COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN ACT to:

(1) create a new benefit structure within the employees' retirement system;
(2) increase the normal retirement pension benefit of a Group E member of the integrated plan;
(3) require employees to have 180 days of employment before becoming eligible to participate in the Retirement Savings Plan; and
(4) generally amend the law regarding retirement.

By amending
Montgomery County Code
Chapter 33, Personnel and Human Resources

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

33-35. Definitions.

* * *

Guaranteed retirement income plan: A retirement plan that provides retirement benefits based on retirement credits and a guaranteed rate of interest on those credits.

Guaranteed retirement income plan account: A recordkeeping account, consisting of required member contributions under Section 33-39(a)(4), County contribution credits under Section 33-40(e) and the guaranteed credited interest on those contributions.

Guaranteed retirement income plan account balance: The balance credited to the retirement accounts of each participant under the guaranteed retirement income plan, determined without regard to vesting.

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Participant: A person who has a benefit under the optional plan, the integrated plan, the elected officials' plan, or the guaranteed retirement income plan.

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33-37. Membership requirements and membership groups.

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

(2) A part-time employee who becomes a full-time employee and is not an active member of any County retirement plan [[.] must become an active member of [[either]]:

(A) the integrated retirement plan, if the employee is eligible for membership in the integrated plan; [or]

(B) the Retirement Savings Plan, if the employee satisfies the requirements for membership in Group I or II, even if the employee did not begin or return to County service on or after October 1, 1994[.]; or

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

(3) A temporary employee who becomes a full-time employee must become an active member of [[either]]:

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

(B) the Retirement Savings Plan, if the employee satisfies the requirements for membership in Group I or II, even if the employee did not begin or return to County service on or after October 1, 1994[.]; or
(C) the guaranteed retirement income plan if the employee is eligible for membership and [[makes an election]] elects to participate as described in subsection (k).

(b) Part-time employees.

*   *   *

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

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

(B) the Retirement Savings Plan if the employee satisfies the requirements for membership in Group I or II, even if the employee did not begin or return to County service on or after October 1, 1994[.] or

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

*   *   *

(5) A full-time employee who becomes a part-time employee may withdraw from active membership in the optional, [or] integrated, or guaranteed retirement income plan and stop making retirement contributions, but [[may]] must not become an active member of a County retirement plan again unless the employee becomes a full-time employee or an elected official.

*   *   *

(e) Retirement plans.
(1) This retirement system consists of an integrated retirement plan, an optional retirement plan, [and] an elected officials' plan, and a guaranteed retirement income plan.

* * *

(8) A former County employee who returns to County service may transfer to the retirement savings plan or to the guaranteed retirement income plan the actuarial present value of the employee's benefit in the [Employees' Retirement System] optional plan or integrated plan, 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.

(f) Membership groups and eligibility. Any full-time or part-time employee is eligible for membership in the appropriate membership group outlined below if the employee meets all of the requirements for the group:

(1) Group A: An employee, elected official, or appointed official not eligible for membership in another group is a group A member. An employee who otherwise would be eligible for membership in group A must participate in the guaranteed retirement income plan or the retirement savings plan if the employee:
(A) begins, or returns to, County service on or after October 1, 1994 (except as provided in the last sentence of subsection (e)(2));
(B) is not represented by an employee organization;
(C) does not occupy a bargaining unit position; and
(D) is not an elected official (except as provided in subsection (e)(4)(D)(ii)).

* * *

(4) Group E: The chief administrative officer, the [director of the] council staff director, the hearing examiners, the county attorney and each head of a principal department, office or agency of the county government, if appointed to [such] that position before July 30, 1978, or a member having held [such] that position on or before October 1, 1972. Any sworn deputy sheriff and any County correctional staff or officer as designated by the chief administrative officer. Any group E member who has reached elective early retirement date may retain membership in group E [in the event of transfer] if the member transfers from the position which qualified the member for group E. Any group E member who is temporarily transferred from the position which qualified the member for group E may retain membership in group E as long as the temporary transfer from the group E position does not exceed 3 years. Notwithstanding the foregoing provisions in group E, any employee who is eligible for membership in group E must participate in the guaranteed retirement income plan or the retirement savings plan under Article VIII if the employee:
(A) (i) begins, or returns to, County service on or after October 1, 1994 (except as provided in the last sentence of subsection (e)(2));

(ii) is not represented by an employee organization; and

(iii) does not occupy a bargaining unit position; or

(B) (i) begins County service on or after October 1, 1994; and

(ii) is subject to the terms of a collective bargaining agreement between the County and an employee organization which requires the employee to participate in the guaranteed retirement income plan or the retirement savings plan.

