

**MEMORANDUM**

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Public Hearing:** Bill 46-09, Personnel – Regulations – Persons with Disabilities – Hiring Preference

Bill 46-09, Personnel – Regulations – Persons with Disabilities – Hiring Preference, sponsored by Council President Andrews, was introduced on December 1. A Management and Fiscal Policy Committee worksession is tentatively scheduled for January 21 at 1:30 p.m.

Bill 46-09 would require the Executive to adopt regulations establishing and maintaining a hiring preference for certain qualified persons with disabilities who apply for an initial appointment to a County merit system position. The preference would only apply to a person who is among the highest rating category in a normal competitive process.

The Office of Legislative Oversight issued a report on “Hiring Persons with Disabilities: A Review of County Government Practices” on June 10, 2008.<sup>1</sup> The report found that persons with disabilities face many barriers to employment that prevent them from getting jobs. The report also found that the unemployment rate for persons with disabilities is consistently higher than the unemployment rate for persons without a disability despite studies showing that employees with and without disabilities have comparable performance, longevity rates, and absenteeism rates.

<u>This packet contains:</u>	<u>Circle #</u>
Bill 46-09	1
Legislative Request Report	7

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<sup>1</sup> A copy of the report is available online at:  
<http://www.montgomerycountymd.gov/content/council/olo/reports/pdf/2008-9.pdf>.

Bill No. 46-09  
Concerning: Personnel – Regulations –  
Persons with Disabilities – Hiring  
Preference  
Revised: November 25, 2009 Draft No. 4  
Introduced: December 1, 2009  
Expires: June 1, 2011  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Councilmember Andrews and Council Vice President Ervin

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**AN ACT** to:

- (1) require the Executive to adopt regulations establishing and maintaining a hiring preference for certain qualified persons with disabilities who apply for County merit positions;
- (2) require the preference to apply to a person who is among the highest rating category in a normal competitive process; and
- (3) generally amend the merit system law concerning hiring persons with disabilities and make stylistic and conforming changes to related provisions.

By amending

Montgomery County Code  
Chapter 33, Personnel and Human Resources  
Section 33-7 and 33-9

<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:*

1           **Sec. 1. Sections 33-7 and 33-9 are amended as follows:**

2   **33-7. County Executive and Merit System Protection Board responsibilities.**

3           (a) *Generally.* In performing its functions, the Board is expected to protect  
4           the merit system and to protect employee and applicant rights  
5           guaranteed under the merit system, including protection against  
6           arbitrary and capricious recruitment and supervisory actions, support for  
7           recruitment and supervisory actions demonstrated by the facts to be  
8           proper, and to approach these matters without any bias or predilection to  
9           either supervisors or subordinates. The remedial and enforcement  
10          powers of the Board granted herein [shall] must be [fully] exercised by  
11          the Board as needed to rectify personnel actions found to be improper.  
12          The Board [shall] must comment on any proposed changes in the merit  
13          system law or regulations, at or before the public hearing thereon. The  
14          Board, subject to the appropriation process, [shall] must [be responsible  
15          for establishing] establish its staffing requirements [necessary to  
16          properly implement its duties] and [to] define the duties of [such] its  
17          staff.

18          (b) *Personnel regulations.* The County Executive [shall] must adopt  
19          personnel regulations under Method (1) [of section 2A-15 of this Code].  
20          The personnel regulations [shall] must provide the framework for:

- 21           (1) The classification of all merit system positions in the executive  
22           and legislative branches;
- 23           (2) Minimum qualifications for merit system positions, methods of  
24           determining qualifications and methods of selection for any  
25           positions;
- 26           (3) Probationary periods, promotions, transfers;

27 (4) Causes for removal from any merit system position and methods  
 28 of removal, including demotions, furloughs, and reduction of  
 29 staff. However, any regulations governing a reduction in staff and  
 30 employee rights attendant thereto shall be restricted to the  
 31 respective branch of government in which the employee is  
 32 employed; in the case of the legislative and judicial branches, this  
 33 sentence shall apply to employees hired by the legislative and  
 34 judicial branch, respectively, after August 1, 1983.

35 (5) Annual, sick and other leave;

36 (6) Prohibitions against political activity;

37 (7) Maintenance of personnel records; and

38 (8) Similar personnel matters as may be provided by law.

39 (c) *Classification standards.* With respect to classification matters, the  
 40 County Executive [shall] must provide by personnel regulation, adopted  
 41 [in the manner specified above] under Method (1), standards for  
 42 establishing and maintaining a classification plan. These standards may  
 43 include but are not limited to the following:

44 (1) The necessary components of class specifications;

45 (2) Criteria for the establishment of new classes, modification or  
 46 elimination of existing classes;

47 (3) Criteria for the assignment of positions to classes;

48 (4) Kinds of data required to substantiate allocation of positions;

49 (5) Guidelines for comparing levels of job difficulty and complexity;  
 50 and

51 (6) Criteria for the establishment or abolishment of positions.

52 The Board [shall] must conduct or authorize periodic audits of  
 53 classification assignments made by the Chief Administrative Officer

54 and of the general structure and internal consistency of the classification  
 55 plan, and [shall] must submit audit findings and recommendations to the  
 56 County Executive and County Council.

