

Clerk's Note: Added existing language on lines 161-165 for clarity and showed missing asterisks on line 183, both corrections on page 8.

CORRECTED BILL

Expedited Bill No. 43-16
Concerning: Retirement – Membership
Groups – Group J – Established
Revised: 12/12/2016 Draft No. 4
Introduced: October 18, 2016
Enacted: December 13, 2016
Executive: December 21, 2016
Effective: December 21, 2016
Sunset Date: None
Ch. 42, Laws of Mont. Co. 2016

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

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

AN EXPEDITED ACT to:

- (1) establish Group J in the Employees' Retirement System;
- (2) transfer employees in Group E who are not sheriffs or correctional officers to Group J as of the effective date of the legislation; and
- (3) generally amend the law regarding the Employees' Retirement System.

By amending

Montgomery County Code
Chapter 33, Personnel and Human Resources
Sections 33-37, 33-38, 33-39, 33-42 and 33-43

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

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:

1 **Sec. 1. Sections 33-37, 33-38, 33-39, 33-42 and 33-43 are amended as**
 2 **follows:**

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

4 * * *

5 (f) *Membership groups and eligibility.* Any full-time or part-time
 6 employee is eligible for membership in the appropriate membership
 7 group if the employee meets all of the requirements for the group:

8 * * *

9 (4) Group E: The Chief Administrative Officer, the Council
 10 Administrator, the hearing examiners, the County Attorney and
 11 each head of a principal department or office of the County
 12 government, if appointed to that position before July 30, 1978,
 13 or a member having held that position on or before October 1,
 14 1972. Any sworn deputy sheriff or uniformed County
 15 correctional officer in the position of Correctional Officer I,
 16 Correctional Officer II, Correctional Officer III, Correctional
 17 Dietary Officer I, Correctional Dietary Officer II, Correctional
 18 Supervisor-Sergeant, Correctional Dietary Supervisor,
 19 Correctional Shift Commander-Lieutenant, Correctional Unit
 20 Commander-Captain, Deputy Warden, or Warden [and any
 21 County correctional staff or officer as designated by the chief
 22 administrative officer]. Any group E member who has reached
 23 elective early retirement date may retain membership in group E
 24 if the member transfers from the position which qualified the
 25 member for group E. Any group E member who is temporarily
 26 transferred from the position which qualified the member for
 27 group E may retain membership in group E as long as the

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temporary transfer from the group E position does not exceed 3 years. Notwithstanding the foregoing provisions in group E, any employee who is eligible for membership in group E must participate in the guaranteed retirement income plan or the retirement savings plan under Article VIII if the employee:

- (A) (i) begins, or returns to, County service on or after October 1, 1994 (except as provided in the last sentence of subsection (e)(2));
- (ii) is not represented by an employee organization; and
- (iii) does not occupy a bargaining unit position; or
- (B) (i) begins County service on or after October 1, 1994; and
- (ii) is subject to the terms of a collective bargaining agreement between the County and an employee organization which requires the employee to participate in the guaranteed retirement income plan or the retirement savings plan.

* * *

(8) Group J: Any County member who works in a correctional facility and due to the required duties of the member's position, is designated by the Chief Administrative Officer. Any group J member who has reached elective early retirement date may retain membership in group J if the member transfers from the position which qualified the member for group J. Any group J member who is temporarily transferred from the position which qualified the member for group J may retain membership in group J as long as the temporary transfer from the group J

55 position does not exceed 3 years. Notwithstanding the foregoing
 56 provisions in group J, any employee who is eligible for
 57 membership in group J must participate in the guaranteed
 58 retirement income plan or the retirement savings plan under
 59 Article VIII if the employee:

60 (A) (i) begins, or returns to, County service on or after
 61 October 1, 1994 (except as provided in the last
 62 sentence of subsection (e)(2)) [[or (e)(7)]];

63 (ii) is not represented by an employee organization; and

64 (iii) does not occupy a bargaining unit position; or

65 (B) (i) begins County service on or after October 1, 1994;
 66 and

67 (ii) is subject to the terms of a collective bargaining
 68 agreement between the County and an employee
 69 organization which requires the employee to
 70 participate in the guaranteed retirement income plan
 71 or the retirement savings plan.

72 (g) *Transfer from one group to another.* A member who elects to transfer
 73 from one membership group to another as a result of amendments to
 74 this Article must transfer by December 31, 1978, or forfeit this option.
 75 However, under paragraph 4, a group D member may transfer to group
 76 F at any time before the member's retirement date. Additional
 77 contributions made as a result of the transfer must not be treated as
 78 picked-up contributions.

79 (1) *Transfers From Group A to Group E, F, G, [or] H, or J.* Whenever
 80 a group A member transfers to a position which is qualified for
 81 membership in group E, F, G, [or] H, or J, the retirement service

82 credits earned as a group A member must be used for the purpose
83 of qualifying for retirement. Except for the contribution rate
84 increase as of the effective date of transfer, there will be no
85 additional charges levied on any member who is transferred prior
86 to July 1, 1970. Any member who transfers after July 1, 1970,
87 in addition to paying the contribution rate increase as of the
88 effective date of transfer, must pay the additional amount of
89 contributions that would have been paid as a member of group E,
90 F, G, [or] H, or J from July 1, 1970, or hire date, if later, plus
91 interest at the rate of 6 ½ percent per annum to date of full
92 payment.

