# ANNE ARUNDEL COUNTY
# PENSION OVERSIGHT COMMISSION

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December 29, 2023

Via: Electronic mail

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

County Executive Pittman,

In accordance with the procedures set forth in the County Charter, and per your request, I am submitting the Pension Oversight Commission's **Annual Report for 2022**. Due to a lack of funding, our Commission relies on the financial reports generated each year by the pension's actuarial firm to provide the assessment of the appropriateness of the actuarial assumptions used including a statement of revenues, which includes contributions, investment earnings, and forfeitures. We also review the cost of the plan, including an analysis of fees, commissions and expenses. Late in 2017, the County entered into a memorandum of understanding (MOU) with the Pension Oversight Commission (Commission). This MOU was at the request of former County Executive Schuh. After debate and compromise, the MOU was accepted as a means to satisfy all parties that the duties of the Commission are properly fulfilled without interference, and the Commission maintains independent authority.

The key provision that assists the Commission with its duties of providing a yearly report is Section 1(a) which requires the Board of Trustees to submit to the Commission a draft report of the status of the County pension plans. The draft report is required to be submitted prior to the submission of these reports to the County Council and County Executive. In accordance with the negotiations between the County Attorney and the Commission, these reports consist of the annual Comprehensive Financial Valuation Report and the individual plan valuation reports. A joint meeting of the Board of Trustees and the Commission occurred on September 19, 2023. The Board of Trustees has expressed an interest in resuming a more expedited pre-COVID timeline for the meeting and submission of reports and, this year, we have moved toward that goal by a month.

**Review of Financial Performance and Analysis:**

A review of the Comprehensive Annual Finance Report (CAFR) and valuation reports that were provided by the Board of Trustees reveals that, the plans' fiduciary net positions as a percentage of the total pension liability decreased substantially. The economy and investment returns suffered due to the poor economic conditions in 2022. Despite the administration's decision to lower the discount rate and invest funds at recommended levels into the systems, the economy had an overwhelming detrimental effect. The Commission looks forward to seeing the more positive returns that are expected from the improved 2023 economy but maintains concerns that the 2021 negatives will have a long-term drag on the pension system. The five-year smoothing applied to the calculations will help but there can be no doubt that the large economic ripples will have a long-term negative effect on the pension system. As was mentioned during this year's joint meeting, the goal is to have the system's most recent returns outperform those from six years prior, as that sixth year drops from the five-year smoothing. It will be four more years before we can fully realize the negative effect 2022 had on the system and the system will rely upon increased performance during the intervening years to soften that blow. Considering today's labor market, it is more important to maintain a healthy pension system that provides a competitive benefit to the employees of the County. This assures the citizens of the County that their government is attracting a qualified and skilled workforce. The Commission recommends the Administration continue this commitment to maintaining and improving the pension system.

While the Commission appreciates the assurances given as to the accuracy of the reports, the Commission had noted last year that it has been many years since the contract for auditing the pension system has been put out to bid. The Commission is very concerned about the lack of action on this matter. It is wise for the County to ensure that it continues to get the best value and, perhaps, have fresh eyes look into the finances of the pension system. Despite the Commission making this recommendation and having discussions with the Board of Trustees about this matter, this recommendation has not been acted upon.

**Review of the County's 401(a) Program:**

The Commission continues to request data related to the 401(a) program that was established in 2018. As an alternate to the defined benefit program, it is important to ensure that the programs complement each other and do not interfere with one another. The County Office of Personnel has submitted data regarding participation in the 401(a) program. The Commission now has multiple years of data and has ongoing concern about the efficacy of the program. The 401(a) program was aimed at recruiting young, educated employees, particularly with technical skills. Thus far, exempt employees appear to be taking advantage of the 401(a) program at somewhat more significant rates and there are relatively few employees in the target area taking advantage of the program.

This causes the Commission concern that the 401(a) program is not meeting its initial stated goal and is only a benefit for the highest ranking, most well-paid, exempt employees in the county. These employees are not participating in the pension plan and therefore have no personal interest in the maintenance of the pension system. This also creates a two-tiered benefit structure that creates stratification between exempt and non-exempt employees.

