

Expedited Bill No. 2-17
Concerning: Employees' Retirement System - Retirement Savings Plan - Employee Rights and Benefits - Amendments
Revised: 2/10/2017 Draft No.1
Introduced: February 14, 2017
Enacted: April 4, 2017
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) amend the rights and benefits for certain employees under the Employees' Retirement System to remain tax qualified under the Internal Revenue Code; and
- (2) amend the rights and benefits for certain employees under the Retirement Savings Plan to remain tax qualified under the Internal Revenue Code; and
- (3) generally amend the law regarding the County employee retirement plans.

By amending

Montgomery County Code
Chapter 33, Personnel and Human Resources
Sections 33-36, 33-42, 33-44, 33-45, 33-114, 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:

1 **Sec. 1. Sections 33-36, 33-42, 33-44, 33-45, 33-114, 33-118 and 33-120 are**
2 **amended as follows:**

3 **33-36. Establishment.**

4 * * *

5 (d) Uniformed Services Employment and Reemployment Rights Act.
6 Notwithstanding any provision of any plan, the County must provide
7 rights, contributions, benefits and service credit for qualified military
8 service as required by Section 414(u) of the Internal Revenue Code,
9 including subsection 414(u)(12).

10 **33-42. Amount of pension at normal retirement date or early retirement date.**

11 * * *

12 (g) *Maximum annual contribution to elected officials' plan.*

13 * * *

14 (3) In this subsection (g), only:
15 (A) for purposes of applying Section 415 of the Internal
16 Revenue Code, “compensation” has the same meaning as
17 provided in Treasury Regulation Section 1.415-2(d)(1),
18 including amounts contributed at the election of the
19 participant that are not includible in the gross income of
20 the participant, under Sections 402(g)(3), 125, 457, and
21 132(f)(4) of the Internal Revenue Code. Effective for
22 limitation years after December 31, 2008, must include
23 amounts required to be included pursuant to Section
24 414(u)(12) of the Internal Revenue Code; and

25 * * *

26 (h) *Maximum annual benefit.* Despite any other provision governing the
27 retirement system, the annual benefit of a member must not exceed the

limits of Internal Revenue Code Section 415 that apply to the plan. The Chief Administrative Officer must freeze or reduce a member’s annual benefit to comply with this subsection. Effective for limitation years after December 31, 2008, amounts required to be included under Section 414(u)(12) of the Internal Revenue Code must be included in compensation for purposes of Section 415 of the Internal Revenue Code.

* * *

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

* * *

(q) *Direct rollover distributions.* A member or beneficiary may elect, in any manner prescribed by the Chief Administrative Officer at any time, to have any portion of eligible rollover distribution paid directly to an eligible retirement plan specified by the member in a direct rollover. A member may not elect a direct rollover if the eligible rollover distribution is less than \$200.00. As used in this subsection:

- (1) *direct rollover* means a payment from the retirement system to the eligible retirement plan specified by the member; [and]
- (2) *eligible retirement plan means:*
 - (A) an individual retirement account described in Internal Revenue Code Section 408(a);
 - (B) an individual retirement annuity described in Internal Revenue Code Section 408(b) (other than an endowment contract);
 - (C) a qualified trust;
 - (D) an annuity plan described in Internal Revenue Code Section 403(a);

- (E) an eligible deferred compensation plan described in Internal Revenue Code Section 457(b) which is maintained by an eligible employer described in Internal Revenue Code Section 457(e)(1)(A); or
- (F) an annuity described in Internal Revenue Code Section 403(b);

(3) eligible rollover distribution means any distribution of all or any portion of the retirement benefit; except:

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

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

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

(B) any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code, as amended; and

(4) beneficiary includes a non-spouse beneficiary. A non-spouse beneficiary may make a direct rollover only to an inherited individual retirement account or annuity described in Sections 408(a) or 408(b) of the Internal Revenue Code that is established on behalf of the non-spouse beneficiary. Such rollover must be made in a manner consistent with Section 402(c)(11) of the Internal Revenue Code and any other applicable guidance.