* * *

(7) Group H: Any member, including any probationary employee, who holds a bargaining unit position described in section 33-105(a)(1) or section 33-105(a)(2), unless the member is eligible for membership in group B or E. Notwithstanding the foregoing provisions in group H, any employee who is eligible for membership in group H must participate in the guaranteed retirement income plan or the retirement savings plan under Article VIII if the employee:

(A) begins, or returns to, County service on or after October 1, 1994 (except as provided in the last sentence of subsection (e)(2)); and

(B) is subject to the terms of a collective bargaining agreement between the County and an employee organization which
requires the employee to participate in the guaranteed retirement income plan or the retirement savings plan.

* * * * *

(h) Requirements of membership. Unless specifically exempt from membership by the chief administrative officer, each full-time employee of the county government or a participating agency must become a member or forfeit employment when the employee meets the eligibility requirements. If the administrative head of a participating agency [[fails to]] does not enforce this provision, any new [[employees]] employee of the agency [[shall be ineligible to]] must not be enrolled as [[members]] a member.

* * * * *

(k) Election to join the guaranteed retirement income plan.

(1) A full time or part time employee hired on [[and]] or after [[July]] October 1, 1994 and before January 1, 2009 who participates in the retirement savings plan and who is not a public safety employee as defined in Section 33-113(o) may make a one time irrevocable election to terminate participation in the retirement savings plan and participate in the guaranteed retirement income plan, effective the first full paycheck after July 1, 2009. An employee must make this election between December 31, 2008 and June 1, 2009. An employee who makes this election [[will]] must have his or her retirement savings plan account balance transferred to the guaranteed retirement income plan. The amount transferred into the guaranteed retirement income plan [[will]] must become the participant’s initial guaranteed retirement income plan account balance. An employee who does
not make this election must continue [[participation]] to participate in the retirement savings plan.

(2) A full time or part time employee hired between December 31, 2008 and July 1, 2009 who participates in the retirement savings plan and who is not a public safety employee as defined in Section 33-113(o) may make a one time irrevocable election to terminate participation in the retirement savings plan. An employee has [[one hundred and fifty (150)]] 150 days [[from]] after the date [[of hire]] the employee was hired to make this election and [[will]] must begin participation on the first full payroll after completing 180 days of employment. An employee who makes this election [[will]] must have his or her retirement savings plan account balance transferred to the guaranteed retirement income plan. The amount transferred into the guaranteed retirement income plan [[will]] must become the participant's initial guaranteed retirement income plan account balance. An employee who does not make this election must continue [[participation]] to participate in the retirement savings plan.

(3) A full time employee hired on [[and]] or after July 1, 2009 and a part time or temporary employee who becomes full time on [[and]] or after July 1, 2009 who does not participate in the retirement savings plan and who is not a public safety employee, as defined in Section 33-113(o), may elect to participate in the guaranteed retirement income plan. An eligible employee must make an irrevocable election during the first 150 days of full time employment. If an eligible employee elects to participate,
participation [(will)] must begin on the first payroll after an
employee has completed 180 days of full time employment. An
employee who does not [(elect to)] participate in the guaranteed
retirement income plan must participate in the retirement savings
plan beginning on the first payroll after the employee completes
180 days of full time employment.

(4) A part time or temporary employee hired on or after [[July]]
October 1, 1994 who does not participate in the retirement
savings plan, and who is not a public safety employee as defined
in Section 33-113(o), may make a one time irrevocable election
to participate in the guaranteed retirement income plan after the
employee completes at least 150 days of employment.
Participation [(will)] must begin on the first full payroll 30 days
after the employee makes the election.

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

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

* * * *

(9) A guaranteed retirement income plan participant must be at least
age 62 with [[three]] 3 years of credited service.

* * * *

(e) Early retirement date. A member who has not met the age and service
requirements for a normal retirement date may elect to retire on the first
date of a month and may elect to receive pension payments beginning on an early retirement date if the following requirements are met:

(3) [[There is no early retirement provision under]] A participant in the guaranteed retirement income plan is not eligible for early retirement.

33-39. Member contributions and credited interest.

