Clapman report and the updated 2013 Clapman 2.0 report) cautioned more broadly:

“Money managed collectively for the benefit of others must be managed for the beneficiaries’ exclusive interest in a transparent system with checks and balances to prevent misuse of fund assets and abuse of the inordinate economic and political power that accompanies control of such large pools of wealth.”

See the Clapman 2.0 report at https://law.stanford.edu/index.php?webauth-document=event/392911/media/slspublic/ClapmanReport_6-6-13.pdf

- e. **Increase the number of board meetings.** The boards used to meet six times a year with one additional all-day retreat. Now they meet only quarterly with the retreat being part of one of the four meetings – not frequently enough for the importance of their mission. In the last two years, the meetings have devoted very little time to investment issues and most time to pursuing the “independence” agenda of the union trustees and the then-executive director.

2. Selecting an actuary.

- a. **The CRHBT should not be involved in the selection of an actuary.** There is no actuary for the CRHBT, which includes MCPS and Montgomery College. Thus, the CRHBT should not be involved in the selection of the actuary. The CRHBT is a trust fund as defined in the Internal Revenue Code, not a pension plan. For MCPS and Montgomery College it is an investment vehicle they use as required by the County Code. The County’s Other Post Employee Benefits (OPEB) plan does have an actuary that evaluates the costs and funding for the County’s OPEB. But both MCPS and Montgomery College have their own actuarial firms that evaluate their OPEB liabilities and the funding of their benefits. Involving the CRHBT in the selection of an actuary and implementing actuarial funding recommendations for the County’s OPEB plan would be a conflict of interest since both MCPS and Montgomery College, like the County, are competing for taxpayer dollars for health benefits funding.
- b. **The CRHBT and the BIT are not equipped to determine an actuary’s competencies.** The benefit structures of the Employees’ Retirement System (ERS - pension system) and the OPEB plan are extremely complex. Without understanding the actuarial science behind the assumptions, funding, and payouts into the future, the boards are not equipped to determine an actuary’s competencies. They would not be providing the actuaries with the benefit data, history, demographic information, experience, etc. and thus would not have the expertise to know if the actuary’s recommendations were appropriate. (The State of Maryland Pension System Board of Trustees sued its actuary for the miscalculation of pension benefits and subsequent underfunding of the system. Board members were not aware of the incorrect calculation for years.)
- c. **Continue the current selection process.** Currently the selection of the actuary for both the ERS and the OPEB plan is a combined effort with the boards’ office, MCERP (representing the boards for the investment return assumption and the CAO for retirement benefits), OHR, OMB, and Finance jointly preparing the RFI and evaluating the candidates. This process brings to bear the expertise of each department. The end result is the selection of an actuarial firm that can evaluate the benefits provided based on data fed to it by the department responsible; assess issues with the data; communicate the issues to the group; discuss the assumptions based on the demographic findings; and determine the funding required. While the CAO makes the final decision, in the last 30 years the CAO

has never decided against the recommendation of the group. The end result of this collaborative approach is that our plans are very well funded, in the top decile of public plans.

- d. **Ensure that the critical actuarial decisions are made by the most knowledgeable bodies.** Taxpayers fund over 60% of contributions to the ERS and 100% of contributions to OPEB. Critical actuarial decisions must be made by the most knowledgeable experts in each field whether it's benefit structure, investment return, future demographics of the County workforce, or other areas. This approach would align with the recommendations of most industry professionals.

3. Determining actuarial assumptions (cost method, anticipated investment rates of return, mortality rates, etc.).

Overall

- a. **Interest rate assumption.** Since the boards are setting the asset allocation for each trust fund, they are in the best position to recommend the investment return assumption for the underlying portfolios based on input from the consultants and investment managers they hire. But since the investment return assumption has a component of future growth, as the liabilities do, it makes sense for the boards to continue to recommend the investment return assumption to the CAO or designee and then meet, as they have in the past, to come to agreement on the investment return assumption. The ability to meet as a group, with designees from the boards (it has been the executive director in the past) and the CAO and departments that have first-hand knowledge of the benefit structures, is critical to formulating the investment return assumption. All impacted parties are represented in this group and all are fiduciaries under the County Code.