* * *

82 **33-45. Vested benefits and withdrawal of contributions.**

83 * * *

84 (c) *Vested benefits.*

85 (9) For purposes of this subsection, vesting will be in accordance
86 with Section 401(a)(37) of the Internal Revenue Code. Effective
87 January 1, 2007, the beneficiary of a member on a leave of
88 absence to perform military service with reemployment rights
89 described in Section 414(u) of the Internal Revenue Code, where
90 the member cannot return to employment on account of his or
91 her death, must be entitled to any additional benefits (other than
92 benefit accruals relating to the period of qualified military
93 service) that would be provided under the employees' retirement
94 system had the member died as an active employee, in
95 accordance with Section 401(a)(37) of the Internal Revenue
96 Code. This provision applies to the elected officials' plan, the
97 guaranteed retirement income plan, and the optional and
98 integrated plans.

99 * * *

100 **33-114. Establishment.**

101 * * *

102 (c) Uniformed Services Employment and Reemployment Rights Act.
103 Notwithstanding any provision of a plan, the County must provide
104 rights, contributions, benefits and service credit for qualified military
105 service according to Section 414(u) of the Internal Revenue Code,
106 including subsection 414(u)(12).

107 **33-118. Maximum annual contribution.**

108 (a) *Contribution limitations.*

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(3) In this Section, for purposes of applying Section 415 of the Internal Revenue Code, “compensation” has the same meaning as provided in Treasury Regulation Section 1.415-2(d)(1), including amounts contributed at the election of the participant that are not includible in the gross income of the participant, under Sections 402(g)(3), 125, 457, and (effective January 1, 2001) 132(f)(4) of the Internal Revenue Code. Effective for limitation years after December 31, 2008, compensation must include amounts required to be included by Section 414(u)(12) of the Internal Revenue Code.

* * *

- (d) For purposes of this Section, limitation year means calendar year.
- (e) For purposes of applying this Section, all defined contribution plans maintained by the County must be aggregated.

33-120. Distribution of Benefit.

* * *

(c) *Death benefits.*

* * *

(2) *Vesting.* If a participant dies before the participant's separation from County service, all amounts credited to the participant's County contributions account are 100% vested regardless of the participant's years of credited service. For purposes of this subsection, vesting must be in accordance with Section 401(a)(37) of the Internal Revenue Code. Effective January 1, 2007, the beneficiary of a participant on a leave of absence to perform military service with reemployment rights described in

136 Section 414(u) of the Internal Revenue Code, where the
 137 participant cannot return to employment on account of his or her
 138 death, must be entitled to any additional benefits that would be
 139 provided under the retirement savings plan had the participant
 140 died as an active employee, in accordance with Section
 141 401(a)(37) of the Internal Revenue Code.

142 * * *

143 (g) *Direct rollover distributions.* Notwithstanding any provision of this
 144 Division that would otherwise limit a participant's election under this
 145 Section, a participant or beneficiary may elect in any manner prescribed
 146 by the Chief Administrative Officer at any time to have any portion of
 147 an eligible rollover distribution paid directly to an eligible retirement
 148 plan specified by the participant in a direct rollover. As used in this
 149 subsection:

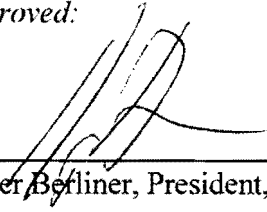
150 * * *

151 (4) For purposes of this subsection, beneficiary includes a non-
 152 spouse beneficiary. A non-spouse beneficiary may make a direct
 153 rollover only to an inherited individual retirement account or
 154 annuity described in Sections 408(a) or 408(b) of the Internal
 155 Revenue Code that is established on behalf of the non-spouse
 156 beneficiary. Such rollover shall be made in a manner consistent
 157 with Section 402(c)(11) of the Internal Revenue Code and any
 158 other applicable guidance.

159 **Sec. 2. Effective Date.**

160 The Council declares that this legislation is necessary for the immediate
 161 protection of the public interest. This Act takes effect on the date on which it
 162 becomes law.

Approved:



Roger Berliner, President, County Council

4/6/17

Date

Approved:

Isiah Leggett, County Executive

Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

Date