Agenda Item 2H
December 5, 2017
Action

MEMORANDUM

December 1, 2017

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: **Action:** Resolution to indicate Council's intent to approve or reject amendment to the Collective Bargaining Agreement with the Municipal & County Government Employees Organization

Government Operations and Fiscal Policy Committee recommendation (3-0): approve the Resolution and approve Bill 33-17 as introduced.

The Resolution to indicate the Council's intent to approve or reject an amendment to the MCGEO collective bargaining agreement was introduced on November 28. See ©26-27. The amendment to the MCGEO agreement would be implemented by Expedited Bill 33-17, Employees' Retirement Savings Plan – Disability Benefits Plan – Termination of Benefits – Amendments, sponsored by Lead Sponsor Council President Berliner at the request of the County Executive. A public hearing on Bill 33-17 was held on November 28.

Bill 33-17 would increase the age long term disability benefits end under the LTD2 Plan from 65 to 70.

Background

County employees who are participants in the Retirement Savings Plan (RSP), the Guaranteed Retirement Income Plan (GRIP), or the Elected Officials Plan are eligible for benefits under the LTD2 Disability Benefits Plan (the Plan or LTD2).[1] The Plan provides long term disability benefits for both service-connected and non-service connected disabilities. A service connected benefit is 52.5% of salary for partial disability and 70% of salary for total disability. A non-service connected benefit is 2% of salary per year of County employment with a minimum benefit of 30% and a maximum benefit of 60% of salary.

The Plan requires the CAO to terminate disability benefits when a participant reaches the age of 65. Bill 33-17 would extend eligibility for disability benefits from age 65 to age 70. OMB estimates that the County's annual cost to extend benefits to age 70 would be $420,000. The annual total cost to all employees would be $140,000 or $2.22 per month per employee. See the

[1] Employees participating in the defined benefit plans under the Employee's Retirement System are eligible for a different long term disability plan and a disability retirement pension that would not be affected by Bill 33-17.

Fiscal Impact Statement at ©5. This increase in employee disability benefits was negotiated between the Executive and the union representing most County employees other than police and fire, the Municipal & County Government Employees Association (MCGEO). The MOU between the Executive and MCGEO is at ©19-20. In addition to the eligible employees represented by MCGEO, the Bill would increase the disability benefit for eligible non-represented employees, including elected officials.

Public Hearing on Bill 33-17

The lone speaker, Linda Herman, Executive Director of the Retirement Plans, speaking on behalf of the Executive, supported the Bill. See ©25. Ms. Herman pointed out that the termination of disability benefits at age 65 forces a participant to accept a reduced Social Security Retirement Benefit because the normal retirement age is now 66 for persons born after 1943.

Issues

1. What is the Council's Role in Collective Bargaining Agreements?

Under the County Employees Labor Relations Law for County employees other than police or fire (County Code §§33-101 through 33-112), the County Council must review any term or condition of each final collective bargaining agreement requiring an appropriation of funds or enactment, repeal, or modification of a County law or regulation. On or before May 1, unless the Council extends this deadline, the Council must indicate by resolution its intention to appropriate funds for or otherwise implement the agreement or its intention not to do so, and state its reasons for any intent to reject any part of an agreement. The Council is not bound by the agreement on those matters over which the Council has final approval. The Council may address contract items individually rather than on an all-or-nothing basis. See County Code §33-108(g)-(j).

If the Council indicates its intention to reject or opts not to fund any item, it must designate a representative to meet with the parties and present the Council's views in their further negotiations. The parties must submit the results of any further negotiations, or impasse procedures if the parties cannot agree on a revised contract, to the Council by May 10 (unless the May 1 date was extended).

The Council approved a collective bargaining agreement with the union representing these employees, MCGEO, last May. The Agreement runs from July 1, 2017 to June 30, 2019. The MOU with MCGEO agreeing to submit this legislation to the Council is an out-of-cycle amendment to the existing collective bargaining agreement. Section 33-108(n) provides:

> (n) *Out-of-cycle amendments*. The process in subsections (i) and (j) applies to Council review of any amendment to a collective bargaining agreement that the Council receives after May 15 of any year, but the deadlines in those subsections do not apply. The Council President must set action deadlines which result, to the extent feasible, in a similar timetable relative to the date the Council received the amendment.

