GO Item 2
June 23, 2016
Worksession

MEMORANDUM

June 21, 2016

TO: Government Operations and Fiscal Policy Committee

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: **Worksession:** Bill 16-16, Personnel – Benefits for Domestic Partner of Employee - Repeal

Bill 16-16, Personnel – Benefits for Domestic Partner of Employee - Repeal, sponsored by Lead Sponsor Councilmember Leventhal and Co-sponsor Councilmember Katz, was introduced on April 19, 2016. A public hearing was held on May 3.

Bill 16-16 would repeal the law requiring the County to provide domestic partner benefits to eligible County employees.

Background

Bill 28-99, Personnel – Benefits for Employee's Domestic Partner, enacted on November 30, 1999 and signed into law on December 3, 1999, extended health and insurance benefits to a same-sex domestic partner of an employee. According to the legislative history, sponsors and supporters of Bill 28-99 argued that the law was needed to correct an inequity in benefits provided to gay and lesbian County employees, compared to other employees. They argued that it is unfair to provide benefits for an employee's spouse but not for the partner of an employee in a long-term, committed, same-sex relationship. This benefits inequity conflicted with the County's longstanding law and policies against discrimination based on sexual orientation.[1] Bill 28-99 was a civil rights law that was enacted outside of the collective bargaining process.

Bill 25-01, Personnel – Retirement – Amendments, extended opposite sex domestic partner benefits to members of the police bargaining unit on November 1, 2001. Bill 30-10, Personnel – Equal Benefits – Fire and Rescue Employees, extended opposite sex domestic partner benefits to members of the fire and rescue bargaining unit. Each of these laws was enacted at a time when same-sex marriage was prohibited in Maryland. Maryland began to recognize same-sex marriage on January 1, 2013.

[1] The County first prohibited discrimination based on sexual orientation in 1984.

The legalization of same-sex marriage in Maryland created a new inequity for employers who provided domestic partner benefits to same-sex couples only. Governor O'Malley resolved this inequity by eliminating all domestic partner benefits for State employees soon after the State legalized same-sex marriages. Although Maryland began recognizing same-sex marriages in 2013, many States did not. Last year, the U.S. Supreme Court held that the right to marry is a fundamental right that must be provided to same-sex couples in *Obergefell v. Hodges*, 135 S.Ct. 2584 (2015). Speaking for the Court, Justice Kennedy said:

> These considerations lead to the conclusion that the right to marry is a fundamental right inherent in the liberty of the person, and under the Due Process and Equal Protection Clauses of the Fourteenth Amendment couples of the same-sex may not be deprived of that right and that liberty. The Court now holds that same-sex couples may exercise the fundamental right to marry. 135 S.Ct. at 2604-2605.

The *Obergefell* case again changed the legal framework underlying the County's domestic partner benefits law. Except for members of the police and fire bargaining units, a County employee with a same-sex domestic partner can obtain health and insurance benefits for a partner without marriage and an employee with a domestic partner of the opposite sex must marry his or her domestic partner to obtain these benefits. The original purpose of the domestic partner benefits law no longer applies because same-sex couples are guaranteed the right to marry in all States.

Many States have reacted to this change in law by eliminating all domestic partner benefits. See the *Stateline* article reviewing these reactions at ©8-13. In addition to the State of Maryland, the Montgomery County Board of Education eliminated all domestic partner benefits for its employees after same-sex marriage was legalized in Maryland. Howard County did the same for its employees. Prince George's County never provided domestic partner benefits for its employees.[2] In contrast to this trend to eliminate domestic partner benefits, the Executive submitted a Bill to the Council, introduced as Bill 13-16 on April 12, that would provide opposite sex domestic partner benefits to employees represented by MCGEO and unrepresented employees. Bill 16-16 would resolve this inequity by eliminating domestic partner benefits for all County employees. The Bill would permit an employee or retiree who is receiving or has applied for domestic partner benefits on or before April 19, 2016 to continue to receive these benefits.

Lead Sponsor Councilmember Leventhal explained his reasons for introducing this Bill and related Bill 17-16 repealing the equal benefits law for County contractors in an April 13 memorandum at ©7.

Council Resolution No. 18-461

On April 26, 2016, the Council adopted Resolution No. 18-461 indicating its intent to approve or reject provisions of the MCGEO collective bargaining agreement subject to Council review. The Council indicated its intent to reject the provision in the MCGEO agreement that would require the expansion of domestic partner benefits to opposite sex couples. See ©14-16. The Executive and MCGEO submitted a revised agreement that delayed the starting date for a

[2] The District of Columbia continues to provide domestic partner benefits for its employees, including opposite sex domestic partner benefits.

negotiated second service increment, but did not attempt to add back the provision extending domestic partner benefits to opposite sex couples. On May 16, 2016, the Council rejected this provision of the agreement in Resolution No. 18-475. See ©17-20.

