



Committee: GO
Committee Review: Completed
Staff: Christine Wellons, Chief Legislative Attorney
Purpose: Final action – vote expected

AGENDA ITEM #6A
March 17, 2026
Action

SUBJECT

Bill 28-24, Employees' Retirement System and Other Post Employment Benefits – Administration – Powers and Duties

Lead Sponsors: Councilmembers Stewart, Friedson, and Katz

Co-Sponsor: Councilmember Luedtke

EXPECTED ATTENDEES

Assistant Chief Administrative Officer Kassiri
Finance Director Coveyou

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- The Government Operations and Fiscal Policy (GO) Committee voted (3-0) to recommend the enactment of Bill 28-24 with amendments.

DESCRIPTION/ISSUE

Bill 28-24 would:

- (1) alter powers and duties regarding administration of the Montgomery County Employee Retirement Plans; and
- (2) generally amend the law regarding the Employees' Retirement System and Other Post Employment Benefits.

SUMMARY OF KEY DISCUSSION POINTS

- The GO Committee unanimously adopted amendments to:
 - clarify that the main role of the Chief Administrative Officer (CAO) under the retirement system is to manage and administer the eligibility for benefits, mandatory financial reporting, and calculation and distribution of benefits;
 - clarify that the main role of the Board of Investment Trustees (BIT) is to manage and administer the investments of the assets of the retirement system;
 - enumerate the responsibilities of the CAO and the Board of the Consolidated Retiree Health Benefits Trust (CRHBT) with respect to the CRHBT; and
 - assign to the BIT the responsibility of hiring and firing the MCERP Executive Director under the merit system, with certain responsibilities assigned to the CAO, including recruitment for the position and the identification of qualified candidates.

- Council staff recommends one additional amendment for the Council’s consideration. The amendment would assign to the CRHBT Board the responsibility to determine the rate of investment return for the Trust. County government, County-funded agencies, and participating agencies would continue to hire their own actuaries and to set actuarial assumptions (other than the rate of investment return) for their portions of the CRHBT.
- On March 9, the County Executive submitted requested amendments to the bill. The Executive’s amendments would:
 - retain the CAO’s powers to hire an actuary and set actuarial assumptions (other than the rate of investment return);
 - give to the BIT the power to determine the rate of investment return;
 - explicitly provide the CAO with the power to hire and supervise the Executive Director as a merit system employee or, alternatively, make the Executive Director a non-merit appointed position (appointed by the Executive and confirmed by the Council);
 - explicitly provide the CAO with the authority to hire the actuary for the CRHBT; and
 - explicitly provide the CAO with the authority to determine the actuarial assumptions, including the rate of investment return, for the CRHBT.

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MEMORANDUM

March 12, 2026

TO: County Council

FROM: Christine Wellons, Chief Legislative Attorney

SUBJECT: Bill 28-24, Employees' Retirement System and Other Post Employment Benefits – Administration – Powers and Duties

PURPOSE: Final Action – Roll call vote expected

Committee Recommendation: The Government Operations and Fiscal Policy (GO) Committee recommended (3-0) the enactment of Bill 28-24 with amendments.

Expected Attendees:

Assistant Chief Administrative Officer Kassiri
Finance Director Coveyou

Bill 28-24, Employees' Retirement System and Other Post Employment Benefits – Administration – Powers and Duties, was introduced on December 3, 2024. Its Lead Sponsors are Councilmembers Stewart, Friedson, and Katz. Councilmember Luedtke is a Co-Sponsor. A public hearing occurred on January 27, 2026.

On February 5, the GO Committee unanimously recommended the enactment of Bill 28-24 with amendments. On March 9, the County Executive submitted a memorandum (© 61) recommending amendments to the bill. Council staff would also propose an amendment (© 59) for the Council's consideration.

Bill 28-24 would:

- (1) alter powers and duties regarding administration of the Montgomery County Employee Retirement Plans; and
- (2) generally amend the law regarding the Employees' Retirement System and Other Post Employment Benefits.

BACKGROUND

The Montgomery County Code (Chapter 33, Article III, Division 4) established the Board of Investment Trustees (BIT) for the Employee Retirement Plans (ERP) and the Board of Trustees of the Consolidated Retiree Health Benefits Trust (CRHBT) (collectively, the “Boards”). The missions of the Boards are as follows:

- “The mission of the Board of Investment Trustees is to manage prudent investment programs for the members, and their beneficiaries, of the Employee Retirement Plans.”
- “The Consolidated Retiree Health Benefits Trust was established in 2008 as a Section 115 Trust to provide funding for retiree health benefits for retirees and their dependents. The Board is responsible for the management of the Trust. In investing the Trust, an appropriate balance must be struck between risk taken and returns sought to ensure the financial wellbeing of the Trust.”

[Trustees - Montgomery County Employee Retirement Plans and Consolidated Retiree Health Benefits Trust](#)

Together with the Chief Administrative Officer (CAO), the Boards administer and invest ERP and CRHBT funds for the benefit of County retirees. Each Board has adopted a Governance Manual, as well as a Statement of Investment Policy and Objectives.

The purpose of Bill 28-24 is to alter and clarify the governing structures and responsibilities of the Boards and the CAO with respect to the retirement system and the CRHBT.

BILL SPECIFICS

As introduced, Bill 28-24 would move from the CAO to the BIT the responsibilities: (1) to select and retain an actuary for the retirement system; and (2) to 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.

IMPACT STATEMENTS

Fiscal Impact. The Fiscal Impact Statement from the Office of Management and Budget (OMB) stated: “The impact on County expenditures cannot be reliably calculated at this time but could be significant.... Implementation of the bill may result in significant but unknown immediate and long-term costs because there are several areas that might be impacted, and the degree of impact is also unknown.”

Economic Impact. “The Office of Legislative Oversight (OLO) anticipates that Bill 28-24 would have an insignificant impact on economic conditions in the County in terms of the Council’s priority indicators.”

Racial Equity and Social Justice Impact. OLO “anticipates Bill 28-24 will have a minimal impact on racial equity and social justice (RESJ) in the County. The proposed changes to the County’s retirement system are unlikely to impact racial and social inequities or disparities in the County.”

Climate Assessment. “The Office of Legislative Oversight (OLO) anticipates Bill 28-24 will have no impact on the County’s contribution to addressing climate change as it proposes changes to the governing structures and responsibilities of the Boards and Chief Administration Officer.”

OFFICE OF LEGISLATIVE OVERSIGHT REPORT – ERS GOVERNANCE

Subsequent to the bill’s introduction, the Office of Legislative Oversight (OLO) released a report and briefed the GO Committee on best practices regarding pension board governance. *See montgomerycountymd.granicus.com/GeneratedAgendaViewer.php?view_id=169&clip_id=18453*; OLO Report 2025-14, [Retirement Benefit Trust Fund Governance in Montgomery County](#). OLO’s recommendations are detailed below.

- 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.
- C. OLO recommends that the Council retain the current practice of assigning the CAO with the responsibility to select the retirement benefit actuary.
- D. OLO recommends the Council amend the County Code to shift responsibility for determining most actuarial assumptions from the CAO to the BIT.
- E. OLO recommends the Council amend the County Code to assign BIT 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.
- F. 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.

After the GO Committee review and discussion on the OLO report, GO Chair Stewart invited stakeholders to submit written comments on the OLO report recommendations. The comments received on the OLO recommendations are attached at © 18-42.

MEMORANDA OF UNDERSTANDING

In December 2025, the BIT and the CRHBT Board agreed to MOUs (attached beginning at © 43) with the CAO related to:

- Developing a formal process for procuring service providers, including actuarial services and determining the prudent investment rate of return assumption based on the actuary's recommendation; and
- Clarifying the Board's role in hiring, evaluating, overseeing, and compensating the Executive Director, and exploring options for managing retention risk, ensuring competitive compensation, and establishing pay for performance initiatives for staff while maintaining their merit system protections.

SUMMARY OF PUBLIC TESTIMONY

The Council received testimony in support of and in opposition to Bill 28-24.

At the public hearing, Chief Administrative Officer Madaleno testified that the County Executive has concerns about the bill. Mr. Madaleno elaborated that the County's retirement system is well-funded and well-regarded. The funding ratio of the system is currently 95.6%. The system performs in the top quartile of public pension systems. The BIT and CHRBT boards already work collaboratively with the CAO to jointly operate the pension system and retiree health benefits. The collaboration is being enhanced by recent MOUs.

Ms. Linda Herman testified in opposition to the bill based on her experience, from 2004 to 2022, as the Executive Director of the system. She stated that the current collaborative process between the CAO and the boards works. Furthermore, she stated that having board members vote on actuarial rates would exceed their expertise and time (since they have other jobs and meet only four times a year) and could create conflicts of interest.

Ms. Sara Harris, President of the Montgomery County Retired Employees' Association (MCREA), testified in opposition to the bill. She stated that until 2022, the boards achieved excellent results with a funding status of over 100 percent. The boards have since shifted their focus to governance issues, and performance has fallen. She stated that the boards need to refocus on their partnership with the CAO, as strengthened by the MOUs that the boards recently endorsed. She also stated that the board members are not actuarial experts and should not set the actuarial assumptions.

Ms. Mary Beck, a County retiree and former OMB staff member, testified in opposition to the bill based on concerns about moving the responsibilities to hire an actuary and set assumptions to the boards. She believes that the shift would result in reduced investment performance. She emphasized that managing an actuary is an iterative process, which the boards do not have the time to manage.

In support of the bill, the three unions representing County employees – the Fraternal Order of Police Lodge 35 (FOP), the International Association of Firefighters Local 1664 (IAFF), and

the UFCW Local 1994 MCGEO – submitted written testimony stating, “This legislation would enact much-needed and long-overdue corrections to the administration of the Employees’ Retirement System in order to bring it in line with well-established best practices for public employees defined benefit retirement systems and good governance of public funds.”

SUMMARY OF THE COMMITTEE’S WORKSESSION

Participating in the worksession were Richard Madaleno, Chief Administrative Officer; Michael Coveyou, Director of Finance; David Crow, Acting Executive Director, Montgomery County Employee Retirement Plans (MCERP); and Aron Trombka, Senior Legislative Analyst, Office of Legislative Oversight (OLO).

The Committee unanimously adopted several amendments to Bill 28-24. The potential amendments are discussed below and also available starting at © 52.

1. Delineation of Duties Between the CAO and the BIT Board – In General

In OLO Report 2025-14, OLO recommended (Recommendation A) that 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.

In response to the recommendation, the GO Committee adopted the following amendment, which would establish as a default rule that, except as otherwise provided in Chapter 33: (1) the CAO administers and manages retirement eligibility, financial reporting, and calculating and distributing benefits; and (2) the BIT Board manages and administers the investments of the assets of the retirement system.

Amend lines 3-16 as follows.

- (a) *Responsibility for administration.* ~~[[The]] [chief administrative officer] Except as otherwise provided in this chapter, the Chief Administrative Officer [[shall be responsible for the administration of]] has the exclusive authority to manage and administer the eligibility for benefits, mandatory financial reporting, and calculation and distribution of benefits under the retirement system.~~

* * *

- (c) ~~[[Chief administrative officer. Except for the powers of the board, the [chief administrative officer] Chief Administrative Officer has the power and the duty to take all actions and to make all decisions to administer the retirement system]]~~
Reserved.

* * *

Above line 60, insert the following:

(a) *General.*

- (1) Except as otherwise provided [[in section 33-47, subsection (a)(2) of this section, and other sections of]] in 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 has the exclusive authority to manage and administer the investments of the assets of the retirement system. However, the powers and duties of the board must not become effective until all of the trustees have accepted the trust in writing.

* * *

2. Delineation of Duties Between the CAO and the CHRBT Board – In General

Recommendation B in the OLO report was to amend Chapter 33 of the County Code to enumerate the specific responsibilities of the CAO in administering the CRHBT. Currently, the Code is largely silent on the general division of responsibilities for the CRHBT.

In response to the recommendation, the GO Committee adopted the following amendments. These amendments would clarify that, as a general rule (and except as otherwise provided in Chapter 33), the CAO administers and manages the eligibility for benefits, mandatory financial reporting, and calculation and distribution of benefits for the CRHBT, and the CRHBT Board administers and manages the investments of the CRHBT assets.

Additionally, to provide clarity, the amendments would provide that the BIT would select the actuary for both the BIT and the CHRBT.

Amend lines 59-67 as follows.

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

* * *

(d) *Trustee powers.* Subject to the limitations under subsection (a)(2) of this section, the board¹ has the power to:

- (1) select and retain the actuary for the retirement system and the Consolidated Retiree Health Benefits Trust;
- (2) after consultation with 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 and the Consolidated Retiree Health Benefits Trust;

* * *

After line 181, insert the following.

33-162. Trust Fund management.

(a) *General.*

- (1) [[The]] Except as otherwise provided in this chapter, the Board² has the exclusive authority to manage and administer the investments of the Trust Fund's assets. [[All powers and duties required to manage the Trust Fund are vested in the Board by this Article.]]
- (2) Except as otherwise provided in this chapter, the Chief Administrative Officer has the exclusive authority to manage and administer the eligibility for benefits, mandatory financial reporting, and calculation and distribution of benefits for the Trust Fund.

3. Hiring and Supervising the Executive Director under the Merit System

With respect to the hiring of the MCERP Executive Director, OLO (in Recommendation E) recommended amending the County Code to assign to the BIT the 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.

¹ The "board" in this section refers to the board of investment trustees.

² The "Board" in this section refers to the CRHBT Board.

In response to the OLO recommendation, and after considering the existing MOUs between the CAO and the Boards of the BIT and CHRBT (available starting at © 48), the GO Committee adopted the following amendment.

Add a new paragraph (20) to subsection (d) of Section 33-60 as follows.

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

* * *

(d) *Trustee powers.* Subject to the limitations under subsection (a)(2) of this section, the board has the power to:

* * *

(20) appoint, supervise, and remove an Executive Director under Section 33-60C.

Add the following new section.

33-60C. Executive Director.

(a) Under the merit system, including the personnel regulations under Section 33-7 and the administrative procedures under Section 33-8, the board of investment trustees must:

- (1) appoint an Executive Director of the retirement system from a list of qualified applicants identified under subsection (c); and
- (2) supervise the Executive Director, up to and including the removal the Executive Director.

(b) The Executive Director is a County employee under the merit system.

(c) Under the merit system, including the personnel regulations under Section 33-7 and the administrative procedures under Section 33-8, the Chief Administrative Officer must:

- (1) establish minimum qualifications for the position of Executive Director;
- (2) recruit applicants for the position;
- (3) evaluate the qualifications of applicants, including through the use of an interview panel that includes the chair of the board of trustees, or the

chair's designee, and the chair of the board of the Consolidated Retiree Health Benefits Trust, or the chair's designee; and

(4) identify for the board of investment trustees at least 2 applicants that meet the minimum qualifications for the position.

(d) The board of investment trustees may delegate to the Chief Administrative Officer the responsibilities and duties of the board under subsection (a).

OUTSTANDING ISSUES FOR THE COUNCIL'S CONSIDERATION

1. Amendment Recommended by Council Staff – CRHBT Clarification

Under the current law, the responsibilities of the CRHBT Board and the CAO, regarding the determination of actuarial assumptions for the Trust, are not explicitly laid out. The bill as recommended by the GO Committee addressed the lack of clarity under Section 33-60, by making parallel changes for the BIT and CHRBT related to selecting actuaries and actuarial assumptions. However, after further discussions and review, Council staff recommends an amendment (© 59) to divide responsibilities for selecting actuaries and actuarial assumptions for the CRHBT Board in a different manner that better reflects the CRHBT's status as a multi-agency trust.

Specifically, the amendment would assign to CRHBT the responsibility to determine the rate of investment return for the Trust. County government, County-funded agencies, and participating agencies would continue to hire their own actuaries and set actuarial assumptions (other than the rate of investment return) for their portions of the Trust.

The amendment would add the following new subsection to Section 33-162, which governs CRHBT management.

(k) *Actuary; actuarial assumptions.*

(1) The Board has the power to determine the assumed rate of investment return to be used in actuarial and other computations for the Trust Fund.

(2) The County and each County-funded agency or participating agency may:

(A) select and retain an actuary for its portion of the Trust Fund; and

(B) except as provided under paragraph (1) of this subsection, determine the actuarial cost method, and the mortality, turnover, and other assumptions to be used in actuarial and other computations for the agency's portion of the Trust Fund.

* * *

2. Amendments Recommended by the County Executive

As reflected in his March 9th memorandum to the Council (© 61), the County Executive recommends various amendments to the bill.

The Executive’s amendments would substantially retain the *status quo* in terms of the responsibilities of the CAO and the Boards – with two exceptions. First, the BIT would have the power to determine the rate of investment return for the retirement system. Second, the Executive is open to having the Executive Director become a non-merit appointed position, if the Council does not wish for the position to continue to be a merit system position hired by the CAO.

Specifically, the Executive’s amendments would:

- retain the CAO’s powers to hire an actuary and set actuarial assumptions (other than the rate of investment return);
- give the BIT the power to determine the rate of investment return;
- explicitly provide the CAO with the power to hire and supervise the Executive Director as a merit system employee or, alternatively, make the Executive Director a non-merit appointed position (appointed by the Executive and confirmed by the Council);
- explicitly provide the CAO with the authority to hire the actuary for the CRHBT; and
- explicitly provide the CAO with the authority to determine the actuarial assumptions, including the rate of investment return, for the CRHBT.

Executive staff are available to answer any questions Councilmembers might have regarding the proposed amendments.

NEXT STEP: Roll call vote on whether to enact Bill 28-24 with amendments, as unanimously recommended by the GO Committee.

