Agenda Item 4A
May 6, 2014
Introduction

MEMORANDUM

May 2, 2014

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: **Introduction:** Expedited Bill 23-14, Retirement Plans – Definitions - Administration

Expedited Bill 23-14, Retirement Plans – Definitions – Administration - Amendments, sponsored by the Council President at the request of the County Executive, is scheduled to be introduced on May 6. A public hearing is tentatively scheduled for June 10 at 1:30 p.m.

The County submitted the Employees' Retirement System (ERS) to the Internal Revenue Service (IRS) in order to receive a determination letter that the ERS remains tax qualified. The Bill would delete outdated references to Internal Revenue Code §415 and define "direct rollover" and "eligible retirement plan" as requested by the IRS. In addition, the Bill would make other amendments to clarify administrative practices in areas where the Montgomery County Code does not provide guidance. Bill 23-14 would amend the retirement plans to:

(1) provide that sick leave is used for vesting purposes in the Employees' Retirement Plan;
(2) provide that months of service are included for vesting purposes in the Guaranteed Retirement Income Plan and the Retirement Savings Plan;
(3) permit the Chief Administrative Officer to authorize a designee to receive a beneficiary form;
(4) clarify that a participant continues to participate in the same retirement plan after changing employment from the County directly to a participating agency or from a participating agency directly to the County;
(5) clarify that a part-time employee hired before 1994 who has not participated in either the Retirement Savings Plan or the Guaranteed Retirement Income Plan may elect to participate in either plan;
(6) clarify that a DRSP/DROP account balance must not be distributed until the final decision on a disability application;
(7) delete outdated references to Internal Revenue Code Section 415, which limits contributions and benefits;
(8) delete the requirement that the Disability Panel meet to review applications; and
(9) define a "direct rollover" and an "eligible retirement plan."

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Expedited Bill No. 23-14
Concerning: Retirement Plans – Definitions – Administration - Amendments
Revised: April 16, 2014 Draft No. 5
Introduced: May 6, 2014
Expires: November 6, 2015
Enacted: [date]
Executive: [date signed]
Effective: [date takes effect]
Sunset Date: None
Ch. [#], Laws of Mont. Co. [year]

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

(1) provide that sick leave is used for vesting purposes in the Employees' Retirement Plan;
(2) provide that months of service are included for vesting purposes in the Guaranteed Retirement Income Plan and the Retirement Savings Plan;
(3) permit the Chief Administrative Officer to authorize a designee to receive a beneficiary form;
(4) clarify that a participant continues to participate in the same retirement plan after changing employment from the County directly to a participating agency or from a participating agency directly to the County;
(5) clarify that a part-time employee hired before 1994 who has not participated in either the Retirement Savings Plan or the Guaranteed Retirement Income Plan may elect to participate in either plan;
(6) clarify that a DRSP/DROP account balance must not be distributed until the final decision on a disability application;
(7) delete outdated references to Internal Revenue Code Section 415, which limits contributions and benefits;
(8) delete the requirement that the Disability Panel meet to review applications;
(9) define a "direct rollover" and an "eligible retirement plan"; and
(10) 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 33-37, 33-38A, 33-41, 33-42, 33-43, 33-44, 33-46, 33-115, 33-119, and 33-120

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. Sections 33-37, 33-38A, 33-41, 33-42, 33-43, 33-44, 33-46, 33-115, 33-119 and 33-120 are amended as follows:

33-37. Membership requirements and membership groups.

* * *

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

* * *

(4) An eligible part time [or temporary] employee [hired on or after October 1, 1994] who does not participate in the retirement savings plan may make a one-time irrevocable election to participate in the guaranteed retirement income plan after the employee completes at least 150 days of employment. Participation must begin on the first full pay period beginning 30 days after the employee makes the election.

* * *

(7) An individual who changes employment from the County government to a participating agency or from a participating agency to the County government must continue to participate in his or her retirement plan and is not eligible to make an election.

* * *

33-38A. Deferred Retirement Option Plans.

* * *

(a) *DROP Plan for Group F members.*

* * *

(7) *Disability retirement.* An employee may apply for disability retirement prior to the termination of the employee's participation in the program.

* * *

(C) If a DRSP participant ends participation in the program before a final decision is made on the disability retirement application, the DRSP account must not be distributed until a final decision is made.

* * *

(b) *DROP Plan for Group G members.*

* * *

(7) *Disability retirement.*

* * *

(E) If a DROP participant ends participation in the program before a final decision is made on the disability retirement application, the DROP account must not be distributed until a final decision is made.

* * *

33-41. Credited service.

