

MEMORANDUM

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Public Hearing:** Expedited Bill 9-10, Personnel – Retirement Incentive Program

Expedited Bill 9-10, Personnel – Retirement Incentive Program, sponsored by the Council President at the request of the County Executive, was introduced on March 23, 2010. A Management and Fiscal Policy Committee worksession is tentatively scheduled for April 19 at 2:00 p.m.

Bill 9-10 would permit a Group A (unrepresented, non-public safety employees), Group E (Deputy Sheriffs and Correctional Officers) or Group H (non-public safety employees represented by MCGEO) member of the Employees Retirement System to apply to participate in the 2010 Retirement Incentive Program (RIP). An employee must be:

- (1) eligible for:
 - (a) normal retirement on or before June 1, 2010; or
 - (b) early retirement, and within 2 years of meeting the criteria for normal retirement on June 1, 2010; and
- (2) assigned to a position in a class of positions subject to a Reduction in Force (RIF).

The Chief Administrative Officer would approve applications from Executive Branch employees and the Council Staff Director would approve applications from Legislative Branch employees. The number of employees who can participate in the RIP in any affected class is limited to the number of positions in the affected class scheduled to be abolished. A participant would be able to choose an additional retirement benefit of \$35,000, \$30,000 plus an enhanced retiree life insurance benefit, or \$28,000 plus an enhanced retiree health plan cost sharing benefit. In addition, a participant's pension benefit would not be reduced for early retirement.

Elected officials, appointed officials, employees of participating outside agencies, and employees who participate in either the Retirement Savings Plan or the Guaranteed Retirement Income Plan would not be eligible to participate. Bill 9-10 would implement a side agreement with MCGEO.

This packet contains:

Expedited Bill 9-10
Legislative Request Report
Memo from Executive

<u>Circle #</u>
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Expedited Bill No. 9 -10
Concerning: Personnel – Retirement
Incentive Program
Revised: March 18, 2010 Draft No. 2
Introduced: March 23, 2010
Expires: September 23, 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 a retirement incentive program for certain members of the Employees' Retirement System; and
- (2) generally amend the law regarding the Employees' Retirement System.

By amending

Montgomery County Code
Chapter 33, Personnel and Human Resources
Sections 33-40, 33-42, and 33-44

By adding

Montgomery County Code
Chapter 33, Personnel and Human Resources
Section 33-42A

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 33-40, 33-42, and 33-44 are amended as follows:

Sec. 33-40. Employer Contributions

* * *

(e) Guaranteed Retirement Income Plan

* * *

(4) For any member who received a contribution to the member's guaranteed retirement income plan account under Section 33-42A, interest must be credited at an annual rate of 7.25%. If the annual 7.25% interest rate does not comply with applicable law, the third segment rate described in Internal Revenue Code Section 430(h)(2)(G) or any successor provision must apply. Interest must be credited to a member's guaranteed retirement income plan account balance on a monthly basis as of the last day of the month.

33-42. Amount of pension at normal retirement date or early retirement date.

* * *

(b) Amount of pension at normal retirement date.

(4) Guaranteed retirement income plan. A member who retires on or after the member's normal retirement date, except a member who receives a contribution under Section 33-42A, may receive that member's vested guaranteed retirement income plan account balance under Section 33-44. A member who receives a contribution under Section 33-42A must not receive a distribution of the member's guaranteed retirement income plan account balance until the member attains the Social Security retirement age.

* * *

33-44. Pension payment options and cost-of-living adjustments.

* * *

(g) *Distributions from the Guaranteed Retirement Income Plan.* [Upon termination of County employment, a] A participant who receives a contribution under Section 33-42A must not receive a distribution until the participant attains the Social Security retirement age. Any other participant may receive a distribution when the participant terminates County employment.

A participant may [request] elect a distribution from the guaranteed retirement income plan of a participant's vested guaranteed retirement income plan account balance as follows:[]

(1) Lump Sum Method of Distribution. Unless a participant elects an annuity under paragraph (2), a participant must receive the participant's vested guaranteed retirement income plan account balance in a single lump sum. The participant may have the lump sum paid as a direct rollover to an eligible retirement plan, as defined in the Internal Revenue Code.

(2) Annuity Method of Distribution. A participant may elect to receive the participant's guaranteed retirement income plan account balance paid in:

(A) a single life annuity payable to the participant during the life of that participant; or

(B) a joint and survivor annuity payable to the participant over the participant's lifetime and, at the participant's death, payable to the designated beneficiary (spouse, domestic partner, or children only) who survives. Payments must be made for the designated beneficiary's

lifetime in the amount payable to the participant or
another amount elected by the participant, but not less
than 10 percent of the amount payable to the participant.

[The Board must use the participant's vested guaranteed
retirement income plan account balance to buy an
annuity contract from an insurance company authorized
to do business in the State.]

- (3) No other form of payment options listed in this Section is
available to guaranteed retirement income plan participants.