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OLO Report 2025-14,

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Bill No. 28-24
Concerning: Employees' Retirement System and Other Post Employment Benefits – Administration – Powers and Duties
Revised: 2/5/2026 Draft No. 3
Introduced: December 3, 2024
Expires: December 7, 2026
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: _____
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: Councilmembers Stewart, Friedson, and Katz
Co-Sponsor: Councilmember Luedtke

AN ACT to:

- (1) alter powers and duties regarding administration of the Montgomery County Employee Retirement Plans; and
- (2) generally amend the law regarding the Employees' Retirement System and Other Post Employment Benefits.

By amending

Montgomery County Code
Chapter 33, Personnel and Human Resources
Sections 33-47, ~~[[and]] 33-60, and 33-162~~

By adding

Chapter 33, Personnel and Human Resources
Section 33-60C

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Sections 33-47, 33-60, and 33-162 are amended, and Section 33-60C**
 2 **is added, as follows:**

3 **33-47. Administration.**

4 (a) *Responsibility for administration.* ~~[[The]]~~ [chief administrative officer]
 5 Except as otherwise provided in this chapter, the Chief Administrative
 6 Officer ~~[[shall be responsible for the administration of]]~~ has the exclusive
 7 authority to manage and administer the eligibility for benefits, mandatory
 8 financial reporting, and calculation and distribution of benefits under the
 9 retirement system.

10 (b) *Regulations for administration.* The [county executive] County
 11 Executive must establish regulations, adopted under method (1) of
 12 [section] Section 2A-15 of this Code, for the administration of the
 13 retirement system, within the limitations of this [article] Article.
 14 However, the county executive must establish regulations, adopted
 15 under method (3) of [section] Section 2A-15, for the administration of
 16 the elected officials' plan.

17 (c) ~~[[Chief administrative officer. Except for the powers of the board, the]]~~
 18 [chief administrative officer] ~~[[Chief Administrative Officer has the~~
 19 power and the duty to take all actions and to make all decisions to
 20 administer the retirement system]] Reserved.

21 (d) *Powers and duties of the Chief Administrative Officer.* The [chief]
 22 Chief Administrative Officer has, but is not limited to, the following
 23 powers and duties:

- 24 (1) [Interpret] interpret the provisions of the retirement system;
 25 (2) [Decide] decide the eligibility of any employee and the rights of
 26 any member or beneficiary to receive benefits;

- 27 (3) [Compute] compute the amount of benefits payable to any
- 28 member or beneficiary;
- 29 (4) [Authorize] authorize disbursements of benefits;
- 30 (5) [Keep] keep records;
- 31 [(6) Select and retain the actuary for the retirement system;]
- 32 [(7) After consultation with the board and the actuary for the
- 33 retirement system, determine the actuarial cost method, and the
- 34 mortality, turnover, interest rates, and other assumptions to be
- 35 used in actuarial and other computations for the retirement
- 36 system;]
- 37 [(8)] (6) [Consider] consider the recommendation of the actuary for
- 38 the retirement system on contributions the county makes under
- 39 this article;
- 40 [(9)] (7) [Incur] incur expenses as necessary for the chief
- 41 administrative officer to administer the retirement system;
- 42 [(10)] (8) [Disclose] disclose the reports prepared under section 33-
- 43 51;
- 44 [(11)] (9) [Prepare] prepare and file reports that are required by law;
- 45 [and]
- 46 [(12)] (10) [In] in connection with the participation or withdrawal of
- 47 an agency as a participating agency in the retirement system:
- 48 (A) obtain any data and require any documentation that the
- 49 Chief Administrative Officer finds necessary;
- 50 (B) retain an independent actuary not otherwise under contract
- 51 to the system to compute the valuation of the accrued
- 52 benefit of any member or group of members upon

53 withdrawal from the retirement system by a formula set
 54 out in regulations adopted under subsection (b); and

55 (C) authorize the transfer of accrued benefits to another
 56 retirement system qualified under the Internal Revenue
 57 Code;

58 [(13)] (11) [Authorize] authorize the refund of member contributions,
 59 and earnings thereon, to correct any contribution or withholding
 60 error; and

61 [(14)] (12) [Delegate] delegate any power or duty under this Section.

62 * * *

63 **33-60. The board of investment trustees-Powers and duties.**

64 (a) *General.*

65 (1) Except as otherwise provided [[in section 33-47, subsection (a)(2)
 66 of this section, and other sections of]] in this chapter, the [[powers
 67 and duties with respect to the administration and the investments
 68 of the retirement system are hereby vested in the]] board of
 69 investment trustees has the exclusive authority to manage and
 70 administer the investments of the assets of the retirement system.
 71 However, the powers and duties of the board must not become
 72 effective until all of the trustees have accepted the trust in writing.

73 * * *

74 (d) *Trustee powers.* Subject to the limitations under subsection (a)(2) of this
 75 section, the board has the power to:

76 (1) select and retain the actuary for the retirement system and the
 77 Consolidated Retiree Health Benefits Trust;

78 (2) after consultation with the actuary for the retirement system,
 79 determine the actuarial cost method, and the mortality, turnover,

80 interest rates, and other assumptions to be used in actuarial and
 81 other computations for the retirement system and the Consolidated
 82 Retiree Health Benefits Trust;

83 [(1)] (3) [With] with any cash, purchase or subscribe for any
 84 investment, at a premium or discount, and retain the investment[.];

85 [(2)] (4) [Sell] sell, exchange, convey, transfer, lease for any period,
 86 pledge, mortgage, grant options, contract with respect to, or
 87 otherwise encumber or dispose, at public or private sale, for cash
 88 or credit or both, any part of the retirement system[.];

89 [(3)] (5) [Except] except as provided in section 33-61A(h)(2), sue,
 90 defend, compromise, arbitrate, compound and settle any debt,
 91 obligation, claim, suit, or legal proceeding involving the retirement
 92 system, and reduce the rate of interest on, extent or otherwise
 93 modify, foreclose upon default or otherwise enforce any debt,
 94 obligation, or claim[.];

95 [(4)] (6) [Retain] retain uninvested that part of the retirement system
 96 fund described in subsection (f) without being liable for the
 97 payment of interest[.];

98 [(5)] (7) [Exercise] exercise any option on any investment for
 99 conversion into another investment, exercise any rights to
 100 subscribe for additional investments, and make all necessary
 101 payments[.];

102 [(6)] (8) [Join] join in, consent to, dissent from, oppose, or deposit in
 103 connection with the reorganization, recapitalization, consolidation,
 104 sale, merger, foreclosure, or readjustment of the finances of any
 105 corporation or property in which the assets of the retirement
 106 system are invested, or the sale, mortgage, pledge or lease of that

107 property or the property of any such corporation upon such terms
 108 and conditions that the board considers prudent; exercise any
 109 options, make any agreements or subscriptions, pay any expenses,
 110 assessments, or subscriptions, and take any other action in
 111 connection with these transactions that the board considers
 112 prudent; and accept and hold any investment that may be issued in
 113 or as a result of any such proceeding[.];

114 [(7)] (9) [Vote] vote, in person or by any proxy, at any election of
 115 any corporation in whose stock the assets of the retirement system
 116 are invested, and exercise, personally or by any power of attorney,
 117 any right appurtenant to any investment held in the retirement
 118 system; and give general or specific proxies or powers of attorney
 119 with or without power of substitution[.];

120 [(8)] (10) [Sell] sell, either at public or private sale, option to sell,
 121 mortgage, lease for a term of years less than or continuing beyond
 122 the possible date of the termination of the trust, partition or
 123 exchange any real property for such prices and upon such terms as
 124 the board considers prudent, and execute and deliver deeds of
 125 conveyance and all assignments, transfers, and other legal
 126 instruments for passing the ownership to the purchaser, free and
 127 discharged of all liens[.];

128 [(9)] (11) [Renew] renew or extend any mortgage, upon such terms
 129 that the board considers prudent, and increase or reduce the rate of
 130 interest on any mortgage or modify the terms of any mortgage or
 131 of any guarantee as the board considers prudent to protect the
 132 retirement system or preserve the value of the investment; waive
 133 any default or enforce any default in a manner that the board

134 considers prudent; exercise and enforce any right of foreclosure,
 135 bid on property in foreclosure, take a deed in lieu of foreclosure
 136 with or without paying a consideration, and release the obligation
 137 on the bond secured by the mortgage; and exercise and enforce in
 138 any action, suit or proceeding at law or in equity any rights or
 139 remedies in respect to any mortgage or guarantee[.];

140 [(10)] (12) [Form] form a corporation or corporations under the laws of
 141 any jurisdiction or acquire an interest in or otherwise make use of
 142 any corporation already formed to invest in and hold title to any
 143 property[.];

144 [(11)] (13) [For] for the purpose of investing in and holding title to real
 145 or personal property or part interests therein, as described in
 146 subsection (c)(1)h., including equipment pertaining thereto,
 147 leaseholds, and mortgages, to take any action it considers
 148 prudent[.];

149 [(12)] (14) [Incur] incur and pay expenses for agents, financial
 150 advisors, actuaries, accountants and counsel, if those expenses are
 151 incurred solely to perform the board's duties under this [article]
 152 Article[.];

153 [(13)] (15) [Borrow] borrow, raise or lend moneys, for the purposes of
 154 the retirement system, in such amounts and upon such terms and
 155 conditions as the board in its discretion considers prudent; for any
 156 money borrowed, issue a promissory note and secure the
 157 repayment of this note by pledging or mortgaging all or any part
 158 of the retirement system[.];

159 [(14)] (16) [Hold] hold, buy, transfer, surrender, and exercise all other
 160 incidents of ownership of any annuity contract[.];

161 ~~[(15)]~~ (17) ~~[If]~~ if payments to a member or beneficiary are to be made
 162 in the form of an annuity based upon one (1) or more lives or life
 163 expectancies, buy from any legal reserve life insurance company a
 164 single premium, nontransferable annuity contract providing for the
 165 payment of the benefits[.];

166 ~~[(16)]~~ (18) ~~[Pool]~~ pool all or any of the assets of the trust, from time to
 167 time, with assets belonging to any other retirement plan trust or
 168 retiree health benefit trust created by the County, and any subtrust
 169 thereof, and commingle such assets and make joint or common
 170 investments and carry joint accounts on behalf of this trust, such
 171 other trust or trusts, or subtrusts, allocating undivided shares or
 172 interests in such investments or accounts or in any pooled assets to
 173 the two or more trusts or subtrusts in accordance with their
 174 respective interests. Any such trusts or subtrusts may be unitized
 175 for investment purposes. Consistent with its investment authority
 176 in this Article, the Board or its delegate may also buy or sell any
 177 assets or undivided interests in this trust or in any other trust with
 178 which the assets of this trust may be pooled, to or from this trust or
 179 such other trusts at such prices or valuations as the Board or its
 180 delegate may determine in reasonable good faith. For the
 181 avoidance of doubt, the Board must determine that it is consistent
 182 with its fiduciary duties to participate in a pooled investment that
 183 permits the sale or purchase of its units as an investment option
 184 under another retirement plan or retiree health benefit trust created
 185 by the County[.]; and

186 ~~[(17)]~~ (19) ~~[Do]~~ do all acts which it considers necessary and exercise
 187 any and all powers of this article with respect to the management

188 of the retirement system, and in general, exercise all powers in the
 189 management of the assets which an individual could exercise in
 190 the management of property owned in the individual's own right
 191 except for making an individual investment selection[.]; and
 192 (20) appoint, supervise, and remove an Executive Director under
 193 Section 33-60C.

194 * * *

195 (h) (1) Except as provided in subsection [(d)(12)] (d)(14), the board must
 196 pay all benefits and expenses of the retirement system as directed
 197 by the chief administrative officer.

198 * * *

199 **33-60C. Executive Director.**

200 (a) Under the merit system, including the personnel regulations under
 201 Section 33-7 and the administrative procedures under Section 33-8, the
 202 board of investment trustees must:

- 203 (1) appoint an Executive Director of the retirement system from a list
 204 of qualified applicants identified under subsection (c); and
- 205 (2) supervise the Executive Director, up to and including the removal
 206 the Executive Director.

207 (b) The Executive Director is a County employee under the merit system.

208 (c) Under the merit system, including the personnel regulations under
 209 Section 33-7 and the administrative procedures under Section 33-8, the
 210 Chief Administrative Officer must:

- 211 (1) establish minimum qualifications for the position of Executive
 212 Director;
- 213 (2) recruit applicants for the position;

214 (3) evaluate the qualifications of applicants, including through the use
 215 of an interview panel that includes the chair of the board of
 216 trustees, or the chair’s designee, and the chair of the board of the
 217 Consolidated Retiree Health Benefits Trust, or the chair’s
 218 designee; and

219 (4) identify for the board of investment trustees at least 2 applicants
 220 that meet the minimum qualifications for the position.

221 (d) The board of investment trustees may delegate to the Chief
 222 Administrative Officer the responsibilities and duties of the board under
 223 subsection (a).

224 **33-162. Trust Fund management.**

225 (a) *General.*

226 (1) [[The]] Except as otherwise provided in this chapter, the Board has
 227 the exclusive authority to manage and administer the investments
 228 of the Trust Fund’s assets. [[All powers and duties required to
 229 manage the Trust Fund are vested in the Board by this Article.]]

230 (2) Except as otherwise provided in this chapter, the Chief
 231 Administrative Officer has the exclusive authority to manage and
 232 administer the eligibility for benefits, mandatory financial
 233 reporting, and calculation and distribution of benefits for the Trust
 234 Fund.

Climate Assessment

Office of Legislative Oversight

Bill 28-24: Employees' Retirement System and Other Post Employment Benefits – Administration – Powers and Duties

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 28-24 will have no impact on the County's contribution to addressing climate change as it proposes changes to the governing structures and responsibilities of the Boards and Chief Administration Officer.

BACKGROUND AND PURPOSE OF BILL 28-24

As described by Montgomery County Employee Retirement Plans (MCERP), "MCERP is responsible for the administration of over nearly \$7.3 billion in assets for approximately 9,500 active employees and 6,500 retirees."¹ Along with the Chief Administration Officer (CAO), two trustees administer and invest MCERP funds:^{2,3}

- **Board of Investment Trustees – Employee Retirement Plans (ERP):** manages trust that funds the County's retirement system.⁴
- **Consolidated Retiree Health Benefits Trust – Board of Trustees (CRHBT):** manages trust that funds benefits provided under County retiree benefit plans, including health and life insurance benefits.⁵

The purpose of Bill 28-24 is "to alter and clarify the governing structures and responsibilities of the Boards and the CAO." If enacted, Bill 28-24 would move the following responsibilities from the CAO to the Board for ERP:⁶

- To select and retain an actuary for the retirement system; and
- To 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.

According to a lead sponsor for the bill, the change would be consistent with "fiduciary best practices, aligning risk with long-term actual assumptions rather than short-term budget constraints."⁷

The Council introduced Bill 28-24 on December 3, 2024.

ANTICIPATED IMPACTS

As the bill proposes changes to the governing structures and responsibilities of the Boards and Chief Administration Officer, OLO anticipates Bill 28-24 will have no impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

RECOMMENDED AMENDMENTS

The Climate Assessment Act requires OLO to offer recommendations, such as amendments or other measures to mitigate any anticipated negative climate impacts.⁸ OLO does not offer recommendations or amendments as Bill 28-24 is likely to have no impact on the County's contribution to addressing climate change, including the reduction and/or sequestration of greenhouse gas emissions, community resilience, and adaptative capacity.

CAVEATS

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

PURPOSE OF CLIMATE ASSESSMENTS

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

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

CONTRIBUTIONS

OLO staffer Kaitlyn Simmons drafted this assessment.

¹ [About Montgomery County Employee Retirement Plans](#), Montgomery County Employee Retirement Plans.

² [Introduction Staff Report for Bill 28-24](#), Montgomery County Council, introduced December 3, 2024, PDF pg. 3.

³ [Trustees](#), Montgomery County Employee Retirement Plans.

⁴ [Montgomery County Code § 33-58 and 33-59](#)

⁵ [Montgomery County Code § 33-159 and 33-160](#)

⁶ Introduction Staff Report for Bill 28-24, PDF pg. 3.

⁷ Video: Dec. 3, 2024 - Council Session (am), [Councilmember Friedson remarks circa 2:05:36](#), MoCoCouncilMD YouTube, December 3, 2024.

⁸ Bill 3-22, Legislative Branch – Climate Assessments – Required, Montgomery County Council, Effective date October 24, 2022

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

BILL 28-24: EMPLOYEES' RETIREMENT SYSTEM AND OTHER POST EMPLOYMENT BENEFITS – ADMINISTRATION – POWERS AND DUTIES

SUMMARY

The Office of Legislative Oversight (OLO) anticipates Bill 28-24 will have a minimal impact on racial equity and social justice (RESJ) in the County. The proposed changes to the administration of the County's retirement system are unlikely to impact racial and social inequities or disparities in the County.

PURPOSE OF RESJ IMPACT STATEMENTS

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

PURPOSE OF BILL 28-24

As described by Montgomery County Employee Retirement Plans (MCERP), "MCERP is responsible for the administration of over nearly \$7.3 billion in assets for approximately 9,500 active employees and 6,500 retirees."³ Along with the Chief Administrative Officer (CAO), two trustees administer and invest MCERP funds:^{4,5}

- **Board of Investment Trustees – Employee Retirement Plans (ERP):** manages trust that funds the County's retirement system.⁶
- **Consolidated Retiree Health Benefits Trust – Board of Trustees (CRHBT):** manages trust that funds benefits provided under County retiree benefit plans, including health and life insurance benefits.⁷

The purpose of Bill 28-24 is "to alter and clarify the governing structures and responsibilities of the Boards and the CAO." If enacted, Bill 28-24 would move the following responsibilities from the CAO to the Board for ERP:⁸

- To select and retain an actuary for the retirement system; and
- To 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.

