

Introduced March 28, 2013
Public Hearing April 15, 2013
Council Action May 6, 2013
Executive Action May 8, 2013
Effective Date July 8, 2013

County Council Of Howard County, Maryland

2013 Legislative Session

Legislative Day No. 5

Bill No. 13 -2013

Introduced by: The Chairperson at the request of the County Executive

AN ACT amending the Howard County Police and Fire Employees' Retirement Plan pursuant to the Heroes Earnings Assistance and Relief Tax Act of 2008; amending certain definitions; amending certain death benefits, disability benefits, and differential wage provisions for pension plan participants with military service; and generally relating to the Howard County Police and Fire Employees' Retirement Plan.

Introduced and read first time March 28, 2013. Ordered posted and hearing scheduled.

By order Shirley M. Jallou
Stephen LeGendre, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on April 15, 2013.

By order Shirley M. Jallou
Stephen LeGendre, Administrator

This Bill was read the third time on May 6, 2013 and Passed , Passed with amendments _____, Failed _____.

By order Shirley M. Jallou
Stephen LeGendre, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 7th day of May, 2013 at 11:30 a.m./p.m.

By order Shirley M. Jallou
Stephen LeGendre, Administrator

Approved/Vetoed by the County Executive May 8, 2013

Ken Ulman
Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland that the Howard
2 County Code is amended as follows:

3
4 By amending:

- 5 1. Title 1- Human Resources
6 Section 1.406A(ad) "Definitions"
- 7
8 2. Title 1 –Human Resources
9 Section 1.414A(b) "Leaves of absence"
- 10
11 3. Title 1 – Human Resources
12 Section 1.426A(a) and (b) "Pick-up contributions"
- 13
14 4. Title 1 – Human Resources
15 Section 1.431A(e) "Disability benefits"
- 16
17 5. Title 1 – Human Resources
18 Section 1.439A(a)(1) and (b) "Death benefits"

19
20 **Title 1. Human Resources.**

21 **Subtitle 4A. Police and Fire Employees' Retirement Plan.**

22 **Article 1A. Generally.**

23
24 **Section 1.406A. Definitions.**

25 (ad) *Participant* means any employee who is currently benefiting under the plan, and, where
26 appropriate according to the context of the plan, any former employee who is or may become (or
27 whose beneficiaries may become) eligible to receive a benefit under the plan. EFFECTIVE
28 JANUARY 1, 2009, *PARTICIPANT* INCLUDES A PERSON RECEIVING DIFFERENTIAL WAGE PAYMENTS AS
29 DEFINED IN SECTION 3401(H) OF THE INTERNAL REVENUE CODE.

1
2 **Title 1. Human Resources.**

3 **Subtitle 4A. Police and Fire Employees' Retirement Plan.**

4 **Article IIA. Credited Service.**

5
6 **Section 1.414A. Leaves of Absence.**

7 (b) *Credit for Service During Unpaid Leave of Absence for Military Service.*

8 Notwithstanding the foregoing, the participant will not receive credit for service during an
9 unpaid leave of absence for military service, except to the extent required by the Uniformed
10 Services Employment and Reemployment Rights Act of 1994 and the State Personnel and
11 Pensions Article, title 38, of the Annotated Code of Maryland. TO THE EXTENT REQUIRED BY
12 THE HEROES EARNINGS ASSISTANCE AND RELIEF TAX ACT OF 2008, IF A PARTICIPANT FAILS TO
13 AGAIN BECOME AN EMPLOYEE AS A RESULT OF HIS DEATH WHILE IN MILITARY SERVICE ON OR
14 AFTER JULY 1, 2007, THE PARTICIPANT SHALL BE ENTITLED TO ELIGIBILITY SERVICE FOR SUCH
15 MILITARY SERVICE.

16
17 **Title 1. Human Resources.**

18 **Subtitle 4A. Police and Fire Employees' Retirement Plan.**

19 **Article 3A. Trust Fund.**

20
21 **Section 1.426A. Pick-up contributions.**

22 Under limited circumstances described below, participant contributions and monies from other
23 Government employers may be accepted by the plan.

24 (a) *Types of Contributions/Transfers.*

25 (1) County pick-up contributions.

26 (i) *General.* Effective July 1, 1990, and in accordance with rules established
27 by the County, each participant shall make contributions to the plan equal
28 to 7.7 percent of his or her compensation.

