

Emergency Bill No. 25-01
Concerning: Personnel – Retirement –
Amendments
Revised: 7-31-01 Draft No. 3
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Ch. 21, Laws of Mont. Co. 2001

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Praisner

AN EMERGENCY ACT to:

- (1) allow an individual of the opposite sex to qualify as the domestic partner of a member of the Police collective bargaining unit for purposes of employee benefits;
- (2) change the minimum service requirements for retirement for Police Telecommunicators and members of the Service, Labor, and Trades bargaining unit;
- (3) increase the amount of member contributions required for certain retirement groups;
- (4) allow refunds of member contributions used to purchase prior service if County law is later amended to reduce the maximum years of service for which a member may receive credit;
- (5) change the amount of pension at normal retirement for certain retirement groups;
- (6) clarify that medical reevaluation under the current disability retirement provisions applies to all retired members;
- (7) for retirement Group G, allow the Disability Review Panel to request and consider an independent vocational assessment in recommending an appropriate service-connected disability benefit;
- (8) allow a “pop-up” joint and survivor pension payment option;
- (9) change the cost-of-living adjustment for certain members;
- (10) for a Retirement Savings Plan member, allow reinstatement of forfeited County contributions if the individual is reemployed by the County within ~~[[6]]~~ 12 months of separation;
- (11) allow certain former employees who return to County service to transfer the present value of certain benefits to the Retirement Savings Plan;
- (12) require certain employees to be notified of the opportunity to transfer certain retirement benefits, and allow certain benefits to be transferred retroactively during a limited time period; and
- (13) generally amend the law regarding County employee retirement programs.

By amending

Montgomery County Code

Chapter 33, Personnel and Human Resources

Sections 33-22, 33-35, 33-37, 33-38, 33-39, 33-39A, 33-40, 33-41, 33-42, 33-43, 33-44,
33-45, 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 33-22, 33-35, 33-37, 33-38, 33-39, 33-39A, 33-40, 33-41,**
2 **33-42, 33-43, 33-44, 33-45, and 33-120 are amended as follows:**

3 **33-22. Benefits for domestic partner of employee.**

4 * * *

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

7 (1) satisfy all of the following requirements:

8 (A) be the same sex, unless the employee is a member of the
9 police bargaining unit;

10 * * *

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

15 * * *

16 **33-35. Definitions.**

17 In this Article, the following words and phrases have the following meanings:

18 * * *

19 **Police Telecommunicator:** An employee assigned to a position in a
20 supervisory or nonsupervisory occupational class in the Police Telecommunicator
21 occupational series.

22 * * *

23 **33-37. Membership requirements and membership groups.**

24 * * *

25 (e) *Retirement plans.*

26 * * *

(8) A former County employee who returns to County service may transfer to the Retirement Savings Plan the actuarial present value of the employee's benefit in the Employees' Retirement System, calculated using the System's latest published valuation assumptions, as of the date the employee returns to County service, if the employee:

(A) was vested under Section 33-45 when the employee left County service;

(B) left all member contributions plus credited interest in the fund;

(C) left County service before October 1, 1994; and

(D) did not return to County service within 25 months.

* * *

33-38. Normal retirement date, mandatory retirement date, early retirement date, and trial retirement.

(a) *Normal retirement date.* [Normal] The normal retirement date is the first day of the month elected by a member after the [following requirements have been met:] member meets the years of service and age requirements for the applicable membership group. For normal retirement:

(1) Group A:

(A) The member [has] must have at least:

(i) 5 years of credited service and [has reached] be at least age 60[.]; or

(ii) [has at least] 30 years of credited service and [has reached] be at least age 55.

- 53 (B) After June 30, 2002, a Group A member who is a **Police**
54 **Telecommunicator** must have at least:
55 (i) 5 years of credited service and be at least age 60;
56 or
57 (ii) 30 years of credited service and be at least age 50.
- 58 (2) Group B: The member [has] must have at least:
59 (A) 15 years of credited service and [has reached] be at least
60 age 55[,]; or
61 (B) [has at least] 30 years of credited service and [has
62 reached] be at least age 51.
- 63 (3) Group D: The member [meets] must meet the requirements
64 [contained in] of the County police relief and retirement fund
65 law[of the County].
- 66 (4) Group E: The member [has] must have at least:
67 (A) 15 years of credited service and [has reached] be at least
68 age 55[,]; or
69 (B) [has at least] 25 years of credited service and [has
70 reached] be at least age 46.
- 71 (5) Group F: The member [has] must have at least:
72 (A) 15 years of credited service and [has reached] be at least
73 age 55[,]; or
74 (B) [has at least] 25 years of credited service and [has
75 reached] be at least age 46.
- 76 (6) Group G: The member [has] must have at least:
77 (A) 15 years of credited service and [has reached] be at least
78 age 55; or
79 (B) 25 years of credited service, regardless of age.

