

Expedited Bill No. 20-15
Concerning: Deferred Retirement
Option Plan – Amendments –
Retirement Savings Plan – Annuity –
Guaranteed Retirement Income Plan
– Election
Revised: May 7, 2015 Draft No. 6
Introduced: April 21, 2015
Enacted: May 21, 2015
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

- (1) make the guaranteed retirement income plan the default retirement option for certain employees;
- (2) establish a deferred retirement option plan for sworn deputy sheriffs and uniformed correctional officers;
- (3) provide an annuity option for employees who participate in the retirement savings plan; and
- (4) generally amend the County employee retirement laws.

By amending

Montgomery County Code
Chapter 33, Personnel and Human Resources
Sections 33-37, 33-38A, 33-44, 33-115 and 33-120

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:

1 **Sec. 1. Sections 33-37, 33-38A, 33-44, 33-115, and 33-120 are amended**
2 **as follows:**

3 **33-37. Membership requirements and membership groups.**

4 (a) *Full-time employees.*

5 (1) A full-time employee of the County or participating agency must
6 become a member of a County retirement plan as a condition of
7 employment, when the employee meets the applicable eligibility
8 requirements, if the employee waives all rights of membership
9 under any other retirement system supported in whole or in part
10 by the State, a political subdivision of the State, or the County.

11 (2) A part-time employee who becomes a full-time employee and is
12 not an active member of any County retirement plan must
13 become an active member of:

14 (A) the integrated retirement plan, if the employee is eligible
15 for membership in the integrated plan;

16 (B) the Retirement Savings Plan, if the employee satisfies the
17 requirements for membership in Group I or II, even if the
18 employee did not begin or return to County service on or
19 after October 1, 1994 and participates as described in
20 Section 33-115; or

21 (C) the guaranteed retirement income plan if the employee is
22 eligible for membership and [elects to] participates as
23 described in subsection (k).

24 (3) A temporary employee who becomes a full-time employee must
25 become an active member of:

26 (A) the integrated plan, if the employee is eligible for
27 membership in the integrated plan;

28 (B) the Retirement Savings Plan, if the employee satisfies the
29 requirements for membership in Group I or II, even if the
30 employee did not begin or return to County service on or
31 after October 1, 1994 and participates as described in 33-
32 115; or

33 (C) the guaranteed retirement income plan if the employee is
34 eligible for membership and [elects to participate]
35 participates as described in subsection (k).

36 (b) *Part-time employees.*

37 (1) A part-time employee of the County or participating agency may
38 become a member of a County retirement plan if the employee
39 waives all rights of membership under any other retirement
40 system supported in whole or in part by the State, a political
41 subdivision of the State, or the County. Membership is effective
42 on the date the employee's application for membership is
43 approved.

44 (2) A part-time employee who is not an active member of a
45 retirement plan may become a member of either:

46 (A) the integrated plan, if the employee is eligible for
47 membership in the integrated plan;

48 (B) the Retirement Savings Plan if the employee satisfies the
49 requirements for membership in Group I or II, even if the
50 employee did not begin or return to County service on or
51 after October 1, 1994 and elects to participate as described
52 in Section 33-115; or

(C) the guaranteed retirement income plan if the employee is eligible for membership and elects to participate as described in subsection (k).

* * *

(k) *[Election to join] Eligibility for the guaranteed retirement income plan.*

* * *

(3) An eligible full-time employee hired on or after July 1, 2009 and before July 1, 2015, and a part time or temporary employee who becomes full time on or after July 1, 2009 and before July 1, 2015, who does not participate in the retirement savings plan, may elect to participate in the guaranteed retirement income plan. An eligible employee must make an irrevocable election during the first 150 days of full time 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. An employee who does not participate in the guaranteed retirement income plan must participate in the retirement savings plan beginning on the first pay period after the employee completes 180 days of full time employment.