29 (ii) *Special rule for Police Officers.* Effective July 1, 2001, and in accordance

1 with the rules established by the County, each participant who is a Police
2 Officer shall make contributions to the plan equal to 11.6 percent of his or
3 her compensation.

4 The participant contributions referred to in this section 1.426A shall be
5 picked up by the County, as described in Section 414(h)(2) of the Internal
6 Revenue Code, deducted from the pay of the contributing participants as
7 salary reduction contributions, and paid by the County to the trustees with
8 reasonable promptness after the total of such contributions during any
9 month has been determined, and in any event by the end of the succeeding
10 month. The contributions made pursuant to this section 1.426A shall be
11 made a part of the participant's employee contributions benefit, that is, a
12 part of his or her accrued benefit.

13 (iii) If a participant on leave of absence for military service receives
14 [[supplemental pay]] DIFFERENTIAL WAGE PAYMENTS AS DEFINED IN
15 SECTION 3401(H) OF THE INTERNAL REVENUE CODE from the
16 County, the participant's pick-up contributions shall be deducted
17 from the participant's [[supplemental pay]] DIFFERENTIAL WAGE
18 PAYMENTS.

19 (2) *Transfer of pick-up contributions from other Government employers.* Pursuant to
20 the provisions of section 1.417A or subsection 1.419A(d), the trust may accept a
21 transfer of monies directly from another Government employer retirement plan.
22 Such transfer shall consist of contributions made by the participant, but
23 characterized by such other Government employer as employer pick-up
24 contributions, plus earnings previously credited upon such contributions. Such
25 amounts shall be made a part of the participant's employee contributions benefit,
26 that is, a part of the participant's accrued benefit.

27 (3) *Purchase of service pick-up contributions.* Pursuant to the provisions of
28 subsection 1.419A(e), a participant may enter into a payroll deduction
29 authorization with the County pursuant to which the participant may purchase

1 credit for service. The participant contributions referred to in this subsection
2 1.426A(a)(3) shall be:

- 3 (i) Picked up by the County, as described in Section 414(h)(2) of the Internal
4 Revenue Code;
- 5 (ii) Deducted from the pay of the contributing participant as salary reduction
6 contributions; and
- 7 (iii) Paid by the County to the trustees with reasonable promptness after the
8 total of such contributions during any month has been determined, and in
9 any event by the end of the succeeding month.

10 (b) *Suspension of Contributions.* EXCEPT AS PROVIDED IN SUBSECTION 1.426A(A)(1)(III), A
11 [[A]] participant's salary reduction contributions shall be automatically suspended for any
12 payroll period during which the participant is not a covered employee or during which he
13 or she is on an unpaid leave of absence. Moreover, a participant's contributions pursuant
14 to subsection 1.426A(a)(1) (but not subsection 1.426A(a)(2) or subsection 1.426A(a)(3))
15 shall no longer be required for any period after which the participant has received credit
16 for 30 years of creditable service, and, unless otherwise required by subsection
17 1.437A(g)(2), the participant's salary reduction contributions pursuant to subsection
18 1.426A(a)(1) (but not subsection 1.426A(a)(2) or subsection 1.426A(a)(3)) shall be
19 suspended as of such date.

20
21 **Section 1.431A. Disability Benefits.**

22 (e) *General Provisions Relating to Disability.*

- 23 (1) *Commencement of disability benefits.* Disability benefits shall commence on the
24 first day of the month coincident with or otherwise next following the
25 determination of disability by the County; provided, however, that benefits
26 payable pursuant to this section shall be reduced by any benefits payable from
27 workers' compensation.
- 28 (2) *Forms of benefit.* The benefits payable pursuant to this section shall be payable in
29 the normal form provided by section 1.428A, unless an optional form of payment

1 has been elected pursuant to section 1.442A.

2 (3) *Definition.*

3 (i) Total and permanent disability shall mean a medically determinable
4 physical or mental impairment which can be expected to be permanent or
5 result in death, and by reason of which the participant will be prevented
6 from performing the usual duties of his or her position with the County as
7 required by the County Code.

8 (ii) Such total and permanent disability must be evidenced by a certificate of a
9 physician selected or approved by the County.