Public Hearing

The Council held a public hearing on Bill 16-16 on May 3, 2016. Both Jeff Buddle, President of IAFF Local 1664, and Torrie Cooke, President of FOP Lodge 35 opposed the Bill. Each union president argued that health benefits are subject to collective bargaining and that the appropriate method of modifying these benefits for bargaining unit members is through collective bargaining.

Issues

1. Does the Council have the authority under the collective bargaining law to repeal domestic partner benefits outside of collective bargaining?

The Court of Appeals recently confirmed that the Council retains the authority to reject provisions of a negotiated collective bargaining agreement subject to its review outside of the bargaining process in *Fraternal Order of Police, Lodge 35 v. Montgomery County*, 437 Md. 618 (2014). The Court held that the Council had the authority to modify the health insurance provisions in the collective bargaining agreement to save money without bargaining with the union representing the employees. In this case, the repeal of the domestic partner benefits for these employees is estimated to save the County $215,882 over the next 6 fiscal years. See the Fiscal and Economic Impact Statement at ©21-25.

2. How would the Bill affect employees who are currently receiving domestic partner benefits?

Bill 16-16 contains a grandfather clause that would permit an employee who is currently receiving domestic partner benefits or who has applied for these benefits before April 19, 2016 to continue to receive these benefits.

3. Should the Council repeal domestic partner benefits for County employees?

The original purpose of the law was to extend these "marriage benefits" to same sex couples who were unable to obtain them because same sex marriage was not recognized in Maryland. Since same sex marriage was recognized in Maryland in 2013 and the Supreme Court extended the right of a same sex couple to marry throughout the nation in 2015, the original purpose of the law has evaporated. The extension of domestic partner benefits to opposite sex couples was an attempt to re-create a level playing field for opposite sex couples who declined to get married. In 2016, the continuation of the domestic partner benefits is no longer necessary to ensure that same sex or opposite sex couples can extend benefits to their partner. **Council staff recommendation:** enact the Bill as introduced.

This packet contains: Circle #

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Bill No. 16-16
Concerning: Personnel – Benefits for Domestic Partner of Employee - Repeal
Revised: April 19, 2016 Draft No. 3
Introduced: April 19, 2016
Expires: October 19, 2017
Enacted: ____
Executive: ____
Effective: ____
Sunset Date: None
Ch. ____, Laws of Mont. Co. ____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Leventhal and Co-Sponsor: Councilmember Katz

AN ACT to:

(1) repeal the law requiring the County to provide domestic partner benefits for certain employees; and

(2) generally amend the law regarding benefits for domestic partners.

By amending

Montgomery County Code
Chapter 33, Personnel and Human Resources
Sections 33-22

Boldface	*Heading or defined term.*
Underlining	*Added to existing law by original bill.*
[Single boldface brackets**]**	*Deleted from existing law by original bill.*
Double underlining	*Added by amendment.*
[[Double boldface brackets**]]**	*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:

Sec. 1. Section 33-22 is amended as follows:

33-22. [Benefits for Domestic Partner of Employee.] <u>Reserved.</u>

[(a) *Findings and purpose.* The County has a longstanding policy, in law and practice, against employment discrimination based on sexual orientation. The County believes it is unfair to treat employees differently based solely on whether the employee's partner is legally recognized as a spouse.

The County finds that many private and public employees provide or plan to provide benefits for the domestic partners of their employees. Providing domestic partner benefits will significantly enhance the County's ability to recruit and retain highly qualified employees and will promote employee loyalty and workplace diversity.]

[(b) *General rule.* Any benefit the County provides for the spouse (including "widow" or other equivalent term) of a County employee or the spouse's dependents must be provided, in the same manner and to the same extent, for the domestic partner of a County employee and the partner's dependents, respectively. Benefits provided to an employee's domestic partner or partner's dependent must include benefits equivalent to those available for an employee's spouse or spouse's dependent under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), the federal Family and Medical Leave Act, and other federal laws that apply to County employment benefits.]

[(c) Requirements for domestic partnership. To establish a domestic partnership, the employee and the employee's partner must either:

(1) satisfy all of the following requirements:

(A) be the same sex, unless the employee is a member of the police bargaining unit or the fire and rescue employee bargaining unit;

(B) share a close personal relationship and be responsible for each other's welfare;

(C) have shared the same legal residence for at least 12 months;

(D) be at least 18 years old;

(E) have voluntarily consented to the relationship, without fraud or duress;

(F) not be married to, or in a domestic partnership with, any other person;

(G) not be related by blood or affinity in a way that would disqualify them from marriage under State law if the employee and partner were (or, for members of the police bargaining unit or the fire and rescue services bargaining unit, are) opposite sexes;

(H) be legally competent to contract; and

(I) share sufficient financial and legal obligations to satisfy subsection (d)(2); or

(2) legally register the domestic partnership, if:

(A) a domestic partnership registration system exists in the jurisdiction where the employee resides; and

(B) the Director of Human Resources determines that the legal requirements for registration are substantially similar to the requirements of this Section.]

