

Expedited Bill No. 20-15
Concerning: Deferred Retirement
Option Plan – Amendments –
Retirement Savings Plan – Annuity –
Guaranteed Retirement Income Plan
– Election
Revised: May 7, 2015 Draft No. 6
Introduced: April 21, 2015
Enacted: May 21, 2015
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

- (1) make the guaranteed retirement income plan the default retirement option for certain employees;
- (2) establish a deferred retirement option plan for sworn deputy sheriffs and uniformed correctional officers;
- (3) provide an annuity option for employees who participate in the retirement savings plan; and
- (4) generally amend the County employee retirement laws.

By amending

Montgomery County Code
Chapter 33, Personnel and Human Resources
Sections 33-37, 33-38A, 33-44, 33-115 and 33-120

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Sections 33-37, 33-38A, 33-44, 33-115, and 33-120 are amended**
 2 **as follows:**

3 **33-37. Membership requirements and membership groups.**

4 (a) *Full-time employees.*

5 (1) A full-time employee of the County or participating agency must
 6 become a member of a County retirement plan as a condition of
 7 employment, when the employee meets the applicable eligibility
 8 requirements, if the employee waives all rights of membership
 9 under any other retirement system supported in whole or in part
 10 by the State, a political subdivision of the State, or the County.

11 (2) A part-time employee who becomes a full-time employee and is
 12 not an active member of any County retirement plan must
 13 become an active member of:

14 (A) the integrated retirement plan, if the employee is eligible
 15 for membership in the integrated plan;

16 (B) the Retirement Savings Plan, if the employee satisfies the
 17 requirements for membership in Group I or II, even if the
 18 employee did not begin or return to County service on or
 19 after October 1, 1994 and participates as described in
 20 Section 33-115; or

21 (C) the guaranteed retirement income plan if the employee is
 22 eligible for membership and [elects to] participates as
 23 described in subsection (k).

24 (3) A temporary employee who becomes a full-time employee must
 25 become an active member of:

26 (A) the integrated plan, if the employee is eligible for
 27 membership in the integrated plan;

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(B) the Retirement Savings Plan, if the employee satisfies the requirements for membership in Group I or II, even if the employee did not begin or return to County service on or after October 1, 1994 and participates as described in 33-115; or

(C) the guaranteed retirement income plan if the employee is eligible for membership and [elects to participate] participates as described in subsection (k).

(b) *Part-time employees.*

(1) A part-time employee of the County or participating agency may become a member of a County retirement plan if the employee waives all rights of membership under any other retirement system supported in whole or in part by the State, a political subdivision of the State, or the County. Membership is effective on the date the employee's application for membership is approved.

(2) A part-time employee who is not an active member of a retirement plan may become a member of either:

(A) the integrated plan, if the employee is eligible for membership in the integrated plan;

(B) the Retirement Savings Plan if the employee satisfies the requirements for membership in Group I or II, even if the employee did not begin or return to County service on or after October 1, 1994 and elects to participate as described in Section 33-115; or

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(C) the guaranteed retirement income plan if the employee is eligible for membership and elects to participate as described in subsection (k).

* * *

(k) *[Election to join] Eligibility for the guaranteed retirement income plan.*

* * *

(3) An eligible full-time employee hired on or after July 1, 2009 and before July 1, 2015, and a part time or temporary employee who becomes full time on or after July 1, 2009 and before July 1, 2015, who does not participate in the retirement savings plan, may elect to participate in the guaranteed retirement income plan. An eligible employee must make an irrevocable election during the first 150 days of full time employment. If an eligible employee elects to participate, participation must begin on the first pay period after an employee has completed 180 days of full time employment. An employee who does not participate in the guaranteed retirement income plan must participate in the retirement savings plan beginning on the first pay period after the employee completes 180 days of full time employment.

* * *

(7) A member of the Office, Professional and Technical (OPT) or the Service, Labor and Trades (SLT) collective bargaining unit of the County government must participate in the guaranteed retirement income plan unless the employee makes a one-time irrevocable election to participate in the retirement savings plan during the first 150 days of full time employment, if the employee:

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- (A) is hired as a full-time employee on or after July 1, 2015;
or
- (B) is a part time employee who does not participate in the retirement savings plan and becomes a full-time employee on or after July 1, 2015.

Participation must begin on the first pay period after an employee has completed 180 days of full time employment.

