



OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Douglas M. Duncan  
County Executive

MEMORANDUM

July 6, 2001

TO: Blair Ewing, President  
Montgomery County Council

FROM: Douglas M. Duncan, County Executive *Douglas M. Duncan*

SUBJECT: Bill 19-01, *Personnel – Retirement – Amendments*

You have delivered Bill 19-01 to me for approval or disapproval under Section 208 of the County Charter. The primary purpose of the bill, which I submitted to the Council on May 15, 2001, was to implement certain provisions of our collective bargaining agreements. In addition, the bill I submitted contained provisions designed to improve the administration of County retirement programs.

I wish to reiterate my full and complete support for the collective bargaining process and for those portions of the bill that are intended to implement the bargained-for benefits. In addition, I fully support those portions of the bill that are designed to improve the administration of County retirement programs. However, in passing the legislation, the Council adopted two amendments that are unrelated to these objectives and are unacceptable for the reasons discussed below. Therefore, I have decided to disapprove Bill 19-01 as enacted; however, I urge the Council to act quickly to enact a bill identical to this one but without the two offending amendments and, upon delivery to me of such a bill, I will sign it into law.

Bill 19-01 was submitted to the Council on May 15, 2001, and introduced the following day. As noted, the bill was intended primarily to implement certain provisions of the collective bargaining agreements that had been negotiated with the Fraternal Order of Police and MCGEO/Local 1994 and approved by the Council. Other portions of the bill made improvements to the administration of the County's retirement programs by allowing (a) the Disability Review Panel to consider a vocational assessment of an applicant for disability retirement, (b) the County to refund to any employee any money paid by the employee into the retirement system to purchase credit for prior service



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if, due to a later amendment to the retirement law, the payment becomes unnecessary, and (c) any employee who leaves County employment before becoming vested in the Retirement Savings Plan to have earlier County contributions to the plan reinstated if the employee returns to County service within six months.

A public hearing was held June 12, 2001, at which time Councilmembers requested two amendments to address retirement issues facing certain County employees. One amendment addressed the return to County service by employees who left before October 1, 1994; the second opened a window of opportunity for certain employees to transfer retroactively State service credits to the County retirement system. Those amendments, which were not available for the public hearing, were drafted and made public in time for the June 14, 2001, worksession conducted by the Management and Fiscal Policy Committee.

On June 21, 2001, I asked the Council, which was scheduled to vote on Bill 19-01 on June 26, 2001, to consider the bill without the two Councilmember amendments. That course of action would have given the public an opportunity to comment on those proposed changes and allowed sufficient time for the conduct of a due diligence review to enable us to understand their implications. The Council chose not to do so and instead adopted the bill with the amendments.

As you know, as a result of collective bargaining and Council action, the County years ago established the Retirement Savings Plan ("RSP") effective October 1, 1994. With that significant policy change, the Council mandated that all non-public safety employees hired after the effective date would be members of a defined contribution plan, rather than be members of the Employee Retirement System ("ERS"), a defined benefit plan. A major motivation for the change was a decision made in the early 1990s that we needed to address, on several fronts, the issue of the cost of government, and that retirement plans were an appropriate area for review. Since that decision, we have saved millions of taxpayer dollars while providing our employees with the benefits of a defined contribution plan, including portability and the ability to direct their own investments.

As noted, one of the amendments modifies existing law by creating a new opportunity for County employees to transfer retroactively State service credits to the County retirement system. At this time, we are not able to determine how many employees are affected by this amendment, but we understand that one Council staff person may benefit. The other amendment allows certain employees, for the first time since adoption of the RSP, to transfer back to the ERS. Based on a preliminary review, it appears that only three people may benefit from this amendment – one Council staff person, one Confidential Aide to a Councilmember, and one MCGEO employee.

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I am concerned that the amended bill represents a major policy shift with potentially significant fiscal impacts, undertaken without public hearings or adequate consideration of future consequences or implications for collective bargaining. The bill signals a willingness to consider reopening the ERS, at least on a case-by-case basis, if not on a broader scale. I believe that it is important for the residents of Montgomery County to understand the full import of the bill as amended. If there are to be wholesale changes, we need to understand which employees may be affected and the full fiscal impact; if the changes are to be more discreet, we need to understand what prompts the changes and how the system will benefit. To date, however, we have not had that public discussion. Because we should not make decisions of this magnitude in such a manner, I have decided to disapprove the bill.

Again, I urge the Council to enact a version of Bill 19-01 that does not contain the two amendments discussed above. I will sign such a bill into law upon its receipt.

DMD:jp

Attachment

cc: Mr. John Sparks  
Mr. Walter Bader  
Mr. Gino Renne

Bill No. 19-01  
Concerning: Personnel – Retirement -  
Amendments  
Revised: 6-26-01 Draft No. 7  
Introduced: May 16, 2001  
Enacted: June 26, 2001  
Executive: July 6, 2001 (vetoed)  
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 ACT to:**

