

**ENROLLED**

**CITY OF BALTIMORE  
ORDINANCE 15 · 329  
Council Bill 14-0457**

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Introduced by: The Council President  
At the request of: The Administration (Department of Finance)  
Introduced and read first time: December 4, 2014  
Assigned to: Taxation, Finance and Economic Development Committee

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Committee Report: Favorable  
Council action: Adopted  
Read second time: February 9, 2015

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**AN ORDINANCE CONCERNING**

**1                    Employees' Retirement System – Retirement Savings Plan – Clarifications**

2            FOR the purpose of clarifying certain reemployment rules for Class D members of the Employees'  
3            Retirement System; characterizing the Retirement Savings Plan more specifically; changing  
4            the composition of the Plan's Board of Trustees; providing that members may elect to invest  
5            non-vested employer contributions in certain investment funds; clarifying the Plan's  
6            matching contribution formula; providing a special rule for certain Plan death benefits;  
7            providing for a special effective date; and generally relating to the Employees' Retirement  
8            System and the Retirement Savings Plan.

9            BY repealing and reordaining, with amendments

10           Article 22 - Retirement Systems  
11           Section(s) 9.2(1)(1)(ii), (2)(i)(A), and (2)(ii)(A)  
12           Baltimore City Code  
13           (Edition 2000)

14           BY repealing and reordaining, with amendments

15           Article 22A - Retirement Savings Plan  
16           Section(s) 1-5(a)(1), 2-2, 2-3(c)(2), 2-7(b), 2-10(b), 5-3(d)(1), and  
17           6-2(a)(1), (b)(2), (b)(4), (c), (d), and (e)  
18           Baltimore City Code  
19           (Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.  
[Brackets] indicate matter deleted from existing law.  
Underlining indicates matter added to the bill by amendment.  
~~Strike out~~ indicates matter stricken from the bill by  
amendment or deleted from existing law by amendment.  
Underlined italics indicate matter added to the bill  
by amendment after printing for third reading.

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1 BY repealing  
2 Article 22A - Retirement Savings Plan  
3 Section(s) 6-2(h)  
4 Baltimore City Code  
5 (Edition 2000)

6 BY adding  
7 Article 22A - Retirement Savings Plan  
8 Section(s) 9-4(f)  
9 Baltimore City Code  
10 (Edition 2000)

11 SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the  
12 Laws of Baltimore City read as follows:

13 **Baltimore City Code**

14 **Article 22. Retirement Systems**

15 **Subtitle -- Employees' Retirement System**

16 **§ 9.2. Class D membership.**

17 (l) *Reemployment.*

18 (1) *Following termination of Class D member.*

19 (ii) *Before becoming eligible for certain benefits.*

20 If a Class D member terminates City employment before becoming eligible for a  
21 retirement benefit or a deferred vested pension benefit under this section and is  
22 subsequently reemployed as an employee, the employee:

23 (A) on the 1<sup>st</sup> annual anniversary of her or his reemployment, will again  
24 become a Class D member; and

25 (B) [immediately on reemployment,] will be credited with his or her prior  
26 Class D service AS FOLLOWS:

- 27 1. IMMEDIATELY ON REEMPLOYMENT, UNLESS BEFORE  
28 REEMPLOYMENT THE MEMBER RECEIVED THE VALUE OF HIS OR HER  
29 ACCUMULATED CONTRIBUTIONS UNDER SUBSECTION (K)(6)(I) OF  
30 THIS SECTION; OR
- 31 2. IF BEFORE REEMPLOYMENT THE MEMBER RECEIVED THE VALUE OF  
32 HIS OR HER ACCUMULATED CONTRIBUTIONS UNDER SUBSECTION  
33 (K)(6)(I) OF THIS SECTION, THEN ONLY IF THE MEMBER PURCHASES  
34 THE SERVICE CREDIT UNDER SUBSECTION (C)(6)(I) OF THIS SECTION.

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1 (2) *Following pre-July 1, 2014, City employment.*

2 (i) *Termination after earning vested benefit.*

3 (A) This subparagraph applies to any employee who:

- 4 1. was employed by the City on or before June 30, 2014;
- 5 2. terminated that employment FOR MORE THAN 30 CONSECUTIVE DAYS  
6 after earning a vested benefit under this System or another City  
7 retirement plan; and
- 8 3. is reemployed by the City on or after July 1, 2014.

9 (ii) *Termination before earning vested benefit.*

10 (A) This subparagraph applies to any employee who:

- 11 1. was employed by the City on or before June 30, 2014;
- 12 2. terminated that employment FOR MORE THAN 30 CONSECUTIVE DAYS  
13 before earning a vested benefit under this System or another City  
14 retirement plan, and;
- 15 3. is reemployed by the City on or after July 1, 2014.

16 **Article 22A. Retirement Savings Plan**

17 **Subtitle 1. Definitions; General Provisions**

18 **§ 1-5. Qualification under Internal Revenue Code.**

19 (a) *In general.*

20 The Retirement Savings Plan is intended to be:

- 21 (1) A qualified PROFIT-SHARING PLAN under IRC § 401(a); and
- 22 (2) a “governmental plan” under IRC § 414(d).