80 (7) (A) Group H: The member [has] must have at least:
 81 (i) 5 years of credited service and [has reached] be at
 82 least age 60[,]; or
 83 (ii) [has at least] 30 years of credited service and [has
 84 reached] be at least age 55.

85 (B) After June 30, 2002, a Group H member who is a **Police**
 86 **Telecommunicator** must have at least:

87 (i) 5 years of credited service and be at least age 60;
 88 or
 89 (ii) 30 years of credited service and be at least age 50.

90 (C) After June 30, 2002, a Group H member who is also an
 91 SLT bargaining unit member must have at least:

92 (i) 5 years of credited service and be at least age 60;
 93 or
 94 (ii) 30 years of credited service and be at least age 50.

95 (8) [The normal retirement date for an] An elected officials'
 96 participant [is the first day of the month after the month the
 97 elected officials' participant attains age 62 and has] must have
 98 at least the lesser of a full term of office or 4 years of credited
 99 service and be at least age 62.

100 * * *

101 (f) *Trial retirement.*

102 * * *

103 (6)
 104 [a.] (A) * * *
 105 [b.] (B) * * *
 106 [c.] (C) * * *

107 [d.] (D) * * *

108 (7) * * *

109 [a.] (A) * * *

110 [b.] (B) * * *

111 (8) * * *

112 [a.] (A) * * *

113 [b.] (B) * * *

114 * * *

115 **33-39. Member contributions and credited interest.**

116 (a) [*Percent of member*] Member contributions. Each member of the
 117 retirement system must contribute[, through regular payroll
 118 deductions,] a portion of the member's regular earnings [as follows:]
 119 through regular payroll deductions.

120 (1) Member Contributions to the Optional Retirement Plan. A
 121 member of the Optional Retirement Plan must contribute the
 122 following percentage of regular earnings:

123 (A) [For members who elect to remain in the Optional
 124 Retirement Plan, the contribution is] Group A or H
 125 member, 6 percent [for a group A or H member,];

126 (B) Group B member, 7 percent [for a group B member,];

127 (C) Group D member, 7½ percent [for a group D, E, or F
 128 member,]; and

129 (D) Group E, F, or G member, 8½ percent [for a Group G
 130 member].

131 [B. To the extent allowed under Section 414(h)(2) of the
 132 Internal Revenue Code, the County must "pick up" (as
 133 described in the Internal Revenue Code) mandatory

134 member contributions to the Optional Retirement Plan
 135 for pay periods beginning on or after July 1, 1989.

136 C. The Chief Administrative Officer may allow an agency
 137 that is not an "employing unit" (as described in Section
 138 414(h)(2) of the Internal Revenue Code) to participate in
 139 the retirement system. The County must not "pick up"
 140 (as described in the Internal Revenue Code) mandatory
 141 contributions of members employed by a participating
 142 agency that is not an "employing unit".]

143 (2) Member Contributions to the Integrated Retirement Plan.

144 [(A)]

145 [For members] A member of the Integrated Retirement Plan[,
 146 the contribution is] must contribute the following percentage of
 147 regular earnings:

148 [(i)] (A) Group A[- 3], 4 percent up to the maximum Social
 149 Security wage base, and 6 percent of regular earnings
 150 that exceed the wage base[.];

151 [(ii)] (B) Group B[- 3 ½], 4½ percent up to the maximum
 152 Social Security wage base, and 7 percent of regular
 153 earnings that exceed the wage base[.];

154 [(iii)] (C) Group E[- 3 ¾], 4¾ percent up to the maximum
 155 Social Security wage base, and [7 ½] 8½ percent of
 156 regular earnings that exceed the wage base[.];

157 [(iv)] (D) Group F[- 4], 4¾ percent up to the maximum Social
 158 Security wage base and [8] 8½ percent of regular
 159 earnings that exceed the wage base[.];

- 160 [(v)] (E) Group G [-], 4¾ percent up to the maximum Social
 161 Security wage base and 8½ percent of regular earnings
 162 that exceed the wage base[.] and;
- 163 [(vi)] (F) Group H [– 3], 4 percent up to the maximum Social
 164 Security wage base and 6 percent of regular earnings that
 165 exceed the wage base.
- 166 [(B) To the extent allowed under Section 414(h)(2) of the
 167 Internal Revenue Code, the County must "pick up" (as
 168 described in the Internal Revenue Code) mandatory
 169 member contributions to the Integrated Retirement Plan
 170 for pay periods beginning on or after July 1, 1989.
- 171 (C) The Chief Administrative Officer may allow an agency
 172 that is not an "employing unit" (as described in Section
 173 414(h)(2) of the Internal Revenue Code) to participate in
 174 the retirement system. The County must not "pick up"
 175 (as described in the Internal Revenue Code) mandatory
 176 contributions of members employed by a participating
 177 agency that is not an "employing unit."]
- 178 (3) Member Contributions to the Elected Officials' Plan. [For
 179 members] A member of the Elected Officials' Plan[, the
 180 contribution is] must contribute 3 percent. To the extent
 181 allowed under Section 414(h)(2) of the Internal Revenue Code,
 182 the County must "pick up" (as described in the Internal
 183 Revenue Code) mandatory member contributions to the Elected
 184 Officials' Plan.
- 185 (4) To the extent allowed under Section 414(h)(2) of the Internal
 186 Revenue Code, the County must "pick up" (as described in the

187 Internal Revenue Code) mandatory member contributions to the
 188 Optional and Integrated, Retirement Plans for pay periods
 189 beginning after June 30, 1989.

