

Expedited Bill No. 30-09  
Concerning: Personnel – Retirement –  
Guaranteed Retirement Income Plan –  
Retirement Savings Plan  
Revised: 9/16/09 Draft No. 4  
Introduced: July 28, 2009  
Enacted: September 22, 2009  
Executive: October 5, 2009  
Effective: October 5, 2009  
Sunset Date: None  
Ch. 23, Laws of Mont. Co. 2009

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Council President at the Request of the County Executive

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**AN EXPEDITED ACT** to:

- (1) permit certain non-represented public safety employees to participate in the Guaranteed Retirement Income Plan;
- (2) eliminate the distinction between disability benefits for highly compensated employees and non-highly compensated employees under the Retirement Savings Plan;
- (3) establish default beneficiaries for participants in the Retirement Savings Plan; and
- (4) generally amend the retirement laws.

By amending

Montgomery County Code  
Chapter 33, Personnel and Human Resources  
Sections 33-35, 33-37, 33-39, 33-40, 33-43, 33-52, 33-113, 33-115, 33-119, 33-120, 33-128, 33-131

<b>Boldface</b>	<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:*



28 member is transferred from the position that qualified the  
 29 member for group F membership.

30 (B) A group F member who is temporarily transferred from  
 31 the position that qualified the member for group F  
 32 membership may retain membership in group F as long  
 33 as the temporary transfer from the group F position does  
 34 not exceed 3 years.

35 (C) Notwithstanding the foregoing provisions in group F, an  
 36 employee who is eligible for membership in group F  
 37 must participate in the retirement savings plan under  
 38 Article VIII or the guaranteed retirement income plan if  
 39 the employee:

40 (i) [(a)] begins, or returns to, County service on or  
 41 after October 1, 1994 (except as provided in the  
 42 last sentence of subsection (e)(2));

43 (ii) [(b)] is not represented by an employee  
 44 organization; and

45 (iii) [(c)] does not occupy a bargaining unit position.];  
 46 or]

47 (D) An employee who is eligible for membership in group F  
 48 must participate in the retirement savings plan under  
 49 Article VIII if the employee:

50 (i) [(ii) (a)] begins County service on or after October 1,  
 51 1994; and

52 (ii) [(b)] is subject to the terms of a collective  
 53 bargaining agreement between the County and an

54 employee organization that requires the employee  
 55 to participate in the retirement savings plan.

56 [D] (E) \* \* \*

57 (6) Group G: Any paid firefighter, paid fire officer, and paid rescue  
 58 service personnel. Any group G member who has reached  
 59 normal retirement may retain membership in group G if the  
 60 member transfers from the position which qualified the member  
 61 for group G. Any group G member who is temporarily  
 62 transferred from the position which qualified the member for  
 63 Group G may retain membership in group G as long as the  
 64 temporary transfer from the group G position does not exceed 3  
 65 years.

66 (A) Notwithstanding the foregoing provisions in group G,  
 67 any employee who is eligible for membership in group G  
 68 must participate in the retirement savings plan under  
 69 Article VIII if the employee:

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

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

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

76 (B)] (i) begins County service on or after October 1,  
 77 1994; and

78 (ii) is subject to the terms of a collective bargaining  
 79 agreement between the County and an employee

80 organization which requires the employee to participate  
81 in the retirement savings plan.

82 (B) An employee who is eligible for membership in group G  
83 must participate in the retirement savings plan under  
84 Article VIII or the guaranteed retirement income plan if:

85 (i) the employee begins, or returns to, County service  
86 on or after October 1, 1994 (except as provided in  
87 the last sentence of subsection (e)(2)); [[and]]

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

90 (iii) does not occupy a bargaining unit position.

91 \* \* \*

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

93 \* \* \*

94 (3) [A] An eligible full-time employee hired on or after July 1,  
95 2009 and a part-time or temporary employee who becomes full-  
96 time on or after July 1, 2009 who does not participate in the  
97 retirement savings plan [and who is not a public safety  
98 employee, as defined in Section 33-113(o)], may elect to  
99 participate in the guaranteed retirement income plan. An  
100 eligible employee must make an irrevocable election during the  
101 first 150 days of full-time employment. If an eligible employee  
102 elects to participate, participation must begin on the first  
103 [payroll] pay period after an employee has completed 180 days  
104 of full-time employment. An employee who does not  
105 participate in the guaranteed retirement income plan must  
106 participate in the retirement savings plan beginning on the first

107 [payroll] pay period after the employee completes 180 days of  
 108 full-time employment.

