



**ANNE ARUNDEL COUNTY
OFFICE OF THE COUNTY AUDITOR**

August 13, 2012

The Honorable Members of the County Council
The Honorable County Executive John R. Leopold
Ms. Andrea Fulton, Personnel Officer
Anne Arundel County, Maryland
44 Calvert Street
Annapolis, Maryland 21401

Dear Members, Mr. Leopold, and Ms. Fulton:

In accordance with Section 311 of the County Charter, I am calling to your attention and taking exception to the following irregularity and improper procedure.

Under §§ 5-1-203(b) of the County Code, when the County rehires a retired employee, the employee's retirement benefit is reduced \$1 for every \$2 earned, unless the employee meets one of the exceptions found in § 5-1-203(c). The exceptions found in § 5-1-203(c) were enacted by Bill No. 66-05, effective November 24, 2005. An employee retired from the Office of the State's Attorney rehired into an hourly rate position not to exceed 1,500 hours a year is not subject to the pension reduction if the position from which the employee retired was subject to the provisions of the Fair Labor Standards Act (FLSA).

During my review of the proposed fiscal year 2013 budget for the Office of the State's Attorney, I noted an increase in the appropriation requested for employees in hourly rate positions. I was familiar with the positions from which some of the employees retired, and I knew that their positions were not subject to the provisions of FLSA at the time the employees retired. Consequently, these employees would not meet any of the exceptions in § 5-1-203(c).

I asked Personnel Officer Andrea Fulton whether the Office of Personnel had reduced the retirement benefits \$1 for every \$2 earned for the hourly rate employees in the State's Attorney's Office. Ms. Fulton provided documentation showing that six employees who retired from the State's Attorney's Office are currently reemployed in hourly rate positions. The positions held by all six were classified by the State's Attorney at the time of the employees' retirements as exempt from FLSA.

The Office of Personnel reviewed the State's Attorney's classifications and determined that two of the employees retired from positions that were subject to FLSA. One was hired after the effective date of Bill No. 66-05 and, therefore, not subject to any reduction in benefits. The other was rehired prior to the effective date of Bill No. 66-05; therefore, from the date of rehire until the effective date of Bill No. 66-05, the Office of Personnel should have reduced the employee's retirement benefit \$1 for every \$2 earned.

The Office of Personnel determined that the State's Attorney classified the other four positions correctly. Consequently, these four employees did not meet any of the exceptions in § 5-1-203(c), and the Office of Personnel should have reduced the employees' retirement benefits \$1 for every \$2 earned. The total amount of overpayments for these four employees plus the employee who was rehired prior to the effective date of Bill No. 66-05 was approximately \$236,500 from 1998 through June 15, 2012.

Management's Response:

The Office of Personnel agrees with the Auditor's findings. Effective July 1, 2012 the retirement allowances of three of the individuals identified as rehired retirees subject to the reduction have had their retirement benefit payment reduced. Effective August 1, 2012 all four of the individuals have had their benefit payment reduced. We have notified the retirees of the overpayment for the periods where their retirement allowance was not reduced and have commenced action to recover the overpayments. Additionally the Office has reviewed the status of all current rehired retirees to verify that their payments are consistent with County Code provisions.

The Office has communicated this provision of the County Code to the personnel analysts that hold retirement seminars and retirement counseling sessions to ensure that this information is presented correctly to retirees and potential retirees. Furthermore, at the time of retirement, the pension analysts will go over the reemployment after retirement rules with the retiree including a review of their status at retirement and how that will affect their reemployment options. All retirees sign that they have read and understood how reemployment may impact their pension earnings. This Office runs a report of rehired retirees to check for potential earnings reductions and has added a step to check the classified/Exempt status and FLSA status of rehired retirees.

Please call if you have any questions regarding my findings.

Sincerely,



Teresa Sutherland, CPA
County Auditor