(a) Member contributions. Each member of the retirement system must contribute a portion of the member's regular earnings through regular payroll deductions.

(4) Member contributions to the guaranteed retirement income plan.

(A) A member in the guaranteed retirement income plan must contribute 4 [[percent]] % of regular earnings less than or equal to the Social Security wage base and 8 [[percent]] % of regular earnings that exceed the Social Security wage base.

(B) To the extent allowed under Section 414(h)(2) of the Internal Revenue Code, the County must "pick up" (as described in the Internal Revenue Code) member contributions to the guaranteed retirement income plan. A member is always vested in the member's contributions.

(C) When a member rejoins County service after military service that qualifies under Section 33-41(p) as credited service, the County must credit the member with the [[amount equal to the]] amount that the member would
have contributed if the member had worked for the County
during [[the period of]] military service. Contribution
credits for [[the period of]] military service must be based
on the regular earnings the member would have earned
during [[the period of]] military service. If the regular
earnings are not reasonably ascertainable, the credit must
be based on the member’s regular earnings during a period
immediately preceding the military service. The averaging
period is 12 months, or the full length of the member’s
County service, whichever is shorter. The member [[will]]
must not receive any retroactive credited interest on the
contribution credits.

[(4) (5) * * *]

[(5) (6) * * *]

(b) Credited interest.

* * *

(5) A member of the guaranteed retirement income plan [[will]] must
receive credited interest at a rate of 7.25% on the member’s
contributions in the member’s guaranteed retirement income plan
account. If the 7.25% interest rate does not comply with
applicable law, the third segment rate described in Internal
Revenue Code Section 430(h)(2)(G) [[will]] or any successor
provision must apply. Interest [[will]] must be [[credited to the
member’s contributions]] credited to a member’s guaranteed
retirement income plan account balance on a monthly basis as of
the last day of the month.

(c) Return of member contributions.
(1) Refund after employee’s separation under the optional and integrated plans.

(6) Refund of member contributions in the guaranteed retirement income plan. A member who ends employment with the County who is not vested [[may]] must receive a distribution of the member’s guaranteed retirement income plan account balance attributable to member contributions under Section 33-39 and interest on those contributions as soon as reasonably feasible after the member submits a properly completed distribution form. Any death benefits [[will]] must be paid under Section 33-46. Any indebtedness to the County government [[will]] must be subtracted from the member’s refund.

33-40. Employer Contributions.

(e) Guaranteed retirement income plan.

(1) Each pay period, the County must credit to each member’s guaranteed retirement income plan account an amount equal to [[eight (8) percent]] 8% of the member’s regular earnings. Interest [[will]] must be credited at a rate of 7.25% on the County contribution credits. If the 7.25% interest rate does not comply with applicable law, the third segment rate described in Internal Revenue Code Section 430(h)(2)(G) [[will]] or any successor provision must apply. Interest [[will]] must be [[credited to the County contributions]] credited to a member’s guaranteed
retirement income plan account balance on a monthly basis as of
the last day of the month.

(2) When a member rejoins County service after military service that
qualifies under Section 33-41(p) as credited service, the County
must credit the member the amount that the County would have
credited the member if the member worked for the County during
[[the period of]] military service. The credits must be based on
the regular earnings the member would have earned during [[the
period of]] military service. If the regular earnings are not
reasonably ascertainable, the County contribution credit must be
based on the member’s regular earnings during a period
immediately preceding military service. The averaging period is
12 months, or the full length of the member’s County service,
whichever is shorter. The member [[will]] must not receive any
retroactive credited interest on the County contribution credits.

33-41 Credited Service.

* * *

(p) For [[purposes of]] the guaranteed retirement income plan, subsections
(a)-(o) [[of this subsection]] do not apply and credited service [[is]]
must be determined only under this subsection.

(1) Credited service includes the total County service the participant
rendered under the guaranteed retirement income plan, the
retirement savings plan, the optional retirement plan, and the
integrated plan. Each participant must receive one year of
credited service for each year of County service while
participating in one of the County’s retirement plans. Each year
of County service ends on the anniversary of the participant's
date of participation.

