

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2013, Legislative Day 19

Bill No. 61-13

Mr. Tom Quirk, Councilman
By Request of County Executive

By the County Council, November 18, 2013

A BILL
ENTITLED

AN ACT concerning

Employees' Retirement System - Requirement to Join

FOR the purpose of requiring certain officers and employees to join the retirement system within 60 days of employment; clarifying the requirement to pass a certain physical examination; repealing certain obsolete language; authorizing the Board of Trustees to adopt certain rules; making a technical change; and generally relating to certain officers and employees joining the retirement system.

By repealing and reenacting, without amendments

Section 5-1-203(5)(i), (7)(i), (8)(i) and (ii)
Article 5. Pensions and Retirement
Baltimore County Code, 2003

By repealing and reenacting, with amendments

Section 5-1-203(1), (5)(ii) and (iii), (6)(i), (7)(ii), and (8)(iii)
Article 5. Pensions and Retirement
Baltimore County Code, 2003

By repealing

Section 5-1-203(2) and (3)
Article 5. Pensions and Retirement

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND, that the Laws of Baltimore County shall read as follows:

3 **Article 5. Pensions and Retirement**

4 § 5-1-203.

5 The membership of the Retirement System shall consist of the following:

6 (1) [Any person who shall become an employee after the date of establishment and
7 prior to July 1, 1971, shall become a member of the Retirement System as a condition of
8 employment; provided such person shall pass a physical examination satisfactory to the Board of
9 Trustees.] (I) Any person who shall become an employee after June 30, 1971 BUT BEFORE
10 JANUARY 1, 2014, may become a member of the Retirement System at any time within the first
11 two (2) years of the person's employment, but if the employee has not previously joined must
12 become a member at the end of that period as a condition of employment; provided such person
13 shall pass a physical examination satisfactory to the Board of Trustees. [Any person who has
14 attained the age of fifty-five (55) years at the person's date of employment shall have the option
15 of not joining the System. The rate of contribution of the employee shall be determined by the
16 employee's age at the time the employee actually joins the system and will not be reduced by
17 reason of service prior to joining; provided, however, that any employee, except for a Group 3
18 member who begins service on or after July 1, 2010, may purchase credit for service before
19 joining by paying the contributions due plus interest. Such purchase shall be made before June
20 30, 2012.]

21 (II) ANY PERSON WHO SHALL BECOME AN EMPLOYEE ON OR AFTER
22 JANUARY 1, 2014 SHALL BECOME A MEMBER OF THE RETIREMENT SYSTEM
23 WITHIN 60 DAYS AFTER EMPLOYMENT AS A CONDITION OF EMPLOYMENT

1 PROVIDED SUCH PERSON SHALL PASS A PHYSICAL EXAMINATION
2 SATISFACTORY TO THE BOARD OF TRUSTEES.

3 (III) ANY PERSON WHO HAS ATTAINED THE AGE OF FIFTY-FIVE (55)
4 YEARS AT THE PERSON'S DATE OF EMPLOYMENT SHALL HAVE THE OPTION OF
5 NOT JOINING THE SYSTEM.

6 (IV) Notwithstanding any contrary provisions of this [subsection] PARAGRAPH,
7 special provisions shall apply to county employees occupying certain nonmerit appointed
8 positions as described in paragraph (7) of this section.

9 [(2) Any person who is an employee on the date of establishment shall become a
10 member as of that date, unless within a period of thirty (30) days next following, such employee
11 shall file with the Board of Trustees on a form prescribed by the Board a notice of the
12 employee's election not to be covered in the membership of this System and a duly executed
13 waiver of all present and prospective benefits which would otherwise inure to the employee on
14 account of the employee's participation in the Retirement System.

15 (3) Any employee who elects under paragraph (2) of this section not to become a
16 member may thereafter apply for and be admitted to membership, but no such employee shall
17 receive prior service credit unless the employee becomes a member within the first year
18 following the date of establishment.]

19 (2) IN THIS SECTION, THE BOARD OF TRUSTEES SHALL ACCEPT, FOR
20 ENTRY INTO THE RETIREMENT SYSTEM, THE RESULTS OF THE POST-OFFER/PRE-
21 EMPLOYMENT PHYSICAL EXAMINATION CONDUCTED BY BALTIMORE COUNTY'S
22 CURRENTLY CONTRACTED MEDICAL PROVIDER FOR APPLICANT PHYSICAL
23 EXAMINATIONS.

1 (5) (i) *Definitions.* The following words and phrases, as used in this subsection,
2 unless a different meaning is plainly required by the context, shall have the meanings indicated.

3 1. “County agency” means special taxing area or other political
4 subdivision of the county, and also includes any incorporated or unincorporated board,
5 commission, agency, or instrumentality of the county created by an act of the County Council or
6 the state General Assembly for public purposes and not for the profit of any private person or
7 corporation.

8 2. “Legislative body” means the board or commission having
9 authority or control over any such county agency, including the board or governing body of any
10 county special taxing area or other political subdivision of the county.

11 (ii) 1. *Eligibility of officers and employees of county agencies.* [On] EXCEPT
12 AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, ON and after July
13 1, 1965, any officer or employee of any county agency, except such officers and employees as
14 are now eligible to participate in a retirement system wholly or partially maintained at the
15 expense of a county agency, shall be entitled to membership in the Employees' Retirement
16 System of the county as provided by this paragraph and subsequent amendments thereto;
17 provided, however, that the officers and employees of any county agency shall not be included in
18 such Employees' Retirement System of the county without the approval of the legislative body of
19 any such county agency. Should the legislative body of any county agency on or after July 1,
20 1965, give its approval to the participation of its officers and employees in such system as
21 hereinabove provided, such employees shall be eligible to participate in such system as
22 specifically provided hereinafter for such employees.