According to a lead sponsor for the Bill, the change would be consistent with "fiduciary best practices, aligning risk with long-term actual assumptions rather than short-term budget constraints."⁹

The Council introduced Bill 28-24 on December 3, 2024.

RESJ Impact Statement

Bill 28-24

ANTICIPATED RESJ IMPACTS

OLO anticipates Bill 28-24 will have a minimal impact on RESJ in the County. The proposed changes to the administration of the County's retirement system are unlikely to impact racial and social inequities or disparities in the County.

RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.¹⁰ OLO anticipates Bill 28-24 will have a minimal impact on RESJ. As such, OLO does not offer recommended amendments.

CAVEATS

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

CONTRIBUTIONS

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

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

² Ibid.

³ [About Montgomery County Employee Retirement Plans](#), Montgomery County Employee Retirement Plans.

⁴ [Introduction Staff Report for Bill 28-24](#), Montgomery County Council, introduced December 3, 2024, PDF pg. 3.

⁵ [Trustees](#), Montgomery County Employee Retirement Plans.

⁶ [Montgomery County Code § 33-58 and 33-59](#)

⁷ [Montgomery County Code § 33-159 and 33-160](#)

⁸ Introduction Staff Report for Bill 28-24, PDF pg. 3.

⁹ Video: Dec. 3, 2024 - Council Session (am), [Councilmember Friedson remarks circa 2:05:36](#), MoCoCouncilMD YouTube, December 3, 2024.

¹⁰ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

Economic Impact Statement

Montgomery County, Maryland

Bill 28-24 Employees' Retirement System and Other Post Employment Benefits – Administration – Powers and Duties

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that Bill 28-24 would have an insignificant impact on economic conditions in the County in terms of the Council's priority indicators.

BACKGROUND AND PURPOSE OF BILL 28-24

As described by Montgomery County Employee Retirement Plans (MCERP), "MCERP is responsible for the administration of over nearly \$7.3 billion in assets for approximately 9,500 active employees and 6,500 retirees."¹ Along with the Chief Administration Officer (CAO), two trustees administer and invest MCERP funds:^{2,3}

- **Board of Investment Trustees – Employee Retirement Plans (ERP):** manages trust that funds the County's retirement system.⁴
- **Consolidated Retiree Health Benefits Trust – Board of Trustees (CRHBT):** manages trust that funds benefits provided under County retiree benefit plans, including health and life insurance benefits.⁵

The purpose of Bill 28-24 is "to alter and clarify the governing structures and responsibilities of the Boards and the CAO." If enacted, Bill 28-24 would move the following responsibilities from the CAO to the Board for ERP:⁶

- To select and retain an actuary for the retirement system; and
- To 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.

According to a lead sponsor for the Bill, the change would be consistent with "fiduciary best practices, aligning risk with long-term actual assumptions rather than short-term budget constraints."⁷

¹ [About Montgomery County Employee Retirement Plans](#), Montgomery County Employee Retirement Plans.

² [Introduction Staff Report for Bill 28-24](#), Montgomery County Council, introduced December 3, 2024.

³ [Trustees](#), Montgomery County Employee Retirement Plans.

⁴ [Montgomery County Code § 33-58 and 33-59](#)

⁵ [Montgomery County Code § 33-159 and 33-160](#)

⁶ Introduction Staff Report for Bill 28-24.

⁷ Video: Dec. 3, 2024 - Council Session (am), [Councilmember Friedson remarks circa 2:05:36](#), MoCoCouncilMD YouTube, December 3, 2024.

The Council introduced Bill 28-24 on December 3, 2024.

INFORMATION SOURCES, METHODOLOGIES, AND ASSUMPTIONS

As required by 2-81B of the Montgomery County Code, this Economic Impact Statement evaluates the impacts of Bill 28-24 on residents and private organizations in relation to Council’s priority economic indicators. In doing so, it examines whether the Bill would have a net positive or negative impact on overall economic conditions in the County.⁸ Clarifying the governing structures and responsibilities of the Boards and the CAO would have no direct effect on the Council’s priority economic indicators. For this reason, OLO anticipates that the Bill would have insignificant economic impacts on private organizations, residents, and overall economic conditions in the County.

VARIABLES

Not applicable

IMPACTS

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

Not applicable

DISCUSSION ITEMS

Not applicable

CAVEATS

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

CONTRIBUTIONS

Stephen Roblin (OLO) prepared this report.

⁸ [“Sec. 2-81B, Economic Impact Statements,”](#) Montgomery County Code.

TO: Aron Trombka
Office of Legislative Oversight

FROM: Beryl L. Feinberg
BIT and CRHBT Trustee

RE: Comments on OLO Recommendations on Retirement and Retiree Health Benefit
Trust Governance

DATE: January 25, 2026

Thank you for the opportunity as a Trustee serving on the Board of Investment Trustees (BIT) for the County's Employee Retirement Plans (ERP) and concurrently on the Board of Trustees of the Consolidated Retiree Health Benefits Trust (CRHBT) to comment on the recently released OLO Report and its recommendations. My comments in addition to those submitted for the OLO Report 2025-14, Retirement Benefit trust Fund Governance in Montgomery County, Chapter 7, pages 40-43.

- A. 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.**

Feinberg concurs with this recommendation.

- 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.**

Feinberg concurs with this recommendation.

- C. OLO recommends the Council retain the current practice of assigning the CAO with the responsibility to select the retirement benefit actuary.**

Feinberg concurs with this recommendation, referenced as Option 1.

Note that Option 3 which would amend the County Code to enable the selection of two actuaries, one selected by BIT and a second one by the CAO to administer other retirement system requirements. Hiring two retirement benefit actuaries unnecessarily increases costs to the trust funds and ultimately, also to the taxpayer, and creates operational inefficiencies.

- D. OLO recommends the Council amend the County Code to shift responsibility for determining most actuarial assumptions from the CAO to the BIT (Option 2).**

Feinberg does not concur with this recommendation and strongly recommends Option 1 to retain the current practice of assigning the CAO with the responsibility to determine actuarial assumptions after consultation with the BIT and the CRHBT board on the investment return assumption.

While acknowledging that the anticipated rate of investment return is 'an essential component of the investment process' and directly relates to the fiduciary responsibilities of the BIT, this minimizes other critically important actuarial assumptions that directly contribute to the actuary's recommendations. Specifically, BIT and CRHBT trustees lack the knowledge and expertise to evaluate those pertaining to demographic, economic, and budgetary assumptions. Current law assigns these assumptions to the CAO who in turn takes counsel

and advice from the leadership in the Departments of Finance, Human Resources and the Office of Management and Budget. Here resides the knowledge, expertise and skill sets to opine on the following: projected inflation rates, interest rates, compensation and benefit changes or increases, employee turnover rates, mortality rates. How could trustees, who meet four times yearly, assume to have knowledge of these critically important variables in addition to setting the anticipated investment rate of return? When mutual respect, transparency and collaboration by the CAO, Board trustees, and MCERP staff are the guiding values a better outcome is highly likely. Limiting determination to the BIT may lead to unrealistic actuarial assumptions due to incomplete knowledge and expertise and misinterpretation of information.

The shared model, executed by both the CAO and the Boards Chairs, enshrines and clarifies the roles of each stakeholder entity while promoting collaboration and providing internal controls and guardrails which ultimately protect the retirees and their beneficiaries.

- E. OLO recommends the Council amend the County Code to assign responsibility for hiring the MCERP Executive Director (ED) after the CAO oversees the recruitment process, vets applicants' qualifications, and provides a short-list of qualified candidates to the BIT.**

Feinberg does not concur with this recommendation.

Trustees meet four times yearly and recently incorporated a half day retreat into one of the sessions, thus reducing the available time for its mission driven and legal charter to manage and grow the trust assets for the benefit of retirees and their beneficiaries. With little knowledge of County personnel regulations, recruitment requirements and hiring practices, assigning trustees the ultimate hiring function could become highly inefficient and be open to challenges from candidates not selected if any process violations are discovered. Additionally, how would trustees who meet just four times a year have the ability to evaluate the Executive Director's day-to-day administration and management of the MCERP staff and more than \$8 billion in assets?

With a shared responsibility model, both the BIT trustees and the CAO collaborate during the recruitment process, with the CAO making the final hiring recommendation (which does not require Council confirmation). Affirming the signed Memorandum of Understanding dated December 3, 2025, between the boards and the CAO, all aspects of the recruitment process, compensation decisions and options, plus position performance expectations and overall evaluation are clearly delineated. Governance policies were in place. However, insufficient role delineations and significant turnover on the boards created the opportunity for abuses. Suffice it to say that one may characterize 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. Under the proposed recommendation, the infrequency of BIT and CRHBT meetings, the lack of Board knowledge of County governance, and no internal controls and guardrails in place, similar issues of performance failures could once again transpire.

Given the politics observed on these boards, it is critical that strong checks and balances 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 breaches in trust.

- F. **OLO recommends that the Councilmembers assess whether the current size and composition of the BIT and CHRHBT 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.**

Feinberg concurs with the need for an assessment but wonders how Councilmembers may or may not conclude that the current size and composition of the Boards foster healthy stewardship of the trusts and that they 'function properly'. Regrettably, the only access to the Board meetings is in real time and only for the open portions of the meetings. Neither Councilmembers, Council staff, retirees, trustees, the CAO nor MCERP staff have access to independently make an assessment of how the Boards are functioning if unable to join in person or online during the specific meeting time. Meeting minutes are limited to transactional types, so the tenor and nuances of all discussions are missing.

Feinberg supports the concept of smaller-sized boards each with a majority of subject matter experts. As such she strongly recommends that the Councilmembers hit the proverbial 'pause button', and interview current and former trustees and all stakeholder entities. Collaborate with the CAO to jointly develop the structure and composition of the Boards. And, as the OLO report points out, this is not being created from scratch, so a transition plan would be necessary. Maintain the shared responsibility model executed by both Boards and the CAO in December 2025 which ensures that there are guardrails and checks and balances in place. Use the proposed legislation (CB 28-24) to implement OLO Recommendations A, B, and C, Option 1.

Trustee Linda Herman's Comments on Recommendations in OLO's Report on Governance
January 27, 2026

The GO Committee Chair invited investment board trustees to comment on the six recommendations (A-F) in the OLO report on governance. Here are my comments based on my experience as MCERP's executive director from 2004 to 2022 and as the trustee representing County retirees since October 2024. My comments supplement those I made for the OLO report. See pages 54-62.

https://www.montgomerycountymd.gov/OLO/Resources/Files/2025_reports/OLOReport2025-14.pdf

1. **Recommendation A** is to amend the County Code to clarify the responsibilities of the Board of Investment Trustees (BIT), which oversees the County's retirement trust funds. I support this recommendation.

2. **Recommendation B** is to amend the County Code to specify the CAO's responsibilities in administering the Consolidated Retiree Health Benefits Trust (CRHBT), which contains the assets set aside for retiree health benefits for retirees of the County, MCPS, and Montgomery College. I support this recommendation.

3. **Recommendation C** is to retain the CAO's responsibility to select the actuary for the Employees' Retirement System (ERS). I support this recommendation (Option 1).

4. **Recommendation D** is to shift the determination of most actuarial assumptions from the CAO to the BIT. This would be a mistake. It would place responsibility with a board that does not have the expertise to address this critical function. Under current law, the CAO sets the assumptions after consulting with the BIT and the actuary, with input from Finance, OMB, OHR, and MCERP. This collaborative process of **shared responsibility** was strengthened by the attached MOU approved by the BIT and signed by the BIT Chair and the CAO on December 3, 2025.

This collaboration is essential. The BIT does not have the expertise to set actuarial assumptions alone. Trustees have heavy job obligations of their own, meet just four times a year, and the majority have limited knowledge of investment and actuarial issues. Making decisions related to funding where the trustees do not have the requisite knowledge could result in a violation of their fiduciary duties and County law.

A few trustees are pressing to reduce the current 7.5% investment return assumption, even though the ERS's performance has consistently exceeded this target over both the short term and the long term. In October 2025, the board's investment consultant confirmed the 7.5% target remains valid. A change could result in a large unnecessary increase in the already

massive required taxpayer contribution to the ERS (\$90.7 million in FY26). Moreover, trustees in the defined benefit plans could face a conflict of interest and violate County law if they set actuarial assumptions that result in increased benefits for themselves as plan participants.

OLO itself concedes that the CAO should perhaps set certain actuarial assumptions, such as future year employee salary increases. To avoid confusion, the current collaborative model of **shared responsibility** should be retained. I support Option 1.

5. **Recommendation E** is for the BIT to hire the MCERP executive director after the CAO has overseen the recruitment process. OLO “acknowledges that trustees do not have the expertise to manage all stages of the recruitment and hiring process.” Many trustees have no knowledge of County employment standards, procedures, and regulations.

Here too the December 3, 2025 MOU between the BIT Chair and the CAO provides a more realistic approach: **shared responsibility** and true collaboration throughout the recruitment and final selection process. Moreover, while the MOU addresses all aspects of hiring, compensating, and overseeing the executive director, the OLO recommendation deals only with hiring. The executive director is a merit system employee. In setting compensation, would the BIT be limited by merit system rules? And can a board that meets just four times a year effectively oversee an executive director who administers more than **\$8 billion** in retirement assets, representing the largest pool of funds in the County? The question answers itself.

6. **Recommendation F** suggests considering the option of **restructuring** the BIT and the board overseeing the CRHBT to reduce their large size and require a majority of subject matter (investment) experts. This option is an excellent idea. Over the last three years, the “independence” from County oversight agenda proposed by a few trustees has caused turmoil. Investment performance, which was in the top 10% of our peers for the 15-year period before 2022, has fallen to the bottom 10%. (See the attached performance comparisons from the MCERP website.) Restructuring the boards can restore their ability to achieve top-tier performance, ensure the integrity of their decisions, and safeguard the interests of employees, retirees, beneficiaries, and taxpayers. I support Option 2.

Overall, the OLO report makes many useful points, but it does not address three key issues:

First, the report does not discuss the damage to the retirement funds that has occurred over the past three years. To take one significant example, the MCERP office was moved in 2025 from renovated, rent-free space in the Executive Office Building to wasteful, costly, and excessive space far from the Rockville core in violation of both common sense and the boards’ legal requirements. There needs to be a full accounting of what has gone wrong over the past three years -- including the sharp decline in investment performance, repeated flouting of the

boards' governance manual, and excessive dollars spent for travel and consultant/advisor fees -- and what must be done now to set it right.

Second, the report does not discuss the fact that the governance changes in Bill 28-24 would weaken the internal controls and guardrails of the current **shared responsibility** model. These internal controls and guardrails are essential to protect the financial security of our retirees. Weakening them would be a serious and costly mistake.

Third, the report reviews the governance of some nearby retirement trust funds, including the State of Maryland's Pension System, that have achieved mediocre investment performance (below 80-90% of their peers. See the attached document). But it does not assess which funds nationwide are the most successful – as ours was until 2022. The practices of these highly successful funds, if applied to our retirement assets, could benefit our retirees and reduce the contributions required by taxpayers and employees.

The OLO report was a beginning point in assessing differences between the ERS and CRHBT boards and other local entities. However, more work needs to be done before the Council moves forward with making changes. Further assessment of what current issues exist by meeting with current and former trustees, as well as all stakeholder entities, will provide much needed information on what if any problems need to be corrected. Allowing the shared responsibility model, as outlined in the MOUs, which ensures proper oversight, internal controls and necessary guardrails to operate while the analysis is being conducted, should provide further support of any issues that need to be addressed.

Attachments:

December 3, 2025 MOUs signed by the board chairs and the CAO

June 30, 2025 ERS performance comparison from the MCERP website

December 31, 2021 ERS performance comparison from the MCERP website

June 30, 2025 Maryland State Pension System performance comparison from their website

MEMORANDUM OF UNDERSTANDING BETWEEN THE BOARD OF INVESTMENT TRUSTEES AND THE CHIEF ADMINISTRATIVE OFFICER

Purpose: The purpose of this memorandum is to establish a process for the Board of Investment Trustees of the Employees' Retirement System (BIT) to work collaboratively with the Chief Administrative Officer (CAO) on the following subjects of mutual interest and concern to promote transparency, mitigate risk, and better provide for the fulfillment of the fiduciary roles of the trustees:

1. Developing a formal process for procuring certain service providers, including actuarial services, and determining the prudent investment rate of return assumption for the ERS based on the actuary's recommendation.
2. Clarifying the Board's role in hiring, evaluating, overseeing, and compensating the Executive Director, and exploring options for managing retention risk, ensuring competitive compensation, and establishing positive pay-for-performance initiatives for staff while still maintaining their merit system protections.

Service Providers:

1. Background:
 - a. Section 33-47(a) & (c) of the Montgomery County Code (MCC) provides:
Responsibility for administration. The chief administrative officer shall be responsible for the administration of the retirement system.