Although the timetable for Council review of an out-of-cycle amendment is different, the Council must follow the same procedure used for reviewing a new collective bargaining agreement. Therefore, to follow the statutory procedure, this resolution indicating the intent to approve or reject the MOU was introduced on November 28.

2. Would Bill 33-17 amend the current MCGEO Agreement?

Section 44.5 of the MCGEO Agreement provides for a disability plan benefit. A copy of the current version of Section 44.5 is at ©21. Although Section 44.5 provides for a 66 2/3 percent of salary benefit for all service connected disabilities, County Code §33-131 provides the following benefits for a service-connected disability:

> The annual amount of service-connected disability payments payable for total incapacity equals 70% of the employee's final earnings, less any reductions provided in Section 33-134. The annual amount of service-connected disability payments payable for partial incapacity equals 52½% of the employee's final earnings.

The Council amended §33-131 to establish different benefits for total and partial disability in Bill 45-10, enacted on June 28, 2011 and signed into law on July 11, 2011. Section 44.5 of the MCGEO Agreement has never been amended to correspond to the change in law. Similarly, the MOU submitted by the Executive does not include an amendment to Section 44.5 of the MCGEO Agreement to correspond with the change in law that would be enacted by Bill 33-17. Despite these differences, the County Code provisions control over the conflicting provisions of the MCGEO Agreement.

Although the LTD2 Plan follows the County Code and not the collective bargaining agreement, the failure to amend the MCGEO Agreement to make it consistent with the actual benefits available to a disabled employee leads to confusion and provides misinformation.

3. What is the fiscal impact of Bill 33-17?

The County contributes 75% of the cost of the LTD2 Plan ($13.82 per month, per participant, annual total - $873,000) and each employee contributes 25% of the cost ($4.61 per month, per participant, annual total - $291,000). See the basic outline of the Plan at ©9 and the Summary of the Plan Description at ©10-18. These costs are based upon an actuarial evaluation done every 2 years. The County's actuary estimated the increase in costs to accommodate Bill 33-17 to be:

- **Continuing service connected disability until age 70**
  - Benefits
    - Monthly disability payments would continue until age 70
    - Health insurance benefits would continue, if eligible
  - Estimated Cost increases
    - County from $873,000 to $1.293 million - $420,00 annually
    - Employees from $291,000 to $431,000 ($4.61 per month to $6.83) - $140,000 annually

The Actuary's letter is at ©22-23. Bill 33-17 would apply this change retroactively to January 1, 2017. The retroactive effective date would result in 3 disability beneficiaries currently age 65 or older receiving back benefits and additional eligibility until age 70. The actuary's estimate of the additional cost for the Bill includes the cost to make these benefits retroactive to January 1, 2017.

4. What is the difference between the LTD1 Plan and the LTD2 Plan?

Public safety employees and employees hired before 1994 are eligible for the defined benefit plan under the Employees Retirement System (ERS). All other County employees participate in the defined contribution RSP, the cash balance GRIP, or the Elected Officials Plan. Bill 33-17 would only affect RSP, GRIP, and Elected Officials Plan participants. ERS participants are eligible for the LTD1 Disability Plan and a defined benefit disability retirement pension. The LTD1 Plan is designed to pay benefits to a disabled employee for up to 36 months or until the employee becomes eligible for a disability retirement pension under the ERS. The maximum age for receiving LTD1 benefits is currently age 70. See the LTD1 Plan summary at ©24.

RSP, GRIP, and Elected Officials Plan participants are eligible for the LTD2 Plan that would be amended by Bill 33-17. The LTD2 Plan benefits currently end at age 65 unless the employee becomes disabled after age 65. An employee who becomes disabled after age 65 is eligible for up to 12 months of LTD2 benefits.

A comparison of the benefits under LTD1 and LTD2 is incomplete without considering the significant differences between the retirement benefits under the ERS and the RSP/GRIP. The difference in benefits can be seen by looking at the cost to the County to provide each retirement plan. Here is a look at the difference:

Participation and Cost Comparisons: **A large disparity exists in the costs of the County Government retirement plans.** The table below shows the number of employees participating in each of the retirement plans and the total FY18 cost (excluding employee contributions) for each plan. The data show that while 43% of employees participate in the ERS, the ERS accounts for 76% of total County Government retirement plan costs. The average cost per employee for an ERS participant is almost four times greater than the cost per RSP participant and more than six times greater than the cost per GRIP participant.

