

**MEMORANDUM**

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Introduction:** Expedited Bill 35-10, Personnel – Disability Retirement – Imputed Compensation

Expedited Bill 35-10, Personnel – Disability Retirement – Imputed Compensation, sponsored by Councilmembers Elrich, Andrews, and Trachtenberg, is scheduled to be introduced on May 27, 2010. A public hearing is tentatively scheduled for June 15 at 1:30 p.m.

Bill 35-10 would amend the definition of final earnings to extend imputed compensation beyond FY10 for certain employees who apply for disability retirement benefits under the employees' retirement system by a certain date. The Bill would also modify the qualifications, selection, and operating procedures for the members of the Disability Review Panel.

This packet contains:	<u>Circle #</u>
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Expedited Bill No. 35-10  
Concerning: Personnel – Disability  
Retirement – Imputed Compensation  
Revised: May 21, 2010 Draft No. 3  
Introduced: May 27, 2010  
Expires: November 27, 2011  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: No Expiration  
Ch. [#], Laws of Mont. Co. [year]

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Councilmembers Elrich, Andrews, and Trachtenberg

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**AN EXPEDITED ACT to:**

- (1) amend the definition of final earnings to extend imputed compensation beyond FY10 for certain members who apply for disability retirement benefits under the employees' retirement system by a certain date;
- (2) modify the qualifications, selection, and operating procedures for disability review panel members; and
- (2) generally amend the law regarding disability retirement.

By amending

Montgomery County Code  
Chapter 33, Personnel and Human Resources  
Sections 33-35 and 33-43

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<b>[Single boldface brackets]</b>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<b>[[Double boldface brackets]]</b>	<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.       Section 33-35 is amended as follows:**

2   **33-35. Definitions.**

3           In this Article, the following words and phrases have the following meanings:

4                                   \*                   \*                   \*

5           *Final earnings*: Except as otherwise provided, the regular earnings of a  
6           member as of the last date of active service. Final earnings for a member who  
7           filed an application for disability benefits under Section 33-43 before May 19,  
8           2010 that is approved after June 30, 2010 must be the member's regular  
9           earnings on the date of the member's application.

10                                   \*                   \*                   \*

11   **33-43. Disability Retirement**

12                                   \*                   \*                   \*

13           (c)   *Selection of the Disability Review Panel.*

- 14           (1)   The Chief Administrative Officer must appoint 4 members of the  
15           Disability Review Panel from a list of at [lease 10] least 5  
16           impartial, unbiased medical doctors willing and able to serve  
17           provided by one or more impartial medical organizations retained  
18           by the Chief Administrative Officer. If the list of doctors  
19           provided by the impartial medical organization is not agreed to  
20           by the certified representatives and the County, the certified  
21           representatives must strike [3 names] 1 name from the list and the  
22           County must strike [3 names] 1 name from the list by alternating  
23           strikes. The Chief Administrative Officer must appoint a  
24           member from the remaining [4] 3 names on the list.
- 25           (2)   The Chief Administrative Officer must appoint members who are  
26           licensed to practice medicine and certified in a medical specialty  
27           under standards established by the American Board of Medical

1                    Specialties (or a successor organization). At least 1 member [who  
2                    are] must be either:

3                    (A) certified by the American Board of Preventive Medicine  
4                    (or a successor organization) as a specialist in occupational  
5                    medicine; or

6                    (B) certified in a different medical specialty and have at least  
7                    10 years of experience practicing occupational medicine.

8                    (3) (A) The Chief Administrative Officer must appoint members  
9                    under subsection (c)(1) for staggered 3-year terms. To  
10                    implement the staggered terms, the Chief Administrative  
11                    Officer must appoint the first member to a 3-year term, the  
12                    second member to a one-year term, and the third and  
13                    fourth members to a 2-year term. After these initial  
14                    appointments, the Chief Administrative Officer must  
15                    appoint all members to 3-year terms, except for any  
16                    member appointed under subsection (c)(6) to fill a  
17                    vacancy.

18                    (B) After the Chief Administrative Officer appoints or  
19                    reappoints a Panel member, the Chief Administrative  
20                    Officer must promptly send each certified representative a  
21                    copy of the document confirming the appointment.

22                    (4) When a Panel member's term expires, the Panel member may be  
23                    reappointed to a new 3-year term unless, at any time within 30  
24                    days to 60 days prior to the expiration of the term, a certified  
25                    representative notifies the County and the other certified  
26                    representatives or the County notifies the certified representatives  
27                    that it objects to the reappointment of the Panel member. If there

1 is no objection, the Panel member is eligible to serve an  
2 additional term or terms.

3 (5) If a Panel member declines to be reappointed to the Panel, the  
4 Chief Administrative Officer must appoint a new Panel member  
5 from a list of at least [10] 5 medical doctors as provided for in  
6 subsection (c)(1).

7 (6) If a vacancy on the Panel is created by a Panel member's death,  
8 disability, resignation, non-performance of duty, or other cause,  
9 the Chief Administrative Officer must appoint a medical doctor  
10 to complete the Panel member's term from a list of at least [10] 5  
11 medical doctors as provided for in subsection (c)(1).

12 (7) The County must pay the impartial medical organization retained  
13 by the County and each Panel member reasonable compensation,  
14 as determined by the Chief Administrative Officer, for services  
15 rendered.

16 (d) *Disability retirement procedures.*

17 \* \* \*

18 (6) The Panel must meet in person, by telephone conference, or by  
19 video conference, and review and consider all evidence submitted  
20 to it no later than 60 days after the application is filed. A Panel  
21 must include either 2 or 3 members. [majority] At least 2  
22 members must vote [of 3] [members] in favor of a decision [is  
23 required] to take any action under this Section.

24 \* \* \*

25 **Sec. 2. Expedited Effective Date.**

26 The Council declares that this legislation is necessary for the immediate  
27 protection of the public interest. This Act takes effect on the date on which it

1 becomes law.

2 \* \* \*

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4 *Approved:*

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Nancy Floreen, President, County Council

Date

6 *Approved:*

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Isiah Leggett, County Executive

Date

8 *This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council

Date

## LEGISLATIVE REQUEST REPORT

Expedited Bill 35-10

*Personnel – Disability Retirement – Imputed Compensation*

<b>DESCRIPTION:</b>	This Bill would amend the definition of final earnings to extend imputed compensation beyond FY10 for certain members who apply for disability retirement benefits under the employees' retirement system. The Bill would also modify the qualifications, selection, and operating procedures for the members of the Disability Review Panel.
<b>PROBLEM:</b>	The enactment of Expedited Bill 16-10 limited the use of the FY10 general wage adjustment that was not paid to the calculation of regular earnings for retirement purposes to FY10. A limited number of employees have pending applications for disability retirement that will be approved in FY11. In addition, the County has had difficulty recruiting new members for the Disability Review Panel due to the mandatory qualifications and selection procedures.
<b>GOALS AND OBJECTIVES:</b>	The Bill is intended to permit an employee with a pending disability retirement application that is not approved until FY11 to enjoy the benefits of the imputed compensation for FY10. The Bill is also intended to enhance the recruitment of new members for the Disability Review Panel.
<b>COORDINATION:</b>	Office of Human Resources, County Attorney's Office
<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.