Chief administrative officer. Except for the powers of the board, the chief administrative officer has the power and the duty to take all actions and to make all decisions to administer the retirement system.
 - b. Section 33-47(d)(6)-(8) of the MCC provides:
Powers and duties of the Chief Administrative Officer. The Chief Administrative Officer has, but is not limited to, the following powers and duties:
 - (6) Select and retain the actuary for the retirement system;
 - (7) After 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;
 - (8) Consider the recommendation of the actuary for the retirement system on contributions the county makes under this article.
 - c. Section 33-47(f) of the MCC provides:
Exemption. Chapter 11B does not apply to the procurement of goods and services for the retirement system by the Chief Administrative Officer.
 - d. Section 33-164(c) of the MCC provides:
Procurement. Chapter 11B does not apply to the procurement of goods and services for the Trust Fund by the Director of Finance. (2008 L.M.C., ch. 3, § 1.)
 - e. This Memorandum of Understanding (MOU) incorporates by reference the MOU signed by the Chair of the Board of Investment Trustees and the County Attorney.
2. Process for Reviewing Actuarial Consultant's Recommendations on the Investment Rate of Return
 - a. Beginning with the Actuarial Services for the upcoming 2026 valuation of the Employees'

Retirement System (ERS), the staff of the Montgomery County Employee Retirement Plans (MCERP), the Office of Human Resources, the Office of Management and Budget, and the Department of Finance, will jointly be responsible for the procurement of these services.

- i. Such procurement will be subject to the oversight and supervision of the CAO or the CAO's designee.
- b. After completion of the Actuarial review by the selected consultant the CAO and CAO's staff will meet with the Executive Director of the MCERP, the Chair and Vice-Chair of the BIT, the Director of Finance, the Director of the Office of Management and Budget, and the Director of the Office of Human Resources, and the Actuarial consultant to review and discuss the Actuary's recommendations for the investment rate of return. Subsequent meetings of this group may be necessary for additional discussion of the recommendation.
 - i. The goal of these meetings is to reach a consensus on whether to accept, modify, or seek additional research, analysis, and clarification of the Actuarial Consultant's recommendation related to the investment return assumption.
 - ii. After a consensus is reached, a presentation will be made to the BIT for the input of the board.
 - iii. The CAO and the BIT may agree on up to a three-year phase-in of the consultant's recommendation for any modification to the investment return assumption.
 - iv. If the actuarial investment return assumption approved by the CAO materially varies from the Actuary's recommendations, then the CAO and the Board would need to document the factual and analytical basis for the variance.

Hiring, evaluating, overseeing, and compensating the Executive Director:

1. Background

- a. The position of the Executive Director of the MCERP is classified as Management Leadership Service (MLS) I. The class specification for MLS I provides:

A position in this class functions in one of the following three high level management roles: 1) director of a principal, mission-critical office or equivalent organizational unit who reports directly to the County Executive or Chief Administrative Officer; 2) exercises delegated full line management responsibility for human capital and financial resources of the organization; and 3) plans, develops, implements and evaluates policies and work programs; typically characteristic of merit executive directors of principal offices or equivalent entities of the executive branch.

2. Hiring

- a. The process for hiring the Executive Director will include the following steps.
 - i. The CAO or the CAO's designee will meet with the Chair of the BIT (Board Chair) to discuss the job announcement for the Executive Director and agree on the strategy for the recruitment of the new Executive Director including whether to use an Executive Recruiter or have the Montgomery County Government Office of Human Resources (OHR) manage the recruitment process; timeline; levels of interview; interview questions; and other related matters.
 - ii. All interviews of the Executive Director candidates will be conducted through a panel that will include the respective Board Chairs ("BIT and CRHBT") or designees; the CAO or designee; and a representative of OHR.
 - iii. The Board Chairs will provide timely reports to their respective Boards through email or in-person briefings on the status of the recruitment and the estimated timeline for the onboarding of the Executive Director.
 - iv. After completion of the interviews, the Board Chairs will make a recommendation on

the candidate to fill the Executive Director vacancy to the CAO, including recommended compensation and other relevant terms of the employment offer.

- v. If the CAO does not accept the recommendation of the Board Chairs, then another candidate will be recommended for hire to the CAO, or the recruitment process will be restarted to identify a candidate that will meet the hiring criteria of the Board Chairs and the CAO.
- vi. OHR will extend the offer to the recommended candidate with the authorization of the CAO. The offer will be subject to the successful completion of a background investigation of the candidate.

3. Overseeing

- a. Establishing the annual performance plan for the Executive Director and subsequent performance evaluation will be based on Montgomery County Personnel Regulation (MCPR) 2001, Section 11 Performance Planning and Evaluation¹, and incorporate the following steps:
 - i. In June of each year, the BIT Board Chair will review and discuss the annual work program of the Executive Director with the CAO or CAO's designee and the Executive Director based on implementation of the strategic plan for the MCERP and the investment strategy for the ERS Trust.
 - ii. On or about July 1 each year, the annual work program, including goals, objectives, competencies, and performance measures, will be finalized, approved, and signed by the Executive Director, the Board, and the CAO or CAO's designee.
 - iii. The Board Chair will meet during January of each year to discuss the mid-year evaluation of the performance of the Executive Director with the CAO or designee and the Executive Director.
 - iv. Prior to the mid-year evaluation, the Board Chair will confidentially ask for the feedback of their respective board members on the performance of the Executive Director in the implementation of the annual work program.
 - v. At any time during the year, the Board Chair will timely notify the CAO or designee if there are any concerns with the Executive Director's performance or conduct. The CAO or designee will also be responsible for communicating with the Board Chair if there are any concerns with the performance of the Executive Director. The CAO or designee, in conjunction with the Board Chair, will determine what next steps will be taken. However, in accordance with the County Code, any final decision on continued employment rests solely with the CAO.
 - vi. Any performance concerns and mitigation plans must be communicated to the Executive Director on a timely and discreet basis and allow the Executive Director a reasonable opportunity to appropriately address the issues raised by the Board Chair, other Board members, or the CAO.
 - vii. All personnel matters, including performance evaluation results, disciplinary actions, and related issues, must be strictly confidential.

4. Compensating the Executive Director

- a. The compensation of the Executive Director will be based on
 - i. The pay ranges established annually by the County Government for the MLS I salary schedule.
 - ii. Montgomery County Personnel Regulation 2001, Section 10 Employee Compensation².
 - iii. Annual compensation adjustments will have three components as established under

¹ https://www.montgomerycountymd.gov/HR/Resources/Files/Regulation/MCPR_SECTION_13_July172018_w_PLS.pdf

² <https://www.montgomerycountymd.gov/HR/Resources/Files/Regulation/MCPR%202001%20Section%2010.pdf>

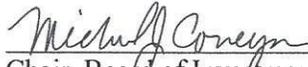
MCPR 2001,10-10. (Appendix a)

1. General Wage Adjustment approved by the County Council for unrepresented employees provided the Executive Director receives a performance rating of Below Expectations or higher.
 2. Pay for performance based on the rating and current salary level in the annual performance evaluation per the matrix in MCPR 2001,10-10.
 3. With approval by the CAO, the Executive Director of the Montgomery County Employee Retirement Plans is eligible to receive a lump-sum award that exceeds 4 percent of base salary but does not exceed 25 percent of base salary for exceptional performance based on the MCERP Executive Director Incentive Plan Description 2024 or subsequent modifications to this document agreed to by the Board Chair and the CAO. (Appendix (2) (C) (i))
 4. With the Approval of the CAO, the Executive Director may also receive performance awards established under MCPR 2001, Section 13 Performance Awards.
 - a. Awards under MCPR 2001, 13 include one-time monetary awards for Employee of the Year, Department Recognition Award, Paid Time Off awards, and other honorary awards.
 - iv. As deemed necessary, the overall compensation and benefits level of the Executive Director will be evaluated by the County Government.
 1. The evaluation should be completed by an independent third-party consultant with experience in evaluating employee compensation for public pension plans.
 2. The comparison with Executive Directors and CIOs should be based on public pension plans, endowments, foundations, regional County and Municipal governments, and state agencies. A peer group will be constructed of plans with similar asset sizes, staffing, and investment programs.
5. Compensating Investment Staff
- a. During FY 2027, MCG OHR will conduct a salary and benefits review of all MCERP positions to determine the competitiveness of the current grade and salary. These positions include, but are not limited to, the following
 - i. Investment Compliance Manager
 - ii. Investment Officer
 - iii. Investment Portfolio Manager
 - iv. Senior Investment Manager; and
 - v. Senior Investment Officer (Deputy Chief Investment Officer)

Note: The review should include newly created investment staff positions or reclassified investment staff positions with new titles and grades.
 - b. The salary and benefits review should be completed by an independent third-party consultant with experience in evaluating employee compensation for the peer group noted above.
 - c. The salary and benefits review for investment staff should be based on comparables with investment staff at public pension plans, endowments, foundations, regional County and Municipal governments, and state agencies. A peer group will be constructed of plans with similar asset sizes, staffing, and investment programs.
 - d. MCG OHR will provide the Board Chair with a copy of the completed salary review with their comments on the adequacy of current compensation levels and the risk for job turnover, retention, and recruitment based on current salary levels.

- e. At the request of the Board Chair, MCG OHR staff and the CAO or designee, will meet with the Board Chair to discuss the results of the salary and benefits survey and whether changes should be made to the assigned grade and salary of the investment staff, pay for performance, and other performance awards that would enhance employee morale, retention, and recruitment.

This Memorandum of Understanding is entered into between the Board of Investment Trustees and the Chief Administrative Officer, this day of Dec. 3, 2025.



Chair, Board of Investment Trustees



Chief Administrative Officer

**MEMORANDUM OF UNDERSTANDING BETWEEN THE BOARD OF
TRUSTEES OF THE CONSOLIDATED RETIREE HEALTH BENEFIT TRUST
AND THE CHIEF ADMINISTRATIVE OFFICER**

Purpose: The purpose of this memorandum is to establish a process for the Trustees of the Consolidated Retiree Health Benefits Trust Board of Trustees (CRHBT) to work collaboratively with the Chief Administrative Officer (CAO) on the following subjects of mutual interest and concern to promote transparency, mitigate risk, and better provide for the fulfillment of the fiduciary roles of both the CAO and the trustees:

1. Developing a formal process for procuring certain service providers, including actuarial services, and determining the prudent investment rate of return assumption for the fund based on the actuary's recommendations and supporting data.
2. Clarifying the Board's role in hiring, evaluating, overseeing, and compensating the Executive Director and exploring options for managing retention risk, ensuring competitive compensation, and establishing positive pay-for-performance initiatives for staff while still maintaining their merit system protections.

Service Providers:

1. Background:
 - a. This Memorandum of Understanding (MOU) incorporates by reference the MOU signed by the Chair of the Board and the County Attorney.
2. Process for Reviewing Actuarial Consultant's Recommendations on the Investment Rate of Return
 - a. Beginning with the Actuarial Services for the upcoming 2026 valuation of the Montgomery County Other Post Employment Benefits and the impact of the actuarially required contributions on the Consolidated Retiree Benefits Trust (CRHBT), the staff of the Montgomery County Employee Retirement Plans (MCERP), the Office of Human Resources, the Office of Management and Budget and the Department of Finance, jointly, will be responsible for the procurement of these services.
 - i. Such procurement will be subject to the oversight and supervision of the CAO or the CAO's designee.
 - b. After completion of the Actuarial review by the selected consultant, the CAO and CAO's staff will meet with the Executive Director of the MCERP, the Chair and Vice-Chair of the CRHBT Board, and the Directors or designees of the departments delineated above, and the Actuarial consultant to review and discuss the Actuary's recommendations. Subsequent meetings of this group may be necessary for additional discussion of the recommendations.
 - i. The goal of these meetings is to reach a consensus on whether to accept, modify, or seek additional research, analysis, and clarification of the Actuarial Consultant's recommendation related to the investment return assumption.
 - ii. After a consensus is reached, a presentation will be made to the CRHBT board for the input of the board.
 - iii. The CAO and CRHBT may agree on up to a three-year phase-in of the consultant's recommendation for a modification of the investment return actuarial assumption.
 - iv. If the actuarial investment return assumption approved by the CAO materially varies from the Actuary's recommendation, then the CAO and the Board would need to document the factual and analytical basis for the variance.

Hiring, evaluating, overseeing, and compensating the Executive Director:

1. Background

- a. The position of the Executive Director of the MCERP is classified as Management Leadership Service (MLS) I. The class specification for MLS I provides:

A position in this class functions in one of the following three high level management roles: 1) director of a principal, mission-critical office or equivalent organizational unit who reports directly to the County Executive or Chief Administrative Officer; exercises delegated full line management responsibility for human capital and financial resources of the organization; and plans, develops, implements and evaluates policies and work programs; typically characteristic of merit executive directors of principal offices or equivalent entities of the executive branch; (emphasis added)

2. Hiring

- a. The process for hiring the Executive Director will include the following steps.
 - i. The CAO or the CAO's designee will meet with the Chair of the CRHBT to discuss the job announcement for the Executive Director and agree on the strategy for the recruitment of the new Executive Director including whether to use an Executive Recruiter or have the Montgomery County Government Office of Human Resources (OHR) manage the recruitment process; timeline; levels of interview; interview questions; and other related matters.
 - ii. All interviews of the Executive Director candidates will be conducted through a panel that will include the Board Chair or designee; the CAO or designee; and a representative of OHR.
 - iii. The Board Chair will provide timely reports to the Boards through email or in-person briefings on the status of the recruitment and the estimated timeline for the onboarding of the Executive Director.
 - iv. After completion of the interviews, the Board Chair will make a recommendation on the candidate to fill the Executive Director vacancy to the CAO, including recommended compensation and other relevant terms of the employment offer, in consultation with OHR.
 - v. If the CAO does not accept the recommendation of the Board Chair, another candidate may be recommended for hire to the CAO, or the recruitment process will be restarted to identify a candidate who will meet the hiring criteria of the Board Chair and the CAO.
 - vi. OHR will extend the offer to the recommended candidate with the authorization of the CAO. The offer will be subject to the successful completion of a background investigation of the candidate.

3. Overseeing

- a. Establishing the annual performance plan for the Executive Director and subsequent performance evaluation will be based on Montgomery County Personnel Regulation (MCPR) 2001, Section 11 Performance Planning and Evaluation¹, and incorporate the following steps:
 - i. In June of each year, the Board Chair will review and discuss the annual work program of the Executive Director with the CAO or the CAO's designee and the Executive Director based on implementation of the work plan for the Board and the investment strategy.

¹ https://www.montgomerycountymd.gov/HR/Resources/Files/Regulation/MCPR_SECTION_13_July172018_w_PLS.pdf

- ii. On or about July 1 each year, the annual work program, including goals, objectives, competencies, and performance measures, will be finalized, approved, and signed by the Executive Director, the Board, and the CAO or the CAO's designee.
- iii. The Board Chair will meet during January of each year to discuss the mid-year evaluation of the performance of the Executive Director with the CAO or designee and the Executive Director.
- iv. Prior to the mid-year evaluation, the Board Chair will confidentially ask for the feedback of their respective boards on the performance of the Executive Director in the implementation of the annual work program.
- v. At any time during the year, the Board Chair will timely notify the CAO or designee if there are any concerns with the Executive Director's performance or conduct. The CAO or designee will also be responsible for communicating with the Board Chair if there are any concerns with the performance of the Executive Director, and, as applicable, an action plan for remediation. However, in accordance with the County Code, any final decision on continued employment rests solely with the CAO.
- vi. Any performance concerns and mitigation plans must be communicated to the Executive Director on a timely and discreet basis and allow the Executive Director a reasonable opportunity to appropriately address the issues raised by the Board Chair, other Board members, or the CAO.
- vii. All personnel matters, including performance evaluation results, disciplinary actions, and related issues, must be strictly confidential.

4. Compensating the Executive Director

- a. The compensation of the Executive Director will be based on
 - i. The pay ranges established annually by the County Government for the MLS I salary schedule.
 - ii. Montgomery County Personnel Regulation 2001, Section 10 Employee Compensation².
 - iii. Annual compensation adjustments will have three components as established under MCPR 2001,10-10. (Appendix a)
 - 1. General Wage Adjustment approved by the County Council for unrepresented employees, provided the Executive Director receives a performance rating of Below Expectations or higher.
 - 2. Pay for performance based on the rating and current salary level in the annual performance evaluation per the matrix in MCPR 2001,10-10.
 - 3. With approval by the CAO, the Executive Director of the Montgomery County Employee Retirement Plans is eligible to receive a lump-sum award that exceeds 4 percent of base salary but does not exceed 25 percent of base salary for exceptional performance based on the MCERP Executive Director Incentive Plan Description 2024 or subsequent modifications to this document agreed to by the Board Chair and the CAO. (Appendix (2) (C) (i))
 - 4. With the Approval of the CAO, the Executive Director may also receive performance awards established under MCPR 2001, Section 13 Performance Awards.
 - a. Awards under MCPR 2001, 13 include one-time monetary awards for Employee of the Year, Department Recognition Award, Paid Time Off awards, and other honorary awards.
 - iv. As deemed necessary, the overall compensation of the Executive Director will be

² <https://www.montgomerycountymd.gov/HR/Resources/Files/Regulation/MCPR%202001%20Section%2010.pdf>

evaluated by the County Government:

1. The evaluation should be completed by an independent third-party consultant with experience in evaluating employee compensation for public pension plans.
 2. The comparison with Executive Directors and CIOs should be based on public pension plans, endowments, foundations, regional County and Municipal governments, and state agencies. A peer group will be constructed of plans with similar asset sizes, staffing, and investment programs.
 3. The trusts will bear the cost of any such compensation study in a manner that is consistent with the allocation of similar shared costs.
5. Compensating Investment Staff
- a. During FY 2027, MCG OHR will conduct a total compensation review of all MCERP positions to determine the competitiveness of the current grade, salary, and benefits. These positions include, but are not limited to, the following:
 - i. Investment Compliance Manager
 - ii. Investment Officer
 - iii. Investment Portfolio Manager
 - iv. Senior Investment Manager; and
 - v. Senior Investment Officer (Deputy Chief Investment Officer)

Note: The review should include newly created investment staff positions or reclassified investment staff positions with new titles and grades.
 - b. This review should be completed by an independent third-party consultant with experience in evaluating employee compensation for the peer group noted above.
 - c. The review for investment staff should be based on comparables with investment staff at public pension plans, endowments, foundations, regional County and Municipal governments, and state agencies. A peer group will be constructed of plans with similar asset sizes, staffing, and investment programs.
 - d. The consultant will secure agreement from the Board on the peer group of institutions upon which the benchmarking will be performed.
 - e. MCG OHR will provide the Board Chair with a copy of the completed review with their comments on the adequacy of current compensation levels and the risk for job turnover, retention, and recruitment based on current salary levels.
 - f. At the request of the Board Chair, MCG OHR staff and the CAO or designee will meet with the Board Chair to discuss the results of the review/survey and whether changes should be made to the assigned grade and salary of the investment staff, pay for performance, and other performance awards that would enhance employee morale, retention, and recruitment.

