

Expedited Bill No. 36-08
Concerning: Personnel and Human
Resources – Retirement – Technical
Amendments
Revised: 11/19/08 Draft No. 4
Introduced: November 25, 2008
Enacted: January 27, 2009
Executive: _____
Effective: See Section 3
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the request of the County Executive

AN EXPEDITED ACT to:

- (1) make technical changes to the County retirement law; and
- (2) generally amend the retirement law for County employees to comply with changes in Federal law.

By amending
Montgomery County Code
Chapter 33, Personnel and Human Resources
Sections 33-35, 33-37, 33-39, 33-40, 33-41, 33-44, 33-118 and 33-120

Boldface	<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:

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(e) *Retirement plans.*

* * *

(4) (A) Except as provided in subparagraphs (B) and (C), any individual who becomes an elected official must become a member of the elected officials' plan on the date the individual becomes an elected official.

(B) If an individual was an active member of a County retirement plan, including an employee on leave without pay, before becoming an elected official, the individual may choose to continue or return to participate in the retirement plan in which the individual participated before becoming an elected official, subject to the eligibility and transfer rules set out in this subsection and subsection (f).

* * *

33-40. Employer contributions.

* * *

(d) Elected officials' plan. Subsections 33-40(a), (b), and (c) do not apply to the elected officials' plan. Instead, the following provisions apply:

* * *

(2) The Board must allocate the County elected officials' contributions made on behalf of each elected officials' participant to a County elected officials' contributions account the Board establishes for that elected officials' participant. In addition, amounts allocated to the County elected officials' contributions account must be further allocated to sub-accounts to reflect the

54 proportionate amount of each account in each of the applicable
55 investment funds.

56 * * *

57 (D) An elected officials' participant who ends employment
58 with the County and who is not vested in any County
59 contributions must forfeit the full account balance in the
60 County elected officials' contributions account. If that
61 occurs, the Chief Administrative Officer, upon the
62 participant's completion of a properly completed
63 distribution form, must pay the participant, in a single
64 lump-sum payment, the full account balances in the
65 required elected officials' participant contributions account
66 and the voluntary elected officials' participant
67 contributions account, less any indebtedness to the County
68 government or the Montgomery County Employees
69 Federal Credit Union. The Chief Administrative Officer
70 must consider all forfeitures arising under the elected
71 officials' plan in determining the County elected officials'
72 contributions and must use the forfeitures to reduce the
73 amount of the County elected officials' contributions.

74 **33-44. Pension payment options and cost-of-living adjustments.**

75 * * *

76 (i) *Period for distribution of death benefits of an elected officials'*
77 *participant who was not receiving benefits.*

78 (1) If an elected officials' participant dies before the payment of the
79 benefits under the elected officials' plan has commenced, the
80 benefits must be distributed [within five (5) years after the elected

81 officials' participant's death] before the end of the calendar year
82 containing the fifth anniversary of the elected official
83 participant's death; however, the five-year rule does not apply if:

84 (A) Any portion of the elected officials' participant's benefit is
85 payable to, or for the benefit of, a designated beneficiary;

86 (B) The portion of the benefit to which the designated
87 beneficiary is entitled will be distributed over the life of the
88 beneficiary, or over a period not extending beyond the life
89 expectancy of the beneficiary; and

90 (C) The distributions commence before the end of the calendar
91 year following the calendar year in which the elected
92 official's participant's death occurred. [no later than one
93 (1) year after the date of the elected officials' participant's
94 death, or such later date which the secretary of the treasury
95 may, under regulations, prescribe.] Also, the five-year rule
96 does not apply if:

97 (i) The portion of the elected officials' participant's
98 benefit to which the surviving spouse [or domestic
99 partner] is entitled must be distributed over the life
100 of the surviving spouse [or domestic partner], or
101 over a period not extending beyond the life
102 expectancy of the surviving spouse [or domestic
103 partner]; and

104 (ii) The distributions commence before the later of the
105 end of the calendar year following the calendar year
106 in which the participant died or the end of the
107 calendar year in which [no later than the date on

108 which] the elected officials' participant would have
 109 attained age [seventy and one-half (70½)] 70½ .