The ERS actuary recently recommended to the BIT that they lower the investment return assumption (currently 7.5%) so that they would “look like other pension plans.” Since our asset allocation does not “look like other pension plans,” why would we want our return assumption to be the same as other pension plans? The ERS actuary’s response was that we don’t want to stand out. The actuary also noted that the average public pension plan was 76% funded. Should that be the County’s target for funded status so we will look like everyone else? If the BIT had agreed with the actuary, it would have resulted in millions of dollars being over-contributed to the ERS during FY26, since the investment return for FY 25 was 9.2%, exceeding the 7.5% investment return assumption by 1.7%.

The BIT is not in a position to decide whether the County’s pension plan’s return should “look like other plans.” That is not a decision a fiduciary should make. They are in a position to decide, based on their approved asset allocation, what their consultants believe the investment return will be. At a recent meeting of the BIT, the general consultant stated; “We believe the 7.5% is appropriate based on

the approved asset allocation.” As fiduciaries, this should be the input from the BIT.

- b. **Other assumptions and cost methods.** Currently the CAO, based on recommendations from MCERP, OHR, OMB and Finance, sets various assumptions for both the ERS and the OPEB plan. They include demographic assumptions such as mortality, rates of termination, disability, deaths, retirement, and amortization methods. Economic assumptions including cost-of-living increases, increases in the social security wage base, expenses, salary increases, etc. are also set by the CAO.

For the OPEB plan there are many more assumptions for health care benefits, including rate of growth in real income, excess medical growth, expected health share of GDP, health share of GDP resistance point, and many others. In the past, the boards’ involvement has only been with the recommendation of the investment return assumption since this is associated with the asset allocation they approve. The ERS and OPEB plans are so complex that for the boards to gain the knowledge to oversee any assumption or costing method would be an overwhelming task that would in the end only result in decisions that were not only uninformed but also risk fiduciary liability. The boards would be basing their decisions on information provided by the actuary, and data provided by County departments, that they do not oversee and cannot validate.

4. Hiring investment professional and support staff.

- a. **Executive Director.** As stated in the draft Memorandum of Understanding approved by both boards in October 2024 and agreed to by the CAO in July 2025, the executive director reports to both the boards and the CAO. This is a practice followed by some of the most successful retirement plans in the country (Florida and Wisconsin among many others). Retirement plans that have tasked the boards with overseeing all aspects of retirement plan administration (investments, benefits and accounting) have not been so successful. For example, the State of Maryland Pension System is only 73% funded as of 2024, up from 68% funded in 2014, and its performance ranks in the bottom quartile, or worse than 75% of peer plans over most time periods. By contrast, the ERS was over 100% funded in 2021. (It is now below 95% primarily because of benefit increases and recent lower investment returns.)
- b. **Investment staff.** The ERS and CRHBT executive director should have the authority to hire investment staff, but only after the boards’ approval of the expense and position. The Office of Human Resources should establish the grade and salary of the position after a review of the duties involved and commensurate salary based on peer comparisons by either an outside consultant or by OHR internal staff.

These guidelines are sensible and essential. In the “independence” agenda pursued by the union trustees and the then-executive director, the CAO and

County government as a whole would have no role in the hiring, oversight, and compensation of either the executive director or the investment staff. That would be irresponsible.

5. Preparing the boards' operating budget and managing board expenses.

The boards should have authority only over the expenses directly related to the investment programs they oversee. The CAO, in conjunction with OMB, should review the boards' budgets annually to analyze expenses and evaluate the appropriateness of charges before presenting the boards' budgets to the Council for approval. Questions should be referred to the boards and executive director. That was the process until 2023. The CAO and the Council must uphold their fiduciary duty for management of trust funds as outlined in the County Code and the Internal Revenue Code.

This process broke down completely in 2024. The then-executive director signed a \$3 million 10-year lease for new office space far from the Rockville core. He did so even though the boards' office had moved to renovated and rent-free space in the Leggett Executive Office Building just one year before, and even though the County Attorney had not approved the lease, as required by the boards' governing documents. The lease's initial additional cost was reflected in documents prepared by OMB for the Government Operations and Fiscal Policy Committee, but it appears that neither OMB nor the Committee (or subsequently the Council) objected. The then-executive director signed the lease in November 2024, but the boards were not informed of the cost and terms until their February 2025 meeting, as part of their budget approval process. **This kind of misuse of trust fund assets must not be permitted to recur.**

6. Is there any other input you would like to share about trust governance?

Fiduciary duty and responsibility. The administration of the ERS and OPEB trust funds was designed from the outset as a three-legged stool that required all parties with assigned roles to fulfill their fiduciary duty. As plan sponsor under the Internal Revenue Code, the Council had and retains ultimate authority. The Council delegated authority for benefit administration to the CAO and for investment oversight to the boards.

