Expedited Bill No. 35-10

Concerning: Personnel – Disability Retirement – Imputed Compensation

Revised: June 16, 2010 Draft No. 4

Introduced: May 27, 2010

Enacted: June 22, 2010

Executive: June 30, 2010

Effective: June 30, 2010

Sunset Date: None

Ch. 32 , Laws of Mont. Co. 2010

**County Council**

**For Montgomery County, Maryland**

By: Councilmembers Elrich, Andrews, and Trachtenberg

**AN EXPEDITED ACT** to:

(1) amend the definition of final earnings to extend imputed compensation beyond FY10 for certain members who apply for disability retirement benefits under the employees’ retirement system by a certain date;

(2) modify the qualifications, selection, and operating procedures for disability review panel members; and

(2) generally amend the law regarding disability retirement.

By amending

Montgomery County Code

Chapter 33, Personnel and Human Resources

Sections 33-35 and 33-43

**Boldface** *Heading or defined term.*

Underlining *Added to existing law by original bill.*

**[**Single boldface brackets**]** *Deleted from existing law by original bill.*

Double underlining *Added by amendment.*

**[[**Double boldface brackets**]]** *Deleted from existing law or the bill by amendment.*

\* \* \* *Existing law unaffected by bill.*

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

**Sec. 1. Section 33-35 is amended as follows:**

**33-35. Definitions.**

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

\* \* \*

*Final earnings*: Except as otherwise provided, the regular earnings of a member as of the last date of active service. Final earnings for a member who filed an application for disability benefits under Section 33-43 before May 19, 2010 that is approved after June 30, 2010 must be the member’s regular earnings **[[**on the date of the member’s application**]]** on the last pay period in fiscal year 2010.

\* \* \*

**33-43. Disability Retirement**

\* \* \*

(c) *Selection of the Disability Review Panel.*

(1) The Chief Administrative Officer must appoint 4 members of the Disability Review Panel from a list of at **[**lease 10**]** least 5 impartial, unbiased medical doctors willing and able to serve provided by one or more impartial medical organizations retained by the Chief Administrative Officer. If the list of doctors provided by the impartial medical organization is not agreed to by the certified representatives and the County, the certified representatives must strike **[**3 names**]** 1 name from the list and the County must strike **[**3 names**]** 1 name from the list by alternating strikes. The Chief Administrative Officer must appoint a member from the remaining **[**4**]** 3 names on the list.

(2) The Chief Administrative Officer must appoint members who are licensed to practice medicine and certified in a medical specialty under standards established by the American Board of Medical Specialties (or a successor organization). At least 1 member **[**who are**]** must be either:

(A) certified by the American Board of Preventive Medicine (or a successor organization) as a specialist in occupational medicine; or

(B) certified in a different medical specialty and have at least 10 years of experience practicing occupational medicine.

(3) (A) The Chief Administrative Officer must appoint members under subsection (c)(1) for staggered 3-year terms. To implement the staggered terms, the Chief Administrative Officer must appoint the first member to a 3-year term, the second member to a one-year term, and the third and fourth members to a 2-year term. After these initial appointments, the Chief Administrative Officer must appoint all members to 3-year terms, except for any member appointed under subsection (c)(6) to fill a vacancy.

(B) After the Chief Administrative Officer appoints or reappoints a Panel member, the Chief Administrative Officer must promptly send each certified representative a copy of the document confirming the appointment.

(4) When a Panel member's term expires, the Panel member may be reappointed to a new 3-year term unless, at any time within 30 days to 60 days prior to the expiration of the term, a certified representative notifies the County and the other certified representatives or the County notifies the certified representatives that it objects to the reappointment of the Panel member. If there is no objection, the Panel member is eligible to serve an additional term or terms.

(5) If a Panel member declines to be reappointed to the Panel, the Chief Administrative Officer must appoint a new Panel member from a list of at least **[**10**]** 5 medical doctors as provided for in subsection (c)(1).

(6) If a vacancy on the Panel is created by a Panel member's death, disability, resignation, non-performance of duty, or other cause, the Chief Administrative Officer must appoint a medical doctor to complete the Panel member's term from a list of at least **[**10**]** 5 medical doctors as provided for in subsection (c)(1).

(7) The County must pay the impartial medical organization retained by the County and each Panel member reasonable compensation, as determined by the Chief Administrative Officer, for services rendered.

(d) *Disability retirement procedures.*

\* \* \*

(6) The Panel must meet in person, by telephone conference, or by video conference, and review and consider all evidence submitted to it no later than 60 days after the application is filed. A Panel must include either 2 or 3 members. **[**majority**]** At least 2 members must vote **[**of 3**]** **[**members**]** in favor of a decision **[**is required**]** to take any action under this Section.

\* \* \*

**Sec. 2. Expedited Effective Date.**

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

\* \* \*

*Approved:*

/s/ June 24, 2010

Nancy Floreen, President, County Council Date

*Approved:*

/s/ June 30, 2010

Isiah Leggett, County Executive Date

*This is a correct copy of Council action.*

/s/ July 6, 2010

Linda M. Lauer, Clerk of the Council Date