110 * * *

111 (l) *Period for distribution of death benefits of a member who was not*
 112 *receiving benefits.*

113 (1) If a member dies before the payment of the benefit has
 114 commenced, the benefit must be distributed [within five (5) years
 115 after the member's death] before the end of the calendar year
 116 containing the fifth anniversary of the member's death; however,
 117 the five-year rule does not apply if:

118 (A) Any portion of the member's benefit is payable to, or for
 119 the benefit of, a designated beneficiary;

120 (B) The portion of the benefit to which the designated
 121 beneficiary is entitled will be distributed over the life of the
 122 beneficiary, or over a period not extending beyond the life
 123 expectancy of the beneficiary; and

124 (C) The distributions commence before the end of the calendar
 125 year following the calendar year in which the elected
 126 official's participant's death occurred [no later than one (1)
 127 year after the date of the member's death, or such later date
 128 which the secretary of the treasury may, under regulations,
 129 prescribe].

130 (2) Also, the five-year rule does not apply if:

131 (A) The portion of the member's benefit to which the surviving
 132 spouse [or domestic partner] is entitled will be distributed
 133 over the life of the surviving spouse [or domestic partner],

134 or over a period not extending beyond the life expectancy
 135 of the surviving spouse [or domestic partner]; and

136 (B) The distributions commence before the later of the end of
 137 the calendar year following the calendar year in which the
 138 participant died or the end of the calendar year in which
 139 [no later than the date on which] the member would have
 140 attained age [seventy and one-half (70 1/2)] 70½ .

141 (3) For purposes of this subsection, the life expectancy of a member
 142 and the member's spouse [or domestic partner] may be
 143 recalculated each year. Also, for purposes of this Subsection, any
 144 amount paid to a child must be treated as if it had been paid to the
 145 surviving spouse [or domestic partner] of a member if the amount
 146 becomes payable to the surviving spouse [or domestic partner] of
 147 a member when the child reaches the age of majority (or other
 148 designated event permitted under applicable treasury regulations).

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150 **33-118. Maximum annual contribution.**

151 (a) *Contribution limitations.*

152 * * *

153 (5) For purposes of this Section, the maximum dollar limitation of
 154 \$30,000 in subsection (a)(1)(A), or \$40,000 effective January 1,
 155 2002 and the maximum dollar limitation of \$150,000 in
 156 subsection [(c)] (b), or \$200,000, effective January 1, 2002, must
 157 be automatically increased as permitted by United States
 158 Treasury Regulations to reflect cost-of-living adjustments.

159 * * *

160 (b) *Compensation limitation.* For purposes of this retirement savings plan,
 161 for plan years beginning on or after [January 1, 1996] January 1, 2002,
 162 only the first [\$150,000] \$200,000 of a participant's regular earnings, or
 163 any other amount permitted under Internal Revenue Code Section
 164 401(a)(17), must be taken into account.

165 * * *

166 **33-120. Distribution of Benefit.**

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168 (h) *Benefit distribution date.*

169 (1) The Chief Administrative Officer must pay a participant who
 170 retires by reason of normal, deferred, or disability retirement the
 171 participant's account balances in the retirement savings plan. The
 172 distribution must begin as soon as administratively feasible after
 173 the participant's retirement and after the date elected by the
 174 participant, but no later than April 1 following the later of the
 175 calendar year in which the participant attains age [70] 70½, or the
 176 calendar year in which the participant's County employment
 177 ends.

178 * * *

179 (i) *Required commencement of benefit payments.*

180 (1) The distribution of a participant's or former participant's
 181 retirement benefits must begin no later than April 1 [of the
 182 calendar year] following the later of:

183 (A) the calendar year in which the participant attains age [70]
 184 70½; or

185 (B) the calendar year in which the participant separates from
 186 County service.

187 (2) The distribution may be made as provided in subsection (f).

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* * *

189 (k) *Period for distribution of death benefits of a participant who was not*
 190 *receiving benefits.*

191 (1) If a participant dies before payment of benefits under this Section
 192 has begun, the benefits must be distributed [within 5 years after
 193 the participant's death] before the end of the calendar year
 194 containing the fifth anniversary of the participant's death unless:

195 (A) (i) any portion of the participant's benefit is payable to,
 196 or for the benefit of, a designated beneficiary;

197 (ii) the portion of the benefit to which the designated
 198 beneficiary is entitled will be distributed over the
 199 life of the beneficiary or over a period not extending
 200 beyond the life expectancy of the beneficiary; and

201 (iii) the distributions begin before the end of the calendar
 202 year following the calendar year in which the
 203 participant's death occurred. [no later than one year
 204 after the date of the participant's death, or a later
 205 date permitted under federal regulation]; or

206 (B) (i) the portion of the participant's benefit to which the
 207 surviving spouse [or domestic partner] is entitled
 208 will be distributed over the life of the surviving
 209 spouse [or domestic partner], or over a period not
 210 extending beyond the life expectancy of the
 211 surviving spouse [or domestic partner] ; and

212 (ii) the distributions begin before the later of the end of
 213 the calendar year following the calendar year in

241 contributions to the guaranteed retirement income plan. A
242 member is always vested in the member’s contributions.