The turmoil for the trust funds over the last two years stems from a total breakdown in communication. The driving factor has been the aggressive campaign by the union trustees and the then-executive director to achieve "independence" – total control of the retirement system and trust fund assets. **The current County Code ensures the appropriate delegation of duties among fiduciaries. It does not need to change. Instead, fiduciaries need to ensure that the guardrails and checks and balances established in the County Code long ago to protect employees, retirees, and taxpayers are observed and respected.**

Information collected for this report. As one with many years of investment board experience, I especially value this opportunity to exchange information and discuss optimal investment board governance. As I said at the outset, I appreciate OLO's invitation to all trustees to offer their perspective on governance issues for inclusion in the report.

But I regret that OLO declined to interview me. My experience with retirement boards is extensive: 26 years at WSSC, 23 years with the County (including 18 years as executive director), and eight years as the representative of all counties (appointed by two governors) on the State of Maryland Pension Board. In addition, for over ten years I chaired the Washington Area Investment Forum, which during my tenure included nearly all the pension funds in the Washington DC area - the World Bank, InterAmerican Development Bank, DC Retirement, WSSC, Montgomery County, State of Maryland, Fairfax County, Arlington County, Howard County, AARP, Smithsonian Institution, and many others. This experience has given me valuable insights into the evolving history, structure, operation, and performance of retirement plans in the County and across the nation. This information would have been an asset to OLO in preparing this report.



Marc Elrich
County Executive

OFFICE OF THE COUNTY EXECUTIVE

Richard S. Madaleno
Chief Administrative Officer

October 8, 2025

TO: Chris Cihlar, Director
Office of Legislative Oversight

FROM: Richard S. Madaleno, Chief Administrative Officer 

SUBJECT: OLO Report: *Pension and Retiree Health Trust Governance*

Thank you for the opportunity to comment on the Office of Legislative Oversight's (OLO) Report: *Pension and Retiree Health Trust Governance*. I appreciate the Council's continued focus on ensuring that these critical systems are managed with transparency, accountability, and long-term sustainability in mind.

Montgomery County has a long-standing commitment to protecting and enhancing the retirement security of our employees and retirees. Over the years, we have developed robust governance frameworks that reflect our commitment to fiduciary responsibility. At the same time, we recognize that as the scale and complexity of our investment portfolios grow, our governance structures must evolve to meet new challenges and expectations.

Question #1: What are the advantages and disadvantages of the current size and compositions of the BIT and CRHBT?

CAO Response: The current composition of the Board of Investment Trustees (BIT) reflects a deliberate effort to ensure broad stakeholder representation. It includes represented and non-represented County employees, several department heads, County government retirees, investment professionals, and taxpayers. This inclusive structure is designed to foster transparency, trust, and accountability.

The Consolidated Retiree Health Benefits Trust (CRHBT), also known as the Other Post-Employment Benefits (OPEB) Trust, benefits similarly from a multi-agency governance model. It brings together representatives from Montgomery County Government, Montgomery County Public Schools, and Montgomery College, the three major employers that contribute to the trust. This structure facilitates alignment across institutions and ensures that investment decisions align with the best interests of the retiree population.

However, a key challenge for both boards is the limited investment expertise among many of their members. While they bring valuable institutional knowledge and stakeholder insight, most do not have professional experience managing large, complex investment portfolios. This can constrain their ability to independently evaluate investment strategies, assess risk, or identify emerging opportunities. As a result, both boards must rely on the advice and guidance of the external expert investment consultants and our in-house investment staff to fulfill their fiduciary responsibilities effectively.

Since the creation of the boards, they have consistently utilized the services of expert investment consultants under their supervision and independent authority, spending approximately \$25 million annually on these services. Currently, Albourne, Franklin, and NEPC are the three general and specialized investment consultants under contract with the boards, advising them on investment matters. This reliance highlights the importance of relying on robust external experts and maintaining strong internal capacity. The ongoing challenge is determining the optimal balance of stakeholder representation and investment acumen.