	Plan Participants		FY18 Cost		Average FY18 Cost/ Employee
	Employees	Percent	$ Amount (millions)	Percent	
ERS (Defined Benefit)	3,987	43.4%	$80.65	76.0%	$20,228
RSP (Defined Contribution)	3,670	40.0%	$20.40	19.2%	$5,557
GRIP (Cash Balance)	1,526	16.6%	$5.10	4.8%	$3,345

The FY18 contribution rates or "loads" (as a percentage of an employee's salary) are 22.1% (public safety) and 45.1% (non-public safety) for the ERS, 8.0% for the RSP, and 5.5% for the GRIP.

Bill 33-17 would be a small step toward leveling the vastly different retirement benefits between the defined benefit plans under the ERS with the defined contribution benefits for the RSP, GRIP, and the Elected Officials Plan.

5. Should Bill 33-17 be enacted outside of the normal collective bargaining timeline?

The County collective bargaining law mandates collective bargaining to begin in November of the year before an agreement expires and to be completed on or before April 1 of the year before the new fiscal year begins on July 1. This statutory timeline is designed to coincide with the Council's deliberations on the operating budget because employee wages and benefits generally represents approximately 80% of the County government's operating budget. Negotiations between the Executive and MCGEO for a new Agreement are mandated to begin in November 2018. Despite this statutory timeline for bargaining, §33-108(n) expressly authorizes an out-of-cycle amendment to a collective bargaining agreement, such as the MOU between MCGEO and the Executive that led to the submission of Bill 33-17 to the Council.

The Council explained the public policy behind the collective bargaining law as follows:

> ***33-101. Declaration of policy.***
>
> *It is the public policy of Montgomery County to promote a harmonious, peaceful, and cooperative relationship between the county government and its employees and to protect the public by assuring, at all times, the responsive, orderly, and efficient operation of county government and services. Since unresolved disputes in public service are harmful to the public and to employees, adequate means should be available for preventing disputes and for resolving them when they occur. To that end, it is in the public interest that employees have the opportunity to bargain collectively over wages, hours, and other terms and conditions of employment, as authorized by Charter section 511, through a representative of their choice, or to refrain from collective bargaining. It is also in the public interest that the county government and a representative of county employees bargain collectively in good faith without interference with the orderly process of government and that they implement any agreements reached through collective bargaining.*
>
> *The county council also recognizes that employee organizations and the county government each possess substantial means for initiating actions on wages, hours, and working conditions of employees. Therefore, in order to preserve an appropriate balance between labor and management in the public service, the county council states that once the employees voluntarily select a representative, collective bargaining shall be used in place of, and not in addition to, existing means for initiating governmental action on subjects that are defined as appropriate for like collective bargaining in this article.*

The good faith negotiations required by the Collective Bargaining Law anticipates a give and take process whereby the parties arrive at an agreement that provides reasonable wages and benefits for the employees that are affordable under the anticipated restraints of the County's operating budget. It normally involves concessions from both sides. If Bill 33-17 was the result of a comprehensive negotiation over wages and benefits for these employees, it has significant merit. The increase in disability benefits is modest as is the annual cost. In addition, Bill 33-17 is a small step toward leveling the retirement benefits with those enjoyed by ERS participants. However, Bill 33-17 as a stand-alone amendment to the collective bargaining agreement is simply a modest increase in disability benefits without any corresponding concessions to the County. The Executive transmission does not explain why it was necessary to negotiate these benefits in the middle of the existing collective bargaining agreement. **Committee recommendation (3-0):** approve the out of cycle amendment.

6. Should the Bill be retroactive to January 1, 2017?

The actuary estimated the annual cost to the County for Bill 33-17 to be $420,000. This estimate includes the cost to provide retroactive benefits to 3 employees whose benefits have or will soon terminate as they reach age 65. The actuary did not estimate the additional cost to provide these benefits retroactively to January 1, 2017. The Executive's transmission does not explain why he felt it was important to provide retroactive benefits. **Committee recommendation (3-0):** approve the amendment retroactive to January 1, 2017.

7. Should the termination age be increased to 70?

The Bill would increase the termination age for these disability benefits from 65 to 70. The Executive pointed out that the normal retirement age for Social Security benefits has increased from age 65 to age 66 for persons born after 1943. For persons born after 1960, the normal retirement age is 67. However, the normal retirement age has not been raised to age 70. Normal Social Security retirement benefits increase by approximately 8% each year a person waits to request benefits up to age 70. A person who waits to request benefits until age 70 would receive the maximum benefit available based upon the person's employment history. Bill 33-17 would permit a disabled participant to continue receiving LTD2 benefits until reaching the maximum Social Security retirement benefit. **Committee recommendation (3-0):** approve the increase in the termination of benefits age to 70.