10 (iii) However, total and permanent disability shall not include any injury or
11 disease which:

12 a. Resulted from or consists of chronic alcoholism or addiction to
13 narcotics;

14 b. Was contracted, suffered or incurred while the participant was
15 engaged in, or resulted from his or her having engaged in, a
16 criminal enterprise;

17 c. Was intentionally self-inflicted; or

18 d. Arose as a result of willful negligence on the part of the
19 participant.

20 (4) *Continuing disability.*

21 (i) Until a participant who has reached a termination date by reason of
22 disability attains his or her normal retirement date, the continuation of the
23 participant's right to receive disability benefits shall depend on the
24 participant's continued survival, and the case shall be subject to periodic
25 review in accordance with rules established by the County to determine the
26 participant's employment status, including the requirement that the
27 participant furnish to the County a copy of his or her Federal income tax
28 return each year.

29 (ii) In the event a disabled participant ceases to submit to such review, prior to

1 his or her normal retirement date, the disability benefits payable pursuant
2 to this section shall cease.

3 (iii) Except as provided in subparagraph (iv) of this paragraph, if, during a
4 calendar year, the amount of a participant's earned income, worker's
5 compensation benefits, and disability benefits paid to the participant
6 pursuant to this section for such year exceed the participant's annualized
7 average compensation at his or her termination date plus \$3,000.00
8 (adjusted for c/l increases), effective as of the first day of the next
9 following plan year, the disability benefit payable under the plan shall be
10 reduced, dollar for dollar, to the extent of the excess.

11 (iv) Subparagraph (iii) of this paragraph does not apply to participants who
12 retire pursuant to the provisions of subsection (b)(2) of this section.

13 (5) *Death of disabled participant.* In the event of the death of a disabled participant,
14 no benefits with respect to the participant shall be payable except as otherwise
15 provided in sections 1.439A and 1.440A.

16 (6) *Termination of employment after normal retirement date.* Notwithstanding any of
17 the foregoing provisions, if a participant terminates employment with the County
18 on a date at which he or she would be entitled to benefits pursuant to section
19 1.428A, the participant shall be deemed to have elected retirement and shall
20 receive the benefits provided under section 1.428A, as the case may be; provided,
21 however, that if the participant qualifies for benefits payable pursuant to this
22 section 1.431A the participant may elect to receive disability benefits under this
23 section 1.431A in lieu of benefits under section 1.428A.

24 (7) A PARTICIPANT WHO REACHES A TERMINATION DATE BY REASON OF A
25 DISABILITY INCURRED WHILE THE PARTICIPANT IS ON A LEAVE OF ABSENCE,
26 INCLUDING A LEAVE OF ABSENCE FOR MILITARY SERVICE, SHALL BE ELIGIBLE
27 TO APPLY FOR ORDINARY DISABILITY BENEFITS UNDER SUBSECTION (A) OF THIS
28 SECTION 1.431 BUT SHALL NOT BE ELIGIBLE TO APPLY FOR LINE-OF-DUTY
29 DISABILITY BENEFITS UNDER SUBSECTION (B) OF THIS SECTION 1.431.

1
2 **Title 1. Human Resources.**

3 **Subtitle 4A. Police and Fire Employees' Retirement Plan.**

4 **Article IVA. Death Benefits.**

5
6 **Section 1.439A. Death Benefits.**

7 Upon a participant's death, those persons designated pursuant to section 1.448A shall receive a
8 lump sum distribution of the participant's refundable contributions benefit, if the participant was
9 entitled to the benefit. The only additional benefits payable under the plan in the event of the
10 death of a participant shall be paid to those persons designated in accordance with this section
11 1.448A as follows:

12 (a) *Ordinary Death Benefit.* In the event of the death of a participant prior to his or her benefit
13 commencement date, while not in the line of duty, the participant's beneficiary shall be entitled to
14 receive one of the following benefits, as applicable:

15 (1) *General benefit.* The beneficiary shall be entitled to receive:

16 (i) The participant's employee contributions benefit, payable in one or more
17 installments over a period which meets the requirements of section 1.440A
18 and which is designated by the participant, or, if the participant has made
19 no designation, by his or her beneficiary; plus,

20 (ii) An amount, payable as a single lump sum, equal to the participant's
21 annualized compensation determined as of the date of death;
22 provided, however, that the benefit provided by this subparagraph
23 (ii) shall be payable only if the participant had died while a covered
24 employee and after completing at least one year of creditable
25 service. FOR PURPOSES OF THIS SUB-PARAGRAPH, A PARTICIPANT
26 WHO DIES DURING MILITARY SERVICE IS CONSIDERED TO HAVE DIED
27 AS A COVERED EMPLOYEE.