* * *

(7) A member of the Office, Professional and Technical (OPT) or the Service, Labor and Trades (SLT) collective bargaining unit of the County government must participate in the guaranteed retirement income plan unless the employee makes a one-time irrevocable election to participate in the retirement savings plan during the first 150 days of full time employment, if the employee:

(A) is hired as a full-time employee on or after July 1, 2015;
or

(B) is a part time employee who does not participate in the
retirement savings plan and becomes a full-time employee
on or after July 1, 2015.

Participation must begin on the first pay period after an employee
has completed 180 days of full time employment.

(8) On or after July 1, 2015, an eligible full-time employee or a part-
time or temporary employee who becomes a full-time employee
in a position that is not within a bargaining unit or an eligible
employee of a participating agency must participate in the
retirement savings plan unless the employee makes a one-time
irrevocable election to participate in the guaranteed retirement
income plan during the first 150 days of full time employment.
If the employee elects to participate, participation must begin on
the first pay period after an employee has completed 180 days of
full-time employment. A part-time employee who participates
in either the retirement savings plan or the guaranteed retirement
income plan when the employee becomes a full-time employee
must continue to participate in the same retirement plan.

[(7)](9) 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.

* * *

(c) DROP Plan for Sworn Deputy Sheriffs and Uniformed Correctional Officers.

(1) Uniformed correctional officer means Correctional Officer I, Correctional Officer II, Correctional Officer III, Correctional Dietary Officer I, Correctional Dietary Officer II, Correctional Supervisor-Sergeant, Correctional Dietary Supervisor, Correctional Shift Commander-Lieutenant, Correctional Unit Commander-Captain, Deputy Warden, and Warden. [[and]] The Director of the Department of Corrections must not begin participation in the DROP after appointment as Director.

(2) Sworn Deputy Sheriff means Deputy Sheriff I, Deputy Sheriff II, Deputy Sheriff III, Deputy Sheriff Sergeant, Deputy Sheriff Lieutenant, Deputy Sheriff Captain, Assistant Sheriff, and the Chief Deputy Sheriff (Colonel).

(3) Eligibility. A sworn deputy sheriff or uniformed correctional officer who is at least age 55 years old and has at least 15 years of credited service or is at least 46 years old and has at least 25 years of credited service may participate in the DROP. A uniformed correctional officer or sworn deputy sheriff must participate in the optional retirement plan or the integrated retirement plan as a Group E member in order to participate in the DROP.

(4) Application requirements. An eligible employee must apply at least 60 days before the employee becomes a participant. An employee may withdraw a pending application within 2 weeks after submitting the application.

132 (5) Employee participation and termination. The employee's
133 participation in the DROP must begin on the first day of a month
134 that begins at least 60 days, but not more than 90 days, after the
135 employee applied and must end 3 years after the employee begins
136 to participate or at an earlier date chosen by the employee. When
137 the employee's participation in the DROP ends, the employee
138 must stop working for the County and receive a pension benefit.

139 (6) Employment status. An employee who participates in the DROP
140 must continue to be a member of the retirement system, earn sick
141 and annual leave, and remain eligible to participate in health and
142 life insurance programs.

143 (7) Retirement date, retirement contributions, and credited service.
144 The retirement date of an employee who participates in the
145 DROP is the date when the employee begins to participate in the
146 DROP, and the employee must not make retirement
147 contributions after that date. An employee who wishes to
148 purchase prior service must do so before the employee's
149 participation in the DROP begins. Sick leave in excess of 80
150 hours must be credited towards retirement at the beginning of the
151 employee's participation.

152 (8) Pension benefits.

153 (A) Before an employee's participation begins, the employee
154 must select a:

155 (i) pension payment option under Section 33-44 for the
156 regular retirement pension payments; and

157 (ii) pension payment distribution option for the
158 distribution of the employee's DROP account.