Sec. 2. Section 33-42A is added as follows:

33-42A. 2010 Retirement Incentive Program.

(a) Definitions.

Affected class means an occupational class or a group of occupational
classes in a department, including all classes in an occupational series
at and below the budget level class, if:

- (1) the class includes a position that the department director intends
to eliminate; and
(2) eliminating the position may cause an employee in the class to
be demoted or terminated.

Affected employee means an employee assigned to a position in an
affected class who has received a notice of intent or notification of a
Reduction in Force (RIF).

(b) Eligibility.

- (1) A Group A, E or H member who is employed in a part time or
full time position may apply to participate in the 2010
Retirement Incentive Program if the member:

- (A) is eligible for:

- (i) normal retirement on or before June 1, 2010; or
- (ii) early retirement, and is within 2 years of meeting the criteria for normal retirement on June 1, 2010;
- and

(B) is an affected employee.

(2) A member is not eligible to participate in the 2010 Retirement Incentive Program if the member:

(A) receives a disability retirement under Section 33-43;

(B) receives a discontinued service retirement under Section 33-45(d);

(C) is an elected or appointed official; or

(D) is employed by a participating agency.

(3) A member must apply to participate in the 2010 Retirement Incentive Program, must complete all required forms by May 14, 2010, and must retire on June 1, 2010.

(4) A member who applies for a disability retirement under Section 33-43 must not receive any benefit under this Section unless the member's application for disability retirement is denied and all appeals from that denial are exhausted.

(c) Early retirement reduction. A member's pension benefit must not be reduced for early retirement if the member is eligible for early retirement and within 2 years of eligibility for normal retirement.

(d) Additional Retirement Benefit. In addition to the pension benefit calculated under this Section, a participant must elect one of the following additional retirement benefits. A part time participant must receive a pro-rata portion of the applicable retirement benefit, based on that participant's percent of budgeted full time employment.

- 109 (1) \$35,000 pension benefit;
 110 (2) \$30,000 pension benefit and an enhanced retiree life insurance
 111 benefit; or
 112 (3) \$28,000 pension benefit and an enhanced retiree health plan
 113 cost sharing benefit.
- 114 (e) The participant must elect to receive the cash portion of the additional
 115 pension benefit paid under Subsection (d) as:
- 116 (1) a single lump sum on July 1, 2010:
 117 (A) to the member or the member's designated beneficiary if
 118 the member dies before receiving the lump sum payment;
 119 (B) as a direct rollover to an eligible retirement plan (as
 120 defined in the Internal Revenue Code); or
 121 (C) a combination of (A) and (B);
- 122 (2) 12 equal monthly payments beginning on July 1, 2010:
 123 (A) to the member or the member's designated beneficiary if
 124 the member dies before receiving all 12 payments;
 125 (B) as a direct rollover to an eligible retirement plan (as
 126 defined in the Internal Revenue Code); or
 127 (C) a combination of (A) and (B);
- 128 (3) a contribution to an account established for the member under
 129 the guaranteed retirement income plan. A member must receive
 130 the member's guaranteed retirement income plan account
 131 balance when the member attains the Social Security retirement
 132 age; or
- 133 (4) an additional pension benefit paid over the member's lifetime in
 134 the pension option elected by the member under Section 33-44,
 135 beginning on July 1, 2010.

(f) Cost of Living. Any cost of living adjustment does not apply to this benefit. A cost of living adjustment under Section 33-44(c) must not include the additional pension benefit paid under this Section.

(g) Approval. The Chief Administrative Officer must approve a request to participate in the program from a member employed in the Executive Branch. The Council Staff Director must approve a request to participate from a member employed in the Legislative Branch. The Chief Administrative Officer and the Council Staff Director must not approve more applications from an affected class than the number of positions that are abolished in the affected class. If more members apply to participate in the program than the number of positions abolished, the participant's must be approved in order of County seniority. Seniority must be calculated under the RIF personnel regulation.

Sec. 3. 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 when it becomes law.

Approved:

Nancy Floreen, President, County Council

Date

Approved:

Isiah Leggett, County Executive

Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 9-10

Personnel – Retirement Incentive Program

DESCRIPTION: Expedited Bill 9-10 would establish a retirement incentive program targeted for employees who occupy a class within an occupational series affected by the Reduction in Force (RIF) across departments. A participant must be eligible for normal retirement or within 2 years of meeting the criteria for normal retirement.

PROBLEM: The Executive's proposed FY 2011 operating budget would abolish 232 filled positions. Bill 9-10 would reduce the adverse impact on affected employees of these reductions in force by providing an incentive for senior employees in an affected class to voluntarily retire.

GOALS AND OBJECTIVES: Bill 9-10 would reduce the number of employees who are terminated due to the reduction in force by increasing the number of senior employees in each affected class who voluntarily retire.

COORDINATION: Office of Human Resources, Office of the County Attorney

FISCAL IMPACT: Office of Management and Budget

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

EVALUATION: n/a