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

117 (5) An eligible full-time or part-time public safety employee hired  
 118 on or after October 1, 1994 and before January 1, 2009 who  
 119 participates in the retirement savings plan may make a one time  
 120 irrevocable election to terminate participation in the retirement  
 121 savings plan and participate in the guaranteed retirement  
 122 income plan, effective the first full pay period after [[October  
 123 1,]] December 31, 2009. An employee must make this election  
 124 between [[June 30, 2009 and September 1, 2009]] October 1,  
 125 2009 and December 1, 2009. An employee who makes this  
 126 election must have his or her retirement savings plan account  
 127 balance transferred to the guaranteed retirement income plan.  
 128 The amount transferred into the guaranteed retirement income  
 129 plan must become the participant's initial guaranteed retirement  
 130 income plan account balance. An employee who does not make  
 131 this election must continue to participate in the retirement  
 132 savings plan.

133 \* \* \*

134 **33-39. Member Contributions and credited interest.**

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

138 \* \* \*

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

141 (A) A non-public safety employee member in the guaranteed  
 142 retirement income plan must contribute 4% of regular  
 143 earnings less than or equal to the Social Security wage  
 144 base and 8% of regular earnings that exceed the Social  
 145 Security wage base.

146 (B) A public safety employee member in the guaranteed  
 147 retirement income plan must contribute 3% of regular  
 148 earnings less than or equal to the Social Security wage  
 149 base and 6% of regular earnings that exceed the Social  
 150 Security wage base.

151 [(B)] (C) \* \* \*

152 [(C)] (D) \* \* \*

153 (b) Credited interest.

154 \* \* \*

155 (5) A member of the guaranteed retirement income plan must  
 156 receive credited interest at [a] an annual rate of 7.25% on the  
 157 member's contributions in the member's guaranteed retirement  
 158 income plan account. If the annual 7.25% interest rate does not  
 159 comply with applicable law, the third segment rate described in  
 160 Internal Revenue Code Section 430(h)(2)(G) or any successor

161 provision must apply. Interest must be credited to a member's  
 162 guaranteed retirement income plan account balance on a  
 163 monthly basis as of the last day of the month.

164 \* \* \*

165 **33-40. Employer Contributions.**

166 \* \* \*

167 (e) Guaranteed retirement income plan.

168 (1) Each pay period, the County must credit to each non-public  
 169 safety member's guaranteed retirement income plan account an  
 170 amount equal to 8% of the member's regular earnings. Interest  
 171 must be credited at [a] an annual rate of 7.25% on the County  
 172 contribution credits. If the annual 7.25% interest rate does not  
 173 comply with applicable law, the third segment rate described in  
 174 Internal Revenue Code Section 430(h)(2)(G) or any successor  
 175 provision must apply. Interest must be credited to a member's  
 176 guaranteed retirement income plan account balance on a  
 177 monthly basis as of the last day of the month.

178 (2) Each pay period, the County must credit to each public safety  
 179 member's guaranteed retirement income plan account an  
 180 amount equal to 10% of the member's regular earnings.  
 181 Interest must be credited at an annual rate of 7.25% on the  
 182 County contribution credits. If the annual 7.25% interest rate  
 183 does not comply with applicable law, the third segment rate  
 184 described in Internal Revenue Code Section 430(h)(2)(G) or  
 185 any successor provision must apply. Interest must be credited  
 186 to a member's guaranteed retirement income plan account  
 187 balance on a monthly basis as of the last day of the month.



215 participant would have received for the year if the  
216 participant were paid for the full year at the rate of  
217 compensation paid in the pay period immediately before  
218 the participant became disabled.

219 ~~[(4)](D)~~ The participant must not receive a distribution  
220 during any period in which the participant receives a  
221 County contribution credit.

222 ~~[(5)](E)~~ The participant must not make member  
223 contributions under Section 33-39 during the disability  
224 participation.