* * *

(f) *Use of sick leave for credited service.* An employee must receive credit toward retirement for any accumulated sick leave, up to a maximum of 4,224 hours. Each 176 hours of accumulated sick leave is equal to 1 month of credited service. Accumulated sick leave totaling less than 11 days must not be credited for retirement purposes. Accumulated sick leave totaling 11 to 22 days must be credited as 1 month of service for retirement purposes. A member must have sick leave credited for vesting purposes under Section 33-45. An employee who transfers to the Retirement Savings Plan must receive credit toward retirement under the optional plan or integrated plan under Section 33-37(i) for the employee's accumulated sick leave.

* * *

(q) For the guaranteed retirement income plan, subsections (a)-(o) do not apply and credited service must be determined only under this subsection.

(1) Credited service includes the total County service the participant rendered under the guaranteed retirement income plan, the retirement savings plan, the optional retirement plan, the integrated plan, and the elected officials' plan. Each participant must receive one year of credited service for each year of County service and one month of credited service for each month of County service [while participating in one of the County's retirement plans.] during which the participant contributed to a County retirement plan. Each year of County service ends on the anniversary of the participant's date of participation.

* * *

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

* * *

(g) *Maximum annual contribution to elected officials' plan.*

* * *

(2) For purposes of this subsection (g), the annual addition must be comprised of:

(A) County elected officials' contributions; [and]

(B) required elected officials' participant contributions; [The lesser of:

(i) One-half of the total of required and voluntary elected officials' participant contributions allocated to the elected officials' participant's required and voluntary elected officials' participant contributions accounts; or

(ii) All of the required and voluntary elected officials' participant contributions allocated to the required and voluntary elected officials' participant contributions accounts in excess of six (6) percent of the elected officials' participant's compensation.]

(C) voluntary elected officials' participant contributions; and

(D) forfeitures used to reduce the County elected officials' contributions in accordance with Section 33-40(d)(2)(D).

*   *   *

[(4) County elected officials' contributions that would be allocated to county elected officials' contributions accounts of elected officials' participants but for the limitations of this subsection (g), must be carried over to subsequent years and allocated in order of time to the county elected officials' contributions accounts which would have received such contributions but for the limitations set forth in this subsection (g). Amounts carried over must be allocated by the chief administrative officer to a suspense account that must be invested in a fixed income fund. Any earnings of the suspense account must be allocated ratably among the county elected officials' contributions accounts of all the elected officials' participants except as otherwise provided in this subsection (g).]

[(5)] (4)   *   *   *

[(6)] (5) * * *

* * *

33-43. Disability retirement.

* * *

(d) *Disability retirement procedures.*

* * *

(4) Before the Panel [meets to review] discusses an application for a member other than a member of the Firefighter/Rescuer Bargaining Unit, the Panel must advise each party of the deadline date for submitting information to the Panel. The Panel must allow a reasonable amount of time for the parties to submit additional information, and may extend the deadline at the request of either party for good cause shown.

* * *

(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. At least 2 members must vote in favor of a decision to take any action under this Section.

(7) Within 30 calendar days after the Panel's [last meeting] final discussion at which the application was considered, the Panel must issue a written recommendation to the Chief Administrative Officer regarding whether the applicant meets the criteria for disability retirement benefits for non-service-connected disability in accordance with subsections (e)(2), (3)

and (4) or service-connected disability in accordance with subsection (f).

*   *   *

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

*   *   *

(q) *Direct rollover distributions*. A member or beneficiary may elect, in any manner prescribed by the Chief Administrative Officer at any time, to have any portion of eligible rollover distribution [(as defined in the Internal Revenue Code)] paid directly to an eligible retirement plan [(as defined in the Internal Revenue Code)] specified by the member in a direct rollover. [For purposes of this subsection, a direct rollover is a payment from the retirement system to the eligible retirement plan specified by the member.] A member may not elect a direct rollover if the eligible rollover distribution is less than $200.00. As used in this subsection:

(1) *direct rollover* means a payment from the retirement system to the eligible retirement plan specified by the member; and

(2) *eligible retirement plan* means:

(A) an individual retirement account described in Internal Revenue Code Section 408(a);

(B) an individual retirement annuity described in Internal Revenue Code Section 408(b) (other than an endowment contract);

(C) a qualified trust;

(D) an annuity plan described in Internal Revenue Code Section 403(a);

(E) an eligible deferred compensation plan described in

<u>Internal Revenue Code Section 457(b) which is maintained by an eligible employer described in Internal Revenue Code Section 457(e)(1)(A); or</u>

<u>(F)</u> <u>an annuity contract described in Internal Revenue Code Section 403(b).</u>

* * *

33-46. Death benefits and designation of beneficiaries.