28 (b) *Line of Duty Death Benefit.* In the event of the death of a participant, prior to the participant's
29 benefit commencement date, while in the line of duty (as defined below), the participant's

1 beneficiary shall be entitled to receive the benefits described in subparagraphs (1), (2) or (3), as
2 applicable.

3 (1) *General benefit.* The beneficiary shall be entitled to receive:

4 (i) The participant's employee contributions benefit, payable in one or more
5 installments over a period which meets the requirements of section 1.440A
6 and which is designated by the participant, or, if the participant has made
7 no designation, by his or her beneficiary; plus.

8 (ii) An amount, payable as a single lump sum, equal to the participant's
9 annualized compensation determined as of the date of death; provided,
10 however, that the benefit provided by this subparagraph (ii) shall be
11 payable only if the participant had died while a covered employee.

12 (2) *Surviving spouse benefit.*

13 (i) If all of the following conditions are met, then the surviving spouse of a
14 deceased participant shall be entitled to receive a survivor benefit, in lieu
15 of any other plan benefit:

16 a. The participant is married on the date of death;

17 b. The participant's death occurs before the benefit commencement
18 date;

19 c. The participant has designated the participant's surviving spouse as
20 his or her beneficiary;

21 d. The participant has died in the line of duty as described in this
22 subsection 1.439A(b); and

23 e. Upon the death of the participant, the spouse does not elect to
24 receive the benefits provided in subsection 1.439A(b)(1).

25 (ii) a. For purposes of this subsection, the line of duty survivor benefit is
26 a monthly income commencing in the month next following the
27 participant's death and continuing for the remainder of the spouse's
28 life or earlier remarriage in an amount equal to 662/3 percent of the
29 participant's compensation determined as of the day before the

1 participant's death.

2 b. In the event of the death or remarriage of the spouse following the
3 death of the participant, a monthly benefit equal to 50 percent of
4 such compensation shall be paid, in the aggregate, to the
5 participant's surviving children who are named as contingent
6 beneficiaries.

7 c. The monthly benefits payable to any child of the participant
8 pursuant to this subsection shall continue until the first day of the
9 month preceding the earlier of:

10 1. The death of the child; or

11 2. The later of the child's:

12 i. Attainment of age 18, or

13 ii. Attainment of age 23, but only so long as the child
14 remains a full-time student.

15 (3) *Surviving children's benefit.*

16 (i) If all of the following conditions are met, then the surviving children of a
17 deceased participant shall receive a survivor benefit, in lieu of any other
18 plan benefit:

19 a. The participant's death occurs before the benefit commencement
20 date;

21 b. The participant has designated one or more of the participant's
22 children as his or her only primary beneficiaries; and

23 c. The participant has died in the line of duty as described in this
24 subsection 1.439A(b).

25 (ii) a. For purposes of this subsection, the line of duty survivor children's
26 benefit is a monthly income commencing in the month next
27 following the participants death in an amount equal to 50 percent
28 of the participant's compensation determined as of the day before
29 the participant's death and paid, in the aggregate, to the

1 participant's surviving children who are named as primary
2 beneficiaries.

3 b. The monthly benefits payable to any child of the participant
4 pursuant to this subsection shall continue until the first day of the
5 month preceding the earlier of:

6 1. The death of the child; or

7 2. The later of the child's:

8 i. Attainment of age 18; or

9 ii. Attainment of age 23, but only so long as the child
10 remains a full-time student.