1 period and for any previous period in which a regular part-time employee was a member of the
2 Retirement System, a regular part-time employee, except for a Group 3 member who begins
3 service on or after July 1, 2010, may purchase credit for service before joining the Retirement
4 System by paying the contributions due plus interest. Such purchase shall be made before June
5 30, 2012.]

6 2. ANY PERSON WHO ENTERS THE REGULAR PART-TIME
7 EMPLOYMENT OF THE EMPLOYER ON OR AFTER JANUARY 1, 2014 MAY ELECT TO
8 BECOME A MEMBER OF THE RETIREMENT SYSTEM WITHIN 60 DAYS AFTER
9 EMPLOYMENT, PROVIDED SUCH PERSON SHALL PASS A PHYSICAL
10 EXAMINATION SATISFACTORY TO THE BOARD OF TRUSTEES.

11 (7) *Elected officials, appointed department heads and employees occupying certain*
12 *nonmerit appointed positions.*

13 (i) The provisions set forth in this paragraph shall only apply to a special
14 employment category, namely, to appointed department heads, the Labor Commissioner of the
15 county, all elected officials of the county, officers and employees of a “county agency” as
16 defined in paragraph (5) of this section and those other employees of the county occupying
17 nonmerit appointed positions in either the Office of the County Executive, the Office of the
18 County Administrative Officer, the Office of the County Attorney, the Office of the State’s
19 Attorney, the Office of the County Auditor, Secretary to the County Council, the Office of
20 People’s Counsel, the Zoning and Deputy Zoning Commissioners, or certain employees of the
21 Circuit Court; and these special provisions shall be applicable notwithstanding anything to the
22 contrary in this subtitle.

1 (ii) 1. Any person who falls within the aforementioned special employment
2 category BEFORE JANUARY 1, 2014 may elect within two (2) years of the start of employment
3 to join the System PROVIDED SUCH PERSON SHALL PASS A PHYSICAL
4 EXAMINATION SATISFACTORY TO THE BOARD OF TRUSTEES. [Should an employee
5 elect to join the System within the two-year election period, as provided in paragraph (1) of this
6 section, the rate of contribution shall be determined by the employee's age at the time of joining
7 the System and will not be reduced by reason of service prior to joining; provided, however, that
8 the employee, except for an employee who begins service on or after July 1, 2010, may purchase
9 credit for service rendered before joining and within the current period of employment by paying
10 the contribution due plus interest. Such purchase shall be made before June 30, 2012.] Any
11 employee listed in this subsection who elects to become a member of the Retirement System
12 shall remain a member as a condition of the member's employment.

13 2. ANY PERSON WHO FALLS WITHIN THE AFOREMENTIONED
14 SPECIAL EMPLOYMENT CATEGORY WHO JOINS COUNTY SERVICE ON OR AFTER
15 JANUARY 1, 2014 MAY ELECT WITHIN 60 DAYS OF THE START OF EMPLOYMENT
16 TO JOIN THE SYSTEM, PROVIDED SUCH PERSON SHALL PASS A PHYSICAL
17 EXAMINATION SATISFACTORY TO THE BOARD OF TRUSTEES. ANY EMPLOYEE
18 LISTED IN THIS PARAGRAPH WHO ELECTS TO BECOME A MEMBER OF THE
19 RETIREMENT SYSTEM SHALL REMAIN A MEMBER AS A CONDITION OF THE
20 MEMBER'S EMPLOYMENT.

21 (8) (i) In this paragraph, "break in service" means a period of separation from
22 employment with the employer, which separation occurs either by termination of the employee
23 or resignation of the employee.

1 (ii) This section does not apply to an employee who has a break in service if
2 the employee:

3 1. Failed to join the retirement system under paragraph (6) of this
4 section but is reemployed under paragraph (1) or paragraph (7) of this section;

5 2. Failed to join the retirement system under paragraph (7) of this
6 section but is reemployed under paragraph (1) of this section; or

7 3. Failed to join the retirement system under one special employment
8 category in paragraph (7) of this section but is reemployed into a different special employment
9 category under paragraph (7) of this section.

10 (iii) An employee who has failed to join the retirement system within two (2)
11 years OR 60 DAYS of [employment] EMPLOYMENT, AS APPLICABLE, as provided in
12 paragraph (6) or paragraph (7) of this section may not join the retirement system unless the
13 employee has had a break in service of not less than one hundred eighty (180) days from the
14 immediately prior period of employment with the employer.

15 SECTION 2. AND BE IT FURTHER ENACTED, that, notwithstanding any other
16 provisions of this Act, the Board of Trustees may adopt rules to allow certain, defined seasonal
17 or part-time employees to join the Retirement System within two years of the date of
18 employment as previously authorized under Article 5, Title 1 of the Baltimore County Code,
19 2003. The rules adopted by the Board may not subvert the intention of this Act to require all
20 individuals eligible to join the retirement system to do so within 60 days after commencement of
21 employment.

22 SECTION 3. AND BE IT FURTHER ENACTED, that this Act, having passed by the
23 affirmative vote of five members of the County Council, shall effect on December 29, 2013.