

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. 15 -2013

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

AN ACT amending the Howard County Police and Fire Employees' Retirement Plan to define the term "spouse"; making certain technical corrections; 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

Shula M. Jallouie  
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

Shula M. Jallouie  
Stephen LeGendre, Administrator

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

By order

Shula M. Jallouie  
Stephen LeGendre, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 7<sup>th</sup> day of May, 2013 at 4:30 a.m./p.m.

By order

Shula M. Jallouie  
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(ak) "Definitions"*

7  
8 2. *Title 1 –Human Resources*

9 *Section 1.444A "Eligible rollover distributions"*

10  
11 3. *Title 1 – Human Resources*

12 *Section 1.445A "Distributions to non-spouse beneficiaries"*

13  
14 **Title 1. Human Resources.**

15 **Subtitle 4A. Police and Fire Employees' Retirement Plans.**

16 **Article 1A. Generally.**

17  
18 **Section. 1.406A. Definitions.**

19 (ak) ~~[[Repealed.]]~~ *SPOUSE* MEANS AN INDIVIDUAL WHO IS MARRIED TO A PARTICIPANT. *SPOUSE*  
20 INCLUDES SAME-SEX AND OPPOSITE-SEX SPOUSES EXCEPT WHERE FEDERAL LAW REQUIRES A  
21 DIFFERENT MEANING.

22  
23 **Title 1. Human Resources.**

24 **Subtitle 4A. Police and Fire Employees' Retirement Plans.**

25 **Article IVA. Death Benefits.**

26  
27 **Section 1.444A. Eligible rollover distributions.**

28 This section applies to distributions made on or after January 1, 1993. Notwithstanding any  
29 provision of the plan to the contrary that would otherwise limit a distributee's election under this

1 section, a distributee may elect, at the time and in the manner prescribed by the Administrator, to  
2 have any portion of an eligible rollover distribution paid directly to an eligible retirement plan  
3 specified by the distributee in a direct rollover.

4 (a) *Definitions.*

5 (1) *Eligible rollover distributions.* An “eligible rollover distribution” means any  
6 distribution of all or any portion of the balance to the credit of the distributee, except  
7 that an eligible rollover distribution does not include:

8 (i) Any distribution that is one of a series of substantially equal periodic  
9 payments (not less frequently than annually) made for the life (or life  
10 expectancy) of the distributee or the joint lives (or joint life expectancies) of  
11 the distributee and the distributee's designated beneficiary, or for a specified  
12 period of ten years or more;

13 (ii) Any distribution to the extent such distribution is required under Section  
14 401(a)(9) of the Internal Revenue Code; and

15 (iii) The portion of any distribution that is not includable in gross income  
16 (determined without regard to the exclusion for net unrealized appreciation  
17 with respect to employer securities).

18 (2) *Eligible Retirement Plan*

19 (i) An “eligible retirement plan” is:

20 a. An individual retirement account described in Section 408(a) of the  
21 Internal Revenue Code;

22 b. An individual retirement annuity described in Section 408(b) of the  
23 Internal Revenue Code; or

24 c. A qualified trust described in Section 401(a) of the Internal Revenue  
25 Code, that accepts the distributee's eligible rollover distribution.

26 (ii) For distributions made after December 31, 2001, an eligible retirement plan  
27 also includes:

28 a. An annuity contract described in Section 403(b) of the Internal  
29 Revenue Code; or

- 1                   b.     An eligible plan under Section 457(b) of the Internal Revenue Code  
2                   which is maintained by a State, political subdivision of a State, or any  
3                   agency or instrumentality of a State or political subdivision of a State  
4                   and which agrees to separately account for amounts transferred into  
5                   such plan from this plan.
- 6                   (iii)    For distributions made after December 31, 2007, an eligible retirement plan  
7                   also includes a Roth IRA described in Section 408A of the Internal Revenue  
8                   Code.
- 9                   (iv)    However, in the case of an eligible rollover distribution to the surviving  
10                  spouse of a participant or former participant, an eligible retirement plan is an  
11                  individual retirement account or individual retirement annuity. However, for  
12                  distributions made after December 31, 2001, the definition of eligible  
13                  retirement plan as defined in subsection (i) shall also apply in the case of a  
14                  distribution to a surviving spouse, or to a spouse or former spouse who is the  
15                  alternate payee under a qualified domestic relation order, as defined in  
16                  Section 414(p) of the Internal Revenue Code.
- 17               (3)     *Distributee* includes a participant or former participant. In addition, the participant's  
18               or former participant's surviving spouse is a distributee with regard to the interest of  
19               the spouse or former spouse.
- 20               (4)     *Direct rollover* means a payment by the plan to the eligible retirement plan specified  
21               by the distributee.
- 22               (5)     *SPOUSE*. FOR PURPOSES OF THIS SECTION 1.444A, SPOUSE MEANS SPOUSE AS DEFINED  
23               UNDER FEDERAL LAW.