(2) County service includes any period of service in the armed forces
of the United States or a state militia or other military service
covered under the Uniformed Services Employment and
Reemployment Rights Act if the member:

(A) was a member of the retirement savings plan, the optional
retirement plan, the integrated plan, or the guaranteed
retirement income plan when the military service began;

(B) applied for reemployment or returned to County service
within:

(i) one year [[of]] after discharge from the military
service and without any other employment
[[following]] after discharge from the military
service; or

(ii) within [[two]] 2 years after completion of military
service if the member was hospitalized or
convalescing from an illness or injury incurred or
aggravated during military service; or

(iii) more than [[two]] 2 years if circumstances beyond
the control of the participant made it impossible or
unreasonable for the participant to apply for
reemployment within [[two]] 2 years; and

(C) the total period of military service did not exceed [[five]] 5
years, excluding periods of military service described
under Section 4312(c) of Title 38 of the United States
Code.
(3) An employee who did not become a member of the guaranteed retirement income plan solely because the employee was called to active duty before completing 180 days of County employment, [[will]] must be eligible to receive contribution credit under Sections 33-39 and 33-40 if the employee elects to participate in the guaranteed retirement income plan upon re-employment.

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

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(b) Amount of pension at normal retirement date.

* * *

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

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

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(ii) From the month the member reaches Social Security normal retirement age: [1.25] 1.65 [[percent]] % of average final earnings up to the Social Security maximum covered compensation in effect on the date of retirement for each year of credited service to a maximum of 31 years plus sick leave credits, plus 2.4 [[percent]] % of average final earnings above the Social Security maximum covered compensation in effect on the date of retirement for each of the first 25 years of credited service.
completed, and 2 [[percent]] % of average final earnings above the Social Security maximum covered compensation in effect on the date of retirement for each year of credited service of more than 25 years, to a maximum of 31 years plus sick leave credits. Years of credited service of less than one full year must be prorated. Sick leave credits used for years in excess of 25 years must be credited at 2 percent of average final earnings above the Social Security maximum covered compensation in effect on the date of retirement. The County must increase this initial amount by the cost-of-living adjustments provided under Section 33-44(c) for the period from the member's date of retirement to the month in which the member reaches Social Security retirement age.

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(4) Guaranteed retirement income plan. A member who retires on or after the member’s normal retirement date may receive that member’s vested guaranteed retirement income plan account balance [[in accordance with]] under Section 33-44.

(c) Amount of pension at early retirement date and early retirement reduction factors.

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(3) Guaranteed retirement income plan. A participant who terminates employment before the member’s normal retirement date may receive the participant’s vested guaranteed retirement
income plan account balance upon termination of employment
[[in accordance with]] under Section 33-44.

* * *

33-43 Disability Retirement.

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(n) Guaranteed retirement income plan. [[Sections]] Subsections (a)-(m) do not apply to a participant in the guaranteed retirement income plan. If a participant incurs a disability before termination from County employment which makes the participant unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months, the disabled participant must remain a participant in the guaranteed retirement income plan under the following rules:

(1) All amounts credited to the participant’s guaranteed retirement income plan account are 100% vested regardless of the participant’s credited service.

(2) The participant must participate in the guaranteed retirement income plan under this Section until the participant dies, reaches his or her normal retirement date, or recovers from the disability.

(3) In determining the credited amount of County contributions under Section 33-40, the participant's regular earnings means the regular earnings the participant would have received for the year if the participant [[was]] were paid for the full year at the rate of compensation paid in the pay period immediately before the participant became disabled.
(4) The participant must not receive a distribution during any period in which the participant receives a County contribution credit.

(5) The participant must not make member contributions under Section 33-39 during the disability participation.

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

(a) Pension payment options for optional and integrated plans.

(e) Applicability of cost-of-living adjustments to elected officials' plan and the guaranteed retirement income plan. Cost-of-living adjustments do not apply to the elected officials' plan and the guaranteed retirement income plan.

(g) Distributions from the guaranteed retirement income plan. Upon termination of County employment, a participant may request a distribution from the guaranteed retirement income plan of a participant’s vested guaranteed retirement income plan account balance.

(1) Lump Sum Method of Distribution. Unless a participant elects an annuity under paragraph (2), a participant [will] must receive the participant’s vested guaranteed retirement income plan account balance in a single lump sum. The participant may [elect to] have the lump sum paid as a direct rollover to an eligible retirement plan as defined in the Internal Revenue Code.

(2) Annuity Method of Distribution. A participant may elect to receive the participant’s guaranteed retirement income plan account balance paid in a single life annuity payable to the participant during the life of that participant. The Board must use the participant’s vested guaranteed retirement income plan
account balance to buy an annuity contract from an insurance
company authorized to do business in the State.