23 **Subtitle 2. Administration**

24 **§ 2-2. Board composition.**

25 (a) *In general.*

- 26 (1) The Board consists of [12] 14 trustees.
- 27 (2) Of these:

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- 1 (i) [9] 11 trustees serve with voting privileges (“voting trustees”); and  
2 (ii) 3 trustees serve in an advisory capacity only, without voting privileges (“non-  
3 voting trustees”).

4 (b) *Voting trustees.*

5 (1) *In general.*

6 The [9] 11 voting trustees are:

7 (i) the Director of Finance or the Director’s designated representative, who must  
8 be either the Deputy Director of Finance or the Budget Director;

9 (ii) the City Comptroller;

10 (iii) the Director of Human Resources;

11 (iv) the City Labor Commissioner;

12 (v) the Executive Director of the Employees’ Retirement System of the City of  
13 Baltimore;

14 ~~(vi) 2 REPRESENTATIVES OF THE BALTIMORE CITY PUBLIC SCHOOL SYSTEM, TO BE~~  
15 ~~DESIGNATED BY THE CHIEF EXECUTIVE OFFICER OF THE BALTIMORE CITY~~  
16 ~~PUBLIC SCHOOL SYSTEM OR THE CEO’S DESIGNATED REPRESENTATIVE;~~

17 ~~(vii) THE CHIEF FINANCIAL OFFICER OF THE BALTIMORE CITY PUBLIC SCHOOL~~  
18 ~~SYSTEM;~~

19 ~~(viii) THE HUMAN CAPITAL OFFICER OF THE BALTIMORE CITY PUBLIC SCHOOL~~  
20 ~~SYSTEM; and~~

21 ~~(vii) A REPRESENTATIVE DESIGNATED JOINTLY BY AFSCME LOCAL 44, THE CITY~~  
22 ~~UNION OF BALTIMORE (“CUB”), AND THE MANAGERIAL AND PROFESSIONAL~~  
23 ~~SOCIETY OF BALTIMORE, INC. (“MAPS”); AND~~

24 ~~(viii) (ix) [(vi)] [4] 3 residents and registered voters of the City of Baltimore, to be~~  
25 ~~appointed by the Mayor in accordance with City Charter Article IV, § 6[;].~~

26 (2) *Appointed trustees – Qualifications.*

27 (i) The [4] 3 voting trustees appointed under paragraph [(1)(vi)] ~~+(ix) (1)(viii)~~ of this  
28 subsection must each have at least 10 years of relevant institutional investment  
29 management expertise.

30 (ii) None of these appointed trustees may be an official or employee of the City at the  
31 time of his or her appointment or during the entire term of office.

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1 (3) *Appointed trustees – Term of office.*

- 2 (i) Each of the [4] 3 VOTING trustees appointed under paragraph [(1)(vi)] 1(IX) of this  
3 subsection serves for a term of 4 years, concurrent with the term of the Mayor.
- 4 (ii) At the end of a term, an appointed member continues to serve until a successor is  
5 appointed and qualifies.
- 6 (iii) A trustee appointed to fill a vacancy in an unexpired term serves only for the  
7 remainder of that term.

8 (c) *Non-voting trustees.*

9 The 3 non-voting trustees are:

- 10 (1) [The president] THE PRESIDENT of AFSCME Local 44;
- 11 (2) [The president] THE PRESIDENT of the City Union of Baltimore (“CUB”); and
- 12 (3) [The president] THE PRESIDENT of the Managerial and Professional Society of  
13 Baltimore, Inc. (“MAPS”).

14 (d) *Service without regard to political affiliation.*

15 Notwithstanding City Charter Article IV, § 8, trustees may be appointed or hold their  
16 positions without regard to political affiliation.

17 **§ 2-3. Board functions.**

18 (c) *Trustee of Plan assets.*

19 (2) Subject to § 2-8 {“Retention of services; Right of reliance”} of this subtitle, the Board  
20 is responsible for:

- 21 [(i) determining the manner of investing Employer Contribution Sub-Accounts  
22 that have not vested under § 7-2 {“Vesting: Employer Contribution Sub-  
23 Account”} of this article;]
- 24 (i) [(ii)] selecting investment funds (including a default investment fund) under  
25 § 6-2 {“Accounts: Investments”} of this article;
- 26 (ii) [(iii)] monitoring these investment funds on an ongoing basis; and
- 27 (iii) [(iv)] adding or replacing these investment funds as the Board considers  
28 prudent.

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1 § 2-7. Meetings; Voting; Records.

2 (b) *Voting.*

3 (2) [5] 6 voting trustees constitute a quorum.

4 § 2-10. Compensation; Expenses.

5 (b) *Stipend for appointed trustees.*

6 (1) Each [trustee] OF THE 3 TRUSTEES appointed under [§ 2-2(b)(1)(vi)] ~~§ 2-2(b)(1)(ix)~~ §  
7 2-2(B)(1)(VIII) of this subtitle is entitled to a stipend, in an amount determined by the  
8 Board of Estimates, for attending meetings of the Board of Trustees.

