



Gregory J. Swain, County Attorney

MEMORANDUM

To: Members, Anne Arundel County Council

From: Lori L. Blair Klasmeier, Deputy County Attorney /s/

Via: Gregory J. Swain, County Attorney /s/

Date: March 7, 2022

Subject: Bill No. 27-22: Pensions – Contingent Annuitant – Fire and Police Service Retirement Plans – Same Sex Marriage

Legislative Summary

This summary was prepared by the Anne Arundel County Office of Law for use by members of the Anne Arundel County Council during consideration of Bill No. 27-22, which allows modification of the contingent annuitant option election for certain retirees of the Fire and Police pension plans who have entered into same sex marriages with their contingent annuitant.

Background. Under the Fire and Police pension plans, if a retiree dies, the full benefit is paid to the retiree’s surviving spouse. If there is no surviving spouse, then it would be paid to unmarried minor children until they are 18. If there are no unmarried minor children, then payment of certain funds (i.e., employee contributions) would be paid to the beneficiary or, if no beneficiary, the retiree’s estate. (§§ 5-4-205 and 5-5-204 of the County Code). There is no reduction of the retiree’s benefit during the retiree’s lifetime.

If a retiree began County employment before 2002, and the retiree has no spouse or minor child at the time of retirement, the retiree may name a contingent annuitant to receive benefits after the death of the retiree. The retiree can choose the level of benefit (66 2/3% or 50%) to be received by the annuitant, and this options results in an actuarial reduction of the benefits paid to the retiree during the retiree’s lifetime. (§ 5-1-408 of the County Code).

Same sex marriage was illegal in Maryland until January 1, 2013. Therefore, a Fire or Police pension plan participant who retired before January 1, 2013, and was in a same sex relationship would not have had the option to marry their same sex partner. The same sex partner would not receive the benefit payable to a surviving spouse. The only option would have been for the retiree to exercise the option to name the same sex partner as a contingent annuitant and to

Note: This Legislative Summary provides a synopsis of the bill as introduced. It does not address subsequent amendments to the bill.

accept a reduction of benefits during the retiree's lifetime. That contingent annuitant election at the time of retirement is irrevocable.

Purpose. The purpose of Bill No. _-22 is to allow retirees under the Fire or Police pension plans who retired before same sex marriage became legal in Maryland, who named their same sex partner as their contingent annuitant, and who, subsequently, married the contingent annuitant to revoke their contingent annuitant election, such that the retiree will be restored to the full monthly benefit, and the same sex spouse will be entitled to the full spousal benefit at the death of the retiree. The Bill also provides that, once the contingent annuitant election is revoked, the retiree will be repaid the reductions of retirement benefits resulting from exercising the contingent annuitant option from the time of retirement.

Summary. Section 1 of the Bill adds **subsection (f)** to § 5-1-408 of the Code to fulfill the purpose as stated herein.

Section 2 of the bill provides that it will take effect 45 days from the date it becomes law.

If there are any questions, please let me know.

cc: Honorable Steuart Pittman, County Executive
Kai Boggess-deBruin, Chief of Staff
Matthew Power, Chief Administrative Officer
Peter Baron, Legislative Liaison
Anne Budowksi, Personnel Officer