This Memorandum of Understanding is entered into between the Board of Trustees and the Chief Administrative Officer, this 3rd day of Dec., 2025.

Elizabeth W Greaney

Chair, Consolidated Retiree Health Benefits Trust Board of Trustees

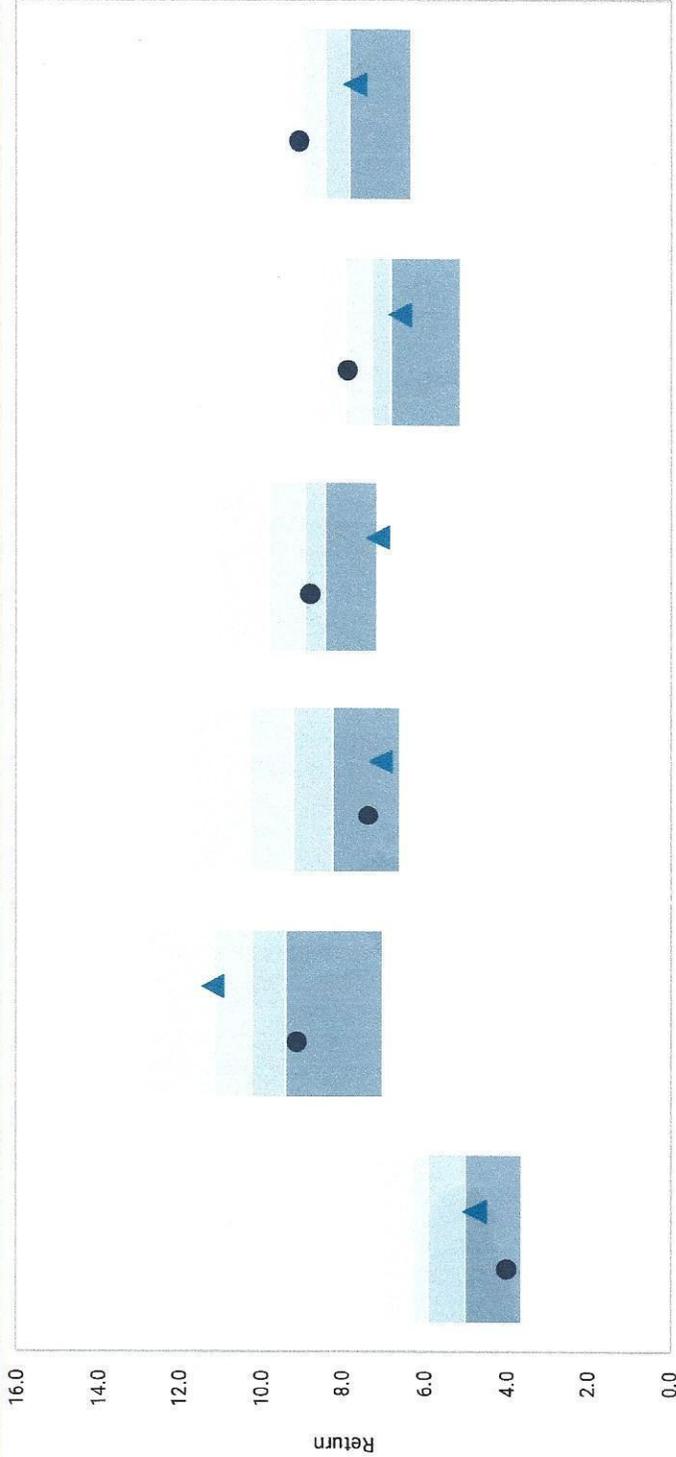
Richard Madaleno

Chief Administrative Officer

TOTAL FUND VERSUS PUBLIC DB > \$1B

JUNE 30, 2025

Total Fund Composite vs. InvMetrics Public DB > \$1 Billion



	3 Mo (%)	1 Yr (%)	3 Yrs (%)	5 Yrs (%)	10 Yrs (%)	15 Yrs (%)
● Total Fund Composite	4.1 (88)	9.2 (83)	7.4 (91)	8.9 (60)	7.9 (26)	9.1 (18)
▲ Total Fund Policy Index	4.8 (79)	11.2 (24)	7.1 (92)	7.2 (95)	6.6 (81)	7.7 (82)
5th Percentile	7.1	12.9	11.8	11.2	8.6	9.5
1st Quartile	6.3	11.2	10.3	9.9	8.0	9.0
Median	6.0	10.3	9.3	9.0	7.4	8.5
3rd Quartile	5.0	9.5	8.3	8.5	6.9	7.9
95th Percentile	3.7	7.1	6.6	7.2	5.2	6.4
Population	114	114	110	107	103	96

(33)

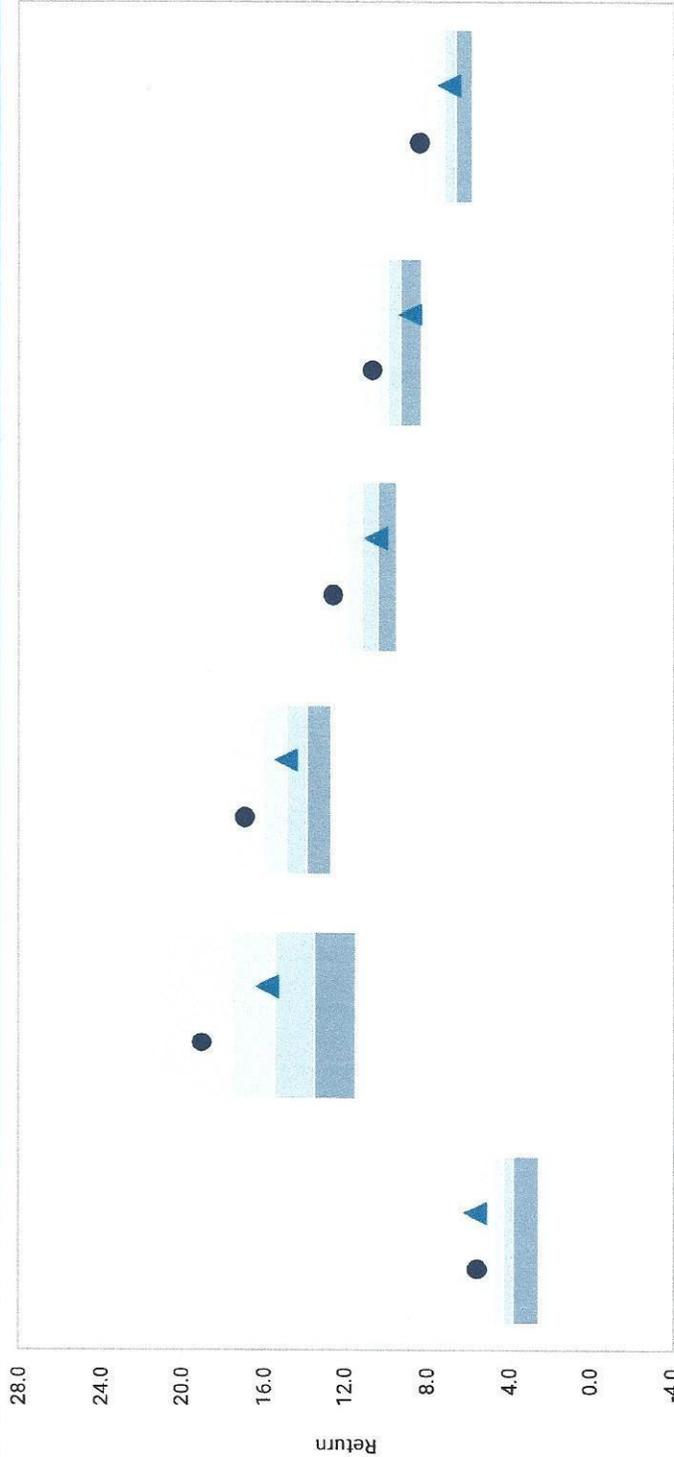
Returns are gross of investment manager fees. GQG, Arrowstreet, Directional HF, Diversifying HF, GMO, Polunin EM, Trinity and Marathon EMD returns are net of investment manager fees.



TOTAL FUND VERSUS PUBLIC DB > \$1B

DECEMBER 31, 2021

Total Fund Composite vs. InvMetrics Public DB > \$1 Billion



	3 Mo (%)	1 Yr (%)	3 Yrs (%)	5 Yrs (%)	10 Yrs (%)	15 Yrs (%)
● Total Fund Composite	5.6 (6)	19.1 (14)	17.0 (15)	12.7 (12)	10.7 (22)	8.5 (7)
▲ Total Fund Policy Index	5.8 (5)	15.9 (50)	14.9 (55)	10.6 (74)	8.9 (88)	7.0 (62)
5th Percentile	5.6	21.0	17.7	13.1	11.5	8.5
1st Quartile	4.8	17.6	16.2	12.1	10.6	7.7
Median	4.3	15.6	15.0	11.3	10.1	7.3
3rd Quartile	3.9	13.6	14.0	10.5	9.4	6.7
95th Percentile	2.6	11.6	12.8	9.5	8.4	5.9

Population

157

155

153

152

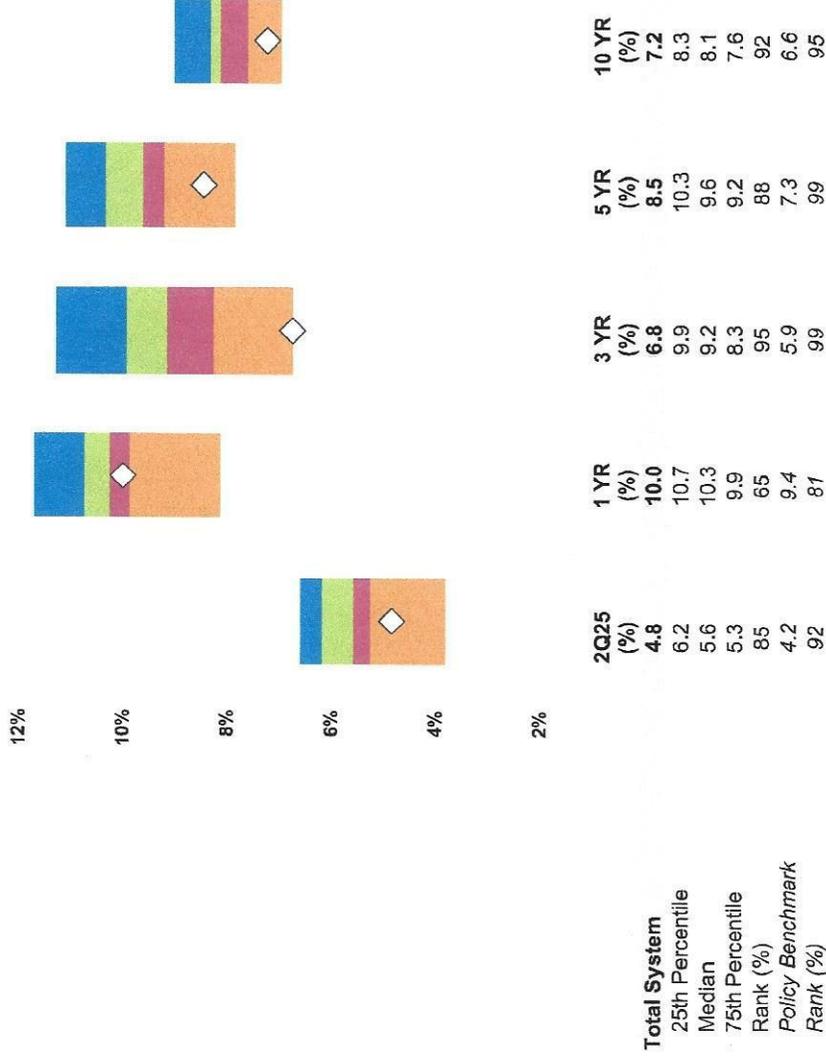
137

127

Returns are gross of investment manager fees. GQG, Arrowstreet, Directional HF, Diversifying HF, GMO, Polunin EM, Trinity and Marathon EMD returns are net of investment manager fees.



Total System vs. Public Plans >\$25 Billion Universe¹
As of June 30, 2025



¹ Represents the TUCS Public >\$25 bn peer group as of June 30, 2025. Total System performance is gross of fees. Includes 33 plans.

Board of Investment Trustees Board Member Response to OLO Report 2025-14 Recommendations

Thank you for the opportunity to review and comment on the recommendations outlined in the OLO Report 2025-14.

The OLO Report is a good first step in reviewing the retirement (and OPEB) system; although it is a limited review of some of the literature available on the subject, it has at least touched on several of the areas that a further comprehensive analysis should treat.

The main area not addressed at this point deals with the retirement system that the County actually has, which is a hybrid system with shared responsibilities and authority. A review of the basis for our current system along with its performance is necessary to make good responsible decisions about whether to make any changes to the system and if so, which changes to make. A more comprehensive review will show how well structured the system is compared to other systems (including the traditional systems that were touched upon in the Report) and how well the County's hybrid system performs compared to its peers, regardless of the structure of their systems.

Having a structure that contains proper checks and controls is important to securing long term success and a durable system. Reviewing best practices in the field is useful but is just the first step in ensuring that recommendations to modify the system means that the system will be properly structured for future success.

Below is my assessment of each recommendation in the OLO Report:

Recommendation A (*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.*)

I agree with Recommendation A. It is reasonable and aligns with best practices.

Recommendation 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.*)

Recommendation B could be appropriate, provided that the legislation clearly defines the responsibilities of the CAO for the CRHBT. Specificity is essential to ensure that all duties are properly captured. I assume there are no intended changes in responsibilities, but merely clarifying in the law what has transpired, in practice.

Recommendation C (*OLO recommends the Council retain the current practice of assigning the CAO with the responsibility to select the retirement benefit actuary (Option 1).*)

I support Recommendation C. It maintains the CEO's authority in selecting the appropriate individual, which is consistent with current governance practices.

Recommendation D (*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 do not support Recommendation D. The determination of actuarial assumptions for investment return is distinct from other actuarial assumptions, which are primarily demographic and relate to personnel matters such as health and retirement benefits. These assumptions should remain under the authority of the CAO.

The Board of Investment Trustees (MCIB/ERS Board) does not have the expertise or mandate to review or comment on the assumptions that are not directly related to investments. For those actuarial assumptions, subject matter experts within county departments—OHR, OMB, and Finance—are best positioned to ensure the actuarial analyses are accurate and assumptions are reasonable, as they have always done. This expertise exists only within the executive agencies.

Conversely, the investment rate of return is a separate matter. While the Board may provide input, the current process—where the actuary presents its analysis to the CAO (and also the Board), with participation from the Executive Director/CIO and Board members—has worked effectively for many years. The CAO ultimately decides whether to adopt recommended changes, and historically, these decisions have aligned with actuarial guidance.

The recent Memorandum of Understanding between the Board and the CAO (finalized December 2025) was the result of Board discussions over the past couple of years to formalize the shared approach to setting the Investment Rate of Return (and two other issues). It is important to allow this MOU to be operative for at least a couple of cycles while a more comprehensive analysis of the system is undertaken as the Board did not vote to seek any legislative changes at this time. If after a comprehensive analysis of the system is complete and if the MOU has been found to be lacking, legislative changes should be made at that time.

Recommendation 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.*)

This recommendation concerns the hiring of the MCERP Executive Director/CIO. The current process, in which the CAO convenes a recruitment committee composed primarily of Board members and CAO representatives, has functioned well. The committee interviews candidates identified by a recruitment firm and makes a recommendation to the CAO, who has consistently accepted these recommendations. At least the last two recruitments have had committees that had

the two Board chairs (both BIT and OPEB) and another Board member—these recruitment committees have unanimously approved the applicants that were identified and vetted by an external recruitment firm that specializes in recruiting for retirement and OPEB boards. This shows that there is no reason to change the current structure of recruitment and hiring this position.

In addition, given that the Executive Director/CIO position is a merit system role which reports to the CAO, it is appropriate for the CAO—not the Board—to make the final hiring decision. Therefore, I see no need to alter this process.

Recommendation F (*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.*)

The question of Board size and composition is complex. While the current number of members may not be excessive, conflicts of interest exist—particularly with those members who participate in or direct collective bargaining for their organizations. This includes the union representatives and the Office of Labor Relations director. These conflicts are significant and should be addressed and remedied.

Additionally, some Board members are pension system participants—this presents a lesser conflict, but it should be noted and addressed. Reducing the number of ex officio and union members could mitigate these issues and allow for greater inclusion of subject matter experts in investment and pension management, consistent with best practices cited in the Clapman and OLO reports.

General Observations and Conclusion

The OLO report provides a useful starting point but is primarily a limited literature review rather than a comprehensive analysis of current governance practices. It does not address the system structure directly, and it only deals with a very limited number of issues. A comprehensive analysis would show the totality of the system as structured by County law and carried out by the Board's Governance Manual. A comprehensive analysis would show how the law is implemented through the governance manual, and it would speak to recent actions by the Board, such as adopting MOUs with the CAO and the Office of the County Attorney to clarify processes related to investment assumptions, staff hiring and pay, and external counsel engagement. A comprehensive analysis of the system would reveal how it performs compared to peers, regardless of the structure of those systems.