159 (B) A pension benefit must not be paid to the employee while
160 the employee participates in the DROP, but must be
161 deposited in a DROP account established for the
162 participant by the County. The participant must receive
163 the account balance and the County must close the account
164 within 60 days after the employee stops participating in
165 the DROP. Subject to any requirements of the Internal
166 Revenue Code and other applicable law, the employee
167 may roll over the account balance into an eligible
168 retirement plan.

169 (C) An employee must direct the Board of Investment
170 Trustees to allocate pension benefits contributed to the
171 employee's DROP account in one or more of the
172 investment funds selected by the Board. An employee's
173 direction of investment must remain in effect until the
174 employee changes the direction. An employee must select
175 investment options in order to participate in the DROP.

176 (D) After the employee's participation in DROP ends, the
177 employee's pension benefit will be based on:

178 (i) the employee's credited service immediately prior
179 to the beginning of the employee's participation in
180 the DROP, adjusted to include credit for unused
181 sick leave under Section 33-41;

182 (ii) the employee's average final earnings, excluding
183 earnings during the period of participation in the
184 DROP; and

(iii) increases in the consumer price index during the period of the employee's participation that would have resulted in an increase in the employee's pension benefit if the employee had not been participating in the DROP.

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

(A) A DROP participant who is eligible for a service-connected disability retirement must choose either:

(i) the retirement benefit under the DROP and the DROP account balance; or

(ii) the service-connected disability retirement benefit that the employee would have received if the employee had continued as an active employee and had not elected to participate in the DROP, and no DROP account balance.

(B) A DROP participant who is eligible for a non-service-connected disability retirement benefit must receive the non-service-connected disability retirement benefit under Section 33-43(h), with the benefit calculated as of the member's DROP [[exit]] entry date, plus the DROP account balance.

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

(10) Death benefit. If an employee dies during the employee's participation in the DROP, the employee's beneficiary will receive:

(A) the death benefit that the beneficiary would have received if the employee had retired on the date on which the employee began to participate in the DROP, adjusted under subparagraph (7)(D); and

(B) the balance of the employee's DROP account.

(11) DROP account distribution options. A member may have the balance of the DROP account distributed as a lump sum or an annuity, or have some or all paid directly to an eligible retirement plan as a direct rollover distribution. If the member dies before the balance of the DROP account is distributed, the beneficiary may receive distribution of the balance under any option described in this paragraph as allowed under the Internal Revenue Code and applicable regulations.

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

* * *

(s) Transfer from Retirement Savings Plan.

A participant who transfers his or her retirement savings plan account balance under Section 33-120 may elect to receive his or her account balance paid as an annuity under subsection (g)(2).

33-115. Participant requirements and participant groups.

(a) Participant Requirements.

(1) Full-time employees.

(A) Except as provided in paragraphs (3)[,] and (4), [and (7)] and the last sentence of Section 33-37(e)(2), a full-time

239 employee eligible for membership in Group I or Group II
240 must participate in the Retirement Savings Plan or the
241 Guaranteed Retirement Income Plan when the full-time
242 employee meets the applicable eligibility requirements or
243 forfeit employment, unless the Chief Administrative
244 Officer exempts the employee from participation.

245 (B) A part-time employee who becomes a full-time employee
246 and is not an active member of any retirement plan for
247 County employees, must become a member of:

- 248 (i) the integrated retirement plan, if the employee is
249 eligible for membership in the integrated plan;
250 (ii) the Retirement Savings Plan, if the employee
251 qualifies for Group I or II, even if the employee did
252 not begin or return to County service on or after
253 October 1, 1994; or
254 (iii) the Guaranteed Retirement Income Plan if the
255 employee is eligible for membership [and makes an
256 election].

257 (C) A temporary employee who becomes a full-time employee
258 must become an active member of:

- 259 (i) the integrated plan, if the employee is eligible for
260 membership in the integrated plan;
261 (ii) the Retirement Savings Plan, if the employee
262 satisfies the requirements for membership in Group
263 I or II, even if the employee did not begin or return
264 to County service on or after October 1, 1994; or

(iii) the Guaranteed Retirement Income Plan if the employee is eligible for membership in the Guaranteed Retirement Income Plan [and makes an election under subsection (7)].