- 93 (2) Transfers From Group B, D, E, F, [or] G, or J to Group A or H.
94 Whenever a group B, D, E, F, [or] G, or J member transfers to a
95 position which is qualified for membership in group A or H, the
96 retirement service credits earned as a group B, D, E, F, [or] G, or
97 J member must be used for the purpose of qualifying for
98 retirement as a group A or H member. The rate of contribution
99 must be decreased as of the date of transfer, and the difference in
100 member contributions must not be refunded. Notwithstanding
101 any other provision of this Article, any group E, [or] F, or J
102 member who has not met the elective early retirement date and
103 who transfers to group A or H must receive credited service at
104 the rate of 1.25 years of service for each full year of service as a
105 member of group E, [or] F, or J. Notwithstanding any other
106 provision of this Article, any group G member who has not met
107 the normal retirement date and who transfers to group A or H

- 108 must receive credited service at the rate of 1.25 years of service
109 for each full year of service as a member of group G.
- 110 (3) Transfers From Group B to Group E, F, [or] G, or J. Whenever a
111 group B member transfers to a position which is qualified for
112 membership in group E, F, [or] G, or J, the retirement date must
113 be adjusted accordingly. Except for the contribution rate increase
114 as of the effective date of transfer, there must be no additional
115 charges levied on any member who transferred on or before July
116 1, 1970. Any member who transfers after July 1, 1970, in
117 addition to paying the contribution rate increase as of the
118 effective date of transfer, must pay the additional amount of
119 contributions that would have been paid as a member of group E,
120 F, [or] G, or J from July 1, 1970, or hire date, if later, plus interest
121 at the rate of 6 ½ percent per annum to date of full payment.
- 122 (4) Transfers From Group D to Group E, F, [or] G, or J. A group D
123 member may transfer to group E, F, [or] G, or J and the
124 retirement service credits earned as a group D member must be
125 used for the purpose of qualifying for retirement under group E,
126 F, [or] G, or J. Except for the contribution rate increase as of the
127 effective date of transfer, there will be no additional charges
128 levied on any member who transferred on or before July 1, 1970.
129 Any member who transfers after July 1, 1970, in addition to
130 paying the contribution rate increase as of the effective date of
131 transfer, must pay the additional amount of contributions that
132 would have been paid as a member of group E, F, [or] G, or J
133 from July 1, 1970, plus interest at the rate of 6 ½ percent per
134 annum to date of full payment.

135 (5) Transfers From Group H to Group A, E, F, [or] G, or J. A group
 136 H member may transfer to group A, E, F, [or] G, or J and the
 137 retirement service credits earned as a group H member must be
 138 used for the purpose of qualifying for retirement under group A,
 139 E, F, [or] G, or J. Any member who transfers on or after July 1,
 140 1989, in addition to paying the contribution rate increase as of
 141 the effective date of transfer, must pay the additional amount of
 142 contributions that would have been paid as a member of group
 143 A, E, F, [or] G, or J from July 1, 1970, or hire date, if later, plus
 144 interest at the rate of 6 ½ percent per annum to date of full
 145 payment.

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147 **33-38. Normal retirement date, mandatory retirement date, early retirement**
 148 **date, and trial retirement.**

149 (a) *Normal retirement date.* The normal retirement date is the first day of
 150 the month elected by a member after the member meets the years of
 151 service and age requirements for the applicable membership group. For
 152 normal retirement:

153 * * *

154 (8) Group J: The member must have at least:

155 (A) 15 years of credited service and be at least age 55; or

156 (B) 25 years of credited service and be at least age 46.

157 [(8)](9) * * *

158 [(9)](10) * * *

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160 (c) *Early retirement date.*

161 (1) A member, other than a group G member, who has not met the
162 age and service requirements for a normal retirement may elect
163 to receive pension payments beginning on an early retirement
164 date the first day of a month after the following requirements are
165 met:

166 (A) the group A member has at least 15 years of credited
167 service and has reached age 50, or has at least 20 years of
168 credited service and has reached age 45;

169 (B) the group B member has at least 15 years of credited
170 service and has reached age 45;

171 (C) the group E member has at least 15 years of credited
172 service and has reached age 45, or has at least 20 years of
173 credited service and has reached age 41;

174 (D) the group F member has at least 15 years of credited
175 service and has reached age 45, or has at least 20 years of
176 credited service and has reached age 41; [or]

177 (E) the group H member has at least 15 years of credited
178 service and has reached age 50, or has at least 20 years of
179 credited service and has reached age 45[.]; or

180 (F) the group J member has at least 15 years of credited
181 service and has reached age 45, or has at least 20 years of
182 credited service and has reached age 41.

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184 **33-39. Member contributions and credited interest.**

185 (a) *Member contributions.* Each member of the retirement system must
186 contribute a portion of the member's regular earnings through regular
187 payroll deductions.