9 (2) The Board of Trustees may establish meeting-attendance standards that THE appointed  
10 trustees must satisfy to be eligible for the stipend.

11 **Subtitle 5. Contributions**

12 § 5-3. Employer contributions.

13 (d) *Non-hybrid members also contributing to Deferred Compensation Plan.*

14 (1) For each payroll period in which a non-hybrid member makes a voluntary deferral to  
15 the City's Deferred Compensation Plan, the member's employer must contribute to  
16 the Retirement Savings Plan an amount equal to 50% of the [first 2% of]  
17 compensation deferred by the member for that payroll period, BUT TAKING INTO  
18 ACCOUNT ONLY COMPENSATION DEFERRED THAT DOES NOT EXCEED 2% OF THE  
19 MEMBER'S COMPENSATION FOR THAT PAYROLL PERIOD.

20 **Subtitle 6. Accounts**

21 § 6-2. Investments.

22 (a) *Board to select available investment funds.*

23 (1) The Board of Trustees must select:

24 (i) 1 or more separate investment funds in which a member may elect to have the  
25 member's [vested] account invested; and

26 (ii) a default investment fund for the automatic investment of the [vested] account  
27 of a member who fails to make an affirmative investment election under  
28 subsection (b) of this section.

29 (b) *Members' investment elections.*

30 (2) In accordance with procedures established by the Board, each member may  
31 affirmatively elect to have the member's [vested] account invested in 1 or more of the  
32 listed investment funds.

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1 (4) As soon as administratively practicable after a member's affirmative investment  
2 election is received, the member's [vested] account must be invested in accordance  
3 with that election.

4 (c) *Default investments.*

5 Unless and until a member makes an affirmative investment election under subsection (b)  
6 of this section, the member is deemed to have made an election to have the member's  
7 [vested] account invested automatically in the default investment fund.

8 (d) *Fund gains and losses.*

9 All gains and losses of an investment fund in which a member's [vested] account is  
10 invested will be allocated to that account based on established procedures applied on a  
11 uniform and nondiscriminatory basis.

12 (e) *Fund fees and expenses.*

13 All fees charged and expenses incurred by an investment fund in which a member's  
14 [vested] account is invested, including servicing fees paid by the investment fund to the  
15 Plan's third-party administrator, will be charged to that account based on established  
16 procedures applied on a uniform and nondiscriminatory basis.

17 [(h) *Non-vested Employer Contribution Sub-Accounts.*

18 Employer Contribution Sub-Accounts that have not vested under § 7-2 {"Vesting:  
19 Employer Contribution Sub-Account"} of this article will be invested as the Board of  
20 Trustees, in its sole discretion, determines.]

21 **Subtitle 9. Distributions**

22 **§ 9-4. Distributable events – Death.**

23 (F) *WHILE PERFORMING QUALIFIED MILITARY SERVICE.*

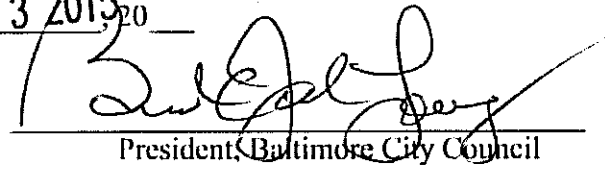
24 TO THE EXTENT REQUIRED BY IRC § 401(A)(37), THE VALUE OF A MEMBER'S ACCOUNT  
25 PAYABLE TO THE BENEFICIARY OF A MEMBER WHO DIES WHILE PERFORMING "QUALIFIED  
26 MILITARY SERVICE", AS DEFINED IN IRC § 414(U)(5), WILL BE DETERMINED AS IF THE  
27 MEMBER DIED WHILE AN ACTIVE EMPLOYEE.

28 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance  
29 are not law and may not be considered to have been enacted as a part of this or any prior  
30 Ordinance.

31 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it is  
32 enacted.

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Certified as duly passed this \_\_\_\_\_ day of FEB 23 2015, 20

  
\_\_\_\_\_  
President, Baltimore City Council

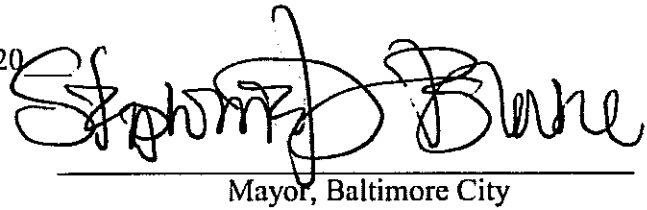
Certified as duly delivered to Her Honor, the Mayor,

this \_\_\_\_\_ day of FEB 23 2015 0

  
\_\_\_\_\_  
Chief Clerk

MAR 3 2015

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20

  
\_\_\_\_\_  
Mayor, Baltimore City

Approved by the Finance and Legal Committee  
This 2<sup>nd</sup> day of March 2015  
Elinor D. Panta  
Director of Finance

**A TRUE COPY**  
**Henry Raymond**  
**Director of Finance**