190 (5) The Chief Administrative Officer may allow an agency that is
 191 not an "employing unit" (as described in Section 414(h)(2) of
 192 the Internal Revenue Code) to participate in the retirement
 193 system. The County must not "pick up" (as described in the
 194 Internal Revenue Code) mandatory contributions of members
 195 employed by a participating agency that is not an "employing
 196 unit".

197 * * *

198 (c) *Return of member contributions.* [Member contributions may be
 199 refunded:]

200 (1) [(A)] [Upon termination of county] Refund after employee's
 201 separation. The County must refund contributions to a member
 202 who is separated from County service, [except by death or
 203 retirement, each] unless the member dies or retires. The County
 204 must pay a member who has not elected to vest [shall be paid]
 205 the full amount of accumulated contributions with credited
 206 interest, less any indebtedness to the County government or the
 207 Montgomery County Employees Federal Credit Union.

208 [(B)] (2) Refund after separation of an elected officials' participant.

209 An elected officials' participant who ends employment with the
 210 County before [the] that participant's normal retirement date [of
 211 that elected officials' participant], and who does not receive a
 212 mandatory refund of [that elected officials'] the participant's
 213 account balances under Section 33-40(d)(2)(D), may, at the

214 [elected officials'] participant's request, receive the account
 215 balances, including picked-up contributions, in the required and
 216 the voluntary elected officials' participant contributions
 217 accounts established for that [elected officials'] participant, less
 218 any indebtedness to the [county government] County or the
 219 Montgomery County Employees Federal Credit Union, in a
 220 single lump-sum payment.

221 [(2)] (3) Refund after a member's death. If a member dies, the Chief
 222 Administrative Officer must pay to the designated beneficiary
 223 accumulated member contributions plus credited interest, less
 224 any indebtedness to the County government, unless the
 225 beneficiary is eligible for an annuity under Section 33-46. If an
 226 elected officials' participant dies before the County has
 227 implemented the method of distribution under Section 33-44,
 228 the Chief Administrative Officer must pay to the beneficiary, in
 229 accordance with Section 33-46(g), the account balances,
 230 including picked-up contributions, in the required and the
 231 voluntary elected officials' participant contributions accounts,
 232 less any indebtedness to the [county government] County or the
 233 Montgomery County Employees Federal Credit Union.

234 [(3)] (4) Refund after an employee elects to participate in the
 235 integrated plan instead of the optional plan. [Upon election]
 236 When a member elects to participate in the integrated
 237 retirement plan instead of the optional retirement plan, [a] the
 238 member must receive a refund of member contributions that
 239 exceeded the amount that would have been paid [had] if the
 240 contribution rate of the integrated retirement plan had been in

241 effect from date of enrollment to date of election, plus credited
 242 interest earned on those contributions. Despite this
 243 requirement, a member who elects to participate in the
 244 integrated retirement plan instead of the optional retirement
 245 plan while still employed by the County government must not
 246 receive a refund of picked-up contributions made on or after
 247 July 1, 1989 or credited interest earned on those contributions.
 248 [A refund of picked-up] Picked-up contributions made on or
 249 after July 1, 1989 and credited interest may be [made] refunded
 250 only if one of the events described in Section 33-45(b) occurs.

251 (5) *Refund after a statutory change that reduces the maximum*
 252 *years of credited service for a retirement group.*

253 (A) If a member purchases prior service and this Chapter is
 254 later amended to reduce the maximum years of service
 255 for which a member may receive credit, the County must
 256 refund to the member that portion of the retirement
 257 contributions made to purchase the unneeded prior
 258 service, with interest, if the member requests a refund
 259 before the member retires.

260 (B) The County must refund to the member, with interest,
 261 that portion of the payment made to purchase any prior
 262 service which exceeds the maximum credited service for
 263 the employee's retirement group. In this subsection
 264 "payment" means the lump sum amount, determined at
 265 the time of purchase on an actuarial or flat payment basis,
 266 less any interest paid by the member or any contributions
 267 that were previously refunded. Interest paid under this

268 subsection must be credited in the same manner and
 269 amount as for a member's accumulated contributions
 270 under subsection (b). To calculate interest on a refunded
 271 payment, the amount must be assumed to have been paid
 272 in full when the service was purchased. The proper
 273 refund must be paid to the member after the member's
 274 retirement begins.