A comprehensive analysis would show the rationale behind the County's hybrid governance

structure, which has contributed to the system's strong performance—currently funded at approximately 95%, compared to the State system's 75%. The County's hybrid system provides more checks and controls than a system where one entity is responsible for overseeing all of the analysis and making all of the decisions. Some of the recommendations in the Report remove or reduce these checks and controls; these are changes that would be unwise

Incremental changes without such analysis risk undermining a system that has consistently delivered superior results for retirees. A comprehensive review, potentially conducted by an independent advisory firm, would better inform the Council on whether structural changes would improve outcomes or introduce unnecessary risks.

Thank you for taking the time to ensure that our system remains durable and successful by requiring the further analysis that is necessary for good decision making.

Mike Coveyou

Member, Board of Investment Trustees and OPEB Board and
Director, Department of Finance

MCREA Comments on Recommendations in OLO Report 2025-14

January 28, 2026

To be attached to MCREA Testimony Document submitted on January 27, 2026

OLO issued Report 2025-14, *Retirement Benefit Trust Fund Governance in Montgomery County*, on November 18, 2025. See [OLOReport2025-14.pdf](#).

The report contains extensive and valuable information. Two important points should be made at the outset:

1. There is no clear definition of the problem that Bill 28-24 is supposed to address. The investment boards have not performed well over the last three years, but their basic structure and governance are sound, with long-term results in the top10% of their peers nationwide. Two sayings come to mind: “If it ain’t broke, don’t fix it.” And “Don’t mess with success.”
2. The report was released shortly before the MOUs between the boards and the CAO were signed on December 3, 2025. These detailed MOUs provide true collaboration not only on setting actuarial assumptions but on hiring and overseeing the executive director. They provide the best path forward for the retirement system and should be strongly supported.

The report makes six recommendations, A-F. See pages 68-75.

A. 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. MCREA supports this recommendation.

B. Amend Section 33-159 of the County Code to enumerate the specific responsibilities of the CAO in administering the CRHBT. MCREA supports this recommendation.

C. Retain the current practice of assigning the CAO with the responsibility to select the retirement benefit actuary. MCREA supports Option 1, which retains current practice.

D. Amend the County Code to shift responsibility for determining most actuarial assumptions from the CAO to the BIT. MCREA opposes this shift and supports Option 1, which retains current practice.

*These assumptions are now carefully reviewed jointly by Finance, OMB, OHR, and MCERP staff before the CAO is involved. This process of **shared responsibility** works well and has*

been strengthened by the MOUs signed on December 3, 2025 by the board chairs and the CAO.

The boards do not have the expertise to set actuarial assumptions on their own. These 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, and salary increases, 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, and health share of GDP resistance point.

OLO itself says: "Nonetheless, OLO sees a potential advantage in the CAO retaining authority over select assumptions such as future year employee salary increases." The **shared responsibility** model avoids this confusion. Moreover, trustees who are in the defined benefit plan would face a **conflict of interest** and **violate County law** if they support actuarial changes that would improve their own benefits.

E. 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. MCREA opposes this change and supports Option 1, which retains current practice.

Here too the **shared responsibility** model embedded in the MOUs is more realistic. The boards meet only four times a year and lack the expertise to hire and oversee the executive director on their own. The MOUs require true collaboration between the boards and the CAO on all aspects of hiring, compensating, and overseeing the executive director. This approach is now being effectively implemented in the recruitment of a new executive director.

F. 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. MCREA supports careful consideration of Option 2, which proposes restructuring the BIT and the CRHBT.

The OLO report says on pages 73-75: "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."

OLO adds: "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.”

MCREA believes that the Council should seriously consider some kind of restructuring for future action. The boards (13 members on the BIT and 19 on the CRHBT) are now unwieldy. They also lack balance.

Restructuring options should be the subject of further discussion. Issues to be addressed include the optimal number of trustees, the optimal mix of subject matter (investment) experts and stakeholders, and the optimal composition of stakeholders. These issues need to be addressed for both the BIT and the CRHBT. Over time, the right kind of restructuring could restore balance to the boards and revive their ability to achieve top-tier investment results.

The investment boards entrust more than \$8 billion in retirement assets to investment managers, lawyers, and consultants. The strong internal controls and guardrails of the current shared responsibility model are essential to ensure the integrity of the boards’ decisions and the financial security of retirees. The right kind of restructuring the boards could protect and strengthen those controls and guardrails

MEMORANDUM OF UNDERSTANDING BETWEEN THE BOARD OF INVESTMENT TRUSTEES AND THE CHIEF ADMINISTRATIVE OFFICER

Purpose: The purpose of this memorandum is to establish a process for the Board of Investment Trustees of the Employees' Retirement System (BIT) to work collaboratively with the Chief Administrative Officer (CAO) on the following subjects of mutual interest and concern to promote transparency, mitigate risk, and better provide for the fulfillment of the fiduciary roles of the trustees:

1. Developing a formal process for procuring certain service providers, including actuarial services, and determining the prudent investment rate of return assumption for the ERS based on the actuary's recommendation.
2. Clarifying the Board's role in hiring, evaluating, overseeing, and compensating the Executive Director, and exploring options for managing retention risk, ensuring competitive compensation, and establishing positive pay-for-performance initiatives for staff while still maintaining their merit system protections.

Service Providers:

1. Background:

- a. Section 33-47(a) & (c) of the Montgomery County Code (MCC) provides:
Responsibility for administration. The chief administrative officer shall be responsible for the administration of the retirement system.

Chief administrative officer. Except for the powers of the board, the chief administrative officer has the power and the duty to take all actions and to make all decisions to administer the retirement system.

- b. Section 33-47(d)(6)-(8) of the MCC provides:
Powers and duties of the Chief Administrative Officer. The Chief Administrative Officer has, but is not limited to, the following powers and duties:
 - (6) Select and retain the actuary for the retirement system;
 - (7) After 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;
 - (8) Consider the recommendation of the actuary for the retirement system on contributions the county makes under this article.
- c. Section 33-47(f) of the MCC provides:
Exemption. Chapter 11B does not apply to the procurement of goods and services for the retirement system by the Chief Administrative Officer.
- d. Section 33-164(c) of the MCC provides:
Procurement. Chapter 11B does not apply to the procurement of goods and services for the Trust Fund by the Director of Finance. (2008 L.M.C., ch. 3, § 1.)
- e. This Memorandum of Understanding (MOU) incorporates by reference the MOU signed by the Chair of the Board of Investment Trustees and the County Attorney.

2. Process for Reviewing Actuarial Consultant's Recommendations on the Investment Rate of Return
 - a. Beginning with the Actuarial Services for the upcoming 2026 valuation of the Employees'

Retirement System (ERS), the staff of the Montgomery County Employee Retirement Plans (MCERP), the Office of Human Resources, the Office of Management and Budget, and the Department of Finance, will jointly be responsible for the procurement of these services.

- i. Such procurement will be subject to the oversight and supervision of the CAO or the CAO's designee.
- b. After completion of the Actuarial review by the selected consultant the CAO and CAO's staff will meet with the Executive Director of the MCERP, the Chair and Vice-Chair of the BIT, the Director of Finance, the Director of the Office of Management and Budget, and the Director of the Office of Human Resources, and the Actuarial consultant to review and discuss the Actuary's recommendations for the investment rate of return. Subsequent meetings of this group may be necessary for additional discussion of the recommendation.
 - i. The goal of these meetings is to reach a consensus on whether to accept, modify, or seek additional research, analysis, and clarification of the Actuarial Consultant's recommendation related to the investment return assumption.
 - ii. After a consensus is reached, a presentation will be made to the BIT for the input of the board.
 - iii. The CAO and the BIT may agree on up to a three-year phase-in of the consultant's recommendation for any modification to the investment return assumption.
 - iv. If the actuarial investment return assumption approved by the CAO materially varies from the Actuary's recommendations, then the CAO and the Board would need to document the factual and analytical basis for the variance.

Hiring, evaluating, overseeing, and compensating the Executive Director:

1. Background

- a. The position of the Executive Director of the MCERP is classified as Management Leadership Service (MLS) I. The class specification for MLS I provides:

A position in this class functions in one of the following three high level management roles: 1) director of a principal, mission-critical office or equivalent organizational unit who reports directly to the County Executive or Chief Administrative Officer; 2) exercises delegated full line management responsibility for human capital and financial resources of the organization; and 3) plans, develops, implements and evaluates policies and work programs; typically characteristic of merit executive directors of principal offices or equivalent entities of the executive branch.

2. Hiring

- a. The process for hiring the Executive Director will include the following steps.
 - i. The CAO or the CAO's designee will meet with the Chair of the BIT (Board Chair) to discuss the job announcement for the Executive Director and agree on the strategy for the recruitment of the new Executive Director including whether to use an Executive Recruiter or have the Montgomery County Government Office of Human Resources (OHR) manage the recruitment process; timeline; levels of interview; interview questions; and other related matters.
 - ii. All interviews of the Executive Director candidates will be conducted through a panel that will include the respective Board Chairs ("BIT and CRHBT") or designees; the CAO or designee; and a representative of OHR.
 - iii. The Board Chairs will provide timely reports to their respective Boards through email or in-person briefings on the status of the recruitment and the estimated timeline for the onboarding of the Executive Director.
 - iv. After completion of the interviews, the Board Chairs will make a recommendation on

the candidate to fill the Executive Director vacancy to the CAO, including recommended compensation and other relevant terms of the employment offer.

- v. If the CAO does not accept the recommendation of the Board Chairs, then another candidate will be recommended for hire to the CAO, or the recruitment process will be restarted to identify a candidate that will meet the hiring criteria of the Board Chairs and the CAO.
- vi. OHR will extend the offer to the recommended candidate with the authorization of the CAO. The offer will be subject to the successful completion of a background investigation of the candidate.

3. Overseeing

- a. Establishing the annual performance plan for the Executive Director and subsequent performance evaluation will be based on Montgomery County Personnel Regulation (MCPR) 2001, Section 11 Performance Planning and Evaluation¹, and incorporate the following steps:
 - i. In June of each year, the BIT Board Chair will review and discuss the annual work program of the Executive Director with the CAO or CAO's designee and the Executive Director based on implementation of the strategic plan for the MCERP and the investment strategy for the ERS Trust.
 - ii. On or about July 1 each year, the annual work program, including goals, objectives, competencies, and performance measures, will be finalized, approved, and signed by the Executive Director, the Board, and the CAO or CAO's designee.
 - iii. The Board Chair will meet during January of each year to discuss the mid-year evaluation of the performance of the Executive Director with the CAO or designee and the Executive Director.
 - iv. Prior to the mid-year evaluation, the Board Chair will confidentially ask for the feedback of their respective board members on the performance of the Executive Director in the implementation of the annual work program.
 - v. At any time during the year, the Board Chair will timely notify the CAO or designee if there are any concerns with the Executive Director's performance or conduct. The CAO or designee will also be responsible for communicating with the Board Chair if there are any concerns with the performance of the Executive Director. The CAO or designee, in conjunction with the Board Chair, will determine what next steps will be taken. However, in accordance with the County Code, any final decision on continued employment rests solely with the CAO.
 - vi. Any performance concerns and mitigation plans must be communicated to the Executive Director on a timely and discreet basis and allow the Executive Director a reasonable opportunity to appropriately address the issues raised by the Board Chair, other Board members, or the CAO.
 - vii. All personnel matters, including performance evaluation results, disciplinary actions, and related issues, must be strictly confidential.

4. Compensating the Executive Director

- a. The compensation of the Executive Director will be based on
 - i. The pay ranges established annually by the County Government for the MLS I salary schedule.
 - ii. Montgomery County Personnel Regulation 2001, Section 10 Employee Compensation².
 - iii. Annual compensation adjustments will have three components as established under

¹ https://www.montgomerycountymd.gov/HR/Resources/Files/Regulation/MCPR_SECTION_13_July172018_w_PLS.pdf

² <https://www.montgomerycountymd.gov/HR/Resources/Files/Regulation/MCPR%202001%20Section%2010.pdf>

MCPR 2001,10-10. (Appendix a)

1. General Wage Adjustment approved by the County Council for unrepresented employees provided the Executive Director receives a performance rating of Below Expectations or higher.
 2. Pay for performance based on the rating and current salary level in the annual performance evaluation per the matrix in MCPR 2001,10-10.
 3. With approval by the CAO, the Executive Director of the Montgomery County Employee Retirement Plans is eligible to receive a lump-sum award that exceeds 4 percent of base salary but does not exceed 25 percent of base salary for exceptional performance based on the MCERP Executive Director Incentive Plan Description 2024 or subsequent modifications to this document agreed to by the Board Chair and the CAO. (Appendix (2) (C) (i))
 4. With the Approval of the CAO, the Executive Director may also receive performance awards established under MCPR 2001, Section 13 Performance Awards.
 - a. Awards under MCPR 2001, 13 include one-time monetary awards for Employee of the Year, Department Recognition Award, Paid Time Off awards, and other honorary awards.
- iv. As deemed necessary, the overall compensation and benefits level of the Executive Director will be evaluated by the County Government.
1. The evaluation should be completed by an independent third-party consultant with experience in evaluating employee compensation for public pension plans.
 2. The comparison with Executive Directors and CIOs should be based on public pension plans, endowments, foundations, regional County and Municipal governments, and state agencies. A peer group will be constructed of plans with similar asset sizes, staffing, and investment programs.
5. Compensating Investment Staff
- a. During FY 2027, MCG OHR will conduct a salary and benefits review of all MCERP positions to determine the competitiveness of the current grade and salary. These positions include, but are not limited to, the following
 - i. Investment Compliance Manager
 - ii. Investment Officer
 - iii. Investment Portfolio Manager
 - iv. Senior Investment Manager; and
 - v. Senior Investment Officer (Deputy Chief Investment Officer)Note: The review should include newly created investment staff positions or reclassified investment staff positions with new titles and grades.
 - b. The salary and benefits review should be completed by an independent third-party consultant with experience in evaluating employee compensation for the peer group noted above.
 - c. The salary and benefits review for investment staff should be based on comparables with investment staff at public pension plans, endowments, foundations, regional County and Municipal governments, and state agencies. A peer group will be constructed of plans with similar asset sizes, staffing, and investment programs.
 - d. MCG OHR will provide the Board Chair with a copy of the completed salary review with their comments on the adequacy of current compensation levels and the risk for job turnover, retention, and recruitment based on current salary levels.

- e. At the request of the Board Chair, MCG OHR staff and the CAO or designee, will meet with the Board Chair to discuss the results of the salary and benefits survey and whether changes should be made to the assigned grade and salary of the investment staff, pay for performance, and other performance awards that would enhance employee morale, retention, and recruitment.

This Memorandum of Understanding is entered into between the Board of Investment Trustees and the Chief Administrative Officer, this day of Dec. 3, 2025.



Chair, Board of Investment Trustees



Chief Administrative Officer

**MEMORANDUM OF UNDERSTANDING BETWEEN THE BOARD OF
TRUSTEES OF THE CONSOLIDATED RETIREE HEALTH BENEFIT TRUST
AND THE CHIEF ADMINISTRATIVE OFFICER**

Purpose: The purpose of this memorandum is to establish a process for the Trustees of the Consolidated Retiree Health Benefits Trust Board of Trustees (CRHBT) to work collaboratively with the Chief Administrative Officer (CAO) on the following subjects of mutual interest and concern to promote transparency, mitigate risk, and better provide for the fulfillment of the fiduciary roles of both the CAO and the trustees:

1. Developing a formal process for procuring certain service providers, including actuarial services, and determining the prudent investment rate of return assumption for the fund based on the actuary's recommendations and supporting data.
2. Clarifying the Board's role in hiring, evaluating, overseeing, and compensating the Executive Director and exploring options for managing retention risk, ensuring competitive compensation, and establishing positive pay-for-performance initiatives for staff while still maintaining their merit system protections.

Service Providers:

1. Background:
 - a. This Memorandum of Understanding (MOU) incorporates by reference the MOU signed by the Chair of the Board and the County Attorney.
2. Process for Reviewing Actuarial Consultant's Recommendations on the Investment Rate of Return
 - a. Beginning with the Actuarial Services for the upcoming 2026 valuation of the Montgomery County Other Post Employment Benefits and the impact of the actuarially required contributions on the Consolidated Retiree Benefits Trust (CRHBT), the staff of the Montgomery County Employee Retirement Plans (MCERP), the Office of Human Resources, the Office of Management and Budget and the Department of Finance, jointly, will be responsible for the procurement of these services.
 - i. Such procurement will be subject to the oversight and supervision of the CAO or the CAO's designee.
 - b. After completion of the Actuarial review by the selected consultant, the CAO and CAO's staff will meet with the Executive Director of the MCERP, the Chair and Vice-Chair of the CRHBT Board, and the Directors or designees of the departments delineated above, and the Actuarial consultant to review and discuss the Actuary's recommendations. Subsequent meetings of this group may be necessary for additional discussion of the recommendations.
 - i. The goal of these meetings is to reach a consensus on whether to accept, modify, or seek additional research, analysis, and clarification of the Actuarial Consultant's recommendation related to the investment return assumption.
 - ii. After a consensus is reached, a presentation will be made to the CRHBT board for the input of the board.
 - iii. The CAO and CRHBT may agree on up to a three-year phase-in of the consultant's recommendation for a modification of the investment return actuarial assumption.
 - iv. If the actuarial investment return assumption approved by the CAO materially varies from the Actuary's recommendation, then the CAO and the Board would need to document the factual and analytical basis for the variance.