57 (d) Hiring preference for persons with disabilities. The Executive must  
 58 adopt by personnel regulation, under Method (1), standards for  
 59 establishing and maintaining a preference for the initial appointment of  
 60 a qualified person with a disability into a merit system position. These  
 61 standards must:

62 (1) define a person with a disability who is eligible for the  
 63 preference;

64 (2) require medical certification of a qualifying disability;

65 (3) establish the order of preference in relation to other preferences  
 66 authorized by law; and

67 (3) only apply the preference to a person who is among the highest  
 68 rating category in a normal competitive process.

69 (e) Personnel regulation review. The Merit System Protection Board [shall]  
 70 must meet and confer with the Chief Administrative Officer and  
 71 employees and their organizations from time to time to review the need  
 72 to amend these regulations.

73 [(e)] (f) Adjudication. The Board [shall] must hear and decide disciplinary  
 74 appeals or grievances upon the request of a merit system employee who  
 75 has been removed, demoted or suspended and in such other cases as  
 76 required herein.

77 [(f)] (g) Retirement. The Board may from time to time prepare and  
 78 recommend to the Council modifications to the County's system of  
 79 retirement pay.

80        [(g)] (h)        *Personnel management oversight.* The Board [shall] must review  
 81                    and study the administration of the County classification and retirement  
 82                    plans and other aspects of the merit system and transmit to the Chief  
 83                    Administrative Officer, County Executive and [the] County Council its  
 84                    findings and recommendations. The Board [shall] must conduct such  
 85                    special studies and audits on any matter relating to personnel as may be  
 86                    periodically requested by the County Council. All County agencies,  
 87                    departments and offices and County employees and organizations  
 88                    [thereof shall] must cooperate with the Board and have adequate notice  
 89                    and an opportunity to participate in any such review initiated under this  
 90                    Section.

91        [(h)] (i)        *Publication.* Consistent with the requirements of [the Freedom of  
 92                    Information Act] State law, confidentiality and other provisions of law,  
 93                    the Board [shall] must publish, at least annually, abstracts of its  
 94                    decisions, rulings, opinions and interpretations, and maintain a  
 95                    permanent record of its decisions.

96        [(i)] (j)        *Public forum.* The Board [shall] must convene at least annually a  
 97                    public forum on personnel management in the County government to  
 98                    examine the implementation of Charter requirements and the merit  
 99                    system law.

### 100    **33-9. Equal employment opportunity and affirmative action.**

101        (a)    *Policy.* [The county's policy shall be to] Except as provided in Section  
 102                    33-7(d), the County must take all personnel actions on the basis of  
 103                    merit and fitness without regard to political affiliation or non-merit  
 104                    factors, and without regard to other factors as may be provided for in  
 105                    chapter 27, "Human Relations and Civil Liberties," such as sex, marital  
 106                    status, race, religion, national origin, age or [handicap] disability. The

107 Chief Administrative Officer [shall be responsible for initiating,  
 108 developing and maintaining] must initiate, develop, and maintain [such]  
 109 an equal employment opportunity and affirmative action program [as]  
 110 necessary to ensure that all persons have an equal opportunity to enter  
 111 and progress in the County's service on the basis of open competition  
 112 and demonstrated ability. The County Executive [is authorized to issue  
 113 such] may adopt regulations, [adopted] under Method (1) [of section  
 114 2A-15 of this Code], [as necessary] to implement this policy. Such  
 115 regulations [shall] must provide that an employee whose personal  
 116 religious beliefs require the abstention from work during certain periods  
 117 of time may elect to engage in an alternate work schedule in order to  
 118 meet those religious requirements. The [regulation shall] regulations  
 119 must [include provision for any] require an employee who elects to  
 120 work an alternate schedule to [be obligated to] work an equal period of  
 121 time to that taken off for such religious reasons.

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123 *Approved:*

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Philip M. Andrews, President, County Council

Date

125 *Approved:*

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Isiah Leggett, County Executive

Date

## LEGISLATIVE REQUEST REPORT

Bill 46-09, Personnel – Regulations – Persons with Disabilities – Hiring Preference

<b>DESCRIPTION:</b>	Bill 46-09 would require the Executive to adopt regulations establishing and maintaining a hiring preference for certain qualified persons with disabilities who apply for County merit positions. The preference would only apply to a person who is among the highest rating category in a normal competitive process.
<b>PROBLEM:</b>	The Office of Legislative Oversight issued a report on “Hiring Persons with Disabilities: A Review of County Government Practices” on June 10, 2008. The report found that persons with disabilities face many barriers to employment that prevent them from getting jobs. The report also found that the unemployment rate for persons with disabilities is consistently higher than the unemployment rate for persons without a disability despite studies showing that employees with and without disabilities have comparable performance, longevity rates, and absenteeism rates.
<b>GOALS AND OBJECTIVES:</b>	To establish the County as a leader in hiring qualified persons with a disability.
<b>COORDINATION:</b>	Office of Human Resources, County Attorney’s Office, Office of Legislative Oversight, Commission on People with Disabilities.
<b>FISCAL IMPACT:</b>	To be requested.
<b>ECONOMIC IMPACT:</b>	To be requested.
<b>EVALUATION:</b>	To be requested.
<b>EXPERIENCE ELSEWHERE:</b>	To be researched.
<b>SOURCE OF INFORMATION:</b>	Robert H. Drummer, Senior Legislative Attorney, 240-777-7895
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	Not applicable.
<b>PENALTIES:</b>	Not applicable.