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(1) Member Contributions to the Optional Retirement Plan. A member of the Optional Retirement Plan must contribute the following percentage of regular earnings:

[A.](A) * * *

[B.](B) * * *

[C.](C) * * *

[D.](D) Group E, F, [or] G, or J member, 9 ½ percent for service beginning on the first pay period after June 30, 2011 and 10 ½ percent for service beginning on the first pay period after June 30, 2012.

(2) Member Contributions to the Integrated Retirement Plan. A member of the Integrated Retirement Plan must contribute the following percentage of regular earnings:

* * *

(C) Group E and Group J, 5 ¾ percent for service beginning on the first pay period after June 30, 2011 and 6 ¾ percent for service beginning on the first pay period after June 30, 2012 up to the maximum Social Security wage base, and 9 ½ percent for service beginning on the first pay period after June 30, 2011 and 10 ½ percent for service beginning on the first pay period after June 30, 2012 of regular earnings that exceed the wage base;

(b) *Credited interest.*

* * *

(3) Effective July 1, 1989, interest must be credited annually on each member's accumulated contributions as of June 30, 1989, and thereafter, as follows:

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(D) For group E and J members, interest will be credited at a rate of 4 percent per annum.

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

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(b) *Amount of pension at normal retirement date.*

(1) Pension amount for an Optional Retirement Plan member.

(A) Except for a Group E, F, [or] G, or J member, the annual pension for a member of the optional retirement plan who retires on a normal retirement must equal 2 percent of average final earnings multiplied by years of credited service, up to a maximum of 36 years, plus sick leave credits. Years of credited service of less than one full year must be prorated.

(B) For a Group E or Group J member who is a member of the optional plan and retires on a normal retirement, the annual pension must equal 2.4 percent of average final earnings for each of the first 25 years of credited service completed, and 2 percent of average final earnings for each year of credited service of more than 25 years, to a maximum of 31 years plus sick leave credits. Years of credited service of less than one full year must be prorated. Sick leave credits used for years in excess of 25 years must be credited at 2 percent of average final earnings. The maximum benefit with the application of sick leave credits must not exceed 76 percent of average final earnings.

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242 (2) Pension amount for an Integrated Retirement Plan member.

243 * * *

244 (C) For a Group E or Group J member in the integrated
245 retirement plan who retires on a normal retirement, the
246 annual pension must be computed as follows:

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248 (d) *Adjustment for pension payments previously paid.*

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250 (2) If a member receives service connected disability pension
251 payments, and subsequently returns to work and re-enters the
252 retirement system within 5 years of the date that disability
253 retirement commenced and prior to attaining age 55, if a group
254 A or H member, or age 45 if a group B, E, F, [or] G, or J member,
255 the number of years of prior service, plus the number of years the
256 member was on retirement, plus the number of years accrued
257 after re-entering the system must be used in computing the
258 amount of pension at subsequent retirement.

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260 **Sec. 33-43. Disability Retirement**

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262 (g) *Medical reexamination of disability retiree.* The Chief Administrative
263 Officer must require a member receiving disability pension payments
264 to undergo either a yearly physical examination or to submit a medical
265 doctor's certificate verifying continuation of the disability during the 5
266 years after retirement, and once in every 3 years thereafter, until age 55
267 for a member of group B, E, F, [or] G, or J or age 60 for a member of
268 group A or H, unless the Chief Administrative Officer finds that a

269 physical examination is unnecessary because of the nature and severity
270 of the injury or illness. The Chief Administrative Officer must review
271 the findings of the physical examination and take appropriate action,
272 which may include submitting the results of the evaluation to the
273 Disability Review Panel for a redetermination whether the individual
274 qualifies for disability benefits in accordance with subsection (d). If a
275 member does not submit to the examination, the Chief Administrative
276 Officer may reduce or discontinue any disability pension payments
277 which the member receives. The Disability Review Panel may require
278 the member to submit to an additional independent medical
279 examination. A member may appeal a decision to reduce or discontinue
280 disability pension payments to the appropriate Disability Arbitration
281 Board.

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

284 The Council declares that this legislation is necessary for the immediate
285 protection of the public interest. This Act takes effect on the date on which it becomes
286 law. Any active group E member who is not a County correctional officer or a sworn
287 deputy sheriff must become a group J member on the date this law takes effect.

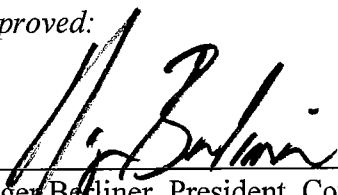
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290 *Approved:*

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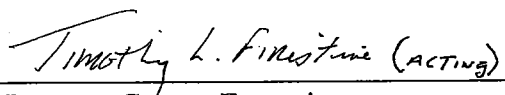
12/19/16

Roger Berliner, President, County Council

Date

293 *Approved:*

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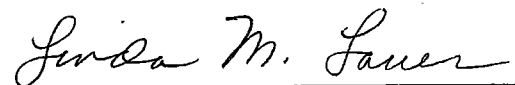
12/21/16

Isiah Leggett, County Executive

Date

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

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12/23/16

Linda M. Lauer, Clerk of the Council

Date

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