225 (2) Public Safety Employees. If a public safety employee  
226 participant incurs a disability before retirement or other  
227 separation from service which, in the opinion of a physician  
228 selected or approved by the Chief Administrative Officer,  
229 renders the participant unable to perform duties satisfactorily  
230 for the employment the participant held with the County before  
231 the disability, the participant's employment and participation in  
232 the guaranteed retirement income plan must be terminated and  
233 deemed a disability retirement under the following rules:

234 (A) All amounts credited to the participant's guaranteed  
235 retirement income plan account, including County  
236 contributions, are 100% vested regardless of the  
237 participant's years of credited service.

238 (B) The Chief Administrative Officer must determine the  
239 date on which a disability retirement is effective. After a  
240 participant submits a properly completed distribution  
241 form, the Chief Administrative Officer must distribute

242 the value of the former participant's account balance to  
243 the former participant under this Section.

244 \* \* \*

245 **33-52. Payment of benefits.**

246 \* \* \*

247  
248 (b) Discontinuance of pension payments. A member must not receive  
249 pension payments while serving in an appointed or elected County  
250 office that receives any compensation paid by the County. A member  
251 appointed to a full-time County position must become a member of  
252 the retirement system or the Retirement Savings Plan under Sections  
253 33-37 and 33-115 and make member contributions until later  
254 separation under Article III or Article VIII. The retirement benefit of  
255 an employee who resumes membership in the optional or integrated  
256 plan must be recalculated when the employee later separates from  
257 service. The retirement benefit under the integrated or optional plans  
258 of Article III of an employee who becomes a member of the  
259 Retirement Savings Plan or the guaranteed retirement income plan  
260 must resume when the employee later separates from service.

261 \* \* \*

262 **33-113. Definitions.**

263 \* \* \*

264 (o) Public safety employee means any employee who is a:  
265 (1) [a] sworn officer of the [[Montgomery County]] Police  
266 Department;  
267 (2) [a] paid firefighter, [[a]] paid fire officer, or [[a]] paid rescue  
268 service worker of the Montgomery County [[Department of]]  
269 Fire and Rescue [[Services]] Service;

- 270 (3) [a] sworn [[Montgomery County]] deputy sheriff;  
 271 (4) [a] [[Montgomery County]] correctional officer; or  
 272 (5) [a] [[Montgomery]] County [correctional staff member if]  
 273 employee who provides services to a correctional facility and  
 274 designated as a public safety employee by the Chief  
 275 Administrative Officer.

276 \* \* \*

277 **33-115. Participant requirements and participant groups.**

278 (a) *Participant Requirements.*

279 \* \* \*

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

282 (A) An eligible full-time employee hired on or after July 1,  
 283 2009 and a part-time and temporary employee who  
 284 becomes full-time after July 1, 2009[, who is not a public  
 285 safety employee,] may participate in the guaranteed  
 286 retirement income plan. An eligible employee must  
 287 make a one time irrevocable election during the first 150  
 288 days of employment. If an eligible employee elects to  
 289 participate, participation must begin on the first [payroll]  
 290 pay period after an employee has completed 180 days of  
 291 full-time employment. A full-time employee who does  
 292 not elect to participate in the guaranteed retirement  
 293 income plan must participate in the retirement savings  
 294 plan beginning on the first [payroll] pay period after the  
 295 employee has completed 180 days of full-time  
 296 employment.

297 (B) An eligible part-time or temporary employee hired on or  
 298 after October 1, 1994 who is not a participant in the  
 299 retirement savings plan[, and who is not a public safety  
 300 employee,] may make a one time irrevocable election to  
 301 participate in the guaranteed retirement income plan any  
 302 time after the employee has completed 150 days of  
 303 employment.

304 (b) *Participants groups and eligibility.*

305 \* \* \*

306 (2) Group II.