One of the strengths of the boards has been the extraordinary length of service of board members and staff, several of whom have dedicated decades to the boards. The law governing the structure of the boards is inconsistent concerning service by members. Some members have set terms, while others do not. As OLO explores the practices of other public retirement boards, this aspect of board membership should be researched to validate our current approach.

Question #2: Which person(s) or entities (e.g. elected officials, appointed officials, board of trustee members, professional staff, outside consultants, etc.) are best suited to assume the following investment management responsibilities?

- a. Selecting an actuary.
- b. Determining actuarial assumptions (cost method, anticipated investment rates of return, mortality rates, etc.).
- c. Hiring investment professional and support staff.
- d. Preparing the board's operating budget and managing board expenses.

CAO Response:

Selecting an actuary

The selection of an actuary should follow a process that provides the County and the internal and external stakeholders with the utmost confidence that the selected actuary and their work products follow all relevant policies, procedures, and ethical standards. Currently, the process we follow is a collaborative process involving the key professional staff who regularly interact with the actuary representing the Department of Finance (FIN), Offices of Management Budget (OMB), Human Resources (OHR), Procurement (PRO), and the Executive Director/Chief Investment Officer (ED/CIO) representing the Boards. Since most of the actuarial work is related to the benefits that the system provides, given the complexity of this work and Montgomery

County's procurement laws and procedures, it is essential that the process continue to include individuals with procurement expertise and relevant responsibilities to ensure compliance, accountability, and efficiency. This required expertise typically resides within the County's central procurement team, FIN, OMB, OHR, rather than solely within ED/CIO or the boards themselves.

While the ED/CIO is actively involved and represents the boards in the procurement/selection process, to ensure all perspectives are fully considered, I would be happy to create a process that would allow the board members to provide direct input to the procurement/selection team regarding any skills, capabilities, or service gaps they perceive in the current actuarial support.

Determining actuarial assumptions

As mentioned above, since most of the actuarial work is related to the benefits that the system provides, actuarial assumptions — including cost methods, investment return expectations, and mortality rates — should be developed by the actuary in consultation with the relevant key professional staff who regularly interact with the actuary representing the FIN, OMB, OHR, and PRO, and the ED/CIO who represents the Boards. These assumptions are highly technical and require specialized expertise. While board members are not expected to set these assumptions, it is important that they are kept informed and have a clear understanding of the rationale behind them.

Historically, long-standing board leadership may have led to some assumptions being accepted without extensive discussion. As board membership evolves, we recognize the importance of enhancing communication and transparency regarding these foundational elements to ensure that board members feel informed and engaged. Finally, the Boards recently approved a Memorandum of Understanding (MOU) that outlines both their roles and the Chief Administrative Officer's (CAOs) role and responsibilities related to selecting the actuaries and establishing the investment rate of return. I agree with the process, roles, and responsibilities outlined in the MOU that was drafted and approved by the Boards.

Hiring investment professional and support staff

The boards should continue to play a meaningful role in the selection of the ED/CIO, consistent with the aforementioned MOU between the CAO and the boards. This role reflects the strategic importance of the ED/CIO position and the need for alignment between the boards and County leadership.

However, the hiring of other investment staff should be the responsibility of the ED/CIO. This approach aligns with best practices in investment governance, enabling the ED/CIO to build and manage a cohesive team while maintaining accountability for performance.

Similarly, since the Boards meet four times a year and board members have very demanding full-time jobs and other responsibilities, except for investment-related matters and decisions that

reside with the Boards, the oversight responsibility for all non-investment-related matters has been deliberately assigned to the CAO.

Preparing the board's operating budget and managing board expenses

The preparation of the operating budget should remain the responsibility of in-house investment staff, who are familiar with the County's budget development process and requirements. While the boards should review and approve the budget submission, it would not be practical or appropriate for board members to be involved in the detailed mechanics of budget preparation. Their role should focus on strategic oversight, ensuring that the budget aligns with the boards' priorities and fiduciary responsibilities.

Question #3: Is there any other input you would like to share about trust governance?

CAO Response: One area worth exploring is the opportunity to modernize the governance structures of both the BIT and the OPEB Trust to better reflect the scale and complexity of the assets they oversee.