24

25 **Section 1.445A. Distributions to non-spouse beneficiaries.**

26               This section applies to distributions made on or after July 1, 2008. Notwithstanding any  
27               provision of the plan to the contrary that would otherwise limit the options of the beneficiary of a  
28               deceased participant who is not a distributee (within the meaning of section 1.444A of this subtitle),  
29               the Administrator shall, upon the request of such a beneficiary transfer a lump sum distribution to

1 the trustee of an individual retirement account established under Section 408 of the Internal  
2 Revenue Code in accordance with the provisions of ~~[[Section 402(e)(11)]]~~ SECTION 402(C)(11) of  
3 the Internal Revenue Code.

4

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



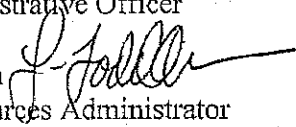


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*Internal Memorandum*

Subject: Testimony for Bill No. — 2013

To: Lonnie R. Robbins  
Chief Administrative Officer

From: L. Todd Allen   
Human Resources Administrator

Date: March 15, 2012

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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 following passage of the Civil Marriage Protection Act in Maryland's 2012 legislative session and subsequent passage of the "Question 6 Referendum Petition" on November 6, 2012 which legalized same-sex civil marriage.

The Bill makes the following changes to the Plan:

Clarifies our plan language that "spouse" means an individual who is married to a participant and that "spouse" includes same-sex and opposite-sex spouses except where federal law requires a different meaning. All language was reviewed and approved by Pension Plan legal counsel, Paul Madden.

The Committees recommend adoption by the County Council of language that clearly authorizes the County's practice.

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

**Fiscal Note:**

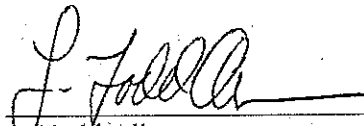
A copy of the fiscal impact statement prepared by Bolton Partners, Inc. is attached for reference.

**Next Steps:**

To implement any retirement plan change:

- The Retirement Plan Committees must approve the legislation. The Committees unanimously approved the legislation at its February 28, 2013 meeting.
- The Pension Oversight Commission must consider the legislation. At its February 21, 2013 meeting, the Pension Oversight Commission reviewed and considered the amendments. At that time, they expressed they would vote following the February 28, 2013 Retirement Plan meeting. They did vote to approve the proposed legislation and reported that to me formally on March 18, 2013.
- 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

January 31, 2013

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 –  
Change in definition of “spouse”*

Dear Terry:

You informed us that in the Retirement Plan Committees' meeting on January 24, 2013, the Committees proposed to change the definition of “spouse” in both the Police and Fire Plan and the Employees Plan (the Plans) to include same sex spouses. The change is driven by the recent change in Maryland law. The Committees asked for a cost impact statement before voting on the change.

We have concluded that implementing this change in the Plans will have an insignificant effect on the cost of the Plans. The only cost impact would be in the cost of the spousal pre-retirement death benefit where our 70% married assumption would need to increase.

Our analysis assumes there will be approximately 4 additional participants per plan who will have a same sex spouse. If the actual number becomes significantly larger, we can review the effect at that time and make changes to the actuarial assumptions as necessary. We did look for some data to determine if the number of 4 additional spouses per plan seemed reasonable and if the number might increase as the time the law is on the books increases. We could only find a limited amount of national data. We did conclude that the number could be 2% of members (4 per plan is about 0.5%). This means that our percentage married assumption of 70% could increase to between 70.5% and 72%. Neither is material.

Other factors to consider include:

1. In the Employees' plan, retirees can only cover spouses for the J&S option. Since these options are paid for through a reduction in benefits, there is no cost except for a small amount of anti-selection.
2. We can discuss if there are any changes needed in the SPD or benefit statements.
3. While not an issue for the Trustees, you might think about if there is any impact on health care benefits or cost.

**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*

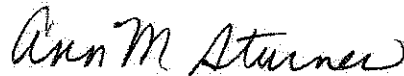
Terry Reider  
January 31, 2013  
Page 2

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.**

A handwritten signature in cursive script that reads "Ann M. Sturner".

Ann M. Sturner, FSA, EA

cc: Tom Lowman

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