275 * * *

276 **33-39A. Investment of contributions to the elected officials' plan.**

277 * * *

278 (b) * * *

279 * * *

280 (2) * * *

281 [a.] (A) * * *

282 [b.] (B) * * *

283 [c.] (C) * * *

284 **33-40. Employer contributions.**

285 * * *

286 (d) * * *

287 * * *

288 (2) * * *

289 [a.] (A) * * *

290 [b.] (B) * * *

291 [c.] (C) * * *

292 [d.] (D) * * *

293 **33-41. Credited service.**

294 (a) *Member's credited service.*

295 * * *

296 (5) The Chief Administrative Officer must notify each eligible
 297 employee who attains 5 years of County service of the
 298 opportunity provided under this Section to purchase credited
 299 service. The Chief Administrative Officer must also notify
 300 each [[eligible]] new employee that any person who transfers
 301 from State service or from a dual merit system position [[of any
 302 opportunity]] may be eligible to transfer credited service to the
 303 County retirement system.

304 * * *

305 **33-42. Amount of pension at normal retirement date or early retirement**
 306 **date.**

307 * * *

308 (b) *Amount of pension at normal retirement date.*

309 (1) Pension amount for an Optional Retirement Plan member.

310 (A) Except for a Group E, F, or G member, the annual
 311 pension for a member of the optional retirement plan who
 312 retires on a normal retirement must equal 2 percent of
 313 average final earnings multiplied by years of credited
 314 service, up to a maximum of 36 years, plus sick leave
 315 credits. Years of credited service of less than one full
 316 year must be prorated.

317 (B) For a Group E member who is a member of the optional
 318 plan and retires on a normal retirement, the annual
 319 pension must equal 2.4 percent of average final earnings
 320 for each of the first 25 years of credited service
 321 completed, and 2 percent of average final earnings for

322 each year of credited service of more than 25 years, to a
323 maximum of 31 years plus sick leave credits. Years of
324 credited service of less than one full year must be
325 prorated. Sick leave credits used for years in excess of
326 25 years must be credited at 2 percent of average final
327 earnings. The maximum benefit with the application of
328 sick leave credits must not exceed 76 percent of average
329 final earnings.

330 (C) For a Group F member who is a member of the optional
331 plan and retires on a normal retirement, the annual
332 pension must equal 2.4 percent of average final earnings
333 multiplied by years of credited service, up to a maximum
334 of 30 years, plus sick leave credits. Years of credited
335 service of less than one full year must be prorated. Sick
336 leave credits used for years in excess of 30 years must be
337 credited at 2 percent of average final earnings. The
338 maximum benefit with the application of sick leave
339 credits must not exceed 76 percent of average final
340 earnings.

341 (D) For a Group G member who is a member of the optional
342 plan and retires on a normal retirement, the annual
343 pension must equal 2 percent of average final earnings
344 for each of the first 20 years of credited service
345 completed, 3 percent of average final earnings for
346 completion of any year, or prorated portion of a year of
347 credited service, in years 21 through 24, 8 percent of
348 average final earnings for the 25th year of credited

349 service completed or for a prorated portion of credited
350 service of more than 24 years up to the completion of 25
351 years, and 2 percent of average final earnings for each
352 year or prorated portion of a year of credited service of
353 more than 25 years, to a maximum of 31 years plus sick
354 leave credits.

355 (2) *Pension amount for an Integrated Retirement Plan member.*

356 (A) For a Group A, B, or H member in the integrated
357 retirement plan who retires on a normal retirement, the
358 annual pension must be computed as follows:

359 (i) From date of retirement to the month of attainment
360 of Social Security retirement age: 2 percent of
361 average final earnings multiplied by years of
362 credited service up to a maximum of 36 years, plus
363 sick leave credits. Credited service of less than
364 one full year must be prorated.

365 (ii) From the month of attainment of Social Security
366 retirement age: 1¼ percent of average final
367 earnings up to the Social Security maximum
368 covered compensation level at time of retirement,
369 plus 2 percent of average final earnings above the
370 Social Security maximum covered compensation
371 level at time of retirement, multiplied by years of
372 credited service up to a maximum of 36 years, plus
373 sick leave credits. Credited service of less than
374 one full year must be prorated. This amount is
375 subject initially to the cost-of-living adjustment

376 provided in Section 33-44(c) from date of
377 retirement to Social Security retirement age.

378 (B) [Except for a Group F or G] For a Group D member, the
379 annual pension for a member of the integrated retirement
380 plan who retires on a normal retirement must be
381 computed as follows:

382 (i) From date of retirement to the month of attainment
383 of Social Security retirement age: 2 percent of
384 average final earnings multiplied by years of
385 credited service up to a maximum of 36 years, plus
386 sick leave credits. Years of credited service of less
387 than one full year[,] must be prorated.

388 (ii) From the month of attainment of Social Security
389 retirement age: one percent of average final
390 earnings up to the Social Security maximum
391 covered compensation level at time of retirement,
392 plus 2 percent of average final earnings in excess
393 of the Social Security maximum covered
394 compensation level at time of retirement,
395 multiplied by years of credited service, up to a
396 maximum of 36 years, plus sick leave credits.
397 Years of credited service of less than one full year
398 must be prorated. This amount is subject initially
399 to the cost-of-living adjustment provided in
400 [subsection (c) of] Section 33-44(c) from date of
401 retirement to Social Security retirement age, if any.