As the size of these trusts has grown, so too has the sophistication required to manage them effectively. While stakeholder representation remains a core strength of our current model, there is room to enhance the board's overall investment acumen. This could be achieved by incorporating more members with direct investment or financial oversight experience, or by establishing advisory subcommittees with specialized expertise to support the board's decision-making.

Additionally, we should consider formalizing onboarding and continuing education for board members. As fiduciaries, they must be equipped to understand evolving investment strategies, risk management frameworks, and actuarial assumptions. A structured orientation and ongoing training program would help ensure that all members, regardless of their background, are prepared to engage meaningfully in governance discussions.

In support of these goals, I recently led a reorganization of the Montgomery County Employee Retirement Plans (MCERP) to move much of the administrative staff to the County's Department of Finance. This decision was driven by two key concerns: first, to improve professional development and peer support for staff by placing them in a department with similar financial responsibilities; and second, to address a growing rate of errors in retirement processing. By situating this work within a department focused on financial accuracy and operational consistency, we aim to reduce errors and improve service delivery to retirees.

This reorganization also addresses the challenges we encountered in recruiting an ED/CIO who could effectively manage a complex investment portfolio and oversee a large administrative team. The new structure is designed to allow the ED/CIO to focus exclusively on investment strategy and performance - responsibilities that are central to the board's mission and to the

OLO Report: *Pension and Retiree Health Trust Governance*

October 8, 2025

financial security of current and future retirees. As a result, we now have a dedicated team focused solely on delivering strong investment returns.

Finally, it may be time to formalize a process to set the rate of return for the OPEB trust. Since its inception, the OPEB trust has used the same rate as the BIT. Over the last twenty years, the County has been disciplined in funding the trust, bringing its assets to nearly \$2 billion. In my experience as a board member and now CAO, the OPEB board meets first and makes investment decisions. Once that board finishes, the BIT then convenes to reaffirm all the same decisions. It may be time for the two boards to separate in terms of meeting days, rates of return, and investment strategies.

In conclusion, I appreciate the Council's interest in strengthening the governance of our retirement and retiree health benefit systems. These are very complex and vital programs that require thoughtful oversight, adequate controls, and continuous improvement to ensure the integrity and sustainability of the system is maintained. I look forward to discussing these comments further during the upcoming Council work session and to working collaboratively on any future enhancements to our governance framework.

We look forward to discussing these items at the Council work session.

RM/fk

cc: Fariba Kassiri, Deputy Chief Administrative Officer, Office of the County Executive
Tricia Swanson, Director of Strategic Partnerships, Office of the County Executive
David Crow, Acting Executive Director, Montgomery County Employee Retirement Plans

CHAPTER 8: OLO RECOMMENDATIONS

For this report, OLO conducted a literature review and interviewed experts in the field of public sector retirement benefit governance. This chapter summarizes key report findings and presents OLO's recommendations to the County Council based on the results of the literature review and the guidance culled from interviews of experts.

In preparing this report, OLO found text in two sections of the County Code that may lead to confusion as to the assignment of retirement benefit related responsibilities. OLO offers Recommendations A and B to clarify the division of responsibilities among the Chief Administrative Officer (CAO), the Board of Investment Trustees (BIT), and the Consolidated Retiree Health Benefit Trust Board of Trustees (CRHBT).

Recommendations C, D, and E address the assignment of retirement benefit responsibilities among the CAO, BIT, and CRHBT.

Recommendation F addresses the size and composition of the BIT and CRHBT.

A. Clarification of BIT's Duties

[Section 33-47 of the County Code](#) enumerates in great detail the responsibilities of the CAO in administering the County Government's retirement system. The Code assigns the CAO responsibility for a series of administrative functions including determining employee eligibility for retirement benefits, computing benefit amounts, disbursing benefit payments, incurring expenses necessary to administer the retirement system; and preparing legally mandated reports.

The Code is much more brief in describing the BIT's responsibilities. [Section 33-60 of the Code](#) states:

Except as provided [in sections of the Code that describe the duties of the CAO], the powers and duties with respect to the administration and the investments of the retirement system are hereby vested in the board of investment trustees.

OLO is unclear as the meaning and intent of the word "administration" in the above cited section of the Code. Other than investment and asset management related duties, BIT currently does not perform any administrative functions related to management of the retirement system. OLO recommends that the Council amend the Code to clarify that the BIT is responsible for trust fund investments and asset management but is not responsible for general administration of the County's retirement system.