- (1) allow an individual of the opposite sex to qualify as the domestic partner of a member of the Police collective bargaining unit for purposes of employee benefits;
- (2) change the minimum service requirements for retirement for Police Telecommunicators and members of the Service, Labor, and Trades bargaining unit;
- (3) increase the amount of member contributions required for certain retirement groups;
- (4) allow refunds of member contributions used to purchase prior service if County law is later amended to reduce the maximum years of service for which a member may receive credit;
- (5) change the amount of pension at normal retirement for certain retirement groups;
- (6) clarify that medical reevaluation under the current disability retirement provisions applies to all retired members;
- (7) for retirement Group G, allow the Disability Review Panel to request and consider an independent vocational assessment in recommending an appropriate service-connected disability benefit;
- (8) allow a “pop-up” joint and survivor pension payment option;
- (9) change the cost-of-living adjustment for certain members;
- (10) for a Retirement Savings Plan member, allow reinstatement of forfeited County contributions if the individual is reemployed by the County within 6 months of separation; [[and]]
- (11) allow certain former employees who return to County service to transfer the present value of certain benefits to the Retirement Savings Plan, or to resume membership in the Employees Retirement System;
- (12) require certain employees to be notified of the opportunity to transfer certain retirement benefits, and allow certain benefits to be transferred retroactively during a limited time period; and
- (13) generally amend the law regarding County employee retirement programs.

By amending

Montgomery County Code

Chapter 33, Personnel and Human Resources

Sections 33-22, 33-35, 33-37, 33-38, 33-39, 33-39A, 33-40, 33-41, 33-42, 33-43, 33-44, 33-45, ~~[[33-46,]]~~ and 33-120

<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>
<del>[[Double boldface brackets]]</del>	<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:*



(8) A former County employee who returns to County service may transfer to the Retirement Savings Plan the actuarial present value of the employee's benefit in the Employees' Retirement System, as of the date the employee returns to County service, if the employee:

(A) was vested under Section 33-45 when the employee left County service;

(B) left all member contributions plus credited interest in the fund;

(C) left County service before October 1, 1994; and

(D) did not return to County service within 25 months.

\* \* \*

**33-38. Normal retirement date, mandatory retirement date, early retirement date, and trial retirement.**

(a) *Normal retirement date.* [Normal] The normal retirement date is the first day of the month elected by a member after the [following requirements have been met:] member meets the years of service and age requirements for the applicable membership group. For normal retirement:

(1) Group A:

(A) The member [has] must have at least:

(i) 5 years of credited service and [has reached] be at least age 60[,]; or

(ii) [has at least] 30 years of credited service and [has reached] be at least age 55.

(B) After June 30, 2002, a Group A member who is a Police Telecommunicator must have at least:

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- (i) 5 years of credited service and be at least age 60;
  - or
  - (ii) 30 years of credited service and be at least age 50.
- (2) Group B: The member [has] must have at least:
- (A) 15 years of credited service and [has reached] be at least age 55[,]; or
  - (B) [has at least] 30 years of credited service and [has reached] be at least age 51.
- (3) Group D: The member [meets] must meet the requirements [contained in] of the County police relief and retirement fund law[ of the County].
- (4) Group E: The member [has] must have at least:
- (A) 15 years of credited service and [has reached] be at least age 55[,]; or
  - (B) [has at least] 25 years of credited service and [has reached] be at least age 46.
- (5) Group F: The member [has] must have at least:
- (A) 15 years of credited service and [has reached] be at least age 55[,]; or
  - (B) [has at least] 25 years of credited service and [has reached] be at least age 46.
- (6) Group G: The member [has] must have at least:
- (A) 15 years of credited service and [has reached] be at least age 55; or
  - (B) 25 years of credited service, regardless of age.
- (7) (A) Group H: The member [has] must have at least:

80 (i) 5 years of credited service and [has reached] be at  
81 least age 60[,]; or

82 (ii) [has at least] 30 years of credited service and [has  
83 reached] be at least age 55.

84 (B) After June 30, 2002, a Group H member who is a Police  
85 Telecommunicator must have at least:

86 (i) 5 years of credited service and be at least age 60;  
87 or

88 (ii) 30 years of credited service and be at least age 50.

89 (C) After June 30, 2002, a Group H member who is also an  
90 SLT bargaining unit member must have at least:

91 (i) 5 years of credited service and be at least age 60;  
92 or

93 (ii) 30 years of credited service and be at least age 50.

94 (8) [The normal retirement date for an] An elected officials'  
95 participant [is the first day of the month after the month the  
96 elected officials' participant attains age 62 and has] must have  
97 at least the lesser of a full term of office or 4 years of credited  
98 service and be at least age 62.

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100 (f) *Trial retirement.*

101 \* \* \*

102 (6)

103 [a.] (A) \* \* \*

104 [b.] (B) \* \* \*

105 [c.] (C) \* \* \*

106 [d.] (D) \* \* \*

107 (7) \* \* \*

108 [a.] (A) \* \* \*

109 [b.] (B) \* \* \*

110 (8) \* \* \*

111 [a.] (A) \* \* \*

112 [b.] (B) \* \* \*

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114 **33-39. Member contributions and credited interest.**

115 (a) *[Percent of member] Member contributions.* Each member of the  
 116 retirement system must contribute[, through regular payroll  
 117 deductions,] a portion of the member's regular earnings [as follows:]  
 118 through regular payroll deductions.

119 (1) Member Contributions to the Optional Retirement Plan. A  
 120 member of the Optional Retirement Plan must contribute the  
 121 following percentage of regular earnings:

- 122 (A) [For members who elect to remain in the Optional  
 123 Retirement Plan, the contribution is] Group A or H  
 124 member, 6 percent [for a group A or H member,];
- 125 (B) Group B member, 7 percent [for a group B member,];
- 126 (C) Group D member, 7½ percent [for a group D, E, or F  
 127 member,]; and
- 128 (D) Group E, F, or G member, 8½ percent [for a Group G  
 129 member].