* * *

(h) *Guaranteed retirement income plan.* Subsections (a)-(g) do not apply to the guaranteed retirement income plan. If a participant dies before receiving the participant's guaranteed retirement income plan account, the guaranteed retirement income plan account balance must be distributed to the participant's designated beneficiary in a lump sum as soon as practicable after the participant's death, but not later than the December 31st of the year containing the fifth anniversary of the participant's death.

(1) A participant may name a primary beneficiary or beneficiaries and contingent beneficiary or beneficiaries on a designation of beneficiaries form filed with the Office of [human] <u>Human</u> Resources<u>, or designee of the Chief Administrative Officer</u>. If a participant names 2 or more persons as beneficiaries, the persons are considered co-beneficiaries and share the benefit equally unless the participant specifies otherwise on the designation of beneficiaries form. A participant may change any named beneficiary by completing a new designation of beneficiaries form. The consent of the beneficiary or beneficiaries is not required to name or change a beneficiary. The designation is

effective when the participant signs the form even if the participant is not living when the Office, or designee of the Chief Administrative Officer, receives the request, but without prejudice for any payments made before the Office, or designee of the Chief Administrative Officer, received the request.

* * *

33-115. Participant requirements and participant groups.

(a) *Participant Requirements.*

* * *

(6) An employee who is not an active member of a County retirement plan but is eligible for membership in the integrated retirement plan may become a member of the Retirement Savings Plan or the guaranteed retirement income plan. The employee must remain a member of the Retirement Savings Plan or the guaranteed retirement income plan until the employee becomes ineligible for membership [in Group I or II].

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

(A) A full time employee hired or rehired on or after July 1, 2009 and a part time and temporary employee who becomes full time after July 1, 2009 may participate in the guaranteed retirement income plan. An eligible employee must make a one-time irrevocable election during the first 150 days of employment. If an eligible employee elects to participate, participation must begin on the first pay period after an employee has completed 180 days of full time employment. A full time employee who does not elect to participate in the guaranteed retirement income plan must participate in the retirement savings plan beginning on the first pay period after the employee has completed 180 days of full time employment. A participant who changes employment from the County directly to a participating agency or from a participating agency directly to the County must continue to participate in his or her retirement plan and is not eligible to make an election.

(B) A part time [or temporary] employee [hired on or after October 1, 1994] who is not a participant in the retirement savings plan may make a one-time irrevocable election to participate in the guaranteed retirement income plan any time after the employee has completed 150 days of employment.

(b) *Participants groups and eligibility.*

(1) Group I. Except as provided in the last sentence of Section 33-37(e)(2), any full-time or career part-time employee meeting the criteria in paragraphs (A) or (B) must participate in the retirement savings plan if the employee begins, or returns to, County service on or after October 1, 1994. An employee hired on or after July 1, 2009 must be employed on a full time or part time basis with the County for 180 days before participating in the retirement savings plan. An individual who changes employment from the County government directly to a participating agency or from a participating agency directly to the County government must continue to participate in the same retirement plan. Participation must begin on the first payroll after an employee has completed 180 days of employment if the employee:

* * *

33-119. Credited service.

(a) A participant's credited service is the total years and months of County service the participant rendered under the Retirement Savings Plan, the optional retirement plan, the integrated plan, and the guaranteed retirement income plan. A participant must receive credited service for any period when the participant was a part-time employee contributing to an employer-supported savings program provided by a participating agency. An employee hired before July 1, 2009 must receive 1 year of credited service for each year of County service. Each year of County service ends on the anniversary of the date the participant [starting] started working for the County. A participant must also receive one month of credited service for each month during which the participant worked at least one hour for the County. An employee hired on or after July 1, 2009 must receive one year of credited service for each year of participation in a County retirement plan and one month of credited service for each month during which the employee participated in a County retirement plan. A person who transferred to the Retirement Savings Plan under Section 115(a)(3) or (4) must receive credit for County service for creditable State service earned as a State employee of the County Department of Social Services. A person who does not transfer to the Retirement Savings Plan under Section 115(a)(3) or (4) must not receive credit for County service for this State service.

* * *

33-120. Distribution of Benefit.