402 (C) For a Group E member in the integrated retirement plan
403 who retires on a normal retirement, the annual pension
404 must be computed as follows:

405 (i) From the date of retirement to the month that the
406 member reaches Social Security normal retirement
407 age: 2.4 percent of average final earnings for each
408 of the first 25 years of credited service completed,
409 and 2 percent of average final earnings for each
410 year of credited service of more than 25 years, to a
411 maximum of 31 years plus sick leave credits.
412 Years of credited service of less than one full year
413 must be prorated. Sick leave credits used for years
414 in excess of 25 years must be credited at 2 percent
415 of average final earnings. The maximum benefit
416 with the application of sick leave credits must not
417 exceed 76 percent of average final earnings.

418 (ii) From the month the member reaches Social
419 Security normal retirement age: 1.25 percent of
420 average final earnings up to the Social Security
421 maximum covered compensation in effect on the
422 date of retirement for each year of credited service
423 to a maximum of 31 years plus sick leave credits,
424 plus 2.4 percent of average final earnings above
425 the Social Security maximum covered
426 compensation in effect on the date of retirement
427 for each of the first 25 years of credited service
428 completed, and 2 percent of average final earnings

429 above the Social Security maximum covered
 430 compensation in effect on the date of retirement
 431 for each year of credited service of more than 25
 432 years, to a maximum of 31 years plus sick leave
 433 credits. Years of credited service of less than one
 434 full year must be prorated. Sick leave credits used
 435 for years in excess of 25 years must be credited at
 436 2 percent of average final earnings above the
 437 Social Security maximum covered compensation
 438 in effect on the date of retirement.

439 [(B)] (D) For a Group F member in the integrated retirement
 440 plan who retires on a normal retirement, the annual
 441 pension must be computed as follows:

- 442 (i) From date of retirement to the month of attainment
 443 of Social Security retirement age: [2] 2.4 percent
 444 of average final earnings multiplied by years of
 445 credited service up to a maximum of [36] 30 years,
 446 plus sick leave credits. Credited service of less
 447 than one full year must be prorated. Sick leave
 448 credits used for years in excess of 30 years must be
 449 credited at 2 percent of average final earnings.
 450 The maximum benefit with the application of sick
 451 leave credits must not exceed 76 percent of
 452 average final earnings.
- 453 (ii) [From the month of attainment of Social Security
 454 retirement age: 1 ¼ percent of average final
 455 earnings up to the Social Security maximum

456 covered compensation level at time of retirement,
457 plus 2 percent of average final earnings above the
458 Social Security maximum covered compensation
459 level at time of retirement, multiplied by years of
460 credited service up to a maximum of 36 years, plus
461 sick leave credits. Credited service of less than
462 one full year must be prorated. This amount is
463 subject initially to the cost-of-living adjustment
464 provided in subsection (c) of Section 33-44 from
465 date of retirement to Social Security retirement
466 age.] From the month the member reaches Social
467 Security normal retirement age: 1.65 percent of
468 average final earnings up to the maximum of 30
469 years, and 1.25 percent of average final earnings
470 for years in excess of 30 years, credited with sick
471 leave, up to the Social Security maximum covered
472 compensation in effect on the date of retirement,
473 plus 2.4 percent of average final earnings above
474 the Social Security maximum covered
475 compensation in effect on the date of retirement,
476 multiplied by years of credited service up to a
477 maximum of 30 years, plus sick leave credits.
478 Years of credited service of less than one full year
479 must be prorated. Sick leave credits used for years
480 in excess of 30 years must be credited at 2 percent
481 of average final earnings above the Social Security

482 maximum covered compensation in effect on the
483 date of retirement.

484 [(C)] (E) For a Group G member in the integrated retirement
485 plan who retires on a normal retirement, the annual
486 pension must be computed as follows:

487 * * *

488 **33-43. Disability retirement.**

489 (a) *Applicability.* This Section applies to[an application for disability
490 benefits under this Article filed]:

491 (1) an application for disability benefits filed on or after March 1,
492 2000, by a member who is also a member of the Police
493 Bargaining Unit; [or]

494 (2) an application for disability benefits filed after May 18, 1995,
495 by any other member[.]; or

496 (3) a medical reevaluation of a disability retiree under subsection
497 (g), regardless of when an application for disability benefits
498 was filed.

499 * * *

500 (d) Disability retirement procedures.

501 * * *

502 (8) (A) If the Panel is unable to make a determination based on
503 the evidence presented to it, the Panel may:

504 (i) direct the applicant to undergo a medical
505 examination (including all relevant medical tests)
506 by a medical doctor who is not a member of the
507 Disability Review Panel; and

508 (ii) if required for the Panel to make a
 509 recommendation under Section 33-43(i)(2),
 510 request an independent vocational assessment.