130 [B. To the extent allowed under Section 414(h)(2) of the  
 131 Internal Revenue Code, the County must "pick up" (as  
 132 described in the Internal Revenue Code) mandatory

133 member contributions to the Optional Retirement Plan  
 134 for pay periods beginning on or after July 1, 1989.

135 C. The Chief Administrative Officer may allow an agency  
 136 that is not an "employing unit" (as described in Section  
 137 414(h)(2) of the Internal Revenue Code) to participate in  
 138 the retirement system. The County must not "pick up"  
 139 (as described in the Internal Revenue Code) mandatory  
 140 contributions of members employed by a participating  
 141 agency that is not an "employing unit".]

142 (2) Member Contributions to the Integrated Retirement Plan.

143 [(A)]

144 [For members] A member of the Integrated Retirement Plan[,  
 145 the contribution is] must contribute the following percentage of  
 146 regular earnings:

147 [(i)] (A) Group A [ - 3 ], 4 percent up to the maximum Social  
 148 Security wage base, and 6 percent of regular earnings  
 149 that exceed the wage base[.];

150 [(ii)] (B) Group B [ - 3 ½ ], 4½ percent up to the maximum  
 151 Social Security wage base, and 7 percent of regular  
 152 earnings that exceed the wage base[.];

153 [(iii)] (C) Group E [ - 3 ¾ ], 4¾ percent up to the maximum  
 154 Social Security wage base, and [7 ½] 8½ percent of  
 155 regular earnings that exceed the wage base[.];

156 [(iv)] (D) Group F [ - 4 ], 4¾ percent up to the maximum Social  
 157 Security wage base and [8] 8½ percent of regular  
 158 earnings that exceed the wage base[.];

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[(v)] (E) Group G[ -], 4¾ percent up to the maximum Social Security wage base and 8½ percent of regular earnings that exceed the wage base[.] and;

[(vi)] (F) Group H[ - 3], 4 percent up to the maximum Social Security wage base and 6 percent of regular earnings that exceed the wage base.

[(B)] To the extent allowed under Section 414(h)(2) of the Internal Revenue Code, the County must "pick up" (as described in the Internal Revenue Code) mandatory member contributions to the Integrated Retirement Plan for pay periods beginning on or after July 1, 1989.

[(C)] The Chief Administrative Officer may allow an agency that is not an "employing unit" (as described in Section 414(h)(2) of the Internal Revenue Code) to participate in the retirement system. The County must not "pick up" (as described in the Internal Revenue Code) mandatory contributions of members employed by a participating agency that is not an "employing unit."]

(3) Member Contributions to the Elected Officials' Plan. [For members] A member of the Elected Officials' Plan[, the contribution is] must contribute 3 percent. To the extent allowed under Section 414(h)(2) of the Internal Revenue Code, the County must "pick up" (as described in the Internal Revenue Code) mandatory member contributions to the Elected Officials' Plan.

(4) To the extent allowed under Section 414(h)(2) of the Internal Revenue Code, the County must "pick up" (as described in the

186 Internal Revenue Code) mandatory member contributions to the  
 187 Optional and Integrated Retirement Plans for pay periods  
 188 beginning after June 30, 1989.

189 (5) The Chief Administrative Officer may allow an agency that is  
 190 not an "employing unit" (as described in Section 414(h)(2) of  
 191 the Internal Revenue Code) to participate in the retirement  
 192 system. The County must not "pick up" (as described in the  
 193 Internal Revenue Code) mandatory contributions of members  
 194 employed by a participating agency that is not an "employing  
 195 unit".

196 \* \* \*

197 (c) *Return of member contributions.* [Member contributions may be  
 198 refunded:]

199 (1) [(A)] [Upon termination of county] Refund after employee's  
 200 separation. The County must refund contributions to a member  
 201 who is separated from County service, [except by death or  
 202 retirement, each] unless the member dies or retires. The County  
 203 must pay a member who has not elected to vest [shall be paid]  
 204 the full amount of accumulated contributions with credited  
 205 interest, less any indebtedness to the County government or the  
 206 Montgomery County Employees Federal Credit Union.

207 [(B)] (2) Refund after separation of an elected officials' participant.  
 208 An elected officials' participant who ends employment with the  
 209 County before [the] that participant's normal retirement date [of  
 210 that elected officials' participant], and who does not receive a  
 211 mandatory refund of [that elected officials'] the participant's  
 212 account balances under Section 33-40(d)(2)(D), may, at the

213 [elected officials'] participant's request, receive the account  
 214 balances, including picked-up contributions, in the required and  
 215 the voluntary elected officials' participant contributions  
 216 accounts established for that [elected officials'] participant, less  
 217 any indebtedness to the [county government] County or the  
 218 Montgomery County Employees Federal Credit Union, in a  
 219 single lump-sum payment.

220 [(2)] (3) Refund after a member's death. If a member dies, the Chief  
 221 Administrative Officer must pay to the designated beneficiary  
 222 accumulated member contributions plus credited interest, less  
 223 any indebtedness to the County government, unless the  
 224 beneficiary is eligible for an annuity under Section 33-46. If an  
 225 elected officials' participant dies before the County has  
 226 implemented the method of distribution under Section 33-44,  
 227 the Chief Administrative Officer must pay to the beneficiary, in  
 228 accordance with Section 33-46(g), the account balances,  
 229 including picked-up contributions, in the required and the  
 230 voluntary elected officials' participant contributions accounts,  
 231 less any indebtedness to the [county government] County or the  
 232 Montgomery County Employees Federal Credit Union.