This packet contains:

This packet contains:	Circle #
Expedited Bill 33-17	1
Legislative Request Report	3
Memo from County Executive	4
Fiscal and Economic Impact statement	5
LTD2 Plan Outline	9
Summary of LTD2 Plan Description	10
MOU with MCGEO	19
MCGEO Agreement, Section 44.5	21
Actuary Letter	22
Summary of LTD1 Plan	24
Testimony of Linda Herman	25
Resolution to approve MCGEO MOU	26

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Expedited Bill No. 33-17
Concerning: Employees' Retirement Savings Plan – Disability Benefits Plan – Termination of Benefits - Amendments
Revised: October 18, 2017 Draft No. 1
Introduced: October 31, 2017
Expires: May 1, 2019
Enacted: [date]
Executive: [date signed]
Effective: [date takes effect]
Sunset Date: None
Ch. [#], Laws of Mont. Co. [year]

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

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

AN EXPEDITED ACT to:
(1) amend the age for termination of long term disability benefits; and
(2) generally amend the laws governing the Disability Benefits Plan.

By amending
Montgomery County Code
Chapter 33, Personnel and Human Resources
Section 33-133

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. Section 33-133 is amended as follows:

33-133. Termination of Benefits.

(a) *Non-public safety employee.* The administrator must terminate initial or continued disability benefits to a non-public safety employee if the employee:

(1) recovers from the disability, as determined by the administrator;

(2) does not provide the administrator with information that the administrator requires; or

(3) attains age 70 [65], or a later age if required under federal law.

(b) *Public safety employee.* The administrator must terminate initial or continued disability benefits to a public safety employee if the employee:

(1) recovers from the disability, as determined by the administrator;

(2) does not provide the administrator with information that the administrator requires; or

(3) attains age 70 [65], or a later age if required under federal law, if the benefit is for a non-service connected disability.

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 January 1, 2017. The amendments in Section 1 apply to all participants receiving benefits or entitled to receive benefits on or after January 1, 2017.

Approved:

Roger Berliner, President, County Council Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 33-17
Employees' Retirement Savings Plan – Disability Benefits Plan – Termination of Benefits - Amendments

DESCRIPTION:	The legislation would change the benefits provided under the Long Term Disability Program (LTD2) by extending the age at which benefits end from 65 to age 70. The change brings the LTD2 program's income replacement in line with the changes made to the availability for full unreduced Social Security benefits. Full Social Security benefits are not available to employees born after 1943 until they reach the age of 66 or later (reduced benefits are still available at age 62).
PROBLEM:	Stopping the benefits at age 65 forces participants receiving LTD2 benefits, who are not receiving Social Security disability benefits, to apply for the reduced Social Security benefits when the LTD2 benefit ends at 65. Taking a reduction from the full benefit from Social Security places an undue hardship on the LTD2 participants. The bulk of those participants receiving LTD2 benefits became disabled performing their day-to-day County duties and were awarded service connected disability benefits. Providing this increased benefit for the approximately 6,000 employees covered by the program results in a very minimal increase in the monthly premium paid by the County and employees and results in a better alignment with benefits provided by the Social Security Administration.
GOALS AND OBJECTIVES:	To provide income replacement to County and participating employees who become disabled.
COORDINATION:	Montgomery County Employee Retirement Plans & the Office of Human Resources
FISCAL IMPACT:	Office of Management and Budget
ECONOMIC IMPACT:	Department of Finance
EVALUATION:	N/A
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Montgomery County Employee Retirement Plans Office of Human Resources
APPLICATION WITHIN MUNICIPALITIES:	N/A
PENALTIES:	N/A

OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

October 16, 2017

TO: Roger Berliner, President
Montgomery County Council

FROM: Isiah Leggett, County Executive

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

I am attaching for Council's consideration a bill that would amend the County's law related to the payment of long-term disability benefits to participating employees. The legislation would change the benefits provided under the Long Term Disability Program (LTD2) by extending the age at which benefits end from 65 to age 70. The change brings the LTD2 program's income replacement in line with the changes made to the availability for full, unreduced Social Security benefits. Full Social Security benefits are not available to employees born after 1943 until they reach the age of 66 or later (reduced benefits are still available at age 62). On average, affected County employees were born after 1943.