243 (C) When a member rejoins County service after military
244 service that qualifies under Section [33-41(p)] 33-41(q) as
245 credited service, the County must credit the member with
246 the amount equal to the amount that the member would
247 have contributed if the member had worked for the County
248 during the period of military service. Contribution credits
249 for the period of military service must be based on the
250 regular earnings the member would have earned during the
251 period of military service. If the regular earnings are not
252 reasonably ascertainable, the credit must be based on the
253 member’s regular earnings during a period immediately
254 preceding the military service. The averaging period is 12
255 months, or the full length of the member’s County service,
256 whichever is shorter. The member will not receive any
257 retroactive credited interest on the contribution credits.

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259 **33-40. Employer contributions.**

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261 (e) Guaranteed retirement income plan.

262 * * *

263 (2) When a member rejoins County service after military service that
264 qualifies under Section [33-41(p)] 33-41(q) as credited service,
265 the County must credit the member the amount that the County
266 would have credited the member if the member worked for the
267 County during the military service. The credits must be based on

268 the regular earnings the member would have earned during the
 269 military service. If the regular earnings are not reasonably
 270 ascertainable, the County contribution credit must be based on
 271 the member's regular earnings during a period immediately
 272 preceding military service. The averaging period is 12 months,
 273 or the full length of the member's County service, whichever is
 274 shorter. The member must not receive any retroactive credited
 275 interest on the County contribution credits.

276 **33-41. Credited Service.**

277 * * *

278 [(p)] (q) For the guaranteed retirement income plan, subsections (a)-(o) do not
 279 apply and credited service must be determined only under this
 280 subsection.

281 * * *

282 **33-44. Pension payment options and cost-of-living adjustments.**

283 * * *

284 (i) *Period for distribution of death benefits of a retired elected officials'*
 285 *participant who was receiving benefits.* If the distribution to a retired
 286 elected officials' participant has commenced in accordance with the
 287 second sentence of subsection [33-44(g)] 33-44(h) and the elected
 288 officials' participant dies before the elected officials' participant's entire
 289 benefit has been distributed to that elected official's participant, the
 290 remaining part of such benefit must be distributed at least as rapidly as
 291 under the method of distribution in effect as of the date of the retired
 292 elected officials' participant's death.

293 (j) *Period for distribution of death benefits of an elected officials'*
 294 *participant who was not receiving benefits.*

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(2) For purposes of subsections (f), [(g)], (h), [and] (i), and (j), the life expectancy of an elected officials' participant and the elected officials' participant's spouse [or domestic partner] may be recalculated each year. Also, for purposes of subsections (f), [(g)], (h), [and] (i), and (j), any amount paid to a child must be treated as if it had been paid to the surviving spouse [or domestic partner] of an elected officials' participant if the amount becomes payable to the surviving spouse [or domestic partner] of an elected officials' participant when the child reaches the age of majority (or other designated event permitted under applicable Treasury Regulations).

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(1) *Period for distribution of death benefits of a retired member who was receiving benefits.* If the distribution to a retired member has commenced in accordance with the second sentence of Subsection [33-44(j)] 33-44(k) and the member dies before the member's entire benefit has been distributed to the member, the remaining part of such benefit must be distributed at least as rapidly as under the method of distribution in effect as of the date of the retired member's death.

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Sec. 3. Expedited Effective Date.

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The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect as follows:

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(a) the amendments to Sections 33-37, 33-44 and 33-120 in Section 1 are effective on the date on which this Act becomes law;

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- 321 (b) the amendments to Sections 33-35 and 33-118 in Section 1 are effective
- 322 on January 1, 2002;
- 323 (c) the amendments to Section 33-40 in Section 1 are effective on
- 324 November 30, 2007; and
- 325 (d) the amendments in Section 2 are effective on July 1, 2009.

326 *Approved:*

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Philip M. Andrews, President, County Council

Date

328 *Approved:*

329

Isiah Leggett, County Executive

Date

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

331

Linda M. Lauer, Clerk of the Council

Date