(8) On or after July 1, 2015, an eligible full-time employee or a part-time or temporary employee who becomes a full-time employee in a position that is not within a bargaining unit or an eligible employee of a participating agency must participate in the retirement savings plan unless the employee makes a one-time irrevocable election to participate in the guaranteed retirement income plan during the first 150 days of full time employment. If the employee elects to participate, participation must begin on the first pay period after an employee has completed 180 days of full-time employment. A part-time employee who participates in either the retirement savings plan or the guaranteed retirement income plan when the employee becomes a full-time employee must continue to participate in the same retirement plan.

[(7)](9) An individual who changes employment from the County government to a participating agency or from a participating agency to the County government must continue to participate in his or her retirement plan and is not eligible to make an election.

33-38A. Deferred Retirement Option Plans.

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106 (c) DROP Plan for Sworn Deputy Sheriffs and Uniformed Correctional
 107 Officers.

108 (1) Uniformed correctional officer means Correctional Officer I,
 109 Correctional Officer II, Correctional Officer III, Correctional
 110 Dietary Officer I, Correctional Dietary Officer II, Correctional
 111 Supervisor-Sergeant, Correctional Dietary Supervisor,
 112 Correctional Shift Commander-Lieutenant, Correctional Unit
 113 Commander-Captain, Deputy Warden, and Warden. [[and]] The
 114 Director of the Department of Corrections must not begin
 115 participation in the DROP after appointment as Director.

116 (2) Sworn Deputy Sheriff means Deputy Sheriff I, Deputy Sheriff II,
 117 Deputy Sheriff III, Deputy Sheriff Sergeant, Deputy Sheriff
 118 Lieutenant, Deputy Sheriff Captain, Assistant Sheriff, and the
 119 Chief Deputy Sheriff (Colonel).

120 (3) Eligibility. A sworn deputy sheriff or uniformed correctional
 121 officer who is at least age 55 years old and has at least 15 years
 122 of credited service or is at least 46 years old and has at least 25
 123 years of credited service may participate in the DROP. A
 124 uniformed correctional officer or sworn deputy sheriff must
 125 participate in the optional retirement plan or the integrated
 126 retirement plan as a Group E member in order to participate in
 127 the DROP.

128 (4) Application requirements. An eligible employee must apply at
 129 least 60 days before the employee becomes a participant. An
 130 employee may withdraw a pending application within 2 weeks
 131 after submitting the application.

- 132 (5) Employee participation and termination. The employee's
133 participation in the DROP must begin on the first day of a month
134 that begins at least 60 days, but not more than 90 days, after the
135 employee applied and must end 3 years after the employee begins
136 to participate or at an earlier date chosen by the employee. When
137 the employee's participation in the DROP ends, the employee
138 must stop working for the County and receive a pension benefit.
- 139 (6) Employment status. An employee who participates in the DROP
140 must continue to be a member of the retirement system, earn sick
141 and annual leave, and remain eligible to participate in health and
142 life insurance programs.
- 143 (7) Retirement date, retirement contributions, and credited service.
144 The retirement date of an employee who participates in the
145 DROP is the date when the employee begins to participate in the
146 DROP, and the employee must not make retirement
147 contributions after that date. An employee who wishes to
148 purchase prior service must do so before the employee's
149 participation in the DROP begins. Sick leave in excess of 80
150 hours must be credited towards retirement at the beginning of the
151 employee's participation.
- 152 (8) Pension benefits.
- 153 (A) Before an employee's participation begins, the employee
154 must select a:
- 155 (i) pension payment option under Section 33-44 for the
156 regular retirement pension payments; and
- 157 (ii) pension payment distribution option for the
158 distribution of the employee's DROP account.

- 159 (B) A pension benefit must not be paid to the employee while
160 the employee participates in the DROP, but must be
161 deposited in a DROP account established for the
162 participant by the County. The participant must receive
163 the account balance and the County must close the account
164 within 60 days after the employee stops participating in
165 the DROP. Subject to any requirements of the Internal
166 Revenue Code and other applicable law, the employee
167 may roll over the account balance into an eligible
168 retirement plan.
- 169 (C) An employee must direct the Board of Investment
170 Trustees to allocate pension benefits contributed to the
171 employee's DROP account in one or more of the
172 investment funds selected by the Board. An employee's
173 direction of investment must remain in effect until the
174 employee changes the direction. An employee must select
175 investment options in order to participate in the DROP.
- 176 (D) After the employee's participation in DROP ends, the
177 employee's pension benefit will be based on:
- 178 (i) the employee's credited service immediately prior
179 to the beginning of the employee's participation in
180 the DROP, adjusted to include credit for unused
181 sick leave under Section 33-41;
- 182 (ii) the employee's average final earnings, excluding
183 earnings during the period of participation in the
184 DROP; and

185 (iii) increases in the consumer price index during the
186 period of the employee's participation that would
187 have resulted in an increase in the employee's
188 pension benefit if the employee had not been
189 participating in the DROP.