(3) No other [[forms]] form of payment options listed in this Section
[[are]] is available to guaranteed retirement income plan
participants.

[(g) (h)] * * *
[(h) (i)] * * *
[(i) (i)] * * *
[(i) (k)] * * *
[(k) (l)] * * *
[(l) (m)] * * *

(n) Required distributions for guaranteed retirement income plan
participants. The distribution of a participant's guaranteed retirement
income plan account balance must be made no later than April 1 of the
calendar year [[following]] after the later of the calendar year in which
the participant attains age [[seventy and one-half (70 1/2)]] 70 1/2 or the
calendar year in which the participant terminates employment.
Distributions [[will]] must be made in accordance with subsection (g).
If the participant [[fails to]] does not elect a form of distribution, the
distribution [[will]] must be made in a lump sum. If the participant dies
before beginning to receive benefits, the participant's designated
beneficiary under 33-46(h) [[will]] must receive a lump sum distribution
as soon as practicable [[following]] after the participant’s death, but [[in
no event]] not later than the December 31st of the year containing the
fifth anniversary of the participant’s death.

[(m) (o)] * * *
[(n) (p)] * * *
[(o)] [(q)]  *  *  *  

[(p)] [(r)]  *  *  *  

33-45. Vested benefits and withdrawal of contributions.

(a) *Eligibility for vesting for optional and integrated plans.* A member must complete 5 years of membership before the member is qualified to vest, except that a member who has transferred service credit from a public retirement system in Maryland may use that service credit to qualify for vesting. A vested member must leave all member contributions, plus credited interest, in the fund to be eligible to receive retirement benefits.

(b) *Withdrawal of contributions for optional and integrated plans.*

(c) *Vested benefits.*

(8) *Vesting for the guaranteed retirement income plan.* A member has a [[one hundred (100) percent]] 100% vested interest in the member's County contribution credits and the credited interest on the member's County contribution credits after the member attains [[three (3)]] 3 years of credited service. A member who is not [[one hundred (100) percent]] 100% vested in accordance with the preceding sentence [[will]] must become [[one hundred (100) percent]] 100% vested in the member's County contribution credits and the credited interest on the County contribution credits from [[and after]] the effective date of a termination of the guaranteed retirement income plan or upon death or disability. A member is disabled if the member is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can
be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. A member who terminates employment with the County and is not vested in any County contribution credits or the credited interest on the County contribution credits must forfeit the County contribution credits plus the credited interest on the County contributions credits.

(d) Discontinued service retirement for optional and integrated plans.

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33-46. Death benefits and designation of beneficiaries.

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(h) Guaranteed retirement income plan. Subsections (a)-(g) [[are]] do not [[applicable]] apply to the guaranteed retirement income plan. If a participant dies before receiving the participant’s guaranteed retirement income plan account balance must be distributed to the participant’s designated beneficiary in a lump sum as soon as practicable [[following]] after the participant’s death, but [[in no event]] not later than the December 31st of the year containing the fifth anniversary of the participant’s death.

(1) A participant may name a primary beneficiary or beneficiaries and contingent beneficiary or beneficiaries on a designation of beneficiaries form [[to be]] filed with the Office of Human Resources. If a participant names [[two]] 2 or more persons as beneficiaries, the persons are considered co-beneficiaries and share the benefit equally unless the participant specifies otherwise on the designation of beneficiaries form. A participant may change any named beneficiary by completing a new designation.
of beneficiaries form. The consent of the beneficiary or beneficiaries is not required to name or change a beneficiary. The designation is effective when the participant signs the form even if the participant is not living when the Office receives the request, but without prejudice for any payments made before the Office [[of Human Resources]] received the request.

(2) If a participant dies without designating a surviving beneficiary or the designation is not enforceable under subsection (i), the surviving spouse or domestic partner (or if there is no surviving spouse or domestic partner, each surviving child, sharing equally with any other surviving child) is the designated beneficiary. If no spouse, domestic partner, or child survives a participant who left no enforceable beneficiary designation, the participant's estate is the designated beneficiary.

[(h)] (i) * * * *

33-47. Administration.

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(e) Payment of expenses and contributions.

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(2) The board must pay:

(A) operating expenses of the integrated retirement plan, [and]
the optional retirement plan, and the guaranteed retirement income plan from the assets of these plans; and

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33-52. Payment of benefits.