[(d) Evidence of domestic partnership. The employee must provide, in a form acceptable to the Office of Human Resources, the following:

(1) either:

(A) an affidavit signed by both the employee and the employee's partner under penalty of perjury declaring that they satisfy the requirements of subsection (c)(1); or

(B) an official copy of the domestic partnership registration described in subsection (c)(2); and

(2) evidence that the employee and partner share items described in at least 2 of the following subparagraphs:

(A) a joint housing lease, mortgage, or deed;

(B) joint ownership of a motor vehicle;

(C) a joint checking or credit account;

(D) designation of the partner as a primary beneficiary of the employee's life insurance, retirement benefits, or residuary estate under a will; or

(E) designation of the partner as holding a durable power of attorney for health care decisions regarding the employee.

This paragraph does not apply to a qualified, registered domestic partnership under subsection (c)(2).]

[(e) Termination of domestic partnership. An employee must notify the Director of Human Resources within 30 days after:

(1) termination of the domestic partnership by death or dissolution; or

(2) any other change in circumstances that disqualifies the relationship as a domestic partnership under this Section.

When the domestic partnership ends, the Director must terminate or continue any benefit in the same manner and to the same extent that the County terminates or continues, respectively, the benefit for a former spouse in equivalent circumstances (such as dissolution of a partnership and divorce).]

[(f) Application to retirees. In this Section, "employee" includes both active and retired employees.]

Sec. 2. Transition.

The amendments to Section 33-22 made in Section 1 do not apply to an employee or retiree who is receiving domestic partner benefits or has applied for domestic partner benefits before April 19, 2016.

Approved:

Nancy Floreen, President, County Council Date

Approved:

Isiah Leggett, County Executive Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council Date

LEGISLATIVE REQUEST REPORT

Bill 16-16

Personnel – Benefits for Domestic Partner of Employee - Repeal

DESCRIPTION: Bill 16-16 would repeal the law requiring the County to provide domestic partner health and retirement benefits for all County employees.

PROBLEM: The domestic partner benefit law was intended as a civil rights law to provide a County employee with the right to add a same-sex domestic partner to the County group health and retirement benefits in an era when same-sex marriage was not recognized in Maryland. Same-sex marriage is now recognized in all 50 States pursuant to a recent decision of the U.S. Supreme Court.

GOALS AND OBJECTIVES: Eliminate domestic partner benefits for County employees.

COORDINATION: Office of Human Resources and Finance

FISCAL IMPACT: Office of Management and Budget

ECONOMIC IMPACT: Office of Finance

EVALUATION: N/A

EXPERIENCE ELSEWHERE: Maryland and the MCPS have eliminated domestic partner benefits for their employees.

SOURCE OF INFORMATION: Robert H. Drummer, Senior Legislative Attorney

APPLICATION WITHIN MUNICIPALITIES: N/A

PENALTIES: N/A

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MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

GEORGE LEVENTHAL
COUNCILMEMBER
AT-LARGE

MEMORANDUM

April 13, 2016

TO: **Councilmembers**

FROM: **George L. Leventhal** GLL

SUBJECT: **Bills for introduction re: domestic partner benefits**

Dear Colleagues,

I will be introducing the two attached bills and welcome your co-sponsorship.

At the request of the County Executive, legislation was introduced this week to extend domestic partner benefits to all county employees. I can't go along with this in 2016. The county has provided health benefits to members of the police union who register as non-married domestic partners (regardless of whether they are straight or gay or lesbian) since 2001, and to members of the firefighters' union since 2010. This bill would expand the benefit to members of MCGEO, the Montgomery County Government Employee Organization.

I strongly support marriage equality, and it makes perfect sense to me that when marriage became legal in Maryland for gays and lesbians, former Governor O'Malley eliminated domestic partner benefits for all state employees, and Montgomery County Public Schools eliminated them for MCPS employees. Mr. Leggett's bill, which I oppose, goes in the opposite direction, extending health benefits to non-married employees who live together at an estimated cost to taxpayers of $4.8 million over the next six years.

Domestic partner benefits made sense when marriage was illegal for gays and lesbians, but they don't make sense today. We should recognize that times have changed and taxpayers should not have to continue paying the cost of an historic artifact. I am strongly committed to universal access to health care but this can be achieved through other means, including getting married!

The first of the two bills would repeal domestic partner benefits for county employees. The second bill would repeal the law requiring a county contractor to provide same-sex domestic partner benefits to its employees.

Please let me know if you have questions or would like to co-sponsor either or both bills.