Recommendation A:	<i>OLO recommends the Council amend Section 33-60 of the Code to clarify that the BIT’s responsibilities include trust fund asset management and investment but do not include any other retirement system administrative functions.⁹</i>
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B. Clarification of CAO’s CRHBT-Related Duties

Unlike the sections of the County Code that address the BIT, [Section 33-159](#) provides very little details about the specific CRHBT administrative duties assigned to the CAO. OLO recommends that the County Council amend this section of the Code to specify CRHBT administrative duties for which the CAO is responsible.

Recommendation B:	<i>OLO recommends the Council amend Section 33-159 of the County Code to enumerate the specific responsibilities of the CAO in administering the CRHBT.</i>
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C. Selection of Actuary

Retirement benefit trust boards rely on actuaries to provide information and guidance related to demographic trends, and reporting requirements. OLO found that the predominant practice among U.S. public sector retirement benefit trusts is for boards of trustees, not government officials, to select the trust’s actuary.

In Montgomery County, the County Code assigns the selection of the retirement system’s actuary, to the CAO. The County’s actuary serves the BIT and CRHBT but also assists other elements of the retirement system. For example, the actuary prepares annual comprehensive financial reports for County retirement plans as well as valuations that calculate the funds’ assets and liabilities as of a certain date. Actuaries also calculate the County’s annual actuarial determined contributions to retirement and retiree health benefit trust funds.

OLO presents for Council consideration three alternative options for selecting the retirement system actuary:

⁹ This recommendation could be implemented by amending [Section 33-60\(a\)\(a\)\(1\) of the County Code](#) as follows:

Except as provided in section 33-47, subsection (a)(2) of this section, and other sections of this chapter, the powers and duties with respect to ~~the administration and~~ the investments of the retirement system are hereby vested in the board of investment trustees.

Retirement Benefit Trust Fund Governance in Montgomery County

- **Option 1: Retain current practice of assigning the CAO with the responsibility to select the retirement benefit actuary.** This option would keep current policy in place and would not require any amendment to the County Code.
- **Option 2: Assign responsibility for selecting the retirement system’s actuary to the BIT.** This option would require an amendment to the County Code. A [bill](#) introduced by the County Council in December 2024 would shift responsibility for selecting the retirement system actuary from the CAO to the BIT.
- **Option 3: Amend the County Code to assign to BIT responsibility for selecting its own actuary while assigning the CAO with responsibility for selecting an actuary for other retirement system requirements.** This option would require an amendment to the County Code and could result in the County hiring two actuarial firms to assist with different elements of the retirement benefit system.

Recommendation C:	<i>OLO recommends the Council retain the current practice of assigning the CAO with the responsibility to select the retirement benefit actuary (Option 1).</i> The retirement system actuary serves multiple functions, many of which support activities beyond the investment responsibilities of the BIT. OLO believes that the broad scope of services provided by the actuary is best managed by the CAO who is responsible for most elements of the County Government’s retirement system. Retaining the CAO’s control over selecting the actuary also is consistent with the plan to move retirement system financial, accounting, and reporting duties from Montgomery County Employee Retirement Plans to the Finance Department. OLO believes it would be inefficient and unwise to hire two separate retirement benefit actuaries. Finally, OLO recommends the Council amend Section 33-159 of the County Code to specify that the CAO is responsible for selecting the actuary for the County’s portion of the CRHBT (see Recommendation B).
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D. Determination of Actual Assumptions

Actuaries build their calculations based on a series of assumptions about future changes in a fund’s asset and liabilities, investment returns, market conditions, demographic trends, and other factors. OLO found that the predominant, albeit not universal, practice among U.S. public sector retirement benefit trusts is for boards of trustees, not government officials, to determine the actuarial assumptions. In Montgomery County, the County Code assigns responsibility for determining retirement benefit actuarial assumptions to the CAO.

OLO presents for Council consideration two alternative options for assigning responsibility for determining actuarial assumptions:

- **Option 1: Retain current practice of assigning the CAO with the responsibility to determine actuarial assumptions.** This option would keep current policy in place and would not require any amendment to the County Code.
- **Option 2: Assign the BIT responsibility for determining actuarial assumptions.** This option would require an amendment to the County Code. A [bill](#) introduced by the County Council in December 2024 would shift responsibility for determining actuarial assumptions from the CAO to the BIT.