511 (B) The County must pay the cost of the examination and
 512 assessment.

513 (C) The Panel must issue its written recommendation within
 514 30 calendar days after the Panel receives the later of:

515 (i) the full report [is received] from the medical
 516 doctor who conducted the examination; or

517 (ii) the full report of the results of the independent
 518 vocational assessment.

519 * * *

520 (h) *Amount of pension at non-service-connected disability retirement.*

521 [(1) A member, other than a Group G member, who retires on
 522 non-service-connected disability retirement must receive an
 523 annual pension equal to the greater of:

524 (A) 2 percent of average final earnings for each year of
 525 credited service, up to 36 years plus any additional sick
 526 leave credits; or

527 (B) 33 percent of final earnings.

528 (2) A [Group G] member who retires on non-service-connected
 529 disability retirement must receive an annual pension equal to
 530 the greater of:

531 [(A)] (1) the amount calculated under Section 33-42(b)(1); or

532 [(B)] (2) 33 1/3 percent of final earnings.

533 (i) *Amount of pension at service-connected disability retirement.*

- 534 (1) A member, other than a Group G member, who retires on
 535 service-connected disability retirement must receive an annual
 536 pension [computed as follows:
- 537 (A) *For total incapacity.* 2 percent of final earnings,
 538 multiplied by years of credited service, up to a maximum
 539 of 36 years and any additional sick leave credits]
 540 calculated under Section 33-42(b)(1), but not less than 66
 541 2/3 percent of final earnings[, if the member is totally and
 542 permanently incapacitated].
- 543 [(B) *For partial incapacity.* 6 percent of final earnings for
 544 each 10 percent of permanent disability, but not less than
 545 25 percent of final earnings, if the member is partially
 546 and permanently incapacitated. However, if the member
 547 meets the age requirements for early retirement, not less
 548 than the yearly amount of retirement pension computed
 549 under Section 33-42(c) must be payable.]
- 550 (2) A Group G member must receive a service-connected disability
 551 pension benefit calculated under Section 33-42(b)(1), subject to
 552 the following:
- 553 (A) ~~[[the]]~~ The benefit must be at least 70 percent of final
 554 earnings if the Chief Administrative Officer [determines]
 555 finds, based on a recommendation from the Disability
 556 Review Panel, that:
- 557 (i) the member suffers from a medically determinable
 558 physical or mental impairment that makes the
 559 member unable to engage in any substantial

560 gainful activity and [which] is expected to end in
561 death or last for at least 12 consecutive months; or
562 (ii) the member's disability is so severe that the
563 member would qualify to receive disability
564 benefits from the U.S. Social Security
565 Administration, even though the member does not
566 receive or has not applied for such benefits[~~;~~ or].

567 (B) ~~[[the]]~~ The benefit must be at least 52½ percent of final
568 earnings if the Chief Administrative Officer [determines]
569 finds that the member meets the standards to receive
570 service-connected disability benefits under subsection (f).

571 (3) Under this subsection, "final earnings" for a Group F or G
572 member who is participating in a job-sharing program under a
573 collective bargaining agreement between the County and a
574 certified representative means the regular earnings that the
575 member would have received if the member had been employed
576 on a full-time basis on the last date of active service.

577 * * *

578 (l) *Appeal procedures.*

579 * * *

580 (4) The Chairperson must:

581 (A) decide all issues on prehearing procedures, including any
582 issue related to discovery; and

583 (B) rule on all issues of law that arise before the hearing,
584 unless ruling on the issue would decide the appeal.

585 ~~[(4)]~~ (5) The Disability Arbitration Board and Police Disability
586 Arbitration Board must render a decision quickly. The

587 Disability Arbitration Board and Police Disability Arbitration
 588 Board should issue the decision within 30 calendar days after
 589 the hearing or receiving any post-hearing briefs.

590 * * *

591 **33-44. Pension payment options and cost-of-living adjustments.**

592 (a) [*Election of pension*] Pension payment [*option*] options.

593 (1) A member may elect an optional form of pension actuarially
 594 equivalent to the normal form of retirement pension otherwise
 595 payable, unless the member qualifies for a non-service-
 596 connected disability retirement before reaching the early
 597 retirement date. The [determination of] Chief Administrative
 598 Officer must not consider the health condition of the member
 599 when deciding what is "actuarially equivalent" [shall not
 600 include the health condition of the member whether or not
 601 disabled].

602 (2) [A member who qualifies for a non-service-connected disability
 603 retirement before reaching early retirement date is not eligible
 604 to elect a pension payment option.] A member who qualifies
 605 for non-service-connected disability retirement on or after
 606 reaching the early retirement date [is eligible to] may elect a
 607 pension payment option.

608 (3) A member who qualifies for a service-connected disability
 609 retirement may elect a pension payment option, [irrespective]
 610 regardless of age and credited service.