STELLA B. WERNER OFFICE BUILDING • 100 MARYLAND AVENUE, 6TH FLOOR, ROCKVILLE, MARYLAND 20850
240/777-7811 OR 240/777-7900, TTY 240/777-7914, FAX 240/777-7989
WWW.MONTGOMERYCOUNTYMD.GOV/COUNCIL

THE PEW CHARITABLE TRUSTS

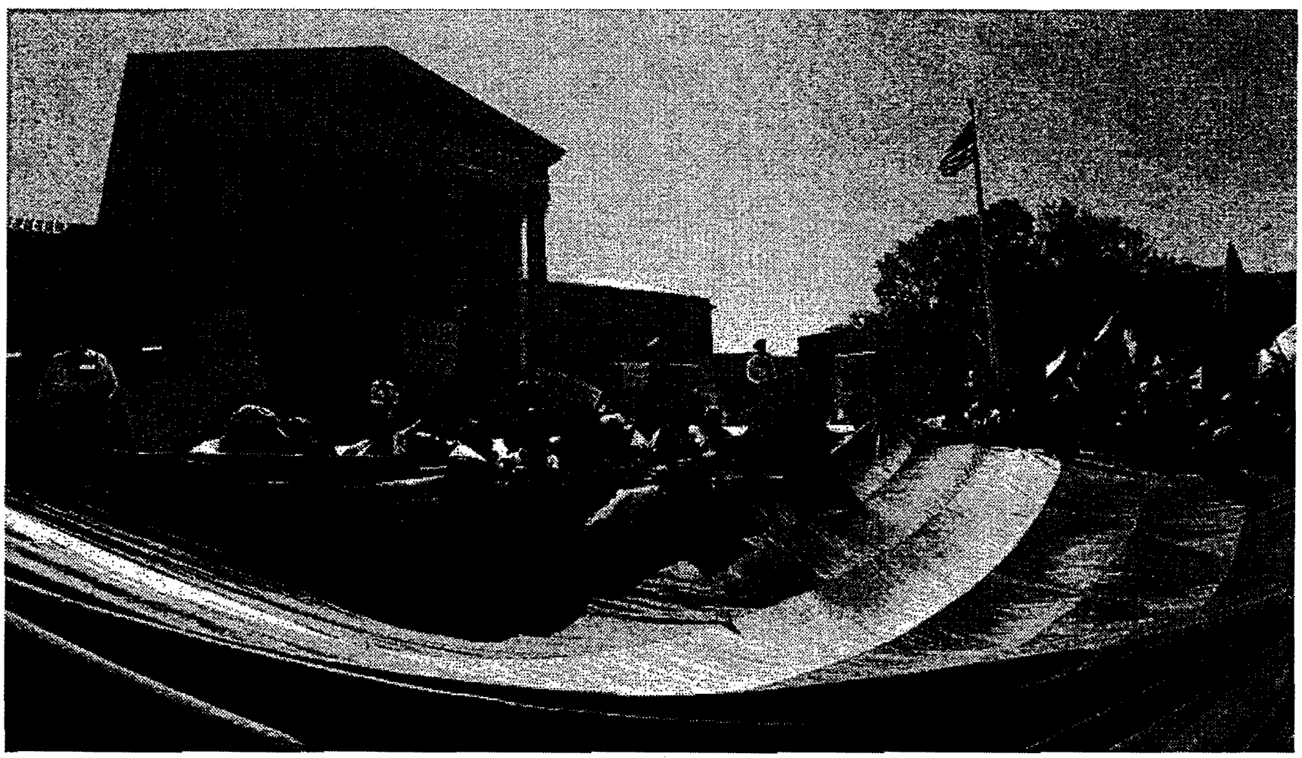
The Pew Charitable Trusts / **Research & Analysis** / **Stateline** / After Same-Sex Marriage Ruling, States Reconsider Domestic Partner Benefits

STATELINE

After Same-Sex Marriage Ruling, States Reconsider Domestic Partner Benefits

September 11, 2015

By Rebecca Beitsch



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The U.S. Supreme Court ruling legalizing same-sex marriage has some state and local governments reconsidering their domestic partner benefits.

Now that the U.S. Supreme Court has legalized same-sex marriage nationwide, some states that offer health and retirement benefits to their employees' domestic partners are considering changing those policies, in large part to save money or avoid discrimination lawsuits.

Before the ruling, 34 percent of state and local governments allowed unmarried same-sex couples to receive health care benefits, while 28 percent did so for domestic partners of the opposite sex, according to a study of public sector benefits by the Bureau of Labor Statistics.

Based on what happened in states that legalized gay marriage on their own, those numbers are about to dwindle.