* * *

(c) *Death benefits.*

* * *

(3) A participant may name a primary beneficiary or beneficiaries and contingent beneficiary or beneficiaries on a designation of beneficiaries form filed with the Office of Human Resources, or designee of the Chief Administrative Officer. If a participant names 2 or more persons as beneficiaries, the persons are considered co-beneficiaries and share the benefit equally unless the participant specifies otherwise on the designation of beneficiaries form. A participant may change any named beneficiary by completing a new designation of beneficiaries form. The consent of the beneficiary or beneficiaries is not required to name or change a beneficiary. The designation is effective when the participant signs the form even if the participant is not alive when the Office, or designee of the Chief Administrative Officer, receives the request, but without prejudice for any payments made before the Officer, or designee of the Chief Administrative Officer, received the request.

* * *

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:

Craig L. Rice, President, County Council — Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 23-14
Retirement Plans – Definitions – Administration - Amendments

DESCRIPTION: The Bill would amend the retirement plans to:

(1) provide that sick leave is used for vesting purposes in the Employees' Retirement Plan;
(2) provide that months of service are included for vesting purposes in the Guaranteed Retirement Income Plan and the Retirement Savings Plan;
(3) permit the Chief Administrative Officer to authorize a designee to receive a beneficiary form;
(4) clarify that a participant continues to participate in the same retirement plan after changing employment from the County directly to a participating agency or from a participating agency directly to the County;
(5) clarify that a part-time employee hired before 1994 who has not participated in either the Retirement Savings Plan or the Guaranteed Retirement Income Plan may elect to participate in either plan;
(6) clarify that a DRSP/DROP account balance must not be distributed until the final decision on a disability application;
(7) delete outdated references to Internal Revenue Code Section 415, which limits contributions and benefits;
(8) delete the requirement that the Disability Panel meet to review applications; and
(9) define a "direct rollover" and an "eligible retirement plan."

PROBLEM:

The County submitted the Employees' Retirement System (ERS) to the IRS in order to receive a determination letter that the ERS remains tax qualified. The Bill would delete outdated references to Internal Revenue Code §415 and define "direct rollover" and "eligible retirement plan" as requested by the IRS. In addition, the Bill would make other amendments to clarify administrative practices in areas where the Montgomery County Code does not provide guidance.

GOALS AND OBJECTIVES: To amend the ERS as requested by the IRS in connection with receiving a favorable IRS determination letter and to clarify administrative practices.

COORDINATION: Montgomery County Employee Retirement Plans, Office of Human Resources, County Attorney

FISCAL IMPACT: Office of Management and Budget

ECONOMIC IMPACT: Department of Finance

EVALUATION: N/A

EXPERIENCE ELSEWHERE: N/A

SOURCE OF INFORMATION: Linda Herman, Montgomery County Employee Retirement Plans
Amy Moskowitz, Office of the County Attorney

APPLICATION WITHIN MUNICIPALITIES: N/A

PENALTIES: N/A

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OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

April 7, 2014

TO: Craig L. Rice, President
Montgomery County Council

FROM: Isiah Leggett, County Executive

SUBJECT: Expedited Legislation to Amend Chapter 33, Personnel and Human Resources

I am attaching for the Council's consideration a bill that would amend the County's retirement law to comply with the request received from the Internal Revenue Service (IRS) to make technical amendments to the Employees' Retirement System (ERS) so that the ERS remains tax qualified and the County receives a favorable determination letter from the IRS. In addition, to clarify current administrative practices, we are also including other amendments.

The IRS has requested the following changes: (a) delete outdated references to Internal Revenue Code Section 415, which limits contributions and benefits; and (b) provide the definition of an "eligible retirement plan" for rollover purposes rather than incorporated by reference.

In addition, in order to clarify administrative practices in areas where the Montgomery County Code does not provide specific guidance, we are requesting amendments, including: crediting sick leave for vesting purposes in the ERS; crediting months of service for vesting purposes in the Retirement Savings Plan (RSP) and Guaranteed Retirement Income Plan (GRIP); allowing participants to submit beneficiary forms to a designee of the Chief Administrative Officer; providing that a participant continues participation in either the RSP or GRIP if a participant transfers employment between the County and a participating agency; permitting a part time employee hired before 1994 who has not participated in either the RSP or the GRIP to elect to participate in either plan; clarifying that a DRSP/DROP account balance will not be distributed if a disability application is pending; and deleting the requirement that the Disability Panel meet to review applications.

Thank you for your consideration of this matter.

