

**MEMORANDUM**

March 2, 2012

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Introduction:** Expedited Bill 8-12, Retirement Savings Plan - Amendments

Expedited Bill 8-12, Retirement Savings Plan - Amendments, sponsored by the Council President at the request of the County Executive, is scheduled to be introduced on March 6, 2012. A public hearing is tentatively scheduled for March 27 at 1:30 p.m.

Bill 8-12 would amend the Retirement Savings Plan to make changes requested by the Internal Revenue Service in order to obtain a favorable determination letter that the Plan remains tax qualified. The IRS requested the following changes: (a) delete outdated references to Internal Revenue Code Section 415, which limits contributions and benefits; (b) insert a provision relating to the definition of compensation in Internal Revenue Code Section 415; and (c) provide the definition of an "eligible retirement plan" for rollover purposes rather than incorporate by reference. The Bill would make these technical changes to the Code provisions establishing the Retirement Savings Plan as requested by the IRS during the review process.

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Expedited Bill No. 8-12  
Concerning: Retirement Savings Plan -  
Amendments  
Revised: March 1, 2012 Draft No. 2  
Introduced: March 6, 2012  
Expires: September 6, 2013  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Council President at the Request of the County Executive

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**AN EXPEDITED ACT** to:

- (1) amend the Retirement Savings Plan to remain tax qualified under the Internal Revenue Code; and
- (2) generally amend the law regarding the employees' retirement system.

By amending

Montgomery County Code  
Chapter 33, Personnel and Human Resources  
Sections 33-118 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>
[[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:*

**Sec. 1. Sections 33-118 and 33-120 are amended as follows:**

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

*(a) Annual Contribution Limitation*

\* \* \*

[(4) County contributions that would be allocated to County contributions accounts of participants but for the limitations of this Section must be carried over to subsequent years and allocated in order of time to the County contributions accounts that would have received the contributions but for the limitations in this Section. However, if a participant whose County contributions are carried over is not a participant in the subsequent years, that portion of the carryover contributions attributable to the participant must be allocated to the County contribution accounts of all participants. Amounts carried over must be allocated to a suspense account that must be invested in a fund deemed prudent by the Board. Any earnings of the suspense account must be allocated ratably among the County contributions accounts of all the participants except as otherwise provided in this Section.]

(5)] (4) \* \* \*

[(6)] (5) \* \* \*

(c) Effective July 1, 2007, all contributions made to a participant's account within 2½ months after termination of employment or within the limitation year that contains the termination from employment must be considered compensation for purposes of Internal Revenue Code Section 415, as amended.

**33-120. Distribution of Benefit**

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(g) *Direct rollover distributions.* Notwithstanding any provision of this Division that would otherwise limit a participant's election under this Section, a participant or beneficiary may elect in any manner prescribed by the Chief Administrative Officer at any time to have any portion of an eligible rollover distribution [(as defined in the Internal Revenue Code)] paid directly to an eligible retirement plan [(as defined in the Internal Revenue Code)] specified by the participant in a direct rollover. [For purposes of]

As used in this subsection[,]:

(1) *direct rollover* [is] means a payment from the retirement savings plan to the eligible retirement plan specified by the participant.

(2) *eligible retirement plan* means:

(A) an individual retirement account described in Internal Revenue Code Section 408(a), as amended;

(B) an individual retirement annuity described in Internal Revenue Code Section 408(b), as amended, (other than an endowment contract);

(C) a qualified trust;

(D) an annuity plan described in Internal Revenue Code Section 403(a), as amended;

(E) an eligible deferred compensation plan described in Internal Revenue Code Section 457(b), as amended, which is maintained by an eligible employer described in Internal Revenue Code Section 457(e)(1)(A), as amended; and

55 (F) an annuity contract described in Internal Revenue Code  
56 Section 403(b), as amended.

57 (3) eligible rollover distribution means any distribution to a  
58 participant of all or any portion of the participant's account  
59 balance; except:

60 (A) any distribution which is one of a series of substantially  
61 equal periodic payments (not less frequently than  
62 annually) made:

63 (i) for the life (or life expectancy) of the employee or  
64 the joint lives (or joint life expectancies) of the  
65 employee and the employee's designated  
66 beneficiary; or

67 (ii) for a specified period of 10 years or more; or

68 (B) any distribution to the extent such distribution is required  
69 under Internal Revenue Code Section 401(a)(9), as  
70 amended.

71 \* \* \*

72 **Sec. 3. Effective Date.**

73 The Council declares that this legislation is necessary for the immediate  
74 protection of the public interest. This Act takes effect on the date on which it  
75 becomes law. The amendments to Section 33-118 in Section 1 are effective on  
76 July 1, 2007.

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78 *Approved:*

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\_\_\_\_\_  
Roger Berliner, President, County Council Date

## LEGISLATIVE REQUEST REPORT

Expedited Bill 8-12  
*Retirement Savings Plan – Amendments*

**DESCRIPTION:** The County submitted the Retirement Savings Plan (RSP) to the IRS in order to receive a determination letter that the RSP remains tax qualified.

**PROBLEM:** In connection with the determination letter request, the IRS requested several technical changes. The IRS requested that the RSP be amended to include and delete specific provisions of the Internal Revenue Code.

The IRS requested the following changes: (a) delete outdated references to Internal Revenue Code Section 415, which limits contributions and benefits; (b) insert a provision relating to the definition of compensation in Internal Revenue Code Section 415; and (c) provide the definition of an “eligible retirement plan” for rollover purposes rather than incorporate by reference.

**GOALS AND OBJECTIVES:** To amend the Retirement Savings Plan as requested by the IRS in connection with receiving a favorable IRS determination letter.

**COORDINATION:** Office of Human Resources, County Attorney

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

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

**EVALUATION:** N/A

**EXPERIENCE ELSEWHERE:** N/A

**SOURCE OF INFORMATION:** Joseph Adler, Office of Human Resources  
Amy Moskowitz, Office of the County Attorney

**APPLICATION WITHIN MUNICIPALITIES:** N/A

**PENALTIES:** N/A



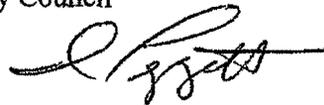
OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Isiah Leggett  
County Executive

MEMORANDUM

January 30, 2012

TO: Roger Berliner, President, County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Legislation relating to Retirement Savings Plan

I am transmitting for Council introduction a bill to update the Retirement Savings Plan (RSP), as well as the Legislative Request Report and Fiscal and Economic Impact Statement for the bill. In order for Montgomery County to receive a determination letter from the Internal Revenue Service (IRS) that the RSP remains tax qualified, the County must make several technical amendments to the RSP.

In a recent letter, the IRS requested the following changes: (1) delete outdated references to Internal Revenue Code Section 415, which limits contributions and benefits; (2) insert a provision relating to the definition of compensation in Internal Revenue Code Section 415; and (3) provide the definition of an "eligible retirement plan" for rollover purposes rather than incorporate by reference. The attached bill makes all of these changes.

Thank you for your consideration of this matter.

Attachments: (Determination letter from the IRS)  
(Draft legislation with technical changes to the RSP)

c: Joe Adler, Director, OHR  
Joe Beach, Director, Finance  
Marc Hansen, County Attorney  
Jennifer Hughes, Director, OMB