233 [(3)] (4) Refund after an employee elects to participate in the  
 234 integrated plan instead of the optional plan. [Upon election]  
 235 When a member elects to participate in the integrated  
 236 retirement plan instead of the optional retirement plan, [a] the  
 237 member must receive a refund of member contributions that  
 238 exceeded the amount that would have been paid [had] if the  
 239 contribution rate of the integrated retirement plan had been in

240 effect from date of enrollment to date of election, plus credited  
 241 interest earned on those contributions. Despite this  
 242 requirement, a member who elects to participate in the  
 243 integrated retirement plan instead of the optional retirement  
 244 plan while still employed by the County government must not  
 245 receive a refund of picked-up contributions made on or after  
 246 July 1, 1989 or credited interest earned on those contributions.  
 247 [A refund of picked-up] Picked-up contributions made on or  
 248 after July 1, 1989 and credited interest may be [made] refunded  
 249 only if one of the events described in Section 33-45(b) occurs.

250 (5) Refund after a statutory change that reduces the maximum  
 251 years of credited service for a retirement group.

252 (A) If a member purchases prior service and [[the County  
 253 Code]] this Chapter is later amended to reduce the  
 254 maximum years of service for which a member may  
 255 receive credit, the County must refund to the member  
 256 [[a]] that portion of the retirement contributions made to  
 257 purchase the unneeded prior service[[,]] if the  
 258 member[[:]]

259 [[i)]] requests a refund[[; and

260 (ii) submits the request]] before the member retires.

261 (B) The [[amount the]] County must refund to the member  
 262 [[is the]] that portion of the payment made to purchase  
 263 [[the]] any prior service [[that is in excess of]] which  
 264 exceeds the maximum credited service for the  
 265 employee's retirement group. [[The term "payment" in]]  
 266 In this subsection "payment" means the lump sum

267 amount, determined at the time of purchase on an  
 268 actuarial or flat payment basis, less any interest paid by  
 269 the member or any contributions that were previously  
 270 refunded. ~~[[Payment]]~~ The proper refund must be  
 271 ~~[[made]]~~ paid to the member after ~~[[the effective date of]]~~  
 272 the member's retirement begins.

273 ~~[[C)]~~ This provision applies to any change made to the  
 274 retirement law on or after March 1, 2000.]

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276 **33-39A. Investment of contributions to the elected officials' plan.**

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278 (b) \* \* \*

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280 (2) \* \* \*

281 [a.] (A) \* \* \*

282 [b.] (B) \* \* \*

283 [c.] (C) \* \* \*

284 **33-40. Employer contributions.**

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286 (d) \* \* \*

287 \* \* \*

288 (2) \* \* \*

289 [a.] (A) \* \* \*

290 [b.] (B) \* \* \*

291 [c.] (C) \* \* \*

292 [d.] (D) \* \* \*

293 **33-41. Credited service.**

294 (a) *Member's credited service.*

295 \* \* \*

296 (5) The Chief Administrative Officer must notify each eligible  
297 employee who attains 5 years of County service of the  
298 opportunity provided under this Section to purchase credited  
299 service. The Chief Administrative Officer must also notify  
300 each eligible employee who transfers from State service or from  
301 a dual merit system position of any opportunity to transfer  
302 credited service to the County retirement system.

303 \* \* \*

304 **33-42. Amount of pension at normal retirement date or early retirement**  
305 **date.**

306 \* \* \*

307 (b) *Amount of pension at normal retirement date.*

308 (1) Pension amount for an Optional Retirement Plan member.

309 (A) Except for a Group E, F, or G member, the annual  
310 pension for a member of the optional retirement plan who  
311 retires on a normal retirement must equal 2 percent of  
312 average final earnings multiplied by years of credited  
313 service, up to a maximum of 36 years, plus sick leave  
314 credits. Years of credited service of less than one full  
315 year must be prorated.

316 (B) For a Group E member who is a member of the optional  
317 plan and retires on a normal retirement, the annual  
318 pension must equal 2.4 percent of average final earnings  
319 for each of the first 25 years of credited service  
320 completed, and 2 percent of average final earnings for

321 each year of credited service of more than 25 years, to a  
322 maximum of 31 years plus sick leave credits. Years of  
323 credited service of less than one full year must be  
324 prorated. Sick leave credits used for years in excess of  
325 25 years must be credited at 2 percent of average final  
326 earnings. The maximum benefit with the application of  
327 sick leave credits must not exceed 76 percent of average  
328 final earnings.

329 (C) For a Group F member who is a member of the optional  
330 plan and retires on a normal retirement, the annual  
331 pension must equal 2.4 percent of average final earnings  
332 multiplied by years of credited service, up to a maximum  
333 of 30 years, plus sick leave credits. Years of credited  
334 service of less than one full year must be prorated. Sick  
335 leave credits used for years in excess of 30 years must be  
336 credited at 2 percent of average final earnings. The  
337 maximum benefit with the application of sick leave  
338 credits must not exceed 76[[%]] percent of average final  
339 earnings.