That is not to say that there are few non-exempt employees in the 401(a) plan, but it appears that those non-exempt employees are on the opposite end of the spectrum. They are the entry-level employees. This possibly indicates that these entry-level employees do not intend on staying for the full term of employment where they would expect a pension benefit. Thus, these employees are likely placeholders that are recruited for the short-term to fill critical vacancies until such time as career-timeframe employees can be hired. This might indicate a future high level of turnover in those positions which is detrimental to building institutional knowledge within the county workforce.

Finally, the participation based upon age is relatively even across ten age bands. This, again, possibly indicates that the program has not been effective at recruiting young professionals, particularly in the information technology fields, as was the goal of the 401(a) program. When the Administration has been questioned on this matter, they admitted they have little data as to why participants select the 401(a) program, whether it is actually meeting the needs of the employees, or if they regret their decision. The Office of Personnel committed to share more information this year, but this information has yet to materialize.

The Commission urges the Administration and the County Council to gather appropriate data to analyze whether the 401(a) program is accomplishing a valid goal and if it is creating unforeseen negative consequences. Additionally, it is worthy of exploring why the County is unable to recruit entry-level employees into career-timeframe employment positions. Reform of the 401(a) program may be necessary to properly address its initial goals. The Commission has previously made this recommendation to the Administration but it has not been acted on.

**County Personnel Employees' Salaries Reimbursed by the Pension System:**

The Commission has repeatedly requested data from County Personnel on the pension system's funding of salaries of employees of County Personnel. These employees are ostensibly assigned tasks related to the management of the pension system. Unfortunately, the County has been unable to account for the time actually spent by these employees on pension-related tasks. The County has been able to provide the job classifications and percentage of salary provided by the pension system but, despite two years of requesting an actual accounting of time spent on these tasks, the County has been unable to provide those data. This is concerning because there is no way to determine if the pension system is receiving pension services it is paying for. There is a significant transparency problem when funds are being spent without any accounting, and whether those funds are actually paying for the pension services they are intended. The Commission requests that County Personnel undertake proper data collection so that the Commission can evaluate the cost of pension services provided by County Personnel. It may be appropriate to transfer such expense away from the pension systems and place that responsibility solely with the County. The Commission has made this request repeatedly and it has not been acted on.

**The Commission has noted that the last three concerns expressed to the Administration have been made repeatedly, over multiple years. The Administration has failed to heed the advice and recommendations of the Commission. Therefore, the Commission is placed into a position where it must now urge the County Council to exercise their legislative authority.**

**RECOMMENDATIONS:**

- **Re-bid the pension system's accountant and actuary contracts**
- **Conduct an analysis of the County's 401(a) program goals, expectations, successes and failures and provide a report to the Pension Oversight Commission**
- **Either: (1) Conduct an analysis of County Personnel employees' time spent on pension tasks and compare that data to the salary funding levels provided by the pension system. Provide a report of this analysis to the Pension Oversight Commission. Or, (2) Introduce and pass legislation to remove the pension system's requirement to reimburse the County for partial or full salaries of County Personnel employees.**

As Chairman, I have presided over publicized, open meetings of our Commission to consolidate their collective thoughts and ideas regarding each bill introduced and presented our final position before submitting them to your office and the County Council. In 2022, there were two pension related bills submitted for review. Minutes for meetings have been submitted to the County for posting on its website for review.

Bill 27-22 allows for retired participants of the Police and Fire Pension Systems who, prior to the legalization of same-sex marriage in Maryland, elected a reduced, annuity benefit to provide for survivor benefits for their same-sex partners. The Commission supported this legislation correcting a longstanding wrong inflicted upon participants of the pension system with very minimal impact to the health of the pension system. This bill passed and was signed into law.