Hiring, evaluating, overseeing, and compensating the Executive Director:

1. Background

- a. The position of the Executive Director of the MCERP is classified as Management Leadership Service (MLS) I. The class specification for MLS I provides:

A position in this class functions in one of the following three high level management roles: 1) director of a principal, mission-critical office or equivalent organizational unit who reports directly to the County Executive or Chief Administrative Officer; exercises delegated full line management responsibility for human capital and financial resources of the organization; and plans, develops, implements and evaluates policies and work programs; typically characteristic of merit executive directors of principal offices or equivalent entities of the executive branch; (emphasis added)

2. Hiring

- a. The process for hiring the Executive Director will include the following steps.
 - i. The CAO or the CAO's designee will meet with the Chair of the CRHBT to discuss the job announcement for the Executive Director and agree on the strategy for the recruitment of the new Executive Director including whether to use an Executive Recruiter or have the Montgomery County Government Office of Human Resources (OHR) manage the recruitment process; timeline; levels of interview; interview questions; and other related matters.
 - ii. All interviews of the Executive Director candidates will be conducted through a panel that will include the Board Chair or designee; the CAO or designee; and a representative of OHR.
 - iii. The Board Chair will provide timely reports to the Boards through email or in-person briefings on the status of the recruitment and the estimated timeline for the onboarding of the Executive Director.
 - iv. After completion of the interviews, the Board Chair will make a recommendation on the candidate to fill the Executive Director vacancy to the CAO, including recommended compensation and other relevant terms of the employment offer, in consultation with OHR.
 - v. If the CAO does not accept the recommendation of the Board Chair, another candidate may be recommended for hire to the CAO, or the recruitment process will be restarted to identify a candidate who will meet the hiring criteria of the Board Chair and the CAO.
 - vi. OHR will extend the offer to the recommended candidate with the authorization of the CAO. The offer will be subject to the successful completion of a background investigation of the candidate.

3. Overseeing

- a. Establishing the annual performance plan for the Executive Director and subsequent performance evaluation will be based on Montgomery County Personnel Regulation (MCPR) 2001, Section 11 Performance Planning and Evaluation¹, and incorporate the following steps:
 - i. In June of each year, the Board Chair will review and discuss the annual work program of the Executive Director with the CAO or the CAO's designee and the Executive Director based on implementation of the work plan for the Board and the investment strategy.

¹ https://www.montgomerycountymd.gov/HR/Resources/Files/Regulation/MCPR_SECTION_13_July172018_w_PLS.pdf

- ii. On or about July 1 each year, the annual work program, including goals, objectives, competencies, and performance measures, will be finalized, approved, and signed by the Executive Director, the Board, and the CAO or the CAO's designee.
 - iii. The Board Chair will meet during January of each year to discuss the mid-year evaluation of the performance of the Executive Director with the CAO or designee and the Executive Director.
 - iv. Prior to the mid-year evaluation, the Board Chair will confidentially ask for the feedback of their respective boards on the performance of the Executive Director in the implementation of the annual work program.
 - v. At any time during the year, the Board Chair will timely notify the CAO or designee if there are any concerns with the Executive Director's performance or conduct. The CAO or designee will also be responsible for communicating with the Board Chair if there are any concerns with the performance of the Executive Director, and, as applicable, an action plan for remediation. However, in accordance with the County Code, any final decision on continued employment rests solely with the CAO.
 - vi. Any performance concerns and mitigation plans must be communicated to the Executive Director on a timely and discreet basis and allow the Executive Director a reasonable opportunity to appropriately address the issues raised by the Board Chair, other Board members, or the CAO.
 - vii. All personnel matters, including performance evaluation results, disciplinary actions, and related issues, must be strictly confidential.
4. Compensating the Executive Director
- a. The compensation of the Executive Director will be based on
 - i. The pay ranges established annually by the County Government for the MLS I salary schedule.
 - ii. Montgomery County Personnel Regulation 2001, Section 10 Employee Compensation².
 - iii. Annual compensation adjustments will have three components as established under MCPR 2001,10-10. (Appendix a)
 - 1. General Wage Adjustment approved by the County Council for unrepresented employees, provided the Executive Director receives a performance rating of Below Expectations or higher.
 - 2. Pay for performance based on the rating and current salary level in the annual performance evaluation per the matrix in MCPR 2001,10-10.
 - 3. With approval by the CAO, the Executive Director of the Montgomery County Employee Retirement Plans is eligible to receive a lump-sum award that exceeds 4 percent of base salary but does not exceed 25 percent of base salary for exceptional performance based on the MCERP Executive Director Incentive Plan Description 2024 or subsequent modifications to this document agreed to by the Board Chair and the CAO. (Appendix (2) (C) (i))
 - 4. With the Approval of the CAO, the Executive Director may also receive performance awards established under MCPR 2001, Section 13 Performance Awards.
 - a. Awards under MCPR 2001, 13 include one-time monetary awards for Employee of the Year, Department Recognition Award, Paid Time Off awards, and other honorary awards.
 - iv. As deemed necessary, the overall compensation of the Executive Director will be

² <https://www.montgomerycountymd.gov/HR/Resources/Files/Regulation/MCPR%202001%20Section%2010.pdf>

evaluated by the County Government:

1. The evaluation should be completed by an independent third-party consultant with experience in evaluating employee compensation for public pension plans.
 2. The comparison with Executive Directors and CIOs should be based on public pension plans, endowments, foundations, regional County and Municipal governments, and state agencies. A peer group will be constructed of plans with similar asset sizes, staffing, and investment programs.
 3. The trusts will bear the cost of any such compensation study in a manner that is consistent with the allocation of similar shared costs.
5. Compensating Investment Staff
- a. During FY 2027, MCG OHR will conduct a total compensation review of all MCERP positions to determine the competitiveness of the current grade, salary, and benefits. These positions include, but are not limited to, the following:
 - i. Investment Compliance Manager
 - ii. Investment Officer
 - iii. Investment Portfolio Manager
 - iv. Senior Investment Manager; and
 - v. Senior Investment Officer (Deputy Chief Investment Officer)Note: The review should include newly created investment staff positions or reclassified investment staff positions with new titles and grades.
 - b. This review should be completed by an independent third-party consultant with experience in evaluating employee compensation for the peer group noted above.
 - c. The review for investment staff should be based on comparables with investment staff at public pension plans, endowments, foundations, regional County and Municipal governments, and state agencies. A peer group will be constructed of plans with similar asset sizes, staffing, and investment programs.
 - d. The consultant will secure agreement from the Board on the peer group of institutions upon which the benchmarking will be performed.
 - e. MCG OHR will provide the Board Chair with a copy of the completed review with their comments on the adequacy of current compensation levels and the risk for job turnover, retention, and recruitment based on current salary levels.
 - f. At the request of the Board Chair, MCG OHR staff and the CAO or designee will meet with the Board Chair to discuss the results of the review/survey and whether changes should be made to the assigned grade and salary of the investment staff, pay for performance, and other performance awards that would enhance employee morale, retention, and recruitment.

This Memorandum of Understanding is entered into between the Board of Trustees and the Chief Administrative Officer, this 3rd day of Dec., 2025.



Chair, Consolidated Retiree Health Benefits Trust Board of Trustees



Chief Administrative Officer

Potential Amendments to Bill 28-24 by Councilmembers Stewart, Katz, and Evans;
Related to Certain Recommendations in OLO Report 2025-14

Amendments by Councilmembers Stewart, Katz, and Evans

**Bill 28-24, Employees' Retirement System and Other Post Employment Benefits –
Administration – Powers and Duties**

***OLO Report 2025-14, Recommendation A:** 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.*

Amend lines 3-16 as follows.

- (a) *Responsibility for administration.* ~~[[The]]~~ [chief administrative officer] ~~Except as otherwise provided in this chapter, the Chief Administrative Officer~~ ~~[[shall be responsible for the administration of]]~~ has the exclusive authority to manage and administer the eligibility for benefits, mandatory financial reporting, and calculation and distribution of benefits under the retirement system.

* * *

- (c) ~~[[Chief administrative officer. Except for the powers of the board, the [chief administrative officer] Chief Administrative Officer has the power and the duty to take all actions and to make all decisions to administer the retirement system]]~~
Reserved.

* * *

Above line 60, insert the following:

- (a) *General.*
- (1) Except as otherwise provided ~~[[in section 33-47, subsection (a)(2) of this section, and other sections of]]~~ in 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 has the exclusive authority to manage and administer the investments of the assets of the retirement system. However, the powers and duties of the board must not become effective until all of the trustees have accepted the trust in writing.

Potential Amendments to Bill 28-24 by Councilmembers Stewart, Katz, and Evans;
Related to Certain Recommendations in OLO Report 2025-14

* * *

Recommendation 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.

Amend lines 59-67 as follows.

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

* * *

(d) *Trustee powers.* Subject to the limitations under subsection (a)(2) of this section, the board¹ has the power to:

- (1) select and retain the actuary for the retirement system and the Consolidated Retiree Health Benefits Trust;
- (2) after consultation with 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 and the Consolidated Retiree Health Benefits Trust;

* * *

After line 181, insert the following.

33-162. Trust Fund management.

(a) *General.*

- (1) [[The]] ~~Except as otherwise provided in this chapter, the~~ Board² has the exclusive authority to manage and administer the investments of the Trust Fund's assets. [[All powers and duties required to manage the Trust Fund are vested in the Board by this Article.]]
- (2) Except as otherwise provided in this chapter, the Chief Administrative Officer has the exclusive authority to manage and administer the eligibility

¹ The "board" in this section refers to the board of investment trustees.

² The "Board" in this section refers to the CRHBT Board.

Potential Amendments to Bill 28-24 by Councilmembers Stewart, Katz, and Evans;
Related to Certain Recommendations in OLO Report 2025-14

for benefits, mandatory financial reporting, and calculation and distribution
of benefits for the Trust Fund.

Recommendation 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.*

Add a new paragraph (20) to subsection (d) of Section 33-60 as follows.

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

* * *

(d) *Trustee powers.* Subject to the limitations under subsection (a)(2) of this section, the board has the power to:

* * *

(20) appoint, supervise, and remove an Executive Director under Section 33-60C.

Add the following new section.

33-60C. Executive Director.

(a) Under the merit system, including the personnel regulations under Section 33-7 and the administrative procedures under Section 33-8, the board of investment trustees must:

(1) appoint an Executive Director of the retirement system from a list of qualified applicants identified under subsection (c); and

(2) supervise the Executive Director, up to and including the removal the Executive Director.

(b) The Executive Director is a County employee under the merit system.

Potential Amendments to Bill 28-24 by Councilmembers Stewart, Katz, and Evans;
Related to Certain Recommendations in OLO Report 2025-14

- (c) Under the merit system, including the personnel regulations under Section 33-7 and the administrative procedures under Section 33-8, the Chief Administrative Officer must:
- (1) establish minimum qualifications for the position of Executive Director;
 - (2) recruit applicants for the position;
 - (3) evaluate the qualifications of applicants, including through the use of an interview panel that includes the chair of the board of trustees, or the chair's designee, and the chair of the board of the Consolidated Retiree Health Benefits Trust, or the chair's designee; and
 - (4) identify for the board of investment trustees at least 2 applicants that meet the minimum qualifications for the position.
- (d) The board of investment trustees may delegate to the Chief Administrative Officer the responsibilities and duties of the board under subsection (a).



Fiscal Impact Statement

Office of Management and Budget

Bill 28-24

Employees' Retirement System and Other Post Employment Benefits - Administration - Powers and Duties

Bill Summary

This bill transfers from the Chief Administrative Officer (CAO) to the Board of Investment Trustees (BIT) the selection and retention of the actuary for the retirement system. It also transfers from the CAO to the BIT the determination of 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.

Fiscal Impact Summary

The impact on County expenditures cannot be reliably calculated at this time but could be significant, as described below. Implementation of the bill may result in significant but unknown immediate and long-term costs because there are several areas that might be impacted, and the degree of impact is also unknown.

Fiscal Impact Analysis

Shifting the responsibilities of selection and retention of the actuary for the retirement system and the determination of actuarial assumptions from the CAO to the BIT could have significant and far-reaching impacts on the administration of the retirement system. The extent of the impact of this bill is unknown due to several factors. Examples of primary and secondary areas of impact include:

Experience Study

The County's 5-year Experience Study that reviews actual experience against actuarial assumptions used for the annual actuarial valuation of the Montgomery County Employees' Retirement System is critical to the management of the investment programs. Areas of the study include:

- Inflation
- Investment Rate of Return
- Retiree Cost of Living increase
- Mortality
- Salary increases
- Retirement assumptions
- Withdrawals
- Disability

Currently, the actuary provides the CAO with a range of actuarially acceptable values for the assumptions reviewed. The CAO uses this information along with the context from other County fiscal considerations to determine the final assumption. BIT would most likely not consider or not similarly weigh the County's overall fiscal context in making the decision, as their fiduciary responsibility is limited to the retirement system funds. In the event the Board makes a different choice on an assumption, the cost impact of this for any single assumption could be significant both to the annual required contribution and the long-term liability, affecting the ability to fund other priorities. The CAO has a fiduciary responsibility to the taxpayers of Montgomery County, while BIT does not; this difference is highly likely to result in different



decisions within the range of actuarially acceptable values for assumptions.

Actuarial Services

The County would still hold the responsibility for financial reporting for the plan as the plan sponsor, and especially as sponsor of a multi-agency plan that includes participating agencies, and as a result the County may need to procure a secondary actuary for plan sponsor financial reporting purposes. There may be an annual cost savings to the County if the BIT chooses to fund the cost of the contract of the primary actuary. However, any cost savings to the County will result in additional costs to the plan which ultimately will have an impact on annual required contributions to the plan. It is estimated that actuarial costs will be \$100,000.

Risk Management

There is increased potential for litigation related to failure to uphold fiduciary responsibility by the BIT, an all-volunteer, non-professional board. This may necessitate increased liability insurance coverage for BIT. The Office of the County Attorney also notes that the BIT would still need to coordinate closely with the CAO because the selection and retention of the actuary and the determination of actuarial assumptions can also impact CAO functions.

Collective Bargaining

If changes are made to actuarial assumptions that differ from the choices the CAO would have made, the impacts could be felt in County interactions in collective bargaining, impacting the potential costs of proposals/agreements related to wages and retirement benefits.

Capital Budget/Capital Improvements Program and Operating Budget/Public Services Program

If changes are made to actuarial assumptions, the impacts could be felt in the Capital and Operating budgets, impacting the prioritization of new budget requests by impacting the amount of funding available. In the absence of additional resources for the County, any extra contribution requirement to fund plan liabilities from changed assumptions would have to come at the expense of other County requests.

Bond Ratings and Debt Service

Actuarial assumptions (by actuaries retained by BIT) that lead to higher liabilities, could affect the County's bond ratings and borrowing costs.

Employees' Retirement System and Other Post Employment Benefits

If BIT adopts actuarial assumptions that increase projected liabilities, future retirement system obligations may grow faster than originally anticipated. Similar impacts could occur with retiree health benefits if assumptions change/shift.

Audits, Compliance Reviews, Governance Support

The increased complexity of implementing this bill may require additional internal audits or external compliance reviews. BIT may require training or professional advisory services to manage actuarial responsibilities.

Transition and Implementation

Shifting actuarial responsibilities from the CAO to BIT may involve legal reviews, policy updates, staff coordination, and process changes. Communicating changes to employees and retirees may require additional outreach and resources. While the bill is not expected to impact the County technology systems any integration for reporting or oversight could require minor system modifications.



Staff Impact	The bill is not expected to impact staff time or duties.
Actuarial Analysis	Implementation of the bill may impact retiree pension or group insurance costs by a significant but unknown amount.
Information Technology Impact	The bill is not expected to impact the County Information Technology (IT) or Enterprise Resource Planning (ERP) systems.
Other Information	
<i>Later actions that may impact revenue or expenditures if future spending is projected</i>	The bill does not authorize future spending, however, future additional costs may result as describe above.
<i>Contributors</i>	Adaora Azubike, Department of Finance Karen Hawkins, Department of Finance Shantee Jackson, Office of Management and Budget Silvia Kinch, Office of the County Attorney Corey Orlosky, Office of Management and Budget Jennifer Shovlin, Office of Human Resources



Bill 28-24, Employees' Retirement System and Other Post Employment Benefits – Administration – Powers and Duties

Potential Amendment re: CRHBT – For Discussion Purposes

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

* * *

(d) *Trustee powers.* Subject to the limitations under subsection (a)(2) of this section, the board has the power to:

(1) select and retain the actuary for the retirement system [[and the Consolidated Retiree Health Benefits Trust]];

(2) after consultation with the actuary for the retirement system, determine the actuarial cost method, and the mortality, turnover, interest rates, assumed rate of investment return, and other assumptions to be used in actuarial and other computations for the retirement system [[and the Consolidated Retiree Health Benefits Trust]];

* * *

33-162. Trust Fund management.

* * *

(j) To comply with Section 315 of the County Charter, a firm of certified public accountants, under contract with the Council, must complete an annual independent audit of the Trust Fund. The complete audit must be filed with the Council and each County- funded agency, and copies made available for public inspection.

(k) Actuary; actuarial assumptions.

Bill 28-24, Employees' Retirement System and Other Post Employment Benefits – Administration – Powers and Duties

Potential Amendment re: CRHBT – For Discussion Purposes

- (1) The Board has the power to determine the assumed rate of investment return to be used in actuarial and other computations for the Trust Fund.
- (2) The County and each County-funded agency or participating agency may:
 - (A) select and retain an actuary for its portion of the Trust Fund;
and
 - (B) except as provided under paragraph (1) of this subsection, determine the actuarial cost method, and the mortality, turnover, and other assumptions to be used in actuarial and other computations for the agency's portion of the Trust Fund.