307 (A) Except as provided in the last sentence of Section 33-  
 308 37(e)(2), [any] a full-time or career part-time employee  
 309 must participate in the retirement savings plan if the  
 310 employee begins, or returns to, County service on or after  
 311 October 1, 1994; and

312 [(i) (a) is not represented by an employee  
 313 organization;

314 (b) does not occupy a bargaining unit position; and

315 (c) is a public safety employee; or]

316 (i)[(ii)(a)] is a public safety employee; and

317 (ii)[(b)] is subject to the terms of a collective  
 318 bargaining agreement between the County and an  
 319 employee organization which requires the  
 320 employee to participate in the retirement savings  
 321 plan.

322 (B) A member of the Police Bargaining Unit may transfer to  
 323 Group II of the retirement savings plan if the employee

324 has accumulated enough credited service to obtain the  
325 maximum retirement benefit under the optional or  
326 integrated plan.

327 (C) Except as provided in the last sentence of Section 33-  
328 37(e)(2), a full-time or career part-time employee must  
329 participate in the retirement savings plan or the  
330 guaranteed retirement income plan if the employee  
331 begins, or returns to, County service on or after October  
332 1, 1994; and

- 333 (i) is not represented by an employee organization;
- 334 (ii) does not occupy a bargaining unit position; and
- 335 (iii) is a public safety employee.

336 (c) *Transfers.*

337 \* \* \*

338 (4) Transfer to the guaranteed retirement income plan.

339 \* \* \*

340 (C) A full-time or part-time employee hired on or after  
341 October 1, 1994 and before January 1, 2009 who  
342 participates in the retirement savings plan, and who is a  
343 public safety employee not represented by an employee  
344 organization and does not [[occupying]] occupy a  
345 bargaining unit position, may make a one-time  
346 irrevocable election to terminate participation in the  
347 retirement savings plan and participate in the guaranteed  
348 retirement income plan effective the first full pay period  
349 after [[October 1,]] December 31, 2009. An employee  
350 must make this election between [[June 30, 2009 and

351 September 1, 2009]] October 1, 2009 and December 1,  
 352 2009. An employee who elects to terminate participation  
 353 in the retirement savings plan must have his or her  
 354 account balances transferred to the guaranteed retirement  
 355 income plan. An employee who does not make this  
 356 election must continue to participate in the retirement  
 357 savings plan.

358 **33-119. Credited service.**

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

377 \* \* \*

378 **33-120. Distribution of Benefit.**

379 \* \* \*

380 (b) *Disability Benefits.*

381 (1) Public Safety Employees. If a participant who is a public safety  
 382 employee incurs a disability before retirement or other  
 383 separation from service which, in the opinion of a physician  
 384 selected or approved by the Chief Administrative Officer,  
 385 renders the participant unable to perform duties satisfactorily  
 386 for the employment the participant held with the County before  
 387 the disability, the participant's employment and participation in  
 388 the retirement savings plan must be terminated and deemed a  
 389 disability retirement[.] under the following rules:

390 (A) [In the event of a public safety participant's disability  
 391 retirement, all] All amounts credited to the participant's  
 392 retirement savings plan account, including County  
 393 contributions, [account] are 100% vested regardless of  
 394 the participant's years of credited service.

395 (B) The Chief Administrative Officer must determine the  
 396 date on which a disability retirement is effective. After  
 397 the participant submits a properly completed distribution  
 398 form, [The] the Chief Administrative Officer must  
 399 distribute the value of the former participant's account  
 400 balances to the former participant under this Section.

401 [(2) Highly compensated, non-public safety employees. If a  
 402 participant who is a non- public safety employee and who is a  
 403 highly compensated employee under the Internal Revenue Code  
 404 incurs a disability before retirement or other separation from

405 service which, in the opinion of a physician selected or  
406 approved by the Chief Administrative Officer, renders the  
407 participant unable to perform duties satisfactorily for the  
408 employment the participant held with the County before the  
409 disability, the participant's employment and participation in the  
410 retirement savings plan must be terminated and deemed a  
411 disability retirement.]

412 [(A) In the event of a highly compensated, non-public safety  
413 participant's disability retirement, all amounts credited to  
414 the County contributions account are 100% vested  
415 regardless of the participant's years of credited service.]

416 [(B) The Chief Administrative Officer must determine the  
417 date on which a disability retirement is effective. The  
418 Chief Administrative Officer must distribute the value of  
419 the former participant's account balances to the former  
420 participant under this Section.]