Bill 61-22 removed the ability of the appointing authority to deny a sixth year of participation in the Deferred Retirement Option Plan (DROP) to those in the Fire Service Retirement Plan below the rank of Battalion Chief, for whom that ability had been previously removed. This bill was submitted on behalf of the administration as a result of a collectively bargained contract with the Fire Service members affected by the change. The Commission supported this legislation because of its longstanding support of the collective bargaining process and because the provisions are consistent with effective administration of the DROP. Furthermore, the fiscal impact of this legislation should be neutral due to the cost-neutral design of the DROP.

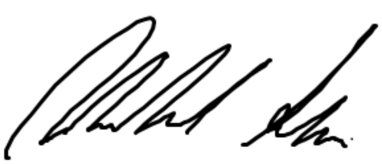
During the month of September 2022, Commission member Julius Jones was appointed as a citizen representative. The Commission was fully staffed for the remainder of the year. The Administration is in the process of replacing Ms. Susan Duncan who served with the Commission for two terms. I am sure you will join the Commission in extending our thanks to Ms. Duncan for her years of dedicated service. The County will also begin the process of facilitating the election of a new Uniformed Police representative as I approach the end of my second term. I extend my personal thanks for the unwavering support of all of the Pension Oversight Commission members I have served with for the past eight years and look forward to watching the Commission's positive impact on the pension system's health.

The Pension Oversight Commission continues its important work, as determined by the citizens of Anne Arundel County. The Commission provides an apolitical, unbiased, and non-partisan analysis of how the County's pension system is operating and the legislation that will affect it. It is our belief that the membership of the Commission reflects a thoughtful and intelligent composition of views, as evidenced by our members' varied backgrounds. Additionally, we have been able to achieve consensus views that apply a thoughtful and dedicated analysis of the issues at hand with an eye toward maintaining a healthy and productive pension system that is to the benefit of the County, employees and citizens.

## 2022 Members of the Pension Oversight Commission:

1. ***Michael Shier Esq.*** *(Chairman) – Uniformed Police Officer | Conductor of FOP Lodge #70 | Educated: University of Maryland, College Park | University of Maryland, Carey Law School of Law (J.D. 2020)*
2. ***Robert Stull*** *(Secretary) – AFSCME Representative – Wastewater Tech II Anne Arundel County Dept. of Public Works.*
   *Educated: University of Texas, San Antonio | Anne Arundel Community College*
3. ***Susan Duncan*** *– Human Resources Consultant* **|** *Annapolis, Maryland Government Administration | HR Solutions by the Hour | U.S. Army, U.S. Army Corps of Engineers*
   *Educated: Virginia Polytechnic Institute and State University*
4. ***Joseph Bernatowicz, MBA –*** *Energy Manager | Anne Arundel County Department of Public Works* **|** *Educated: Clarkson University and University Of Maine*
5. ***Jamie McIntosh****– Fire Service Representative –Anne Arundel County Fire Dept. Lieutenant | Information Management Division, Communications Center Shift Officer*
   *Educated: James Madison University*
6. ***Ed Gosselin*** *–Real Estate Development| Chesapeake Real Estate Group| MD Economic Development Corp Board| Anne Community Development Corp Board | Educated: Colorado State University, Masters DePaul University| Resident since 1996.*
7. ***Mark Humphries, CFP®* -** *Owner | Sentinel Financial Planning, LLC | The National Association of Personal Financial Advisors | Anne Arundel Chamber of Commerce | Educated: University of Central Florida | Resident since 2012*
8. ***Sherri Voelkel*** *– Certified Public Accountant | Chief Financial Officer, McDonogh School | Member Maryland Association of Certified Public Accountants | President of the Board, Association of Independent Maryland Schools Benefit Trust | Member of the Board of Trustees of the Independent School Data Exchange | Educated: University of Tulsa | Resident since 1997*
9. ***Julius Jones****– Emergency Management Professional | Federal Emergency Management Agency (FEMA) | Salisbury University Foundation Board Director | Educated: Salisbury University*

Sincerely,



Michael Shier
Chairman – Pension Oversight Commission

Cc: Allison Pickard, Amanda Fiedler, Peter Smith
Shannon Leadbetter, Nathan Volke
Lisa Rodvein, Julie Hummer