~~[(k)]~~ (1) *Delegation of Duties.* The Board may delegate its duties to the Executive Director or a similarly situated County employee as it deems appropriate and consistent with its fiduciary duties in a written policy and procedure. If the Board has prudently delegated its duties and monitored the delegation, the trustees must not be liable for an act or omission made by its delegate.



OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

MEMORANDUM

March 9, 2026

TO: Natali Fani-González, President
Montgomery County Council

FROM: Marc Elrich, County Executive 

SUBJECT: Proposed Executive Branch Amendments to Bill 28-24

Thank you for the opportunity to provide feedback on Bill 28-24, Employees' Retirement System and Other Post Employment Benefits - Administration - Powers and Duties, and for the Government Operations and Fiscal Policy (GO) Committee's thorough consideration of retirement system governance issues. We appreciate the Council's commitment to ensuring effective stewardship of the County's retirement plans. Attached for your consideration are the Executive Branch's proposed amendments to Bill 28-24, together with a detailed explanation of the amendments. We believe these amendments are critical to ensure the future success and sound administration of our retirement systems.

Bill 28-24, as amended during the February 5, 2026, GO Committee worksession, would transfer major retirement plan management duties from the Chief Administrative Officer (CAO) to the Board of Investment Trustees (BIT) and the Consolidated Retiree Health Benefits Trust (CRHBT) Board (collectively referred to as "the Boards"). We believe some of these proposed transfers would not align with Montgomery County's split/hybrid governance structure and would create practical and legal impediments to effective plan administration and financial reporting.

As you know, Montgomery County operates its retirement systems under a split/hybrid model in which the Board of Investment Trustees functions as an investment-only board, while the County Government and the CAO retain responsibility for plan administration, benefit eligibility, financial reporting, and actuarial matters. This differs fundamentally from *integrated* systems, such as the Maryland State Retirement and Pension System, in which a single board oversees both investments and benefits administration. Transferring actuarial responsibilities to part-time

investment boards would separate decision-making for budgeting and financial reporting from the entities responsible for executing and reporting those decisions.

The GO Committee worksession amendments would also shift responsibility for the appointment and supervision of the Executive Director from the CAO to the Boards. Experience demonstrates that, because of the many and varied duties associated with supervision combined with the need for regular interaction, merit system County employees are best supervised by other County employee-managers who are themselves ultimately accountable to the CAO. Among the almost 10,000 County employees there are only two who are appointed and supervised by volunteer board members – the five-person Ethics Commission and the three-person Merit System Protection Board. The Boards' Executive Director, responsible for the investment over \$8 billion in assets, cannot be supervised in a meaningful way by the 13-member BIT and the 19-member CRHBT Board.

The attached proposed amendments recognize the broad policy change adopted by the GO committee while maintaining the CAO's authority over plan administration matters that appropriately remain within County Government. These amendments would transfer the responsibility to set the "assumed investment rate of return" to the BIT and codify the governance framework established in the December 2025 Memoranda of Understanding signed by both boards and the CAO.

I have asked my staff to be available to discuss these proposed amendments with you and your staff at your convenience.

Enclosures: County Executive Proposed Amendments to Bill 28-24

cc: Tommy Heyboer, Chief of Staff to the Council President, Montgomery County Council
Craig Howard, Executive Director, Montgomery County Council
Richard S. Madaleno, Chief Administrative Officer
Fariba Kassiri, Deputy Chief Administrative Officer
Tricia Swanson, Director of Strategic Partnerships
Edward Lattner, Deputy County Attorney, Office of the County Attorney

COUNTY EXECUTIVE PROPOSED AMENDMENTS TO BILL 28-24

I. AMENDMENT REGARDING RESPONSIBILITIES OF THE CAO AND THE BOARDS

A. Explanation

This proposed amendment includes the formatting and capitalization amendments included in Bill 28-24 as introduced.

This proposed amendment also includes the amendments recommended by the GO Committee clarifying that

- as to the **retirement system** (managed by the Board of Investment Trustees or BIT)
 - the CAO administers and manages retirement eligibility, financial reporting, and calculating and distributing retirement benefits; and
 - the BIT Board manages and administers the investments of the assets of the retirement system; and
- as to the **CRHBT** (Consolidated Retiree Health Benefits Trust Fund managed by the CRHBT Board)
 - the CAO administers and manages the eligibility for benefits, mandatory financial reporting, and calculation and distribution of benefits for the CHRBT, and
 - the CHRBT Board administers and manages the investments of the CHRBT assets (the “Trust Fund”).

Finally, this proposed amendment:

- as to the **retirement system**, retains the CAO’s authority to
 - select and retain the actuary for the retirement system; and
 - after consultation with BIT and the actuary for the retirement system, determine the actuarial assumptions for the retirement system;
- as to the **retirement system**, provides that BIT, after consultation with the CAO and actuary for the retirement system, determines the assumed investment rate of return for the retirement system; and
- as to the **CRHBT**, provides that the CAO
 - selects and retains the actuary for the Trust Fund; and
 - after consultation with the actuary and the CRHBT Board;
 - determines the actuarial assumptions for the Trust Fund; and
 - determines the assumed investment rate of return for the Trust Fund.

B. Amendment

Sec. 33-47. Administration.

- (a) *Responsibility for administration.* [[The]] [chief administrative officer] Except as otherwise provided in this chapter, the Chief Administrative Officer [[shall be responsible for the administration of]] has the exclusive authority to manage and

administer the eligibility for benefits, mandatory financial reporting, and calculation and distribution of benefits under the retirement system.

- (b) *Regulations for administration.* The [county executive] County Executive must establish regulations, adopted under method (1) of [section] Section 2A-15 of this Code, for the administration of the retirement system, within the limitations of this [article] Article. However, the [county executive] County Executive must establish regulations, adopted under method (3) of [section] Section 2A-15, for the administration of the elected officials' plan.
- (c) *[[Chief administrative officer. Except for the powers of the board, the [chief administrative officer] Chief Administrative Officer has the power and the duty to take all actions and to make all decisions to administer the retirement system]] Reserved.*
- (d) *Powers and duties of the Chief Administrative Officer.* The [chief] Chief Administrative Officer has, but is not limited to, the following powers and duties:
- (1) [Interpret] interpret the provisions of the retirement system;
 - (2) [Decide] decide the eligibility of any employee and the rights of any member or beneficiary to receive benefits;
 - (3) [Compute] compute the amount of benefits payable to any member or beneficiary;
 - (4) [Authorize] authorize disbursements of benefits;
 - (5) [Keep] keep records;
 - [[[]]] (6) [Select] select and retain the actuary for the retirement system;[[[]]]
 - [[[]]] (7) [After] after consultation with the board and the actuary for the retirement system, determine the actuarial cost method[,] and the actuarial assumptions, including rates of mortality, employee turnover, retirement, payroll growth, and [[interest rates,]] and other assumptions to be used in actuarial and other computations for the retirement system; [[[]]]
 - (8) [Consider] consider the recommendation of the actuary for the retirement system on contributions the county makes under this article;
 - (9) [Incur] incur expenses as necessary for the [[chief administrative officer]] Chief Administrative Officer to administer the retirement system;
 - (10) [Disclose] disclose the reports prepared under section 33-51;
 - (11) [Prepare] prepare and file reports that are required by law; [and]
 - (12) [In] in connection with the participation or withdrawal of an agency as a participating agency in the retirement system:
 - (A) obtain any data and require any documentation that the Chief Administrative Officer finds necessary;
 - (B) retain an independent actuary not otherwise under contract to the system to compute the valuation of the accrued benefit of any member or group of members upon withdrawal from the retirement system by a formula set out in regulations adopted under subsection (b); and
 - (C) authorize the transfer of accrued benefits to another retirement system qualified under the Internal Revenue Code;
 - (13) [Authorize] authorize the refund of member contributions, and earnings thereon, to correct any contribution or withholding error; and

(14) [Delegate] delegate any power or duty under this Section.
* * *

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

(a) *General.*

(1) Except as otherwise provided [[in section 33-47, subsection (a)(2) of this section, and other sections of]] in 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 has the exclusive authority to manage and administer the investments of the assets of the retirement system. However, the powers and duties of the board must not become effective until all of the trustees have accepted the trust in writing.

* * *

(d) *Trustee powers.* Subject to the limitations under subsection (a)(2) of this section, the board has the power to:

[(1) select and retain the actuary for the retirement system;]

[(2) after consultation with 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;]

(1) after consultation with the Chief Administrative Officer and the actuary for the retirement system, determine the assumed investment rate of return to be used in actuarial and other computations for the retirement system;

[(1)] (2) [With] with any cash, purchase or subscribe for any investment, at a premium or discount, and retain the investment[.];

[(2)] (3) [Sell] sell, exchange, convey, transfer, lease for any period, pledge, mortgage, grant options, contract with respect to, or otherwise encumber or dispose, at public or private sale, for cash or credit or both, any part of the retirement system[.];

[(3)] (4) [Except] except as provided in section 33-61A(h)(2), sue, defend, compromise, arbitrate, compound and settle any debt, obligation, claim, suit, or legal proceeding involving the retirement system, and reduce the rate of interest on, extent or otherwise modify, foreclose upon default or otherwise enforce any debt, obligation, or claim[.];

[(4)] (5) [Retain] retain uninvested that part of the retirement system fund described in subsection (f) without being liable for the payment of interest[.];

[(5)] (6) [Exercise] exercise any option on any investment for conversion into another investment, exercise any rights to subscribe for additional investments, and make all necessary payments[.];

[(6)] (7) [Join] join in, consent to, dissent from, oppose, or deposit in connection with the reorganization, recapitalization, consolidation, sale, merger, foreclosure, or readjustment of the finances of any corporation or property in which the assets of the retirement system are invested, or the sale, mortgage, pledge or lease of that property or the property of any such corporation upon such terms and conditions that the board considers

prudent; exercise any options, make any agreements or subscriptions, pay any expenses, assessments, or subscriptions, and take any other action in connection with these transactions that the board considers prudent; and accept and hold any investment that may be issued in or as a result of any such proceeding[.];

- [(7)] (8) [Vote] vote, in person or by any proxy, at any election of any corporation in whose stock the assets of the retirement system are invested, and exercise, personally or by any power of attorney, any right appurtenant to any investment held in the retirement system; and give general or specific proxies or powers of attorney with or without power of substitution[.];
- [(8)] (9) [Sell] sell, either at public or private sale, option to sell, mortgage, lease for a term of years less than or continuing beyond the possible date of the termination of the trust, partition or exchange any real property for such prices and upon such terms as the board considers prudent, and execute and deliver deeds of conveyance and all assignments, transfers, and other legal instruments for passing the ownership to the purchaser, free and discharged of all liens[.];
- [(9)] (10) [Renew] renew or extend any mortgage, upon such terms that the board considers prudent, and increase or reduce the rate of interest on any mortgage or modify the terms of any mortgage or of any guarantee as the board considers prudent to protect the retirement system or preserve the value of the investment; waive any default or enforce any default in a manner that the board considers prudent; exercise and enforce any right of foreclosure, bid on property in foreclosure, take a deed in lieu of foreclosure with or without paying a consideration, and release the obligation on the bond secured by the mortgage; and exercise and enforce in any action, suit or proceeding at law or in equity any rights or remedies in respect to any mortgage or guarantee[.];
- [(10)] (11) [Form] form a corporation or corporations under the laws of any jurisdiction or acquire an interest in or otherwise make use of any corporation already formed to invest in and hold title to any property[.];
- [(11)] (12) [For] for the purpose of investing in and holding title to real or personal property or part interests therein, as described in subsection (c)(1)h., including equipment pertaining thereto, leaseholds, and mortgages, to take any action it considers prudent[.];
- [(12)] (13) [Incur] incur and pay expenses for agents, financial advisors, actuaries, accountants and counsel, if those expenses are incurred solely to perform the board's duties under this article[.];
- [(13)] (14) [Borrow] borrow, raise or lend moneys, for the purposes of the retirement system, in such amounts and upon such terms and conditions as the board in its discretion considers prudent; for any money borrowed, issue a promissory note and secure the repayment of this note by pledging or mortgaging all or any part of the retirement system[.];
- [(14)] (15) [Hold] hold, buy, transfer, surrender, and exercise all other incidents of ownership of any annuity contract[.];

[(15)] (16) [If] if payments to a member or beneficiary are to be made in the form of an annuity based upon one (1) or more lives or life expectancies, buy from any legal reserve life insurance company a single premium, nontransferable annuity contract providing for the payment of the benefits[.];

[(16)] (17) [Pool] pool all or any of the assets of the trust, from time to time, with assets belonging to any other retirement plan trust or retiree health benefit trust created by the [County] county, and any subtrust thereof, and commingle such assets and make joint or common investments and carry joint accounts on behalf of this trust, such other trust or trusts, or subtrusts, allocating undivided shares or interests in such investments or accounts or in any pooled assets to the two or more trusts or subtrusts in accordance with their respective interests. Any such trusts or subtrusts may be unitized for investment purposes. Consistent with its investment authority in this Article, the Board or its delegate may also buy or sell any assets or undivided interests in this trust or in any other trust with which the assets of this trust may be pooled, to or from this trust or such other trusts at such prices or valuations as the Board or its delegate may determine in reasonable good faith. For the avoidance of doubt, the Board must determine that it is consistent with its fiduciary duties to participate in a pooled investment that permits the sale or purchase of its units as an investment option under another retirement plan or retiree health benefit trust created by the County[.]; and

[(17)] (18) [Do] do 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.

* * *

(h)

(1) Except as provided in subsection [(d)(12)] (d)(13), the board must pay all benefits and expenses of the retirement system as directed by the [[chief administrative officer]] Chief Administrative Officer.

* * *

Sec. 33-162. Trust Fund management.

(a) *General.*

(1) [[The]] Except as otherwise provided in this chapter, the Board has the exclusive authority to manage and administer the investments of the Trust Fund's assets. [[All powers and duties required to manage the Trust Fund are vested in the Board by this Article.]]

(2) Except as otherwise provided in this chapter, the Chief Administrative Officer has the exclusive authority to manage and administer the eligibility for benefits, mandatory financial reporting, and calculation and

distribution of benefits for the Trust Fund.

* * *

- (k) Actuarial services and assumptions. The Chief Administrative Officer may:
- (1) select and retain the actuary for the Trust Fund; and
 - (2) after consultation with the Board and the actuary for the Trust Fund:
 - (A) determine the assumed investment rate of return to be used in actuarial and other computations for the Trust Fund; and
 - (B) determine the actuarial cost method and the actuarial assumptions, including rates of mortality, employee turnover, retirement, payroll growth, and other assumptions to be used in actuarial and other computations for the Trust Fund.
- ~~[(k)]~~ (l) Delegation of Duties. The Board may delegate its duties to the Executive Director or a similarly situated County employee as it deems appropriate and consistent with its fiduciary duties in a written policy and procedure. If the Board has prudently delegated its duties and monitored the delegation, the trustees must not be liable for an act or omission made by its delegate.

II. AMENDMENT REGARDING APPOINTMENT AND SUPERVISION OF THE EXECUTIVE DIRECTOR

A. Explanation Amendment One: Executive Director as a merit employee.

This amendment retains the CAO's authority to hire the Executive Director of the Montgomery County Employee Retirement Plans as a merit employee but provides that the CAO must consult with BIT and the CRHBT Board regarding the appointment and supervision of the Executive Director. It also requires the CAO to enter into one or more agreements with the Boards detailing the procedure under which the BIT and the CRHBT Board may provide recommendations to the Chief Administrative Officer regarding the appointment, supervision, evaluation, and compensation of the Executive Director.

B. Amendment One: Executive Director as a merit employee.

Sec. 33-60C. Executive Director

- (a) Under the merit system, including the personnel regulations under Section 33-7 and the administrative procedures under Section 33-8, the Chief Administrative Officer must:
- (1) after consulting with the Board of Investment Trustees established under this Article and the Consolidated Retiree Health Benefits Trust Board established under Section 33-159, appoint an Executive Director to support both boards; and
 - (2) after consulting with the Board of Investment Trustees and the Consolidated Retiree Health Benefits Trust Board, supervise the Executive Director, up to and including removal.
- (b) The Executive Director is a merit system employee.
- (c) The Executive Director is responsible for appointing investment and other staff under the merit system, including the personnel regulations under Section 33-7

and the administrative procedures under Section 33-8.

- (d) The Chief Administrative Officer must enter into one or more agreements with the Board of Investment Trustees and the Consolidated Retiree Health Benefits Board detailing the procedure under which those boards may provide the Chief Administrative Officer with recommendations regarding the appointment, supervision, evaluation, and compensation of the Executive Director.

C. Amendment Two: Executive Director as a non-merit employee.

Replace the amendment of § 33-60C above with the amendment below. NOTE: If the Executive Director is a non-merit position, OHR will have to develop a class specification that the CE will have to transmit to the Council as a proposed regulation.

Sec. 33-60C. Executive Director.

- (a) The Board of Investment Trustees established under this Article and the Consolidated Retiree Health Benefits Trust Board established under Section 33-159 are supported by an Executive Director.
- (b) The position of Executive Director is a non-merit position.
- (c) The Executive Director is responsible for appointing the investment and other staff of the Office of Montgomery County Employee Retirement Plans under the merit system, including the personnel regulations under Section 33-7 and the administrative procedures under Section 33-8.
- (d) The County Executive must enter into one or more agreements with the Board of Investment Trustees and the Consolidated Retiree Health Benefits Board detailing the procedure under which those boards provide the County Executive with recommendations regarding the supervision, evaluation, and compensation of the Executive Director.