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(b) Discontinuance of pension payments. A member must not receive pension payments while serving in an appointed or elected County office that receives any compensation paid by the County. A member appointed to a full-time County position must become a member of the retirement system or the Retirement Savings Plan under Sections 33-37 and 33-115 and make member contributions until later separation under Article III or Article VIII. The retirement benefit of an employee who resumes membership in the optional or integrated plan must be recalculated when the employee later separates from service. The retirement benefit under the integrated or optional plans of Article III of an employee who becomes a member of the Retirement Savings Plan or the guaranteed retirement income plan must resume when the employee later separates from service.

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33-115. Participant requirements and participant groups.

(a) Participant Requirements.

(1) Full-time employees.

(A) Except as provided in paragraphs (3), [and] (4), and (7) and the last sentence of Section 33-37(e)(2), a full-time employee eligible for membership in Group I or Group II must participate in the Retirement Savings Plan when the full-time employee meets the applicable eligibility requirements or forfeit employment, unless the Chief Administrative Officer exempts the employee from participation.
A part-time employee who becomes a full-time employee and is not an active member of any retirement plan for County employees, must become a member of [[either]]:

(i) the integrated retirement plan, if the employee is eligible for membership in the integrated plan; [or]

(ii) the retirement savings plan, if the employee qualifies for Group I or II, even if the employee did not begin or return to County service on or after October 1, 1994[.]; or

(iii) the guaranteed retirement income plan if the employee is eligible for membership and makes an election in accordance with subsection (7).

A temporary employee who becomes a full-time employee must become an active member of [[either]]:

(i) the integrated plan, if the employee is eligible for membership in the integrated plan; [or]

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

(iii) the guaranteed retirement income plan if the employee is eligible for membership in the guaranteed retirement income plan and makes [[and]] an election [[in accordance with]] under subsection (7).

Part-time employees.
(A) A part-time employee eligible for membership in Group I or Group II may elect to participate in the plan. An employee who becomes a member of the Retirement Savings Plan must remain an active member until the employee becomes ineligible for membership in Group I or II.

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

(i) the integrated plan, if the employee is eligible for membership in the integrated plan; [or]

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

(iii) the guaranteed retirement income plan if the employee is eligible for membership and makes an election [[in accordance with]] under subsection (7).

(7) Election to participate in the guaranteed retirement income plan.

(A) A full time employee hired on [[and]] or after July 1, 2009 and a part time and temporary employee who becomes full time after July 1, 2009, who is not a public safety employee, may [[elect to]] participate in the guaranteed retirement income plan. An eligible employee must make a one time irrevocable election during the first 150 days of employment. If an eligible employee elects to participate, participation [[will]] must begin on the first payroll after an
employee has completed 180 days of full time employment. A full time employee who does not elect to participate in the guaranteed retirement income plan must participate in the retirement savings plan beginning on the first payroll after the employee has completed 180 days of full time employment.

(B) A part time or temporary employee hired on or after [[July]] October 1, 1994 who is not a participant in the retirement savings plan, and who is not a public safety employee, may make a one time irrevocable election to participate in the guaranteed retirement income plan any time after the employee has completed 150 days of employment.

(b) Participants groups and eligibility.

(1) Group I. Except as provided in the last sentence of Section 33-37(e)(2), any full - time or career part-time employee meeting the criteria in paragraphs (A) or (B) [[below]] must participate in the retirement savings plan if the employee begins, or returns to, County service on or after October 1, 1994; and, [[Employees]] An employee hired on [[and]] or after July 1, 2009 must be employed on a full time or part time basis with the County for 180 days before participating in the retirement savings plan. Participation [[will]] must begin on the first payroll after an employee has completed 180 days of employment if the employee:

(A) (i) is not represented by an employee organization;

(ii) does not occupy a bargaining unit position; [and]
(iii) is not a public safety employee; [or] and
(iv) does not elect to participate in the guaranteed retirement income plan; or

(B) (i) is not a public safety employee;
(ii) is subject to the terms of a collective bargaining agreement between the County and an employee organization which requires the employee to participate in the retirement savings plan[,] if the employee does not elect to participate in the guaranteed retirement income plan; and
(iii) does not elect to participate in the guaranteed retirement income plan.

*     *     *

(c) Transfers.