340 (D) For a Group G member who is a member of the optional  
341 plan and retires on a normal retirement, the annual  
342 pension must equal 2 percent of average final earnings  
343 for each of the first 20 years of credited service  
344 completed, 3 percent of average final earnings for  
345 completion of any year, or prorated portion of a year of  
346 credited service, in years 21 through 24, 8 percent of  
347 average final earnings for the 25th year of credited

348 service completed or for a prorated portion of credited  
349 service of more than 24 years up to the completion of 25  
350 years, and 2 percent of average final earnings for each  
351 year or prorated portion of a year of credited service of  
352 more than 25 years, to a maximum of 31 years plus sick  
353 leave credits.

354 (2) Pension amount for an Integrated Retirement Plan member.

355 (A) For a Group A, B, or H member in the integrated  
356 retirement plan who retires on a normal retirement, the  
357 annual pension must be computed as follows:

358 (i) From date of retirement to the month of attainment  
359 of Social Security retirement age: 2 percent of  
360 average final earnings multiplied by years of  
361 credited service up to a maximum of 36 years, plus  
362 sick leave credits. Credited service of less than  
363 one full year must be prorated.

364 (ii) From the month of attainment of Social Security  
365 retirement age: 1¼ percent of average final  
366 earnings up to the Social Security maximum  
367 covered compensation level at time of retirement,  
368 plus 2 percent of average final earnings above the  
369 Social Security maximum covered compensation  
370 level at time of retirement, multiplied by years of  
371 credited service up to a maximum of 36 years, plus  
372 sick leave credits. Credited service of less than  
373 one full year must be prorated. This amount is  
374 subject initially to the cost-of-living adjustment

375 provided in Section 33-44(c) from date of  
376 retirement to Social Security retirement age.

377 **(B)** [Except for a Group F or G] For a Group D member, the  
378 annual pension for a member of the integrated retirement  
379 plan who retires on a normal retirement must be  
380 computed as follows:

- 381 (i) From date of retirement to the month of attainment  
382 of Social Security retirement age: 2 percent of  
383 average final earnings multiplied by years of  
384 credited service up to a maximum of 36 years, plus  
385 sick leave credits. Years of credited service of less  
386 than one full year[[,]] must be prorated.
- 387 (ii) From the month of attainment of Social Security  
388 retirement age: one percent of average final  
389 earnings up to the Social Security maximum  
390 covered compensation level at time of retirement,  
391 plus 2 percent of average final earnings in excess  
392 of the Social Security maximum covered  
393 compensation level at time of retirement,  
394 multiplied by years of credited service, up to a  
395 maximum of 36 years, plus sick leave credits.  
396 Years of credited service of less than one full year  
397 must be prorated. This amount is subject initially  
398 to the cost-of-living adjustment provided in  
399 [subsection (c) of] Section 33-44(c) from date of  
400 retirement to Social Security retirement age, if any.

- 401                    (C) For a Group E member in the integrated retirement plan  
402                    who retires on a normal retirement, the annual pension  
403                    must be computed as follows:
- 404                    (i) From the date of retirement to the month that the  
405                    member reaches Social Security normal retirement  
406                    age: 2.4 percent of average final earnings for each  
407                    of the first 25 years of credited service completed,  
408                    and 2 percent of average final earnings for each  
409                    year of credited service of more than 25 years, to a  
410                    maximum of 31 years plus sick leave credits.  
411                    Years of credited service of less than one full year  
412                    must be prorated. Sick leave credits used for years  
413                    in excess of 25 years must be credited at 2 percent  
414                    of average final earnings. The maximum benefit  
415                    with the application of sick leave credits must not  
416                    exceed 76 percent of average final earnings.
- 417                    (ii) From the month the member reaches Social  
418                    Security normal retirement age: 1.25 percent of  
419                    average final earnings up to the Social Security  
420                    maximum covered compensation in effect on the  
421                    date of retirement for each year of credited service  
422                    to a maximum of 31 years plus sick leave credits,  
423                    plus 2.4 percent of average final earnings above  
424                    the Social Security maximum covered  
425                    compensation in effect on the date of retirement  
426                    for each of the first 25 years of credited service  
427                    completed, and 2 percent of average final earnings

428 above the Social Security maximum covered  
 429 compensation in effect on the date of retirement  
 430 for each year of credited service of more than 25  
 431 years, to a maximum of 31 years plus sick leave  
 432 credits. Years of credited service of less than one  
 433 full year must be prorated. Sick leave credits used  
 434 for years in excess of 25 years must be credited at  
 435 2 percent of average final earnings above the  
 436 Social Security maximum covered compensation  
 437 in effect on the date of retirement.

438 [(B)] (D) For a Group F member in the integrated retirement  
 439 plan who retires on a normal retirement, the annual  
 440 pension must be computed as follows:

- 441 (i) From date of retirement to the month of attainment  
 442 of Social Security retirement age: [2] 2.4 percent  
 443 of average final earnings multiplied by years of  
 444 credited service up to a maximum of [36] 30 years,  
 445 plus sick leave credits. Credited service of less  
 446 than one full year must be prorated. Sick leave  
 447 credits used for years in excess of 30 years must be  
 448 credited at 2 percent of average final earnings.  
 449 The maximum benefit with the application of sick  
 450 leave credits must not exceed 76 percent of  
 451 average final earnings.
- 452 (ii) [From the month of attainment of Social Security  
 453 retirement age: 1 ¼ percent of average final  
 454 earnings up to the Social Security maximum