190 (9) Disability retirement. An employee may apply for disability
191 retirement prior to the termination of the employee's
192 participation in the DROP.

193 (A) A DROP participant who is eligible for a service-
194 connected disability retirement must choose either:

195 (i) the retirement benefit under the DROP and the
196 DROP account balance; or

197 (ii) the service-connected disability retirement benefit
198 that the employee would have received if the
199 employee had continued as an active employee and
200 had not elected to participate in the DROP, and no
201 DROP account balance.

202 (B) A DROP participant who is eligible for a non-service-
203 connected disability retirement benefit must receive the
204 non-service-connected disability retirement benefit under
205 Section 33-43(h), with the benefit calculated as of the
206 member's DROP [[exit]] entry date, plus the DROP
207 account balance.

208 (C) If a DROP participant ends participation in the DROP
209 before a final decision is made on the disability retirement
210 application, the DROP account must not be distributed
211 until a final decision is made.

212 (10) Death benefit. If an employee dies during the employee's
213 participation in the DROP, the employee's beneficiary will
214 receive:

215 (A) the death benefit that the beneficiary would have received
216 if the employee had retired on the date on which the
217 employee began to participate in the DROP, adjusted
218 under subparagraph (7)(D); and

219 (B) the balance of the employee's DROP account.

220 (11) DROP account distribution options. A member may have the
221 balance of the DROP account distributed as a lump sum or an
222 annuity, or have some or all paid directly to an eligible retirement
223 plan as a direct rollover distribution. If the member dies before
224 the balance of the DROP account is distributed, the beneficiary
225 may receive distribution of the balance under any option
226 described in this paragraph as allowed under the Internal
227 Revenue Code and applicable regulations.

228 **33-44. Pension payment options and cost-of-living adjustments.**

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230 (s) Transfer from Retirement Savings Plan.

231 A participant who transfers his or her retirement savings plan account
232 balance under Section 33-120 may elect to receive his or her account
233 balance paid as an annuity under subsection (g)(2).

234 **33-115. Participant requirements and participant groups.**

235 (a) Participant Requirements.

236 (1) Full-time employees.

237 (A) Except as provided in paragraphs (3)[,] and (4), [and (7)]
238 and the last sentence of Section 33-37(e)(2), a full-time

239 employee eligible for membership in Group I or Group II
240 must participate in the Retirement Savings Plan or the
241 Guaranteed Retirement Income Plan when the full-time
242 employee meets the applicable eligibility requirements or
243 forfeit employment, unless the Chief Administrative
244 Officer exempts the employee from participation.

245 (B) A part-time employee who becomes a full-time employee
246 and is not an active member of any retirement plan for
247 County employees, must become a member of:

248 (i) the integrated retirement plan, if the employee is
249 eligible for membership in the integrated plan;

250 (ii) the Retirement Savings Plan, if the employee
251 qualifies for Group I or II, even if the employee did
252 not begin or return to County service on or after
253 October 1, 1994; or

254 (iii) the Guaranteed Retirement Income Plan if the
255 employee is eligible for membership [and makes an
256 election].

257 (C) A temporary employee who becomes a full-time employee
258 must become an active member of:

259 (i) the integrated plan, if the employee is eligible for
260 membership in the integrated plan;

261 (ii) the Retirement Savings Plan, if the employee
262 satisfies the requirements for membership in Group
263 I or II, even if the employee did not begin or return
264 to County service on or after October 1, 1994; or

265 (iii) the Guaranteed Retirement Income Plan if the
 266 employee is eligible for membership in the
 267 Guaranteed Retirement Income Plan [and makes an
 268 election under subsection (7)].

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270 (7) [Election to participate] Participation in the Guaranteed
 271 Retirement Income Plan.