* * *

(7) [Election to participate] Participation 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 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. A member of the Office, Professional and Technical (OPT) or the Service, Labor and Trades (SLT) collective bargaining unit of the County government must participate

292 in the Guaranteed Retirement Income Plan, unless the
293 employee makes a one-time irrevocable election to
294 participate in the Retirement Savings Plan during the first
295 150 days of full time employment, if the employee:

296 (i) is hired as a full-time employee on or after July 1,
297 2015; or

298 (ii) is a part time employee who does not participate in
299 the Retirement Savings Plan and becomes a full-
300 time employee on or after July 1, 2015.

301 Participation must begin on the first pay period after an
302 employee has completed 180 days of full time
303 employment.

304 (B) Except as provided in subparagraph (A), an eligible
305 employee must participate in the Retirement Savings Plan
306 unless the employee makes a one-time irrevocable election
307 to participate in the Guaranteed Retirement Income Plan
308 during the first 150 days of full-time employment.
309 Participation must begin on the first pay period after an
310 employee has completed 180 days of full- time
311 employment. A part-time employee who participates in
312 either the Retirement Savings Plan or the Guaranteed
313 Retirement Income Plan when the employee becomes a
314 full-time employee must continue to participate in the
315 same retirement plan.

316 (C) A part time employee who is not a participant in the
317 Retirement Savings Plan may make a one-time irrevocable
318 election to participate in the Guaranteed Retirement

319 Income Plan any time after the employee has completed
 320 150 days of employment.

321 (b) *Participants groups and eligibility.*

322 (1) *Group I.* Except as provided in the last sentence of Section 33-
 323 37(e)(2), any full-time or career part-time employee meeting the
 324 criteria in paragraphs (A) or (B) must participate in the retirement
 325 savings plan if the employee begins, or returns to, County service
 326 on or after October 1, 1994. An employee hired on or after July
 327 1, 2009 must be employed on a full time or part time basis with
 328 the County for 180 days before participating in the Retirement
 329 Savings Plan. An individual who changes employment from the
 330 County government directly to a participating agency or from a
 331 participating agency directly to the County government must
 332 continue to participate in the same retirement plan. Participation
 333 in the Retirement Savings Plan must begin on the first payroll
 334 after an employee has completed 180 days of employment if the
 335 employee:

336 (A) (i) is not represented by ~~[[an]]~~ a County government
 337 employee organization;

338 (ii) does not occupy a County government bargaining
 339 unit position;

340 (iii) is not a public safety employee; and

341 (iv) does not elect to participate in the Guaranteed
 342 Retirement Income Plan; or

343 (B) (i) is not a public safety employee; and

344 (ii) is subject to the terms of a collective bargaining
 345 agreement between the County and an employee

organization which requires the employee to participate in the [retirement savings] Guaranteed Retirement Income Plan if the employee does not elect to participate in the [guaranteed retirement income] Retirement Savings Plan; and

(iii) [does not elect] elects to participate in the Retirement Savings Plan [guaranteed retirement income plan].

* * *

33-120. Distribution of Benefit.

* * *

(f) *Distribution methods.* The Chief Administrative Officer must pay, at the request of the participant or the designated beneficiary, a participant's account balances in the retirement savings plan upon retirement, disability retirement, death, or separation from County service.

* * *

(4) Optional method of distribution - Transfer to Employees' Retirement System, Annuity Option. A participant may elect to have the participant's entire account balance transferred to the employees' retirement system and have the account balance paid in one of the annuity options available under Section 33-44(g)(2).

* * *

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 July 1, 2015.

372

373 *Approved:*

374

George Leventhal
George Leventhal, President, County Council

5/21/2015

Date

375 *Approved:*

376

Isiah Leggett, County Executive

Date

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

378

Linda M. Lauer, Clerk of the Council

Date