611 (4) To elect a pension payment option, the member must file the
 612 appropriate form at least one [(1)] month before the normal,
 613 early, or disability retirement date.

614 (5) The pension payment option [will be effective] must take effect
 615 on the member's retirement date and [will be] is void if the
 616 member or the named beneficiary dies before that date.

617 (6) The following forms of pension options are available:

618 [(1)] (A) *Ten-Year Certain and Continuous.* * * *

619 [(2)] (B) *Cash Refund Pension Option (available to members who*
 620 *were members of the employees' retirement system of the state*
 621 *on August 15, 1965).* * * *

622 [(3)] (C) *Joint and Survivor Pension Option.*

623 (i) [On or after May 1, 1970] Under this option, the
 624 County must make pension payments in an
 625 adjusted amount [may be paid] to the member
 626 during the member's lifetime and, [if at a] at the
 627 member's death, make pension payments to the
 628 designated beneficiary (spouse, domestic partner,
 629 or children only) who survives[,]. The County
 630 must make the pension payments to the surviving
 631 beneficiary for the rest of the beneficiary's lifetime
 632 in the amount payable to the member or other
 633 amount elected by the member, but not less than
 634 10 percent of the amount payable to the member[,
 635 must be paid for the balance of the beneficiary's
 636 lifetime].

637 (ii) Upon the death of both the member and the
 638 beneficiary, a death benefit must be paid in the
 639 same manner as is provided under the normal form
 640 of retirement pension for which the member had

641 been eligible. [Notwithstanding Article II of
 642 Chapter 35 (Police Retirement and Relief Fund), a
 643 group D member who retired before July 1, 1970,
 644 may, not later than August 31, 1974, elect the joint
 645 and survivor pension option effective July 1, 1974,
 646 instead of the surviving spouse's benefit under
 647 Section 35-15(b). A group D retiree's election of
 648 the joint and survivor pension option does not
 649 affect the amount of the retiree's pension. When
 650 the group D retiree dies, the spouse's or domestic
 651 partner's benefit must equal 50 percent of the
 652 retiree's benefit on the date of death, payable until
 653 the spouse or domestic partner dies.]

654 (iii) Pop-up Option. At retirement, the member may
 655 elect the pop-up variation of a joint and survivor
 656 option with an appropriate actuarial reduction.
 657 Under this option, if the member and designated
 658 beneficiary divorce or the designated beneficiary
 659 dies before the member dies, the member's
 660 monthly payments for the rest of the member's life
 661 must "pop up" to the amount that they would have
 662 been if the member had elected the modified cash
 663 refund annuity at retirement.

664 [(4)] (D) *Modified Cash Refund Annuity.* * * *

665 * * *

666 (c) *Cost-of-living adjustment.* A retired member or beneficiary, including
 667 the surviving spouse or domestic partner of a group D member or

668 other beneficiary who survives the member under a pension option or
 669 who is otherwise eligible to receive benefits, must receive an annual
 670 cost-of-living adjustment in pension benefits[computed as follows].

671 * * *

672 (3) The percentage cost-of-living adjustment of pension benefits
 673 must be obtained by dividing the most recent index determined
 674 under paragraph (2) by the next preceding index multiplied by
 675 100 less 100.

676 * * *

677 (B) A member enrolled on or after July 1, 1978, must receive
 678 [60] 100 percent of the [cost-of-living adjustment]
 679 change in the consumer price index up to [a total
 680 adjustment of 5] 3 percent, and 60 percent of any change
 681 in the consumer price index greater than 3 percent, up to
 682 a total adjustment of 7½ percent in any year. The [5-] 7½
 683 percent annual [limitation] limit does not apply to:
 684 (i) a retired member who is disabled; or
 685 (ii) a pensioner aged 65 or older for a fiscal year
 686 beginning after the date the pensioner reaches age
 687 65.

688 [(C) A member of Group F or G enrolled on or after July 1,
 689 1978, must receive 100 percent of the change in the
 690 consumer price index up to 3 percent, and 60 percent of
 691 any change in the consumer price index greater than 3
 692 percent, up to a total adjustment of 7½ percent in any
 693 year. The 7½ percent annual limitation does not apply
 694 to:

- 695 (i) a retired Group F or G member who is disabled; or
 696 (ii) a retired Group F or G member in a County fiscal
 697 year that begins after the member reaches age 65.]

698 * * *

699 **33-45. Vested benefits and withdrawal of contributions.**

700 * * *

701 (e) *Discontinued service benefits of elected and appointed members.*

702 (1) [Should] If an elected or appointed member [enrolled or
 703 reenrolled before January 22, 1974,] with 10 or more years of
 704 credited service, is not [be] reappointed or reelected, the
 705 member may [elect] opt to:

706 (A) receive a pension [commencing] immediately, if the
 707 member enrolled or reenrolled before January 22, 1974;
 708 or

709 (B) [for an elected] receive a pension at age 60, if the
 710 member enrolled or reenrolled on or after January 22,
 711 1974[, commencing at age 60].

