AN EXPEDITED ACT to:

(1) require the County to make employee contributions for an employee who leaves employment for certain military leave;

(2) increase the percent of certain contributions to the Retirement Savings Plan for Group I members; and

(3) generally amend the County retirement law.

By amending
Montgomery County Code
Chapter 33, Personnel and Human Resources
Sec. 1. Sections 33-21, 33-35, 33-41, and 33-119 are amended as follows:

33-21. Military Leave

* * *

(c) An employee who takes leave under this Section continues to receive all employee insurance benefits [, including retirement system credits,] for the entire leave period.

(d) The County must not grant military leave to a non-merit County employee for any period after the employee's appointing authority leaves office.

(e) An employee who is on military leave under this Section must receive retirement credit under the Employees' Retirement System in Article III or the Retirement Savings Plan in Article VIII, as applicable.

33-35. Definitions

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[Actual county service: Service during which a member was in pay status, or on a period of authorized military leave without pay.]

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33-41. Credited Service

* * *

(c) Credit for service in the armed forces of the United States, state militia, [or] national guard, or other service covered under the Uniformed Services Employment and Reemployment Rights Act.

(1) A member who enters the armed forces of the United States, a state militia, [or] national guard, or other service covered under the Uniformed Services Employment and Reemployment Rights Act and does not withdraw member contributions and
interest must receive service credit for periods of active military
service if the member:

(A) does not remain in the military service for more than 5
years, not including any military service described in
Section 4312(c) of Title 38 of the United States Code;
and

(B) reports for County service or applies for reemployment
and submits proof of military service:

(i) within [90 days] one year after completing the
military service and without any other employment
after discharge from the military service; or

(ii) within 2 years after completing the military
service, if the member was hospitalized or
convalescing from an illness or injury incurred in,
or aggravated during, [the period of] military
service[; and]_

[(C) makes up employee contributions missed during the
period of military service.]

(2) [A member who does not make up all of the employee
contributions missed during the period of military service must
not receive credited service for a proportion of the total period
of military service equal to the ratio of the actuarial value of the
remaining missed employee contributions to the actuarial value
of the total employer and employee contributions for the period
of military service.] A member who withdraws member
contributions and redeposits the withdrawn contributions with
interest at a rate of 6.5% must receive the credited service under
this Section. The member must make the repayment while employed by the County, and not later than the earlier of the period of military service or 5 years, beginning on the date of reemployment.

* * *

33-119. Credited service.

* * *

(b) County service includes any period of compulsory or voluntary 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 participant:

(1) was a member of the Retirement Savings Plan, the optional retirement plan, or the integrated plan when the military service began;

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

(A) [90 days of] 1 year after discharge from the military service, and the participant does not take other employment; [or]

(B) [within] 2 years after [completion of] completing military service if the member was hospitalized or convalescing from an illness or injury incurred or aggravated during military service, and the participant does not take other employment; or

(C) more than 2 years if circumstances beyond the control of the participant make it impossible or unreasonable for the participant to apply for reemployment within 2 years, and the participant does not take other employment; and
(3) the total period of military service did not exceed 5 years, [except that the 5-year limitation does not include periods] not including any period of military service described under Section 4312(c) of Title 38, United States Code.

Sec. 2. Sections 33-116 and 33-117 are amended as follows:


(a) Percent of participant contributions.

(1) (A) Group I. Each participant in Group I [or Group II] must contribute, through regular payroll deductions, [3 percent] 4% of regular earnings less than or equal to the Social Security wage base and [6 percent] 8% of regular earnings that exceed the Social Security wage base.

(B) Group II. Each participant in Group II must contribute, through regular payroll deductions, 3% of regular earnings less than or equal to the Social Security wage base and 6% of regular earnings that exceed the Social Security wage base.

(4) [A] The County must contribute on behalf of a participant who rejoins County service after military service that qualified under Section 33-119(b) as credited service [may contribute] an amount equal to the amount that the participant could have contributed if the participant had worked for the County during the period of military service.
[(A) The participant must contribute this amount in regular payments beginning on the date of reemployment and ending after the earlier of:

(i) 3 times the period of military service; or

(ii) 5 years.]

[(B)] (A) Contributions for the period of military service must be based on the [gross pay] regular earnings the participant would have earned during the period of military service. If this amount of [gross pay] regular earnings is not reasonably ascertainable, the [elective] contribution must be based on the participant’s average [gross pay] regular earnings during a period immediately preceding military service. The averaging period is 12 months, or the full length of the participant’s County service, whichever is shorter.

[(C)] (B) [Elective contributions] Contributions under this paragraph count toward the maximum annual contribution limits under the Internal Revenue Code for the year for which the contributions [are made, which the participant must designate] relate.

(D) (C) The participant is not entitled to any retroactive allocation of forfeitures or any retroactive crediting of earnings because of [elective] contributions under this subparagraph.

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33-117. Employer contributions.
(a) Amount of employer contributions.

(1) Group I participants. The County must contribute to the retirement savings plan in quarterly installments, on behalf of each Group I participant, an amount equal to [6%] 8% of that participant's regular earnings while a Group I participant during a plan year.

* * *

Sec. 3. Expedited Effective Date.

The Council declares that this legislation is necessary for the immediate protection of the public interest. County Code Section 33-116(a) and Section 33-117(a), as amended by Section 2 of this Act, take effect on July 6, 2008. The rest of this Act takes effect on July 1, 2008.

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