272 (A) [A full time employee hired or rehired on or after July 1,
 273 2009 and a part time and temporary employee who
 274 becomes full time after July 1, 2009 participate in the
 275 guaranteed retirement income plan. An eligible employee
 276 must make a one-time irrevocable election during the first
 277 150 days of employment. If an eligible employee elects to
 278 participate, participation must begin on the first pay period
 279 after an employee has completed 180 days of full time
 280 employment. A full time employee who does not elect to
 281 participate in the guaranteed retirement income plan must
 282 participate in the retirement savings plan beginning on the
 283 first pay period after the employee has completed 180 days
 284 of full time employment.] A participant who changes
 285 employment from the County directly to a participating
 286 agency or from a participating agency directly to the
 287 County must continue to participate in his or her
 288 retirement plan and is not eligible to make an election. A
 289 member of the Office, Professional and Technical (OPT)
 290 or the Service, Labor and Trades (SLT) collective
 291 bargaining unit of the County government must participate

292 in the Guaranteed Retirement Income Plan, unless the
 293 employee makes a one-time irrevocable election to
 294 participate in the Retirement Savings Plan during the first
 295 150 days of full time employment, if the employee:

296 (i) is hired as a full-time employee on or after July 1,
 297 2015; or

298 (ii) is a part time employee who does not participate in
 299 the Retirement Savings Plan and becomes a full-
 300 time employee on or after July 1, 2015.

301 Participation must begin on the first pay period after an
 302 employee has completed 180 days of full time
 303 employment.

304 (B) Except as provided in subparagraph (A), an eligible
 305 employee must participate in the Retirement Savings Plan
 306 unless the employee makes a one-time irrevocable election
 307 to participate in the Guaranteed Retirement Income Plan
 308 during the first 150 days of full-time employment.
 309 Participation must begin on the first pay period after an
 310 employee has completed 180 days of full- time
 311 employment. A part-time employee who participates in
 312 either the Retirement Savings Plan or the Guaranteed
 313 Retirement Income Plan when the employee becomes a
 314 full-time employee must continue to participate in the
 315 same retirement plan.

316 (C) A part time employee who is not a participant in the
 317 Retirement Savings Plan may make a one-time irrevocable
 318 election to participate in the Guaranteed Retirement

319 Income Plan any time after the employee has completed
 320 150 days of employment.

321 (b) *Participants groups and eligibility.*

322 (1) *Group I.* Except as provided in the last sentence of Section 33-
 323 37(e)(2), any full-time or career part-time employee meeting the
 324 criteria in paragraphs (A) or (B) must participate in the retirement
 325 savings plan if the employee begins, or returns to, County service
 326 on or after October 1, 1994. An employee hired on or after July
 327 1, 2009 must be employed on a full time or part time basis with
 328 the County for 180 days before participating in the Retirement
 329 Savings Plan. An individual who changes employment from the
 330 County government directly to a participating agency or from a
 331 participating agency directly to the County government must
 332 continue to participate in the same retirement plan. Participation
 333 in the Retirement Savings Plan must begin on the first payroll
 334 after an employee has completed 180 days of employment if the
 335 employee:

336 (A) (i) is not represented by ~~[[an]]~~ a County government
 337 employee organization;

338 (ii) does not occupy a County government bargaining
 339 unit position;

340 (iii) is not a public safety employee; and

341 (iv) does not elect to participate in the Guaranteed
 342 Retirement Income Plan; or

343 (B) (i) is not a public safety employee; and

344 (ii) is subject to the terms of a collective bargaining
 345 agreement between the County and an employee

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organization which requires the employee to participate in the [retirement savings] Guaranteed Retirement Income Plan if the employee does not elect to participate in the [guaranteed retirement income] Retirement Savings Plan; and

(iii) [does not elect] elects to participate in the Retirement Savings Plan [guaranteed retirement income plan].

* * *

33-120. Distribution of Benefit.

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(f) *Distribution methods.* The Chief Administrative Officer must pay, at the request of the participant or the designated beneficiary, a participant's account balances in the retirement savings plan upon retirement, disability retirement, death, or separation from County service.

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(4) Optional method of distribution - Transfer to Employees' Retirement System, Annuity Option. A participant may elect to have the participant's entire account balance transferred to the employees' retirement system and have the account balance paid in one of the annuity options available under Section 33-44(g)(2).

* * *

Sec. 2. Expedited Effective Date. The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on July 1, 2015.

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373 *Approved:*

374

George Leventhal

5/21/2015

George Leventhal, President, County Council

Date

375 *Approved:*

376

Isiah Leggett, County Executive

Date

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

378

Linda M. Lauer, Clerk of the Council

Date