455 covered compensation level at time of retirement,  
456 plus 2 percent of average final earnings above the  
457 Social Security maximum covered compensation  
458 level at time of retirement, multiplied by years of  
459 credited service up to a maximum of 36 years, plus  
460 sick leave credits. Credited service of less than  
461 one full year must be prorated. This amount is  
462 subject initially to the cost-of-living adjustment  
463 provided in subsection (c) of Section 33-44 from  
464 date of retirement to Social Security retirement  
465 age.] From the month the member reaches Social  
466 Security normal retirement age: 1.65 percent of  
467 average final earnings up to the maximum of 30  
468 years, and 1.25 percent of average final earnings  
469 for years in excess of 30 years, credited with sick  
470 leave, up to the Social Security maximum covered  
471 compensation in effect on the date of retirement,  
472 plus 2.4 percent of average final earnings above  
473 the Social Security maximum covered  
474 compensation in effect on the date of retirement,  
475 multiplied by years of credited service up to a  
476 maximum of 30 years, plus sick leave credits.  
477 Years of credited service of less than one full year  
478 must be prorated. Sick leave credits used for years  
479 in excess of 30 years must be credited at 2 percent  
480 of average final earnings above the Social Security

481

maximum covered compensation in effect on the

482

date of retirement.

483

[(C)] (E) For a Group G member in the integrated retirement

484

plan who retires on a normal retirement, the annual

485

pension must be computed as follows:

486

\* \* \*

487

**33-43. Disability retirement.**

488

(a) *Applicability.* This Section applies to[ an application for disability benefits under this Article filed]:

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490

(1) an application for disability benefits filed on or after March 1, 2000, by a member who is also a member of the Police Bargaining Unit; [or]

491

492

493

(2) an application for disability benefits filed after May 18, 1995, by any other member[.]; or

494

495

(3) a medical reevaluation of a disability retiree under subsection (g), regardless of when an application for disability benefits was filed.

496

497

498

\* \* \*

499

(d) Disability retirement procedures.

500

\* \* \*

501

(8) (A) If the Panel is unable to make a determination based on the evidence presented to it, the Panel may:

502

503

(i) direct the applicant to undergo a medical

504

examination (including all relevant medical tests)

505

by a medical doctor who is not a member of the

506

Disability Review Panel; and



- 534 (1) A member, other than a Group G member, who retires on  
535 service-connected disability retirement must receive an annual  
536 pension [computed as follows:
- 537 (A) *For total incapacity.* 2 percent of final earnings,  
538 multiplied by years of credited service, up to a maximum  
539 of 36 years and any additional sick leave credits]  
540 calculated under Section 33-42(b), but not less than 66  
541 2/3 percent of final earnings[, if the member is totally and  
542 permanently incapacitated].
- 543 [(B) *For partial incapacity.* 6 percent of final earnings for  
544 each 10 percent of permanent disability, but not less than  
545 25 percent of final earnings, if the member is partially  
546 and permanently incapacitated. However, if the member  
547 meets the age requirements for early retirement, not less  
548 than the yearly amount of retirement pension computed  
549 under Section 33-42(c) must be payable.]
- 550 (2) A Group G member must receive a service-connected disability  
551 pension benefit calculated under Section 33-42(b), subject to  
552 the following:
- 553 (A) the benefit must be at least 70 percent of final earnings if  
554 the Chief Administrative Officer [determines] finds,  
555 based on a recommendation from the Disability Review  
556 Panel, that:
- 557 (i) the member suffers from a medically determinable  
558 physical or mental impairment that makes the  
559 member unable to engage in any substantial

560 gainful activity and [which] is expected to end in  
561 death or last for at least 12 consecutive months; or

562 (ii) the member's disability is so severe that the  
563 member would qualify to receive disability  
564 benefits from the U.S. Social Security  
565 Administration, even though the member does not  
566 receive or has not applied for such benefits; or

567 (B) the benefit must be at least 52½ percent of final earnings  
568 if the Chief Administrative Officer [determines] finds  
569 that the member meets the standards to receive  
570 service-connected disability benefits under subsection (f).

571 (3) Under this subsection, "final earnings" for a Group F or G  
572 member who is participating in a job-sharing program under a  
573 collective bargaining agreement between the County and a  
574 certified representative means the regular earnings that the  
575 member would have received if the member had been employed  
576 on a full-time basis on the last date of active service.

577 \* \* \*

578 (I) *Appeal procedures.*

579 \* \* \*

580 (4) The Chairperson must:

581 (A) decide all issues on prehearing procedures, including any  
582 issue related to discovery; and

583 (B) rule on all issues of law that arise before the hearing,  
584 unless ruling on the issue would decide the appeal.

585 [(4)] (5) The Disability Arbitration Board and Police Disability  
586 Arbitration Board must render a decision quickly. The

587 Disability Arbitration Board and Police Disability Arbitration  
 588 Board should issue the decision within 30 calendar days after  
 589 the hearing or receiving any post-hearing briefs.

590 \* \* \*

591 **33-44. Pension payment options and cost-of-living adjustments.**

592 (a) [*Election of pension*] Pension payment [*option*] options.

593 (1) A member may elect an optional form of pension actuarially  
 594 equivalent to the normal form of retirement pension otherwise  
 595 payable, unless the member qualifies for a non-service-  
 596 connected disability retirement before reaching the early  
 597 retirement date. The [determination of] Chief Administrative  
 598 Officer must not consider the health condition of the member  
 599 when deciding what is "actuarially equivalent" [shall not  
 600 include the health condition of the member whether or not  
 601 disabled].