Stopping the benefits at age 65 forces participants receiving LTD2 benefits, who are not receiving Social Security disability benefits, to apply for the reduced Social Security benefits when the LTD2 benefit ends at 65. Taking a reduction from the full benefit from Social Security places an undue hardship on the LTD2 participants. The bulk of those participants receiving LTD2 benefits became disabled performing their day-to-day County duties and were awarded service connected disability benefits. Providing this increased benefit for the approximately 6,000 employees covered by the program results in a minimal increase in the monthly premium paid by the County and employees, and results in better alignment with benefits provided by the Social Security Administration.

Thank you for your consideration of this matter.

Attachments
c: Linda Herman, Executive Director, MCERP
Shawn Stokes, Director, Office of Human Resources

Fiscal Impact Statement
Expedited Bill XX-17 – Disability Benefits Plan

1. **Legislative Summary**

   The bill would amend the age for termination of long term disability benefits from age 65 to age 70, and generally amend the laws governing the County's Long Term Disability Benefits Plan (LTD2).

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 would change the benefits provided by LTD2 by extending the age at which benefits end from 65 to 70. An actuarial analysis performed by the Fund's actuary, Aon, estimates the annual cost of the County's portion of these benefits to increase from $873,000 to $1,293,000, an increase of $420,000. The employee portion of the benefit would increase from $291,000 to $431,000, an increase of $140,000. This charge is administered through payroll, and would result in a monthly increase of $2.22 per employee. The analysis assumes the current cost share arrangement between the County and employees of 75%/25%.

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

   Assuming an increase of $420,000 annually, this bill would have an estimated impact of $2,520,000 in increased expenditures over the next 6 fiscal years. There is no anticipated impact on revenues.

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

   See above.

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

   Not applicable.

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

   There are no additional costs for staff to implement the legislation.

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

   Not applicable.

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

   Not applicable.

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

   Not applicable.

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

    Not applicable.

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

    Not applicable.

12. **Other fiscal impacts or comments.**

    Not applicable.

13. **The following contributed to and concurred with this analysis:**
    Corey Orlosky, Office of Management and Budget
    Linda Herman, Executive Director, Montgomery County Employee Retirement Plans

J Hughes
Jennifer A. Hughes, Director
Office of Management and Budget

10/12/17
Date

Economic Impact Statement
Expedited Bill xx-17, Disability Benefits Plan

Background:

This legislation would amend Montgomery County Code Section 33-133, Termination of Benefits, to increase the age from 65 to 70 for termination of long term disability benefits.

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

   Source of information is the Montgomery County Long-Term Disability Benefits Plan (LTD2). An actuarial valuation is performed every two years for the program to set the contribution rate for the County, participating agencies and employees. Based on the actuarial analysis performed by the fund's actuary for Expedited Bill ##-17, an estimate of the increase in the annual cost of the County's portion would be $420,000 from $873,000 to $1,293,000. The employee portion of the benefit would increase from $291,000 to $431,000, an increase of $140,000, resulting in a monthly increase of $2.22 per employee. The analysis conducted by the actuary assumes the current cost share agreement between the County and employees of 75%/25%.

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

   The variables that could affect the economic impact estimates are the number of recipients who reside in the County receiving long-term disability benefits, the total amount of benefits or income received by those recipients, and the deduction from the salary of County employees.

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

   Because of the lack of data on the number of recipients currently residing in the County receiving long-term disability benefits, it is uncertain whether Expedited Bill ##-17 would have a significant effect on the County's economy and total personal income. The increase in benefits would have a positive impact on an individual recipient's personal income. However, since the estimated annual cost of the County's portion of these benefits would increase by only $420,000, the economic impact on the County's overall economy and income would be minimal. Finally, since Expedited Bill ##-17 would change the employee benefit portion and result in an increase or $2.22 per month or $26.64 per year, it would also have a minimal impact on the economy.