Maryland ended domestic partner benefits for state employees, which it offered only to same-sex couples, just a few months after it legalized same-sex marriage in 2013. Arizona did the same after its legalization in 2014. Alaska still offers same-sex domestic partner benefits to the roughly 6,000 state employees it covers, but it is now reviewing that policy. The majority of Alaska state employees get their health insurance through state-funded union health trusts, and the state's largest union, the Alaska State Employees Association, ended same-sex domestic partner benefits for the more than 8,500 state and municipal employees it covers.

Connecticut and Delaware never offered domestic partner benefits to their workers, but they did allow those in civil unions to add their partners to their health and retirement plans. The two states scrapped those benefits once same-sex couples could marry.

Of the 13 states that prohibited same-sex marriage before the Supreme Court's June ruling (Arkansas, Georgia, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Tennessee and Texas), only Michigan offered anything similar to domestic partner benefits, as employees could add to their plan one adult they were not related to. Matthew Fedorchuk with the Michigan Civil Service Commission, which oversees state benefits, said the fate of those benefits could be hashed out in ongoing labor negotiations.

Government workers are likely to see more changes than those in the private sector.

Bruce Elliott, manager of compensation and benefits for the Society for Human Resource Management (SHRM), cited a survey of 153 companies by Mercer, a health care advocacy group, which found that although some companies had plans to get rid of their domestic partner benefits, many were not planning changes. Of the 19 percent that offered domestic partner benefits to same-sex couples, 23 percent said they would drop the option in the next year, while another 23 percent said they would do so over the next two or three years. The majority of companies offered domestic partner benefits to both homosexual and heterosexual couples, and 62 percent of those said they were not planning any changes.

Elliott said domestic partner benefits may be more vulnerable within state and local government, where competition over employees isn't as fierce as in the private sector and where leaders have been under pressure to keep finances in check since the recession.

A Question of Fairness

Cathryn Oakley, senior legislative counsel for the Human Rights Campaign, a gay rights advocacy group, said the group is encouraging public and private employers to keep offering domestic partner benefits. But she said employers that offer domestic partner benefits exclusively to same-sex couples should extend them to heterosexual couples to avoid discrimination lawsuits.

That risk is part of the reason the capital city of Annapolis, Maryland, decided to end its domestic partner benefit program.

"We had added it because the law didn't treat people equally," Paul Rensted, former human resources manager for the city, said of the program, created in 2010. Now all city employees must be married to add an adult to their benefits package, and Rensted said couples were given six months' notice, with four employees ultimately marrying.

Many in the gay rights community say keeping domestic partner benefits would continue to benefit some in the gay community as well as other non-traditional families. But straight couples would continue to be the biggest user of the benefits, they say.

"Millennials are waiting longer to get married, but that doesn't mean they're not living together—they're not all living with mom and dad," said SHRM's Elliott.

Nancy Polikoff, a family law professor at American University Washington College of Law, said she likes "plus one" policies that allow employees to take care of their families, whether it be a spouse, a partner or an aging relative.

"The purpose of providing benefits is to help employees fund the financial and emotional obligations in their homes, and marriage is not always a part of that," she said.

She pointed to Salt Lake City's plan as a model. City employees can add any adult to their plan as long as they live together.

Jodi Langford, who oversees the benefits program for the city, said it has been used to cover parents, siblings and unmarried children older than 26 who would otherwise age out of their parents' health insurance plans. Of the 60 people on the plan before same-sex marriage was made legal, only about 10 have switched to spousal benefits.

"If we stop, we would have parents, siblings, boyfriends and girlfriends who would be without benefits," Langford said. While the program is secure for now, she said there's been some talk about reviewing it within the next year.

In Florida, public universities are planning to review their domestic partner benefits. Because only spouses are eligible for state-funded benefits, state universities had to come up with creative solutions to offer benefits to gay employees' domestic partners. It was an anonymous gift that covered the additional cost of adding an adult beneficiary to a health plan at Florida State University (FSU) starting in 2014, while the University of North Florida (UNF) began covering the additional cost to employees through its fundraising foundation in 2006.

Spokesmen for both universities said the programs played a role in attracting talent. UNF is winding down its program, which had only been offered to same-sex couples, said Vice President and Chief of Staff Tom Serwatka.

"When we went to this, we did so on the basis that heterosexual couples had a choice whether they wanted to marry and understood the full implication of that choice. Homosexual couples didn't have that choice." Now that they do, Serwatka said, it makes less sense for the university to raise private funds to pay for the benefits.

"The university wasn't trying to change the idea of marriage as the policy for the state, and state funding required marriage," he said.

FSU is reviewing its program, which only paid for health insurance for domestic partners who could not get insurance through their work, said spokesman Dennis Schnittker.

"The gift was made under the belief of the donor that the state would be funding the benefit in the near future," he said.

No Change?

In some states, however, domestic partner benefits are likely to continue.