602 (2) [A member who qualifies for a non-service-connected disability  
 603 retirement before reaching early retirement date is not eligible  
 604 to elect a pension payment option.] A member who qualifies  
 605 for non-service-connected disability retirement on or after  
 606 reaching the early retirement date [is eligible to] may elect a  
 607 pension payment option.

608 (3) A member who qualifies for a service-connected disability  
 609 retirement may elect a pension payment option, [irrespective]  
 610 regardless of age and credited service.

611 (4) To elect a pension payment option, the member must file the  
 612 appropriate form at least one [(1)] month before the normal,  
 613 early, or disability retirement date.

614 (5) The pension payment option [will be effective] must take effect  
 615 on the member's retirement date and [will be] is void if the  
 616 member or the named beneficiary dies before that date.

617 (6) The following forms of pension options are available:

618 [(1)] (A) *Ten-Year Certain and Continuous.* \* \* \*

619 [(2)] (B) *Cash Refund Pension Option (available to members who*  
 620 *were members of the employees' retirement system of the state*  
 621 *on August 15, 1965).* \* \* \*

622 [(3)] (C) *Joint and Survivor Pension Option.*

623 (i) [On or after May 1, 1970] Under this option, the  
 624 County must make pension payments in an  
 625 adjusted amount [may be paid] to the member  
 626 during the member's lifetime and, [if at a] at the  
 627 member's death, make pension payments to the  
 628 designated beneficiary (spouse, domestic partner,  
 629 or children only) who survives[.]. The County  
 630 must make the pension payments to the surviving  
 631 beneficiary for the rest of the beneficiary's lifetime  
 632 in the amount payable to the member or other  
 633 amount elected by the member, but not less than  
 634 10 percent of the amount payable to the member[,  
 635 must be paid for the balance of the beneficiary's  
 636 lifetime].

637 (ii) Upon the death of both the member and the  
 638 beneficiary, a death benefit must be paid in the  
 639 same manner as is provided under the normal form  
 640 of retirement pension for which the member had

641 been eligible. [Notwithstanding Article II of  
 642 Chapter 35 (Police Retirement and Relief Fund), a  
 643 group D member who retired before July 1, 1970,  
 644 may, not later than August 31, 1974, elect the joint  
 645 and survivor pension option effective July 1, 1974,  
 646 instead of the surviving spouse's benefit under  
 647 Section 35-15(b). A group D retiree's election of  
 648 the joint and survivor pension option does not  
 649 affect the amount of the retiree's pension. When  
 650 the group D retiree dies, the spouse's or domestic  
 651 partner's benefit must equal 50 percent of the  
 652 retiree's benefit on the date of death, payable until  
 653 the spouse or domestic partner dies.]

654 (iii) Pop-up Option. At retirement, the member may  
 655 elect the pop-up variation of a joint and survivor  
 656 option with an appropriate actuarial reduction.  
 657 Under this option, if the member and designated  
 658 beneficiary divorce or the designated beneficiary  
 659 dies before the member dies, the member's  
 660 monthly payments for the rest of the member's life  
 661 must "pop up" to the amount that they would have  
 662 been if the member had elected the modified cash  
 663 refund annuity at retirement.

664 [(4)] (D) *Modified Cash Refund Annuity.* \* \* \*

665 \* \* \*

666 (c) *Cost-of-living adjustment.* A retired member or beneficiary, including  
 667 the surviving spouse or domestic partner of a group D member or

668 other beneficiary who survives the member under a pension option or  
 669 who is otherwise eligible to receive benefits, must receive an annual  
 670 cost-of-living adjustment in pension benefits[ computed as follows:].

671 \* \* \*

672 (3) The percentage cost-of-living adjustment of pension benefits  
 673 must be obtained by dividing the most recent index determined  
 674 under paragraph (2) by the next preceding index multiplied by  
 675 100 less 100.

676 \* \* \*

677 (B) A member enrolled on or after July 1, 1978, must receive  
 678 [60] 100 percent of the [cost-of-living adjustment]  
 679 change in the consumer price index up to [a total  
 680 adjustment of 5] 3 percent, and 60 percent of any change  
 681 in the consumer price index greater than 3 percent, up to  
 682 a total adjustment of 7½ percent in any year. The [5-] 7½  
 683 percent annual [limitation] limit does not apply to:

- 684 (i) a retired member who is disabled; or
- 685 (ii) a pensioner aged 65 or older for a fiscal year
- 686 beginning after the date the pensioner reaches age
- 687 65.

688 [(C) A member of Group F or G enrolled on or after July 1,  
 689 1978, must receive 100 percent of the change in the  
 690 consumer price index up to 3 percent, and 60 percent of  
 691 any change in the consumer price index greater than 3  
 692 percent, up to a total adjustment of 7½ percent in any  
 693 year. The 7½ percent annual limitation does not apply  
 694 to:

- 695 (i) a retired Group F or G member who is disabled; or
- 696 (ii) a retired Group F or G member in a County fiscal
- 697 year that begins after the member reaches age 65.]

698 \* \* \*

699 **33-45. Vested benefits and withdrawal of contributions.**

700 \* \* \*

701 (e) *Discontinued service benefits of elected and appointed members.*

702 (1) [Should] If an elected or appointed member [enrolled or

703 reenrolled before January 22, 1974,] with 10 or more years of

704 credited service, is not [be] reappointed or reelected, the

705 member may [elect] opt to:

706 (A) receive a pension [commencing] immediately, if the

707 member enrolled or reenrolled before January 22, 1974;

708 or

709 (B) [for an elected] receive a pension at age 60, if the

710 member enrolled or reenrolled on or after January 22,

711 1974[, commencing at age 60].

