

MEMORANDUM

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Action:** Expedited Bill 30-10, Personnel – Equal Benefits – Fire and Rescue Employees

Management and Fiscal Policy Committee recommendation: (2-0, Councilmember Navarro absent) to approve Expedited Bill 30-10 with an amendment.
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Expedited Bill 30-10, Personnel – Equal Benefits – Fire and Rescue Employees, sponsored by the Council President at the request of the County Executive, was introduced on May 4, 2010. A public hearing was held on June 15 and a Management and Fiscal Policy Committee worksession was held on June 17.

Background

The County has a longstanding policy, in law and practice, against employment discrimination based on sexual orientation. Bill 28-99, effective March 1, 2000, extended equal benefits to a same sex domestic partner of a County employee that is offered to an employee's spouse. As a result of collective bargaining in 2001, the Executive agreed with the union representing police officers, the Fraternal Order of Police, Lodge 35 (FOP), to extend equal benefits for an opposite sex domestic partner of a police officer. This collective bargaining agreement was approved by the Council and enacted into law.

The Executive agreed to a similar provision with the union representing fire and rescue employees, the Montgomery County Career Fire Fighters Association, International Association of Fire Fighters, Local 1664 (IAFF) in 2002. However, this agreement was never approved by the Council and enacted into law. The Office of Human Resources has been following the collective bargaining agreement with the IAFF since 2002. There are currently 49 members of the fire and rescue bargaining unit who are receiving benefits for a domestic partner of the opposite sex and 7 members who are receiving benefits for a same sex domestic partner.

Bill 30-10 would amend the law to implement the 2002 collective bargaining agreement with the IAFF by providing health and insurance benefits to opposite sex domestic partners of employees in the fire and rescue services bargaining unit.

Public Hearing

Stuart Weisberg, Office of Human Resources, testifying on behalf of the Executive, supported the Bill. Mr. Weisberg recommended a technical amendment to §33-22(c). See ©8-9. There were no other speakers.

MFP Worksession

The Committee reviewed the Bill and recommended approval (2-0, Councilmember Navarro absent) of the Bill with the technical amendment.

Issues

1. What is the fiscal impact of the Bill?

The fiscal impact statement at ©5 concludes that the Bill would not have a fiscal impact on the County because the County has been providing equal benefits to an opposite sex domestic partner of fire and rescue bargaining unit members since the collective bargaining agreement was negotiated in 2002. At the request of Council staff, OMB provided a cost estimate for providing equal benefits to an opposite sex domestic partner of the 49 fire and rescue bargaining unit members currently enjoying this benefit. OMB estimated that the County spent an additional \$171,850 providing this benefit for these 49 employees in FY10. See ©6-7.

2. Should the Council approve the Executive's technical amendment?

The Executive recommended the following technical amendment:

Add the following after line 10 at ©2:

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

Committee recommendation (2-0, Councilmember Navarro absent): approve the technical amendment.

3. Should the Council enact Bill 30-10?

Providing equal benefits for same sex domestic partners furthers the County's legitimate interest in eliminating discrimination on the basis of sexual orientation. Extending equal benefits to opposite sex domestic partners does not. The extension of equal benefits to opposite sex domestic partners is simply an employee benefit that may be appropriate for the County to negotiate with its own employees. The County Executive did just that with the IAFF in 2002.

Unfortunately, the Executive did not propose legislation to the Council in 2002 to implement this negotiated provision. Although the Council is not required to enact this Bill to implement this agreement, 49 bargaining unit members have already received this benefit. **Committee recommendation (2-0, Councilmember Navarro absent):** approve the Bill as amended.

This packet contains:

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Expedited Bill No. 30 -10
Concerning: Personnel – Equal Benefits
– Fire and Rescue Employees
Revised: June 21, 2010
Draft No. 3
Introduced: May 4, 2010
Expires: November 4, 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) provide benefits to an opposite sex domestic partner of a member of the fire and rescue bargaining unit; and
- (2) generally amend the law regarding benefits for domestic partners.

By amending

Montgomery County Code
Chapter 33, Personnel and Human Resources
Sections 33-22

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. Section 33-22 is amended as follows:

33-22. Benefits for Domestic Partner of Employee

* * *

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

(1) satisfy all of the following requirements:

(A) be the same sex, unless the employee is a member of the police bargaining unit or the fire and rescue employee bargaining unit;

* * *

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

* * *

Sec. 2. Effective Date.

The Council declares that this legislation is necessary for the immediate protection of the public interest. The amendment to Section 33-22 in Section 1 takes effect on July 1, 2002.