421 [(3)] (2) [Non-highly compensated, non-public] Non-public safety  
422 employees. If a participant who is a non-public safety  
423 employee [and who is not a highly compensated employee  
424 under the Internal Revenue Code] incurs a disability before  
425 retirement or other separation from service which makes the  
426 participant unable to engage in any substantial gainful activity  
427 by reason of any medically determinable physical or mental  
428 impairment which can be expected to result in death or which  
429 has lasted or can be expected to last for a continuous period of  
430 not less than 12 months, the disabled participant must remain a

431 participant in the retirement savings plan under the following  
 432 rules:

433 (A) All amounts credited to the participant's retirement  
 434 savings account, including County contributions,  
 435 [account] are 100% vested regardless of the participant's  
 436 years of credited service.

437 (B) The participant must remain a participant in the  
 438 retirement savings plan under this Section until the  
 439 participant dies, reaches his or her normal retirement  
 440 date, or recovers from the disability.

441 (C) In determining the amount of the County contribution  
 442 under Section 33-117, the participant's regular earnings  
 443 means the regular earnings the participant would have  
 444 received for the year if the participant was paid for the  
 445 full year at the rate of compensation paid in the pay  
 446 period immediately before the participant became  
 447 disabled.

448 (D) The participant must not receive a distribution during any  
 449 period in which the participant receives a County  
 450 contribution.

451 (E) The participant must not make participant contributions  
 452 under Section 33-116 during the period of disability  
 453 participation in the retirement savings plan.

454 (c) *Death Benefits.*

455 \* \* \*

456 (3) A participant may name a primary beneficiary or beneficiaries  
 457 and contingent beneficiary or beneficiaries on a designation of

458 beneficiaries form filed with the Office of Human Resources.  
459 If a participant names 2 or more persons as beneficiaries, the  
460 persons are considered co-beneficiaries and share the benefit  
461 equally unless the participant specifies otherwise on the  
462 designation of beneficiaries form. A participant may change  
463 any named beneficiary by completing a new designation of  
464 beneficiaries form. The consent of the beneficiary or  
465 beneficiaries is not required to name or change a beneficiary.  
466 The designation is effective when the participant signs the form  
467 even if the participant is not [[living]] alive when the Office  
468 receives the request, but without prejudice for any payments  
469 made before the Office received the request.

470 (4) If a participant dies without designating a surviving beneficiary  
471 or the designation is not enforceable under subsection (5), the  
472 surviving spouse or domestic partner (or if there is no surviving  
473 spouse or domestic partner, each surviving child, sharing  
474 equally with any other surviving child) is the designated  
475 beneficiary. If no spouse, domestic partner, or child survives a  
476 participant who left no enforceable beneficiary designation, the  
477 participant's estate is the designated beneficiary.

478 (5) For purposes of this Section, a beneficiary designation is not  
479 enforceable if:

480 (A) the designated beneficiary:

481 (i) predeceases the member;

482 (ii) disclaims the benefit; or

483 (iii) is not an identifiable person; or

484 (B) the designation is legally void for any reason.

485

\* \* \*

486

487 **33-128. Definitions.**

488

\* \* \*

489

(q) Public safety employee means any employee who is a:

490

(1) sworn, ranking officer of the [[Montgomery County]] Police Department;

491

492

(2) paid firefighter, paid fire officer, or paid rescue service employee of the Montgomery County [[Department of]] Fire and Rescue [[Services]] Service;

493

494

495

(3) sworn deputy sheriff;

496

(4) [[Montgomery County]] correctional officer; or

497

(5) [[Montgomery]] County employee [correctional facility staff member, if] who provides services to a correctional facility and designated as a public safety employee by the Chief Administrative Officer.

498

499

500

501

\* \* \*

502 **33-131. Amount of benefits.**

503

\* \* \*

504

(b) Non-service-connected disability. The annual amount of the non-service-connected disability benefit payment equals 2 percent of the employee's final earnings, multiplied by the number of years of credited service earned under Section 33-41 or Section 33-119. However the benefit must be at least 30 percent of the employee's final earnings, but no more than 60 percent of the employee's final earnings, less any reductions provided in Section 33-134.

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\* \* \*

