

**MEMORANDUM**

TO: County Council

FROM: Robert H. Drummer, Legislative Attorney 

SUBJECT: **Introduction:** Expedited Bill 1-08, Personnel – Disability Retirement – Group F and G

Expedited Bill 1-08, Personnel – Disability Retirement – Group F and G, sponsored by the Council President at the request of the County Executive, is scheduled to be introduced on January 15, 2008. A public hearing is tentatively scheduled for February 5 at 1:30 p.m.

Bill 1-08 would require the County to pay a Group G member who retires on a service-connected disability retirement between June 26, 2002, and June 30, 2007 a pension based on average final earnings if it results in a greater benefit than final earnings. It also requires the County to pay a Group F member who retires on a service-connected disability pension on or after June 26, 2002 a pension based on average final earnings if it results in a greater benefit than final earnings or the benefit the member would otherwise receive under Section 33-43.

The County Executive and the Fraternal Order of Police, Montgomery County Lodge #35 agreed to submit this change to the Council in the most recent collective bargaining negotiations after it was discovered that the service-connected disability pensions for 6 police officers who retired after June 26, 2002 were inadvertently calculated based upon average final earnings instead of final earnings. Although final earnings normally result in a greater benefit, the pensions for these 6 police officers resulted in a larger benefit using average final earnings. Bill 1-08 corrects this problem in the future and permits these 6 retired police officers to retain the higher pension. Bill 1-08 also makes a similar change for Group G members to permit 2 retired firefighters to keep the higher service-connected disability pension they received last year due to the inadvertent calculation of benefits based upon a higher average final earnings.

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Expedited Bill No. 1-08  
Concerning: Personnel - Disability  
Retirement - Group F or G  
Revised: 1/03/08 Draft No. 3  
Introduced: January 15, 2008  
Expires: July 15, 2009  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Council President at the Request of the County Executive

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### AN EXPEDITED ACT to:

- (1) require the County to pay a Group G member who retires on a service-connected disability retirement between June 26, 2002, and June 30, 2007 a pension based on average final earnings if it results in a greater benefit than final earnings in cases where the greater benefit under 33-43 resulted in the benefit calculated under 33-42;
- (2) require the County to pay a Group F member who retires on a service-connected disability pension on or after June 26, 2002 a pension based on average final earnings if it results in a greater benefit than final earnings in cases where the greater benefit under 33-43 resulted in the benefit calculated under 33-42; and
- (3) generally amend the law regarding disability retirement.

By amending

Montgomery County Code  
Chapter 33, Personnel and Human Resources  
Section 33-43

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*





# LEGISLATIVE REQUEST REPORT

Bill 1-08, Personnel – Disability Retirement –Group F and G

**DESCRIPTION:** The requested legislation amends Section 33-43, *Disability Retirement*, of the County Retirement Law to clarify that when calculating an annual pension for service connected disability retirements, “average final earnings” will be used if it results in a greater benefit than “final earnings”.

**PROBLEM:** It was discovered last year that as a result of a computer system error six retired police officers had their disability benefits calculated using “average final earnings” rather than “final earnings.” Normally, a participant would receive a higher benefit based on “final earnings.” Under the current language of the County Retirement Law, these officers were overpaid because their “average final earnings” were higher than their “final earnings” because of the way that roll call and shift differential pay are handled. In the absence of this proposed legislation, these officers would have to repay the retirement system for the overage and their future benefits would be reduced using “final earnings.” The original intent for using “final earnings” in a service connected disability was to provide a higher benefit than using “average final earnings.” The County and the Fraternal Order of Police, Montgomery County Lodge #35 agreed during the recent term collective bargaining negotiations to submit this technical change. Since this same problem impacted two retired firefighters last year, we have decided to apply this clarifying language to Group G as well.

**GOALS AND OBJECTIVES:** To resolve the matter of these six retired police officers and two retired firefighters and to address in the future for police officers the rare case where “average final earnings” are greater than “final earnings,” by amending the County Retirement Law to clarify that when calculating an annual pension for service connected disability retirements, “average final earnings” will be used if it results in a greater benefit than “final earnings”.

**COORDINATION:** Office of Human Resources

**FISCAL IMPACT:** Office of Management and Budget

**ECONOMIC IMPACT:** minimal

**EVALUATION:** n/a

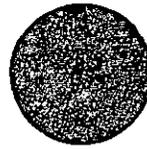
**EXPERIENCE  
ELSEWHERE:** n/a

**SOURCE OF  
INFORMATION:** Stuart Weisberg OHR (7-5154)

**APPLICATION  
WITHIN  
MUNICIPALITIES:** n/a

**PENALTIES:** n/a

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OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Isiah Leggett  
County Executive

2007 JUL 19 PM 1:30

RECEIVED  
MONTGOMERY COUNTY  
COUNCIL

MEMORANDUM

July 17, 2007

TO: Marilyn J. Praisner, President  
Montgomery County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Expedited Bill for Technical Amendment to Disability Retirement Law

The attached expedited bill would amend the County Retirement Law to clarify that in calculating an annual pension for service connected disability retirements, "average final earnings" will be used if it results in a greater benefit than "final earnings". The County and the Fraternal Order of Police, Montgomery County Lodge #35 agreed during the recent term collective bargaining negotiations to submit this technical change.

It was discovered last year that as a result of a computer system error six retired police officers had their disability benefits calculated using "average final earnings" rather than "final earnings." Normally, a participant would receive a higher benefit based on "final earnings." Under the current language of the County Collective Bargaining Law, these officers were overpaid because their "average final earnings" were higher than their "final earnings" because of the way that roll call pay and shift differential are handled. In the absence of this proposed clarifying language, these officers would have to repay the retirement system for the overage and their future benefits would be reduced using "final earnings." The original intent for using "final earnings" in a service connected disability was to provide a higher benefit rather than using "average final earnings." Since this same problem impacted two retired firefighters last year, we have decided to apply this clarifying language to Group G as well. The purpose of this bill is to resolve the matter of these six retired police officers and two retired firefighters as well as to address in the future for police officers the rare case where "average final earnings" provide a greater benefit than "final earnings."

IL:sw

Attachments

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