


MEMORANDUM

September 8, 2017

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Introduction:** Expedited Bill 29-17, Domestic Partner Survivor Benefits – LOSAP – Employees’ Retirement System - Eligibility

Expedited Bill 29-17, Domestic Partner Survivor Benefits – LOSAP – Employees’ Retirement System - Eligibility, sponsored by Lead Sponsor Councilmembers Navarro and Katz and Council Vice President Riemer, is scheduled to be introduced on September 12, 2017. A public hearing is tentatively scheduled for September 26, at 1:30 p.m.

Bill 29-17 would:

- clarify the definition of a domestic partner for receiving County survivor benefits;
- limit County survivor benefits for a domestic partner of a local fire and rescue department volunteer to a domestic partner registered with the County on or before June 27, 2016; and
- limit County survivor benefits for a domestic partner of a County employee under the County retirement systems to a domestic partner registered with the County on or before June 27, 2016.

Background

Bill 16-16, enacted by the Council on June 28, 2016 and signed into law by the Executive on July 7, 2016, repealed the law providing domestic partner benefits for County employees. The law included a grandfather clause that permitted a County employee receiving domestic partner benefits on June 27, 2016 to retain those benefits. Although Bill 16-16 generally repealed the County law authorizing domestic partner benefits, the Bill did not remove references to domestic partner survivor benefits for volunteer firefighters under the Length of Service Awards Program and County employee survivor benefits under the County retirement laws.

Expedited Bill 29-17 would limit domestic partner survivor benefits to a person who registered a domestic partnership with the County on or before June 27, 2016, making these survivor benefits consistent with the general repeal of domestic partner benefits in Bill 16-16.

This packet contains:

Expedited Bill 29-17

Legislative Request Report

Circle #

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Expedited Bill No. 29-17
Concerning: Domestic Partner Survivor
Benefits – LOSAP – Employees’
Retirement System – Eligibility
Revised: July 24, 2017 Draft No. 3
Introduced: September 12, 2017
Expires: March 12, 2019
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Navarro and Katz and Council Vice President Riemer

AN EXPEDITED ACT to:

- (1) clarify the definition of a domestic partner for the purpose of receiving County survivor benefits;
- (2) limit County survivor benefits for a domestic partner of a local fire and rescue department volunteer to a domestic partner registered on or before a certain date;
- (3) limit County survivor benefits for a domestic partner of a County employee under the County retirement systems to a domestic partner registered with the County on or before a certain date; and
- (4) generally amend the laws governing survivor benefits for a domestic partner.

By amending

Montgomery County Code
Chapter 21, Fire and Rescue Services
Section 21-21

Montgomery County Code
Chapter 33, Personnel and Human Resources
Sections 33-6, 33-35, and 33-113

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:

28 (A) length of service benefit for which the volunteer met the
29 years-of-service requirement; or

30 (B) volunteer's disability benefit.

31 * * *

32 [(1) *Definition.* In this Section, "domestic partner" or "partner" means a
33 person whose relationship with the volunteer would meet the
34 requirements for a domestic partner under Section 33-22 if the volunteer
35 were a County employee.]

36 **33-6. Definitions.**

37 In this article, the following words and phrases have the following meanings:

38 *Board:* The merit system protection board as described in section 403 of the
39 county charter.

40 *County employees:* All persons employed by the county regardless of merit
41 system status.

42 *Domestic partner.* A person who [meets the requirements of Section 33-22] was
43 registered as the domestic partner of a County employee with the Office of
44 Human Resources on or before June 27, 2016 in a domestic partnership that did
45 not end before the County employee's death. This definition applies throughout
46 this Chapter unless otherwise indicated.

47 * * *

48 **33-35. Definitions.**

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

50 * * *

51 *Domestic partner:* A person who [meets the requirements of Section 33-22] was
52 registered as the domestic partner of a member with the Office of Human
53 Resources on or before June 27, 2016 in a domestic partnership that did not end
54 before the member's death.

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80**33-113. Definitions.**

In this Division the following words and phrases have the following meanings:

[(a)] *Account balances* means the balance credited to the retirement account of a participant under the retirement savings plan as of the valuation date preceding the date of distribution determined without regard to vesting, including:

- (1) any participant contributions (including contributions picked up by the County);
- (2) County contributions; and
- (3) rollover contributions.

[(b)] *Board or Board of Investment Trustees* means the Board of Investment Trustees established under Article III.

[(c)] *County* means the Montgomery County Government and, when applicable, any participating agency.