IL:lh

Attachments: Determination letter from the IRS
Draft legislation

cc: Linda Herman, Executive Director, MCERP
Jennifer A. Hughes, Director, OMB
Joseph Adler, Director, OHR
Joseph F. Beach, Director, Finance

Fiscal Impact Statement
Council Bill XX-14, Employees' Retirement System and Retirement Savings Plan Amendments

1. Legislative Summary (Enter narrative that explains the purpose of the legislation).

   Expedited Bill ##-14 makes changes to the Code required by the Internal Revenue Service as a condition of receiving a favorable determination letter for the Employees' Retirement System. In addition, the Bill clarifies current operational procedures and processes involving the County's retirement plans.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

   This bill has no impact to County revenues or expenditures.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

   This bill has no impact to County revenues or expenditures.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

   An actuarial analysis is not required since the bill has no material impact on the Employees' Retirement System, but rather only changes administrative procedures.

5. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

   N/A

6. An estimate of the staff time needed to implement the bill.

   N/A – Bill is clarifying current procedures and processes.

7. An explanation of how the addition of new staff responsibilities would affect other duties.

   N/A

8. An estimate of costs when an additional appropriation is needed.

   N/A

9. A description of any variable that could affect revenue and cost estimates.

   N/A

10. Ranges of revenue or expenditures that are uncertain or difficult to project.

    N/A

11. If a bill is likely to have no fiscal impact, why that is the case.

    The Bill is making changes to the Code required by the IRS and also clarifies current administrative procedures and processes.

12. Other fiscal impacts or comments.

    N/A

13. The following contributed to and concurred with this analysis:

    Linda Herman, MCERP
    Amy Moskowitz, OCA
    Corey Orlosky, OMB

Jennifer A. Hughes

Jennifer A. Hughes, Director
Office of Management and Budget

3/25/

Date

Economic Impact Statement
Bill ##-14, Employees' Retirement System and
Retirement Savings Plan Amendments

Background:

This legislation would:

- Provide that sick leave is used for vesting purposes in the Employees' Retirement Plan;
- Provide that months of service are included for vesting purposes in the Guaranteed Retirement Income Plan (GRIP) and the Retirement Savings Plan (RSP);
- Permit participants to submit beneficiary forms to a designee of the Chief Administrative Officer (CAO);
- Clarify that a participant continues participation in either the RSP or GRIP if a participant transfers employment between the County and a participating agency and vice versa;
- Clarify that a part-time employee hired before 1994 who has not participated in either the RSP or GRIP may elect to participate in either plan;
- Clarify that a Disability Retirement Savings Plan (DRSP)/Deferred Retirement Option Plan (DROP) account balance will not be distributed until the final determination of a disability application;
- Delete the requirement that the Disability Panel meet to review applications;
- Make revisions required by the Internal Revenue Service as a condition of receiving a favorable determination letter; and
- Generally amend the law regarding the Employees' Retirement System and Retirement Savings Plan.

The purpose of Bill ##-14 is to amend the Employees' Retirement System (ERS) as requested by the Internal Revenue Service (IRS) in connection with receiving a favorable IRS determination letter and to clarify administrative practices.

1. The sources of information, assumptions, and methodologies used.

Montgomery County Employee Retirement Plan (MCERP)

Based on information provided by (MCERP) in connection with the determination letter, the IRS requested technical changes to the ERS by amending or deleting specific provisions of the Internal Revenue Code. Those changes include:

- Delete outdated references to Internal Revenue Code Section 415, and
- Provide the definition of an "eligible retirement plan".

Economic Impact Statement
Bill ##-14, Employees' Retirement System and
Retirement Savings Plan Amendments

To clarify administrative practices in order to provide guidance, Bill ##-14 offers the amendments as presented in the Background section.

2. A description of any variable that could affect the economic impact estimates.

Bill ##-14 would limit the distribution of a participant's DRSP/DROP account balance until a decision is made related to their pending disability application. Currently, if the participant receives a distribution from their DRSP/DROP account prior to the disability award being granted, the participant would be required to repay the amount of the distribution resulting in tax implications for the Plan and the participant. Because the number of people impacted by this change is minimal, Bill ##-14 would have no economic impact.

Second, because the proposed legislation amends the Employees' Retirement System (ERS) as requested by the Internal Revenue Service (IRS) and clarifies administrative practices, those amendments would have no economic impact on employment, spending, saving or other economic variables.

3. The Bill's positive or negative effect, if any on employment, spending, saving, investment, incomes, and property values in the County.

Not applicable. See #2 above. Bill ##-14 would have no economic impact.

4. If a Bill is likely to have no economic impact, why is that the case?

See #2 above. The proposed legislation clarifies administrative practices as requested by the Internal Revenue Service. No economic impact results from these changes.

5. **The following contributed to and concurred with this analysis**: David Platt and Rob Hagedoorn, Finance; Linda Herman, MCERP.

Joseph F. Beach
Joseph F. Beach, Director
Department of Finance

3/19/14
Date