California's domestic partner benefit statutes remain intact, and in Massachusetts the policy is part of a still-standing executive order. Maine and Vermont, which was the first state to offer domestic partner benefits, are not planning to change their programs.

"We wouldn't just get rid of it because same-sex marriage has come about," said Tom Cheney, deputy commissioner for Vermont's Department of Human Resources. "The state of Vermont has long seen the value in offering domestic partner benefits to couples of all types. It's a useful recruitment and retention tool for the state as an employer."

Elliott believes it's too early to know what most employers—both public and private—will do with domestic partner benefits.

"Once we get past this year into next year's open enrollment, we're going to see some real change. The tea leaves haven't dried yet," he said.

PLACES
United States

TAGS
Business of Government, Justice, Labor, Social Issues

Resolution No.: 18-461
Introduced: April 19, 2016
Adopted: April 26, 2016

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Government Operations and Fiscal Policy Committee

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SUBJECT: Collective Bargaining Agreements with Municipal & County Government Employees Organization

Background

1. Section 511 of the County Charter authorizes the County Council to provide by law for collective bargaining, with arbitration or other impasse resolution procedures, with authorized representatives of County Government employees.

2. Chapter 33, Article VII of the County Code implements Section 511 of the Charter and provides for collective bargaining by the County Executive with the certified representatives of County employees and for review of the resulting contract by the County Council.

3. On April 1, 2016, the County Executive submitted to the Council a collective bargaining agreements between the County government and Municipal and County Government Employees Organization effective July 1, 2016 through June 30, 2017. A copy of the Agreement is attached to this Resolution.

4. The Executive has submitted to the Council the terms and conditions of the Agreements that require or may require an appropriation of funds or changes in any County law or regulation.

5. The joint Government Operations and Fiscal Policy Committee and Education Committee considered the Agreements and made recommendations on April 21, 2016.

6. The County Council has considered these terms and conditions and is required by law to indicate on or before May 1 its intention regarding the appropriation of funds or any legislation or regulations required to implement the agreements.

Action

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

The County Council intends to approve the following provisions for FY17:

1. 0.5% general wage adjustment payable on the first pay period after July 1, 2016.

2. 0.5% general wage adjustment payable on the first pay period after January 1, 2017.

3. 3.5% service increments for all eligible bargaining unit members on their anniversary date.

4. 3% longevity increment for eligible bargaining unit members.

5. 1% lump sum for each eligible bargaining unit member who is at the top of grade and not eligible for a longevity step, payable on the first pay period after July 1, 2016.

6. Tuition Assistance up to $150,000.

7. 25 individual and 7 job class classification studies.

8. Inclusion of a Pharmacy Benefit Management Programs.

9. Additional $0.25 per hour for seasonal employee.

The County Council intends to reject the following provisions for FY17:

1. 3.5% service increment for each bargaining unit member whose service increment was deferred during FY11, FY12, or FY13, and who is otherwise eligible, effective the first pay period after May 1, 2017.

2. Domestic partner benefits for an opposite sex domestic partner, effective January 1, 2017.

3. The Council intends to reject the group insurance benefits in the agreement. The Council intends to approve the group insurance provisions as they were included in the Executive's Recommended FY16 operating budget, including a Medicare Part D Employer Group Waiver Prescription Drug Plan for Medicare-eligible retirees. To the extent that this approval is inconsistent with any provision of the collective bargaining agreement, that provision is disapproved.

The Council intends to approve all other provisions of the Agreement subject to Council review.

This is a correct copy of Council action.

Linda M. Lauer

Linda M. Lauer, Clerk of the Council

Resolution No.:	18-475
Introduced:	May 16, 2016
Adopted:	May 16, 2016

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Government Operations and Fiscal Policy Committee

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SUBJECT: Amendment to Resolution No. 18-461 concerning the Collective Bargaining Agreement with Municipal & County Government Employees Organization

Background

1. Section 511 of the County Charter authorizes the County Council to provide by law for collective bargaining, with arbitration or other impasse resolution procedures, with authorized representatives of County Government employees.

2. Chapter 33, Article VII of the County Code implements Section 511 of the Charter and provides for collective bargaining by the County Executive with the certified representatives of County employees and for review of the resulting contract by the County Council.

3. On April 1, 2016, the County Executive submitted to the Council a collective bargaining agreements between the County government and Municipal and County Government Employees Organization effective July 1, 2016 through June 30, 2017.

4. The Executive has submitted to the Council the terms and conditions of the Agreements that require or may require an appropriation of funds or changes in any County law or regulation.

5. The joint Government Operations and Fiscal Policy Committee and Education Committee considered the Agreements and made recommendations on April 21, 2016.

6. The County Council has considered these terms and conditions and is required by law to indicate on or before May 1 its intention regarding the appropriation of funds or any legislation or regulations required to implement the agreements.