[(d)] *County service* means any period of County employment during which a participant is:

- (1) in pay status, or
- (2) on an approved leave of absence without pay on or after January 1, 2002.

Domestic partner means a person who was registered as the domestic partner of a participant with the Office of Human Resources on or before June 27, 2016 in a domestic partnership that did not end before the participant's death.

[(e)] *Employee* means any eligible elected or appointed County official and any full-time or career part-time County employee.

[(f)] *Employee organization* means any organization that:

- (1) admits employees to membership;

81 (2) has as a primary purpose the representation of employees in
82 collective bargaining; and

83 (3) is certified as an employee organization under applicable law.

84 [(g)] *Former participant* means any individual with an account balance in the
85 retirement savings plan who has ceased to be a participant.

86 [(h)] *Investment manager* means a person or entity who exercises discretion to
87 manage all or part of the assets of an institutional investor. The investment
88 manager is a fiduciary as defined in Section 33-35.

89 [(i)] *Merit System Protection Board* means the Merit System Protection Board
90 established in the Charter.

91 [(j)] *Non-public safety employee* means any employee who is not a public
92 safety employee.

93 [(k)] *Normal retirement date* means the first day of the month after the month
94 in which the participant reaches age 62.

95 [(l)] *Participant* means an employee who is participating in the retirement
96 savings plan.

97 [(m)] *Participant's contribution account* means the portion of a participant's
98 account balances in the retirement savings plan that is attributable to participant
99 contributions, including contributions picked up by the County, and any gains
100 or losses attributable to those contributions.

101 [(n)] *Plan year* means the 12-month period beginning January 1 and ending on
102 December 31 each year.

103 [(o)] *Public safety employee* means any employee who is a:

104 (1) sworn officer of the Police Department;

105 (2) paid firefighter, paid fire officer, or paid rescue service worker of
106 the Montgomery County Fire and Rescue Service;

107 (3) sworn deputy sheriff;

- 108 (4) correctional officer; or
109 (5) County employee who provides services to a correctional facility
110 and designated as a public safety employee by the Chief Administrative
111 Officer.

112 [(p)] *Regular earnings* means gross pay for actual hours worked, including
113 paid leave, but not including overtime, without reduction for participant
114 contributions that are picked up under Section 33-116(a), or contributions to any
115 County deferred compensation plan or statutory fringe benefit program. If a
116 participant is required to take any furlough, as defined in personnel regulations
117 under Section 33-7(b) or a collective bargaining agreement, regular earnings
118 must include any amount the participant would have received if the participant
119 had not been required to take any furlough.

120 [(q)] *Retirement accounts* means the required participant contributions
121 account, a County contributions account, and any rollover contributions
122 account.

123 [(r)] *Rollover contributions* means that portion of a participant's account
124 balances in the retirement savings plan that is attributable to any assets
125 transferred or rolled over to the retirement savings plan from another eligible
126 retirement plan as defined in the Internal Revenue Code Section 402(c). No
127 after-tax contributions may be transferred or rolled over into the retirement
128 savings plan.

129 [(s)] *Valuation date* means the last business day of March, June, September,
130 and December of each plan year, and any other date the Board establishes in a
131 uniform and nondiscriminatory manner for determining the fair market value of
132 the assets of the retirement savings plan.

133 **Effective Date.**

LEGISLATIVE REQUEST REPORT

Expedited Bill 29-17

Domestic Partner Survivor Benefits – LOSAP – Employees Retirement System - Eligibility

DESCRIPTION: Expedited Bill 29-17 would limit domestic partner survivor benefits to a person who registered a domestic partnership with the County on or before June 27, 2016, making these survivor benefits consistent with the general repeal of domestic partner benefits in Bill 16-16.

PROBLEM: Bill 16-16, enacted by the Council on June 28, 2016 and signed into law by the Executive on July 7, 2016, repealed the law providing domestic partner benefits for County employees. The law included a grandfather clause that permitted a County employee receiving domestic partner benefits on June 27, 2016 to retain those benefits. Although Bill 16-16 generally repealed the County law authorizing domestic partner benefits, the Bill did not remove references to domestic partner survivor benefits for volunteer firefighters under the Length of Service Awards Program and County employee survivor benefits under the County retirement laws.

GOALS AND OBJECTIVES: To ensure that survivor benefits for domestic partners is consistent with the law governing other County benefits.

COORDINATION: Office of Human Resources

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: To be researched.

SOURCE OF INFORMATION: Robert H. Drummer, Senior Legislative Attorney

APPLICATION WITHIN MUNICIPALITIES: Not applicable.

PENALTIES: None.