11 (4) *Line of duty definition.* For purposes of this section, the term *line of duty* means
12 death from an injury or illness which has been sustained as an active covered
13 employee and which has been ruled compensable under the Workers'
14 Compensation Law of Maryland. *LINE OF DUTY DOES NOT INCLUDE DEATH FROM*
15 *AN INJURY OR ILLNESS WHICH HAS BEEN SUSTAINED DURING MILITARY SERVICE.*

16
17 ***Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that***
18 ***this Act shall become effective 61 days after its enactment.***



Internal Memorandum

Subject: Testimony for Bill No. – 2013

To: Lonnie R. Robbins
Chief Administrative Officer

From: L. Todd Allen 
Human Resources Administrator

Date: March 15, 2012

The Howard County Retirement Plan Committee and the Howard County Police and Fire Retirement Plan Committee jointly support passage of Bill No. – 2013, an amendment to the County’s Retirement Plans required by the “HEART” Act (the Heroes Earnings Assistance and Relief Tax Act of 2008). HEART impacts death benefits, disability benefits and wage differential payments for retirement plan participants with military service.

The Bill makes the following changes to the Plan:

1. Death Benefits

HEART mandates some death benefits for participants who die during military service and gives plan sponsors the opportunity to provide additional death benefits. The Retirement Plan Committees have recommended adoption by the County Council of the required death benefits. The Committees also approved a provision specifying that participants who die while performing military service are entitled to ordinary death benefits but are not entitled to line of duty death benefits.

2. Disability Benefits

HEART does not mandate any new disability benefits. However, it was not clear under the Plans whether participants who become disabled while performing military service are entitled to disability benefits under the Plans. The Committees approved a provision specifying that participants who become disabled while performing military service are entitled to ordinary disability benefits but are not entitled to line of duty disability benefits.

3. Differential Wage Payments

HEART requires the County to treat an individual receiving differential wage payments from an employer as an employee. The Committees recommend adoption by the County Council of the expanded definition of employee required by HEART. In addition, the County's practice has been to deduct employee contributions to the Plans from differential wage payments. The Committees recommend adoption by the County Council of language that clearly authorizes the County's practice.

Fiscal Note:

A copy of the fiscal impact statement prepared by Bolton Partners, Inc. is attached for reference.

Memo to Lonnie R. Robbins
Page Two
March 15, 2013

Next Steps:

To implement any retirement plan change:

- The Retirement Plan Committees must approve the legislation. The Committees unanimously approved the legislation at its October 25, 2012 meeting.
- The Pension Oversight Commission must consider the legislation. At its February 21, 2013 meeting, the Pension Oversight Commission reviewed the amendments and expressed no objection to the proposed legislation.
- The County Council and County Executive must consider and approve the legislation.

I am available to provide any further assistance or answer any questions you may have.



Todd Allen
Human Resources Administrator

cc: Ken Ulman, County Executive
Jennifer Sager, Legislative Coordinator
Howard County Retirement Plan Committee
Howard County Police and Fire Retirement Plan Committees

BOLTON  PARTNERS

June 12, 2012

Terry Reider
Retirement Coordinator
Howard County Government
3430 Court House Drive
Ellicott City, MD 21043

Re: *Howard County Police and Fire
Retirement Plan and Employees Plan –
HEART Amendment*

Dear Terry:

As requested by the Retirement Plan Committees, we reviewed the memo prepared by Paul Madden on May 24, 2012 which contains required and recommended amendments to both the Police and Fire Plan and the Employees Plan (the Plans) due to the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART). We have concluded that implementing both the required and recommended changes to the Plans will have an insignificant effect on the cost of the Plans.

In addition, the Committees asked for the cost impact (if any) if the Plans were amended to include a line-of-duty death benefit for participants who die during military service. We have concluded that implementing this line-of duty death benefit will also have an insignificant effect on the cost of the Plans.

Our analysis assumes there will be at most 3 participants per plan serving in the military at any one time. If the actual number becomes significantly larger, we can review the effect at that time.

I, Ann M. Sturner, am a member of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein. I am currently compliant with the Continuing Professional Development Requirement of the Society of Actuaries.

Please contact me if you need any additional information.

Sincerely,

BOLTON PARTNERS, INC.



Ann M. Sturner, FSA, EA

Bolton Partners, Inc.

100 Light Street • 9th Floor • Baltimore, Maryland 21202 • (410) 547-0500 • (800) 394-0263 • Fax (410) 685-1924
Actuarial, Benefit and Investment Consultants

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on May 8, 2013.

Sheila M. Tolliver
Sheila M. Tolliver, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2013.

Sheila M. Tolliver, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2013.

Sheila M. Tolliver, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2013.

Sheila M. Tolliver, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2013.

Sheila M. Tolliver, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2013.

Sheila M. Tolliver, Administrator to the County Council