Recommendation D:	<p><i>OLO recommends the Council amend the County Code to shift responsibility for determining most actuarial assumptions from the CAO to the BIT. (Option 2).</i> The determination of actuarial assumptions, particularly the anticipated rate of investment returns, is an essential component of the investment process and strongly influences the selection of the appropriate investment strategies for a trust fund. While actuarial assumptions affect the amount the employer must budget each year to fund the benefit, the determination of these assumptions, particularly the anticipated investment rate of return, is fundamentally an element of the investment process managed by the BIT. As the determination of most actuarial assumptions is primarily an investment-related duty, OLO recommends that the BIT assume this responsibility. Nonetheless, OLO sees a potential advantage in the CAO retaining authority over select assumptions such as future year employee salary increases.</p>
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E. Selection of MCERP Executive Director

Most public sector retirement benefits trusts receive support from professional and administrative staff led by an Executive Director (also known as a “Chief Executive Officer,” “Chief Investment Officer,” and other similar titles). In some jurisdictions, the Executive Director is solely responsible for investment and portfolio management duties; in other jurisdictions, the Executive Director also supervises additional functions such as administering pension benefits, providing retirement counseling and education, preparing financial statements and accounting reports, and compiling tax reports.

By far, the predominant practice among public sector investment trusts is for the board of trustees to hire the Executive Director. At the request of OLO, the National Conference on Public Employee Retirement Systems (NCPERS) conducted a September 2025 survey that found

Retirement Benefit Trust Fund Governance in Montgomery County

in 87% of responding jurisdictions, the board of trustees is responsible for hiring the Executive Director.

The Montgomery County Employee Retirement Plans (MCERP) is the County Government office that provides professional and administrative support to the BIT and the CRHBT. MCERP is led by an Executive Director appointed by the CAO. The MCERP Executive Director position is not subject to approval by the County Council.

As of the writing of this report, MCERP is comprised of three divisions; the Investment Division (responsible for managing and growing trust assets), the Division of Member Services (responsible for administering pension benefits and providing retirement counseling), and the Division of Financial Services (responsible for preparing financial statements and other accounting reports, overseeing pension distribution funding, and tax reporting). In May, the CAO announced a plan to restructure functions currently assigned to MCERP. In the near future, the CAO intends to move Member Services and Financial Services responsibilities to the Finance Department. As of the writing of this report, the CAO was recruiting candidates to fill the vacant MCERP Executive Director position. The job announcement for MCERP Executive Director positions reflects the CAO's restructuring of the MCERP functions as all job duties listed in the announcement relate to investment management.

OLO presents for Council consideration two alternative options for hiring the MCERP Executive Director:

- ***Option 1: Retain current practice wherein the CAO hires the MCERP Executive Director.*** This option would keep current policy in place.
- ***Option 2: Assign the BIT responsibility for ultimate selection of the MCERP Executive Director under a process in which the CAO oversees the hiring process.*** This option could be implemented through an amendment to the County Code.

<p>Recommendation E:</p>	<p><i>OLO recommends the Council amend the County Code to assign responsibility for hiring the MCERP Executive Director after the CAO oversees the recruitment process, vets applicants' qualifications, and provides a short-list of qualified candidates to the BIT.</i> Under the CAO's restructuring plan, MCERP and its Executive Director will be responsible for trust fund asset management and investment duties but will no longer administer any other retirement benefit functions. In short, the sole responsibility of MCERP and its Executive Director will be to serve the two County boards of trustees. As such, OLO believes that the BIT (and to some extent, the CRHBT) should assume the role of hiring the merit MCERP Executive Director position. Nonetheless, OLO acknowledges that trustees do not have the expertise to manage all stages of the recruitment and hiring processes. Therefore, OLO suggests that the CAO and the Executive Branch oversee the recruitment and hiring process up to, but not including, the final selection of the MCERP Executive Director.</p>
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F. Size and Composition of the Trust Boards

The number of trustees on public sector retirement benefit trust boards varies greatly among U.S. jurisdictions. Most of these boards range in size from five to 19 members with a median board size of ten to 11 voting trustees. OLO received guidance from retirement trust experts indicating that boards of trustees with too few members overly concentrates authority in a few individuals while boards with a large number of members may become unwieldy and function poorly. OLO also received input that larger sized boards of trustees do not produce better outcomes than boards with near the median number of members.