712 [(1)] (2) The pension for a member enrolled or reenrolled on or before

713 September 26, 1983, or [a member] who [submits] submitted an

714 application to transfer from the optional plan to the integrated

715 plan before September 26, 1983, [must equal 2 percent of final

716 earnings, multiplied by years of credited service, up to a

717 maximum of 36 years, plus sick leave credits, but not less than

718 \$300.00 monthly] is the pension the member would have

719 received under Section 33-42(b) for regular retirement, except

720 that:

- 721 (A) “final earnings” replaces “average final earnings” in the
- 722 applicable formula in Section 33-42(b);
- 723 (B) a member who submitted an application to transfer from
- 724 the optional plan to the integrated plan before September
- 725 26, 1983, must be treated as if the member had remained
- 726 in the optional plan; and
- 727 (C) the monthly benefit must be at least \$300.

728 [(2)] (3) The pension for a member enrolled or reenrolled after  
 729 September 26, 1983, or a member who submits an application  
 730 to transfer from the optional plan to the integrated plan after  
 731 September 26, 1983, [must be computed as follows] is the  
 732 amount of pension the member would have received under  
 733 Section 33-42(b)(2) for regular retirement, except that:

734 [a.] (A) [From date of retirement to the month of attainment of  
 735 social security retirement age, 2 percent of final earnings,  
 736 multiplied by years of credited service, up to a maximum  
 737 of 36 years, plus sick leave credits, but not less than  
 738 \$300.00 monthly.] “final earnings” replaces “average  
 739 final earnings” in the applicable formula in Section 33-  
 740 42(b); and

741 [b.] (B) [From the month of attainment of social security  
 742 retirement age, benefits will be 2 percent of final  
 743 earnings, multiplied by years of credited service, up to a  
 744 maximum of 36 years, plus sick leave credits, reduced by  
 745 one percent of final earnings up to the social security  
 746 maximum covered compensation level at time of  
 747 retirement, multiplied by years of credited service, plus

748

sick leave credits. Years of credited service of less than

749

one full year will be prorated. The] the monthly benefit

750

[will not be less than] must be at least \$300[.00 monthly].

751

\* \* \*

752

**Sec. 33-120. Distribution of benefit.**

753

\* \* \*

754

(d) *Separation from service before normal retirement, death or disability retirement.*

755

756

\* \* \*

757

(3) *Forfeitures.*

758

(A) If a participant has no vested interest in the County

759

contributions account at the time of the participant's

760

separation from service, the participant must forfeit the

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entire County contributions account as of the date of

762

separation from service.

763

(B) The Chief Administrative Officer must allow a one-time

764

reinstatement of the forfeited County contributions to an

765

employee who is reemployed by the County within [[6]]

766

12 months of separation and again becomes a member of

767

the Retirement Savings Plan. The amount reinstated by

768

the Chief Administrative Officer must be equal to the

769

value of the County contributions account, including

770

investment gains and losses, as of the date of the

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employee's separation. This provision applies,

772

regardless of the member's separation or reemployment

773

date, if the member[[:]]

774

[[i]] requests the reinstatement in writing[[: and

775 (ii) submits the request]] while the member is an  
 776 active County employee.

777 (C) The Chief Administrative Officer must use the forfeitures  
 778 to pay the operating expenses of the retirement savings  
 779 plan or to reduce the amount of County contributions.

780 \* \* \*

781 **Sec. 2. Applicability of amendments.**

782 (a) Section 33-37(e)(8), added by Section 1 of this Act, applies to any  
 783 employee to whom it would otherwise apply who returned to County  
 784 service before this Act took effect. Any such employee may transfer  
 785 to the Retirement Savings Plan the actuarial present value of the  
 786 employee's benefit in the Employees' Retirement System, as of the  
 787 effective date of this Act. Alternatively, any such employee may  
 788 resume membership in the Employees' Retirement System, on the  
 789 later of the effective date of this Act or the date the employee so  
 790 notifies the Office of Human Resources.

791 (b) Any active employee who was eligible at any time to transfer service  
 792 credits from any public retirement system in the state under Section  
 793 33-41(h), but did not do so [[in a timely manner]] within the  
 794 applicable time period under state law, may transfer all applicable  
 795 credits to the County retirement system, [[unless a transfer would  
 796 clearly be prohibited by state law, if the employee can show]] subject  
 797 to all applicable requirements of state law, by December 31, 2001[[,  
 798 by a preponderance of the evidence, that:]]  
 799 [[ (1) the employee was not personally notified of the right to transfer  
 800 any credit when a transfer could have been executed; and]]

801 [(2) the employee has been prejudiced by the failure to transfer any  
802 credit]].

803 Any transfer under this subsection must be retroactive to the date the  
804 employee was originally eligible to apply for the transfer.

805 *Approved:*

806 Blair G. Ewing June 26, 2001  
Blair G. Ewing, President, County Council Date

807 ~~Approved:~~ Disapproved:

808 Douglas M. Duncan July 6, 2001  
Douglas M. Duncan, County Executive Date

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

810 \_\_\_\_\_  
Elda Dodson, CMC, Acting Clerk of the Council Date