712 [(1)] (2) The pension for a member enrolled or reenrolled on or before
 713 September 26, 1983, or [a member] who [submits] submitted an
 714 application to transfer from the optional plan to the integrated
 715 plan before September 26, 1983, [must equal 2 percent of final
 716 earnings, multiplied by years of credited service, up to a
 717 maximum of 36 years, plus sick leave credits, but not less than
 718 \$300.00 monthly] is the pension the member would have
 719 received under Section 33-42(b) for regular retirement, except
 720 that:

- 721 (A) “final earnings” replaces “average final earnings” in the
 722 applicable formula in Section 33-42(b);
- 723 (B) a member who submitted an application to transfer from
 724 the optional plan to the integrated plan before September
 725 26, 1983, must be treated as if the member had remained
 726 in the optional plan; and
- 727 (C) the monthly benefit must be at least \$300.
- 728 [(2)] (3) The pension for a member enrolled or reenrolled after
 729 September 26, 1983, or a member who submits an application
 730 to transfer from the optional plan to the integrated plan after
 731 September 26, 1983, [must be computed as follows] is the
 732 amount of pension the member would have received under
 733 Section 33-42(b)(2) for regular retirement, except that:
- 734 [a.] (A) [From date of retirement to the month of attainment of
 735 social security retirement age, 2 percent of final earnings,
 736 multiplied by years of credited service, up to a maximum
 737 of 36 years, plus sick leave credits, but not less than
 738 \$300.00 monthly.] “final earnings” replaces “average
 739 final earnings” in the applicable formula in Section 33-
 740 42(b); and
- 741 [b.] (B) [From the month of attainment of social security
 742 retirement age, benefits will be 2 percent of final
 743 earnings, multiplied by years of credited service, up to a
 744 maximum of 36 years, plus sick leave credits, reduced by
 745 one percent of final earnings up to the social security
 746 maximum covered compensation level at time of
 747 retirement, multiplied by years of credited service, plus

748 sick leave credits. Years of credited service of less than
 749 one full year will be prorated. The] the monthly benefit
 750 [will not be less than] must be at least \$300[.00 monthly].

751 * * *

752 **33-120. Distribution of benefit.**

753 * * *

754 (d) *Separation from service before normal retirement, death or disability*
 755 *retirement.*

756 * * *

757 (3) *Forfeitures.*

758 (A) If a participant has no vested interest in the County
 759 contributions account at the time of the participant's
 760 separation from service, the participant must forfeit the
 761 entire County contributions account as of the date of
 762 separation from service.

763 (B) The Chief Administrative Officer must allow a one-time
 764 reinstatement of the forfeited County contributions to an
 765 employee who is reemployed by the County within 12
 766 months of separation and again becomes a member of the
 767 Retirement Savings Plan. The amount reinstated by the
 768 Chief Administrative Officer must be equal to the value
 769 of the County contributions account, including
 770 investment gains and losses, as of the date of the
 771 employee's separation. This provision applies,
 772 regardless of the member's separation or reemployment
 773 date, if the member requests the reinstatement in writing
 774 while the member is an active County employee.

775 (C) The Chief Administrative Officer must use the forfeitures
 776 to pay the operating expenses of the retirement savings
 777 plan or to reduce the amount of County contributions.

778 * * *

779 **Sec. 2. Applicability of amendments; transfer period.**

780 (a) Section 33-37(e)(8), added by Section 1 of this Act, applies to any
 781 employee to whom it would otherwise apply who returned to County
 782 service before this Act took effect. Any such employee may transfer
 783 to the Retirement Savings Plan the actuarial present value of the
 784 employee's benefit in the Employees' Retirement System, calculated
 785 using the System's latest published valuation assumptions, as of the
 786 effective date of this Act.

787 (b) Any active employee who was eligible at any time to transfer service
 788 credits from any public retirement system in the state under Section
 789 33-41(h), but did not do so within the applicable time period under
 790 state law, may transfer all applicable credits to the County retirement
 791 system, subject to all applicable requirements of state law, by
 792 December 31, 2001. Any transfer under this subsection must be
 793 retroactive to the date the employee was originally eligible to apply
 794 for the transfer.

795 **Sec. 3. Emergency Effective Date.**

796 The Council declares that an emergency exists and that this legislation is
 797 necessary for the immediate protection of the public health and safety. This act
 798 takes effect on the date on which it becomes law. However, the amendments to
 799 Sections 33-39, 33-42, and 33-44 made by Section 1 of this Act take effect on
 800 November 1, 2001.

801 *Approved:*

802	<u>/S/</u>	<u>August 1, 2001</u>
	Blair G. Ewing, President, County Council	Date

803 *Approved:*

804	<u>Returned Unsigned</u>	<u>August 13, 2001</u>
	Douglas M. Duncan, County Executive	Date

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

806	<u>/S/</u>	<u>August 13, 2001</u>
	Mary A. Edgar, CMC, Clerk of the Council	Date