7. The County Council adopted Resolution No. 18-461 on April 26, 2016 indicating its intent to reject the:

   (a) 3.5% service increment for each bargaining unit member whose service increment was deferred during FY11, FY12, or FY13, and who is otherwise eligible, effective the first pay period after May 1, 2017; and

(b) group insurance provisions in the Agreement.

(c) domestic partner benefits for opposite sex couples.

8. The Executive and MCGEO renegotiated the Agreement and the Executive submitted the revised Agreement to the Council for consideration on May 9, 2016. The revised Agreement changes the effective date of the rejected second service increment to the first pay period after June 24, 2017.

Action

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

The County Council intends to approve each of the provisions of the Agreement subject to Council review for FY17 except:

1. The 3.5% service increment for each bargaining unit member whose service increment was deferred during FY11, FY12, or FY13, and who is otherwise eligible, effective the first pay period after June 24, 2017.

2. Domestic partner benefits for an opposite sex domestic partner, effective January 1, 2017.

3. The Council intends to reject the group insurance benefits in the agreement. The Council intends to approve the group insurance provisions as they were included in the Executive's Recommended FY16 operating budget, including a Medicare Part D Employer Group Waiver Prescription Drug Plan for Medicare-eligible retirees. To the extent that this approval is inconsistent with any provision of the collective bargaining agreement, that provision is disapproved.

This is a correct copy of Council action.

Linda M. Lauer

Linda M. Lauer, Clerk of the Council

AMENDMENT TO
MEMORANDUM OF AGREEMENT
BETWEEN
THE MONTGOMERY COUNTY GOVERNMENT
AND THE
MUNICIPAL & COUNTY GOVERNMENT EMPLOYEES ORGANIZATION, UFCW, LOCAL 1994

The Montgomery County Government (Employer) and the United Food and Commercial Workers, Local 1994, Municipal & County Government Employees Organization (Union), conducted negotiations pursuant to Section 33-108 of the Montgomery County Code for the term July 1, 2016 through June 30, 2017. As a result of the negotiations, the Employer and Union entered into a Memorandum of Agreement between the Montgomery County Government and the Municipal & County Government Employees Organization, UFCW, Local 1994 (the Agreement). The Agreement is attached hereto and incorporated herein. Pursuant to Section 33-108 of the Montgomery County Code, the County Council, by resolution adopted April 26, 2016, indicated its intent not to appropriate funds for certain portions of the Agreement. Thereafter, the Employer and Union met and agreed to the following amendment to the Agreement. This amendment replaces the language found in Article 6.9, Service Increments, of the Agreement with the language stated below. All other parts of the Agreement remain the same.

Please use the following key when reading this agreement:

<u>Underlining</u>	*Added to existing agreement.*
[Single boldface brackets]	*Deleted from existing agreement.*
* * *	*Existing language unchanged by parties.*

The parties agree to amend the contract as follows:

* * *

ARTICLE 6
SERVICE INCREMENTS

* * *

6.9 <u>Each unit member whose service increment was postponed during FY2011, FY2012, and/or FY2013, and who is otherwise eligible as identified in this article, shall receive a salary adjustment of 3.5 percent effective the pay period beginning June 25, 2017. This salary adjustment of 3.5 percent cancels one of the three previously postponed service increments. The remaining two</u> **[All]** previously postponed service increments will not be paid in **[FY 2016]** <u>FY 2017</u>.

* * * * * * * * * * * * *

IN WITNESS WHEREOF, the parties hereto have caused their names to be subscribed by their duly authorized officers and representatives this 9th day of May 2016.

United Food and Commercial Workers,
Local 1994, Municipal & County Government
Employees Organization

By: Yvetta Cuffie for Gino Renne 5/9/16
Gino Renne
President

Montgomery County Government
Montgomery County, Maryland

By:
Isiah Leggett
County Executive

Approved for form and legality
County Attorney

ROCKVILLE, MARYLAND

MEMORANDUM

May 2, 2016

TO: Nancy Floreen, President, County Council

FROM: Jennifer A. Hughes, Director, Office of Management and Budget
Joseph F. Beach, Director, Department of Finance

SUBJECT: FEIS for Bill 16-16, Personnel - Benefits for Domestic Partner of Employee – Repeal

Please find attached the fiscal and economic impact statements for the above-referenced legislation.

JAH:fz

cc: Bonnie Kirkland, Assistant Chief Administrative Officer
Lisa Austin, Offices of the County Executive
Joy Nurmi, Special Assistant to the County Executive
Patrick Lacefield, Director, Public Information Office
Joseph F. Beach, Director, Department of Finance
Shawn Y. Stokes, Director, Office of Human Recourses
David Platt, Department of Finance
Corey Orlosky, Office of Management and Budget
Alex Espinosa, Office of Management and Budget
Naeem Mia, Office of Management and Budget

Fiscal Impact Statement
Council Bill 16-16, Personnel – Benefits for Domestic Partner of Employee - Repeal

1. **Legislative Summary.**

   This bill would repeal the law requiring the County to provide domestic partner benefits for certain employees.

