

# ANNE ARUNDEL COUNTY PENSION OVERSIGHT COMMISSION

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April 4, 2024

Via: Electronic mail

County Executive Steuart Pittman  
Anne Arundel County  
44 Calvert Street  
Annapolis, MD. 21401

Mr. Pittman,

In accordance with the procedures set forth in the County Charter, the Pension Oversight Commission (Commission) has reviewed the proposed legislation presented in Bill 23-24 as introduced by Councilmember Nathan Volke. Following our review, we **OPPOSE** passage of Bill 23-24. This bill would provide an exception to the county's pension law for one employee, thereby providing that employee with a benefit that is above and beyond what a similarly situated employee would have earned.

County law currently prohibits a county employee who retires with a pension from being reemployed by the County and using the time and salary during the reemployment period to recalculate the initially earned pension. (County Code 5-1-203(a)). Except for retirees from the Police Pension Plan who join the Sheriff's Office Pension Plan, there is no prohibition on a reemployed retiree earning a new pension benefit as any other employee would. This rule applies to every County employee. Bill 23-24 would exempt one employee from the provisions of 5-1-203(a) and allow a recalculation of the employee's initial pension.

Passage of Bill 23-24 would place liability on the pension system, other employees of Anne Arundel County, and taxpayers of the County. The benefit that would be available to the employee is one that has not been paid for through the normal pension contributions of either the county or the employee. It creates a windfall for the employee of tens of thousands of dollars per

year and places the liability for that unearned benefit squarely on the pension system, employees, and taxpayers.

We believe this situation originated from misinformation and not malfeasance. However, the administration has already offered to right this wrong. Our understanding is the corrective action was declined by the named employee. Acceptance of that offer would have restored the employee's pension to the proper and lawful status, as if the employee were given the correct option to join the police pension system upon his rehiring as a deputy police chief. The employee would have made up the missed pension contributions to relieve the taxpayer of those contributions which should have been made by that employee and granted them the rightfully earned second pension. This is the correct way to right the wrong.

Bill 23-24 appears to provide a legislative windfall, above and beyond what a county employee could lawfully earn (tens of thousands of dollars per year) and places the liability for that unearned benefit squarely on the pension system, employees, and taxpayers. It seeks to exempt one employee from the provisions of section 5-1-203 of the County Code which specifically prohibits a prior-earned pension benefit from being recalculated based upon any time of service or salary earned during a term of reemployment. If this exemption were to be approved, an employee would be granted pension credit that neither the employee nor the County have paid by making appropriate contributions to the pension system during the term of reemployment. The altered benefit would cause a loss to the pension system due to the lack of proper contributions. Not only would that loss impact the County's fiscal responsibilities to the pension system, but it would impact the health of the system to the detriment of every other employee who has made appropriate contributions to the system during their careers.

Furthermore, the mere introduction of this legislation sets a dangerous precedent. It opens the door to County Councilmembers or County Executives entertaining requests from their county employee-constituents for personalized benefits. County elected officials could seek to legislate for county employees who might be their friends, relatives, or political allies and the potential for graft is clearly apparent. Conversely, officials could legislate against their political enemies. The potential harm that could come from such a situation is apparent, and the actual occurrence where a county executive held and exercised inappropriate power over appointed county leaders is not so far in the past to have been forgotten.

There have been two prior instances where pension legislation was adjusted for a single or small group of employees. The first was upon the appointment of a non-vested police chief. The County sought to avoid the problems that came from a department head who was short of a twenty-year pension upon appointment. If the department head were to make an independent decision with the authority granted in their office that did not meet the approval of the County Executive, the County Executive could terminate the department head. The department head would have no recourse against suffering the loss of their entire career-earned pension. Therefore, the County Council passed legislation to vest the police chief early. (BILL 49-15) The Pension Oversight Commission opposed this legislation based upon the inequities of legislating for one person. Because that police chief was employed long enough to reach the normal vesting age, the provisions of the bill had no effect on the pension system.

The second instance was starkly different from the present legislation or the aforementioned early vesting bill. In 2022, the County Council passed Bill 27-22. This legislation was to fix a prior wrong. Due to retiring employees being denied a constitutional right to same-sex marriage, those employees elected a reduction in pension benefits to secure a joint survivor benefit for their partners. Bill 27-22 righted that wrong and restored the pension benefits that those employees were forced to cede due to the denial of their Constitutional right to marry.

Approval of Bill 23-24 places an undue burden on the backs of the County, pension system, and taxpayers. It could normalize the possibility of graft or retributive legislation and it is wholly the incorrect method to right the legitimate wrongs of prior mishandling of pension processes and procedures. For these reasons, the Pension Oversight Commission **OPPOSES** passage of Bill 23-24

Sincerely,

Anne Arundel County Pension Oversight Commission:

A handwritten signature in black ink, appearing to read "Michael Shier". The signature is fluid and cursive, with a prominent initial "M".

Michael Shier, Chair

Robert Stull, Secretary; Jamie McIntosh; Ed Gosselin; Sherri Voelkel, Mark Humphries; Joe Bernatowicz, Julius Jones Jr.

CC: Anne Arundel County Council: Julie Hummer; Alison Pickard; Nathan Volke; Shannon Leadbetter; Amanda Fiedler; Lisa Rodvien; Peter Smith  
County Council Administrative Officer Laura Corby, Personnel Officer Anne Budowski