The composition of public sector retirement benefit trust boards typically includes two categories of trustees: subject matter experts and stakeholders. Subject matter experts are individuals with demonstrated knowledge and skills relating to investments and related financial matters. Stakeholders are trustees appointed to a board to represent the viewpoint of particular groups of people who have an interest in one or more elements of the retirement benefit plan. Common stakeholder groups on public sector trust boards include active plan members, retired plan members, labor representatives, and government officials. All trustees are obligated to fulfill their fiduciary responsibilities, and as such, must make decisions solely for the benefit of plan beneficiaries.

The predominant, but not universal, practice among public sector investment trusts in the U.S. is to have a majority of trustees represent stakeholder interests with a minority of board seats reserved for disinterested subject matter experts.

Retirement Benefit Trust Fund Governance in Montgomery County

The County's BIT is comprised of 13 members; the CRHBT consists of 19 members, both larger than the national median size. Also, both County boards have a strong stakeholder alignment. Nine BIT trustees represent a stakeholder group and comprise 69% of board members. Thirteen CRBHT trustees represent a stakeholder group and comprise 79% of board members.

OLO found multiple academic papers that describe negative effects resulting from over-representation of stakeholders on public sector retirement benefit trust boards. A [study](#) by economists associated with the National Bureau of Economic Research concludes that boards that are "heavily populated" by government officials perform worse than other boards. A [research paper](#) by political scientists from the University of California and Stanford University presents analysis contending that public employee participation in pension plan investment decisions produces less fiscally responsible plan management. A [paper](#) by two University of Pennsylvania economists cites evidence that over-representation of retirees on a trust board can negatively affect investment performance and increase plan sponsor costs.

OLO received guidance from retirement benefit experts that one antidote to real or perceived stakeholder bias is the creation of a balance of interests and perspectives. That is, a well-functioning board of trustees should include members with a mixture of backgrounds and affiliations with countervailing interests. This approach suggests that a proper mix of stakeholders can produce beneficial checks and balances in board decision-making.

Some experts interviewed by OLO suggest an alternative approach method of assuring that boards of trustees remain completely loyal to their fiduciary responsibilities. These experts cite examples of public sector trust boards with a majority of subject matter experts as trustees. For most of these boards, stakeholders hold seats on the board but are outnumbered by subject matter experts who do not represent any interested constituency.

Regarding the size and composition of the BIT and CRHBT, OLO presents two alternative options for Council consideration:

- ***Option 1: Retain the current size and composition of the BIT and CRHBT.*** This option would maintain the 13-member BIT and 19-member CRHBT in their current compositions.
- ***Option 2: Reconstitute the BIT and CRHBT with fewer members and a different composition.*** This option would require an amendment to the County Code.

<p>Recommendation F:</p>	<p>For most public sector retirement benefit boards of trustees, the majority of members represent particular interests or constituencies such as active and retired plan members, labor representatives, and government officials. Stakeholder trustees may be well-intentioned as they serve as true fiduciaries; nonetheless, OLO believes an unavoidable tension exists when any trustee simultaneously represents the best interest of their constituency as well as the best interest of all plan beneficiaries. Therefore, if asked to design the optimal board of trustees at the initial creation of a trust fund, OLO would unwaveringly recommend a board consisting of a majority unaffiliated subject matter experts. However, OLO acknowledges it is more challenging to reconstitute existing boards of trustees, particularly if the reconstitution results in eliminating the participation of some stakeholders. <i>OLO recommends that Councilmembers assess whether the current size and composition of the BIT and CRHBT foster sound and healthy stewardship of the retirement and retiree health benefit trusts. To the extent Councilmembers feel confident that the current board structures work well and can be expected to remain functional in the future, then there may be no reason to restructure the BIT and CRHBT. However, should Councilmembers believe that the current structure of the boards hampers their ability to function properly, then OLO would recommend amending the County Code to create smaller-sized boards, each with a majority of subject matter experts.</i></p> <p>One possible configuration for a restructured BIT would reduce the size of the board to nine voting members: six subject matter expert trustees, one trustee representing labor, one trustee representing retirees, and one trustee representing the County Government. An 11-member CRHBT could include all BIT members plus two additional trustees, one representing MCPS and one representing Montgomery College.</p>
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