

MEMORANDUM

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Public Hearing:** Expedited Bill 18-10, Personnel – Retirement – Furlough - Imputed Compensation

Expedited Bill 18-10, Personnel – Retirement – Furlough - Imputed Compensation, sponsored by the Council President at the request of the County Executive, was introduced on April 13, 2010. A Management and Fiscal Policy Committee worksession is tentatively scheduled for April 29 at 2:00 p.m.

The Executive's Recommended FY11 Operating Budget includes 10 furlough days for all non-public safety County employees. Under the current retirement laws, an employee who takes a furlough would also suffer a corresponding loss of retirement benefits due to the reduction in regular earnings. However, §30-2(b)(3) of the Personnel Regulation requires the County to ensure that retirement benefits are not adversely affected when an employee takes a furlough. Bill 18-10 would amend the definition of regular earnings in the retirement laws to include imputed income not received due to a furlough.

This Bill would ensure that a furlough does not reduce the employer and the employee contributions to the plan or any pension benefit. The Bill would also prevent a furlough from resulting in a reduced disability benefit for a member of the Retirement Savings Plan or the Guaranteed Retirement Income Plan. Although we have not yet received a fiscal impact statement from the Executive, this Bill would reduce the savings realized by these furlough days.

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Expedited Bill No. 18 -10
Concerning: Personnel - Retirement -
Furlough-Imputed Compensation
Revised: April 8, 2010 Draft No. 1
Introduced: April 13, 2010
Expires: October 13, 2011
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

- (1) amend the definition of regular earnings under the employees' retirement system and the retirement savings plan to include certain imputed compensation not received due to a furlough; and
- (2) generally amend the law regarding the employees' retirement system and the retirement savings plan.

By amending

Montgomery County Code
Chapter 33, Personnel and Human Resources
Sections 33-35, 33-113 and 33-128

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:

Sec. 1. Sections 33-35, 33-113 and 33-128 are amended as follows:

33-35. Definitions

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

* * *

Regular earnings: Except as otherwise provided, gross pay for actual hours worked, including paid leave, but not including overtime. Regular earnings for a Group A, E, or H member who is employed on July 1, 2009 and participates in the integrated or optional plan must include amounts as if the member had received an increase of 4.5% in the member's gross pay as of July 1, 2009, except for the purpose of calculating a member's contribution under Section 33-39. Regular earnings for a Group F member who is employed on July 1, 2009 and participates in the integrated or optional plan must include amounts as if the member had received an increase of 4.25% in the member's gross pay as of July 1, 2009, except for the purpose of calculating a member's contribution under Section 33-39. Regular earnings for a Group G member who is employed on July 1, 2009 and participates in the integrated or optional plan must include amounts as if the member had received an increase of 4% in the member's gross pay as of July 1, 2009, except for the purpose of calculating a member's contribution under Section 33-39. If a member is required to take any furlough, as defined in personnel regulations adopted under Section 33-7(b), regular earnings must include any amount the member would have received if the member had not been required to take any furlough. Regular earnings for an elected official is gross pay for services rendered to the County. Regular earnings must not exceed the limit under Internal Revenue Code Section 401(a)(17), as adjusted by the Internal Revenue Service. Gross pay must be used to determine benefits even if the County implements a pick-up plan under Section 414 of the Internal Revenue Code. Gross pay must be

28 used to determine benefits even if a member has agreed to a reduction in earnings
29 under:

30 (a) the County's deferred compensation plan under Section 457 of the
31 Internal Revenue Code; or

32 (b) any statutory fringe benefit program sponsored by the County and
33 permitted by the Internal Revenue Code.

34 * * *

35 **33-113. Definitions.**

36 In this Division the following words and phrases have the following
37 meanings:

38 * * *

39 (p) *Regular earnings* means gross pay for actual hours worked, including
40 paid leave, but not including [exclusive of] overtime, without
41 reduction for participant contributions that are picked up under
42 Section 33-116(a), or contributions to any County deferred
43 compensation plan or statutory fringe benefit program. If a
44 participant is required to take any furlough, as defined in personnel
45 regulations under Section 33-7(b), regular earnings must include any
46 amount the participant would have received if the participant had not
47 been required to take any furlough.

48 * * *

49 **33-128. Definitions.**

50 In this Division, the following words and phrases have the following
51 meanings:

52 * * *

53 *Final earnings* means the annual average of the regular salary of an employee less
54 any shift pay differential for the 18-month period immediately before the disability

55 or any period of 18 consecutive months, whichever is greater. If a participant is
56 required to take any furlough, as defined in personnel regulations adopted under
57 Section 33-7(b), final earnings must include any amount the participant would
58 have received if the participant had not been required to take any furlough.

59 * * *

60 **Sec. 2. Effective Date.** The Council declares that this Act is necessary for
61 the immediate protection of the public interest. This Act takes effect on July 1,
62 2010.

63 *Approved:*

64
65

Nancy Floreen, President, County Council Date

66 *Approved:*

67

Isiah Leggett, County Executive Date

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

69

Linda M. Lauer, Clerk of the Council Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 18 -10

Personnel – Retirement – Furlough - Imputed Compensation

DESCRIPTION: The requested expedited legislation would amend the definition of regular earnings in the Employee Retirement System and the Retirement Savings Plan to include any amount the employee would have received if the employee had not been required to take a furlough.

PROBLEM: The Executive's Recommended FY11 Operating Budget includes 10 furlough days for most County employees. Under the current retirement laws, an employee who takes a furlough would also suffer a corresponding loss of retirement benefits due to the reduction in regular earnings.

GOALS AND OBJECTIVES: Under §30-2(b)(3) of the Personnel Regulation, the County must ensure that retirement benefits are not adversely affected when an employee takes a furlough. This Bill would amend the definition of regular earnings in the retirement laws to include imputed income not received due to a furlough. This Bill would thereby prevent a furlough from resulting in lower employer and employee contributions to the plan and a lower pension benefit.

COORDINATION: Office of Human Resources, County Attorney's Office

FISCAL IMPACT: Office of Management and Budget

ECONOMIC IMPACT: Fiscal impact statement to be provided at a later date.

EVALUATION: n/a

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OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

April 8, 2010

RECEIVED
MONTGOMERY COUNTY
COUNCIL
2010 APR -9 AM 9:44

TO: Nancy Floreen, President
Montgomery County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Proposed Legislation – Personnel – Retirement – Furlough – Imputed Compensation

Section 30-2 (b) (3) of the Personnel Regulations provides that the County must ensure that retirement benefits are not adversely affected when an employee takes a furlough day. To ensure no loss of retirement benefit when County employees are furloughed in FY 2011, I am proposing the attached legislation that will amend the definition of regular earnings in the Employees Retirement System and the Retirement Savings Plan to include any amount the member would have received if the member had not been required to take a furlough.

With this bill, there will be no reduction in the employee and employer contribution for retirement as a result of the furlough. Please let me know if you have any questions or concerns regarding this proposed amendment.

cc: Joseph Adler, Director, Office of Human Resources