(1) Transfers from the retirement savings plan are [not permitted] only permitted as described in paragraph (4). After an employee enrolls in the retirement savings plan, the employee must continue in the retirement savings plan until the employee [ceases to be] is no longer eligible for membership in either Group I or Group II. If an employee is no longer eligible for membership in Group I or Group II, the employee [[will be eligible to]] may participate in the plan of the retirement system in which the member qualifies for participation under Article III.

(A) A former participant who is no longer eligible to participate in the retirement savings plan retains the right to the vested account balances and any distribution under the retirement savings plan[,] unless the participant elected
to participate in the guaranteed retirement income plan under [[subsection]] paragraph (4) and the participant's account balance was transferred to the guaranteed retirement income plan.

(B) The former participant's participation under the optional retirement plan, the integrated retirement plan, or the guaranteed retirement income plan is governed by Article III.

* * *

(4) Transfer to the guaranteed retirement income plan.

(A) A full time or part time employee hired on [[and]] or after [[July]] October 1, 1994 and before January 1, 2009 who participates in the retirement savings plan, and who is not a public safety employee, may make a one time irrevocable election to terminate participation in the retirement savings plan and participate in the guaranteed retirement income plan effective the first full [[paycheck]] pay period after July 1, 2009. An employee must make this election between December 31, 2008 and June 1, 2009. An employee who elects to terminate participation in the retirement savings plan [[will]] must have his or her account balances transferred to the guaranteed retirement income plan. An employee who does not make this election must continue to participate in the retirement savings plan.

(B) A full time or part time employee hired between December 31, [[2009]] 2008 and July 1, 2009 who participates in the
retirement savings plan, and who is not a public safety employee, may make a one time irrevocable election to terminate participation in the retirement savings plan and participate in the guaranteed retirement income plan. An [[employees]] employee has [[one hundred and fifty (150)]]] 150 days [[from the date of hire]] after the employee was hired to make this election. An employee who makes this election [[will]] must have his or her account balance transferred to the guaranteed income plan. An employee who does not make this election must continue to participate in the retirement savings plan.

33-119. Credited service.

(a) A participant's credited service is the total County service the participant rendered under the Retirement Savings Plan, the optional retirement plan, the integrated plan, and the guaranteed retirement income plan. A participant must receive credited service for any period when the participant was a part-time employee contributing to an employer-supported savings program provided by a participating agency. An employee hired before July 1, 2009 [[Each participant]] must receive 1 year of credited service for each year of County service. [[and .]] [[E]ach] Each year of County service ends on the anniversary of the date the participant starting working for the County. An employee hired on [[and]] or after July 1, 2009 must receive one year of credited service for each year of participation in a County retirement plan. A person who transferred to the Retirement Savings Plan under Section 115(a)(3) or (4) must receive credit for County service for creditable State service earned as a State employee of the County Department of Social
Services. A person who does not transfer to the Retirement Savings Plan under Section 115(a)(3) must not receive credit for County service for this State service:

(b) County service includes any period of compulsory or voluntary service in the armed forces of the United States or a state militia if the participant:

(1) was a member of the retirement savings plan, the optional retirement plan, the guaranteed retirement income plan, or the integrated plan when the military service began;

[(4)] (c) An employee who did not become a member of the retirement savings plan solely because the employee was called to active duty before completing 180 days of County employment[[1, will]] must be eligible to receive contributions under Sections 33-115 and 33-116 if the employee becomes a participant in the retirement savings plan upon re-employment.

33-128. Definitions.

(j) Employee means an employee of the County who:

(1) participates in the retirement savings plan under this Article or the guaranteed retirement income plan under Article III; and

(2) is regularly scheduled to work 20 hours or more per week.

33-134. Reduction of benefits.

(a) Reduction by payments received. Disability benefits must be reduced by any amount the employee receives from:
(4) the optional or integrated plan of the employees' retirement system under Article III;

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33-139 Severance pay.

The County or the applicable agency must pay any participant in the [[Employees']] retirement savings plan or the guaranteed retirement income plan severance pay when the participant is separated from service by an affirmative administrative action other than dismissal for cause. An agency may adopt this severance pay plan under an adoption agreement approved by the Chief Administrative Officer.

Sec. 2. Effective Date.

County Code Section 33-37 and Section 33-115, as amended by Section 1, [[are effective]] take effect on January 1, 2009. The rest of this Act takes effect on July 1, 2009.

Approved:

Michael J. Knapp, President, County Council

Approved:

Isiah Leggett, County Executive

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council