2. **An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.**

   This bill would provide an estimated cost avoidance of $28,695 for the County in the form of a reduction in the number of dependents covered under the County's health insurance plans and potentially filing health insurance claims. The cost estimate is based on plan experience for an estimated 15 new domestic partnerships filed annually, at an average incremental cost of $1,913. There is no fiscal impact related to the continuation of coverage for an employee or retiree currently receiving domestic partner benefits or who has applied for domestic partner benefits before April 19, 2016.

   In addition to the change to health benefit options, this bill would remove the ability for County employees in a domestic partnership to name their domestic partner as a joint annuitant on their defined benefit pension. This action would have no impact on the cost of the annuity, as the calculated cost of the annuity is actuarially equivalent with or without a joint annuitant.

   This bill would have no impact on County revenues.

3. **Revenue and expenditure estimates covering at least the next 6 fiscal years.**

   This bill would have an estimated cost avoidance of $215,882 over the next 6 fiscal years. Expenditure estimates are calculated using a projected 9% increase in health claims costs each year.

4. **An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.**

   Group insurance claims costs are determined actuarially. The fiscal impact of this bill was estimated based on the assumptions specified in #2 above.

5. **Later actions that may affect future revenue and expenditures if the bill authorizes future spending.**

   Not applicable.

6. **An estimate of the staff time needed to implement the bill.**

   Staff time needed to implement the bill would be minimal, and would result in a slight time savings through no longer needing to review domestic partnership requests.

7. **An explanation of how the addition of new staff responsibilities would affect other duties.**

   Not applicable.

8. **An estimate of costs when an additional appropriation is needed.**

Not applicable.

9. **A description of any variable that could affect revenue and cost estimates.**

   The number of covered employees and dependents and the cost of claims could affect the cost estimates.

10. **Ranges of revenue or expenditures that are uncertain or difficult to project.**

    Not applicable.

11. **If a bill is likely to have no fiscal impact, why that is the case.**

    Not applicable.

12. **Other fiscal impacts or comments.**

    Not applicable.

13. **The following contributed to and concurred with this analysis:**

    Corey Orlosky, Office of Management and Budget
    Lori O'Brien, Office of Human Resources
    Belinda Fulco, Office of Human Resources

JAHughes

Jennifer A. Hughes, Director
Office of Management and Budget

~~4~~ 5/2/16
Date

Economic Impact Statement
Bill 16-16, Personnel – Benefits for Domestic Partner of Employee - Repeal

Background:

This legislation would repeal the law requiring the County to provide domestic partner benefits to eligible County Employees. Benefits for Employee's Domestic Partner signed into law on December 3, 1999, extended health and insurance benefits to a same-sex domestic partner of a County employee. Subsequent legislation extended opposite sex domestic partner benefits to members of the police and fire and rescue bargaining units. The latter legislation was enacted when same-sex marriage was prohibited in Maryland. On January 1, 2013, the state recognized same-sex marriage. On April 12, 2016 the County Executive introduced legislation (Bill 13-16) that would provide opposite sex domestic partner benefits to employees represented by MCGEO and unrepresented County employees.

Councilmember George Leventhal, lead sponsor for Bill 16-16, proposes to repeal domestic partner benefits to County employees. The previous legislation was appropriate at a time when marriage was illegal for gays and lesbians. However, since the state now recognizes same-sex marriage, such legislation is no longer necessary and the County's taxpayers should not continue to have to pay for providing this benefit.

1. **The sources of information, assumptions, and methodologies used.**

   There are no sources of information or methodologies used in the preparation of the economic impact statement. According to data provided in the fiscal impact statement, Bill 16-16 would provide an estimated first-year cost avoidance of $28,695 for the County, since those costs will be borne by the domestic partnerships and, as such, would impact the incomes of those partnerships.

2. **A description of any variable that could affect the economic impact estimates.**

   There no variables that could affect the economic impact estimates.

3. **The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.**

   As the County would avoid the cost of providing health insurance to domestic partners, there would be an economic effect on the domestic partnerships. However, because the moderate amount of estimated cost avoidance, Bill 16-16 would have no significant economic effect on employment, spending, savings, investment, incomes, and property values in the County.

4. **If a Bill is likely to have no economic impact, why is that the case?**

   Bill 16-16 would have no economic impact. Please see paragraph #3.

Economic Impact Statement
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5. **The following contributed to or concurred with this analysis**: David Platt, Mary Casciotti, and Rob Hagedoorn, Finance; Corey Orlosky, OMB.

Joseph F. Beach, Director
Department of Finance

5/6/16
Date