Approved:

Nancy Floreen, President, County Council

Date

Approved:

Isiah Leggett, County Executive

Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 30-10
Personnel – Equal Benefits – Fire and Rescue Employees

DESCRIPTION: The legislation provides health and insurance benefits to opposite sex domestic partners for members of the fire and rescue services bargaining unit.

PROBLEM: The collective bargaining agreement between the County and the Montgomery County Career Fire Fighters Association, International Association of Fire Fighters, Local 1664, AFL-CIO, that became effective July 1, 2002, provides that all health and insurance benefits shall be extended to opposite-sex domestic partners of employees covered under the agreement. While reviewing Council Bill 37-09, which relates to providing benefits to same sex domestic partners of employees of County contractors, it came to light that the County had never amended Sec. 33-22(c)(1)(a) of the County Code to add opposite sex domestic partnerships for members of the fire bargaining unit.

GOALS AND OBJECTIVES: To correct an oversight that occurred in 2002.

COORDINATION: Office of Human Resources and Finance

FISCAL IMPACT: Office of Management and Budget

ECONOMIC IMPACT: Office of Management and Budget

EVALUATION: N/A

EXPERIENCE ELSEWHERE: N/A

SOURCE OF INFORMATION: Stuart Weisberg, Office of Human Resources (240-777-5154)

APPLICATION WITHIN MUNICIPALITIES: N/A

PENALTIES: N/A



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

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

TO: Nancy Floreen, President
Montgomery County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Expedited Bill to Provide Benefits for Opposite Sex Domestic Partners

I am attaching for Council introduction an Expedited Bill to provide health and insurance benefits to opposite sex domestic partners of employees in the fire and rescue services bargaining unit.

This bill corrects an oversight that occurred in 2002. The collective bargaining agreement between the County and the Montgomery County Career Fire Fighters Association, International Association of Fire Fighters, Local 1664, AFL-CIO, that became effective July 1, 2002, provides that all health and insurance benefits shall be extended to opposite-sex domestic partners of employees covered under the agreement. While reviewing Council Bill 37-09, which relates to providing benefits to domestic partners of County contractors, it came to light that the County had never amended Sec. 33-22(c)(1)(a) of the County Code to add opposite sex domestic partnerships for members of the fire bargaining unit.

Attachments

IL: sw



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OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett
County Executive

Joseph F. Beach
Director

MEMORANDUM

May 3, 2010

TO: Nancy Floreen, President, County Council

FROM: Joseph F. Beach, Director, Office of Management and Budget

SUBJECT: Council Bill 30-10, Personnel – Benefits for Opposite Sex Domestic Partners – Fire and Rescue Services Bargaining Unit Employees

The purpose of this memorandum is to transmit a fiscal and economic impact statement to the Council on the subject legislation.

LEGISLATION SUMMARY

This legislation provides benefits to opposite sex domestic partners of employees in the fire and rescue bargaining unit. The collective bargaining agreement between the County and the Montgomery County Career Fire Fighters Association, International Association of Fire Fighters (IAFF), Local 1664, AFL-CIO that became effective July 1, 2002, provides that all health and insurance benefits shall be extended to opposite-sex domestic partners of employees covered under the agreement. It has recently come to light that the County had never amended Section 33-22 of the County Code to add coverage for opposite sex domestic partnerships for members of the IAFF. This bill corrects that oversight.

FISCAL AND ECONOMIC SUMMARY

This bill will not have a fiscal or economic impact on the County since the County has been providing benefits to opposite sex domestic partners of employees in the IAFF since 2002, under the terms of the bargaining agreement.

The following contributed to and concurred with this analysis: Stuart Weisberg, Office of Human Resources; Michael Coveyou, Department of Finance, and Lori O'Brien, Office of Management and Budget.

JFB:lob

c: Kathleen Boucher, Assistant Chief Administrative Officer
Dee Gonzalez, Offices of the County Executive
Joseph Adler, Director, Office of Human Resources
Michael Coveyou, Department of Finance
Wesley Girling, Office of Human Resources
Belinda Fulco, Office of Human Resources
Stuart Weisberg, Office of Human Resources
John Cuff, Office of Management and Budget

Office of the Director

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COUNCIL
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Drummer, Bob

From: O'Brien, Lori**Sent:** Tuesday, June 15, 2010 7:16 AM**To:** Drummer, Bob**Cc:** Espinosa, Alex; Girling, Wes; Fulco, Belinda**Subject:** response to Council question about the cost of opposite-sex domestic partner health, dental, vision, and prescription coverage

Bob – Using data provided to me by OHR, I've estimated the cost of providing opposite sex domestic partners' coverage to Montgomery County employees who are IAFF union members. This estimate comes with a number of caveats and assumptions:

- Most of the health coverage provided by Montgomery County is self-funded. Although the County budgets for its self-funded plans in much the same way as purchased plans, if a covered individual does not use the plan, the actual cost of providing the coverage does not increase. These estimates will be based on the budgeted amounts for each type of coverage.
- We have no way of knowing what level of coverage or what type of coverage an employee would choose absent the presence of the domestic partner and any covered children of the domestic partner.
 - For this exercise, I am assuming that the employee would choose the same coverage (e.g., Caremark Hi Option, Caremark Standard Option, Kaiser HMO, etc) whether or not domestic partner coverage was provided. I am also assuming that they would choose the coverage necessary to cover everyone already covered who is not in the plan by virtue of being a domestic partner or a domestic partner's child. For example, if Montgomery County provides coverage to an employee, an employee's child, a domestic partner, and three of the domestic partner's children, I am assuming that without the domestic partner coverage, they would require self+1 coverage instead of family coverage. If the employee had two children instead of one, I would assume that with or without the domestic partner coverage, family coverage would be necessary.

If an employee and an employee's domestic partner were the only two people covered under Montgomery County's plan, the level of coverage would go from self+1 to an employee only plan. The same level of coverage would result if the only children covered were the domestic partner's children (i.e., the coverage would go from family coverage to an employee-only plan).

- We also have no way of knowing what would happen if the domestic partner's coverage were not provided: would the employee simply get married? If this were to happen, the requirement that opposite sex domestic partner coverage be provided would not result in any additional cost.

- For this exercise, I am assuming that the employee and the domestic partner would not get married absent the provision of the domestic partner coverage.

Given these assumptions, under the current provision of domestic partner coverage for opposite-sex partnerships the 52 employees' health, dental, vision, and prescription coverage for which this type of coverage is provided cost the County an estimated \$659,900 per year (2010). If domestic partner coverage were not provided, that same coverage would cost \$488,050. Therefore, given all the assumptions discussed above, the opposite-sex domestic partner coverage provided to members of the IAFF cost \$171,850 for FY10. Please remember, however, that there is no incremental cost for providing coverage for domestic partners because it is already being provided.

Please let me know if you have any questions.

Thanks.

Lori J. O'Brien

Management and Budget Specialist
Office of Management and Budget
Montgomery County Government
240-777-2788



OFFICE OF HUMAN RESOURCES

Isiah Leggett
County Executive

Joseph Adler
Director

M E M O R A N D U M

June 15, 2010

TO: Nancy Floreen, President
Montgomery County Council

FROM: Stuart Weisberg, Labor Relations Advisor
Office of Human Resources

Stuart Weisberg

SUBJECT: Testimony for Public Hearing on Bill 30-10, Personnel – Equal Benefits – Fire and Rescue Employees

Good afternoon Council Members, I am Stuart Weisberg, the Labor Relations Advisor in the Office of Human Resources, and it is a pleasure for me to appear at this hearing on behalf of County Executive Isiah Leggett, to express the Executive's support for Bill 30-10, which would provide to opposite sex domestic partners of employees in the fire and rescue services bargaining unit the same benefits that spouses receive.

This bill corrects an oversight that occurred in 2002. The collective bargaining agreement between the County and the International Association of Fire Fighters, Local 1664 that became effective July 1, 2002, as well as successor agreements, provide that all health and insurance benefits shall be extended to opposite sex domestic partners of employees covered under the agreement. While reviewing Council Bill 37-09, which relates to providing benefits to domestic partners of County contractors, it came to light that the County had never amended Section 33-22(c)(1)(A) of the County Code to add opposite sex domestic partnerships for members of the fire bargaining unit. This bill would authorize and codify the current practice of providing benefits to opposite sex domestic partners of fire and rescue services bargaining unit employees. The County currently provides benefits to opposite sex domestic partners for 49 fire bargaining unit employees.

There is one technical amendment, attached to my testimony, which I would like to propose on behalf of the Executive. This amendment simply extends to opposite sex domestic partners of fire and rescue services bargaining unit members the current prohibition on domestic partners being related by blood or affinity in a way that would disqualify them from marriage under State law, contained in Section 33-22(c)(1)(G) of the County Code.

Thank you and I will be pleased to answer any questions you may have.

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Executive Amendment 1

Insert amendment beginning on line 11:

(G) not be related by blood or affinity in a way that would disqualify them from marriage under State law if the employee and partner were (or, for members of the police bargaining unit[,], or the fire and rescue services bargaining unit, are) opposite sexes.

* * *