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

   Please see paragraph #3

Economic Impact Statement
Expedited Bill xx-17, Disability Benefits Plan

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

Alexandre Espinosa, Director
Department of Finance

10/9/2017
Date

Montgomery County

Long Term Disability Benefits Plan (LTD2)

Background:

- When the Retirement Savings Plan (RSP) was created in October 1994 for all non-uniformed public safety and non-public safety employees, the LTD2 plan was also created.
  - An actuarial analysis is performed every two years to set the contribution rate for the County, participating agencies and employees.
- As part of collective bargaining with MCGEO, the County is required to make employer contributions (8% of the LTD2 participant's salary) until the participant turns 62
- The County pays the employer contribution for insurance benefits for LTD2 participants
- LTD2 participant's RSP or Guaranteed Retirement Income Plan (GRIP) account is frozen until age 62, if employer contributions are required

Covered employees:

- All County employees hired after October 1994, who are non-uniformed public safety or non-public safety, who participate in the RSP and GRIP
- Total covered employees – approximately 6,000 (including participating agencies)

Benefits:

- Service Connected
  - 52.5% or 70% of salary until age 65
- Non-Service Connected
  - 2% per year of County employment with a minimum of 30% and a maximum of 60% until age 65

Contributions:

- FY 17/18
  - 75% - County - $13.82 per month, per participant, annual total - $873,000
  - 25% - Employees - $4.61 per month, per participant, annual total - $291,000

Recommended Change:

- **Continuing service connected disability until age 70**
  - Benefits
    - Monthly disability payments would continue until age 70
    - Health insurance benefits would continue, if eligible
  - Estimated Cost increases
    - County from $873,000 to $1.293 million - $420,00 annually
    - Employees from $291,000 to $431,000 ($4.61 per month to $6.83) - $140,000 annually

Montgomery County

Disability Benefits Plan

Summary Plan Description

October 2016

Contents

Introduction 3

Eligibility 3

Definition of Disability 3

Initial Disability 3

Temporary Disability 4

Continuing Disability 4

Application Process 4

Disability Review Panel 5

Benefits 5

Service-Connected 5

Non-Service-Connected 6

Public Safety Employee Cost of Living Adjustment 7

Reduction in Benefits 7

Payment Period 8

Employer Contributions to the Retirement Plan 8

Re-evaluations of Continuation of Payments 8

Re-Employment Program 8

Appeals 9

Errors 9

Resources 9

11

Introduction
The purpose of this Summary Description is to provide you with an informal guide to the key provisions of the Disability Benefits Plan (Long Term Disability (LTD) Plan), as provided for in the Montgomery County Code, Chapter 33, Article VIII, Division 2 ("County Code"). Every effort has been made to accurately summarize the LTD Plan. However, in the event of a conflict between this Summary Description and the County Code, the County Code will govern.

While Montgomery County Government (the "County") expects to continue the LTD Plan, it is the County's position that there is no implied contract between employees and the County to do so. The County reserves the right to change or discontinue any of the terms of the LTD Plan, subject to applicable laws and collective bargaining agreements. In addition, the County may amend the LTD Plan, either prospectively or retroactively, as required by Federal or State law.

The LTD Plan is sponsored by the County. Other government agencies and quasi-government agencies elect to participate in the County's LTD Plan. If you are an employee of one of those agencies, you participate under the same terms and conditions as a County employee.

Eligibility
You are eligible for the LTD Plan if you are budgeted to work for the County or a participating agency at least 20 hours a week and participate in the:

- Retirement Savings Plan,
- Guaranteed Retirement Income Plan, or
- Elected Officials' Plan.

Your LTD coverage begins automatically on your date of retirement plan membership.

Definition of Disability
To qualify for LTD Plan benefits, you must meet the LTD Plan's definition of disability. Disability is divided into two stages: initial disability and continued disability. If you qualify for an initial disability, the County will re-evaluate you before the end of 36 months (12 months for a public safety employee who has a non-service-related disability) to determine if you meet the requirements for a continuing disability.

Disability benefits are also divided into two categories: non-service-connected and service-connected, depending upon the disability.

Initial Disability
You are considered disabled if you cannot perform the job <u>you held</u> when you became disabled. Your condition must be the result of an accident, illness or injury and not

caused by your willful misconduct or willful negligence. See non-service-connected and service-connected for more information.

Temporary Disability
After you qualify for an initial disability, you may be approved for a temporary disability for one or more one year periods. At the end of the period of the temporary disability, a determination will be made as to whether you will continue to receive payments under this LTD Plan.

Continuing Disability
If you qualify for an initial disability, at the end of the initial period you are generally considered disabled if:

- your condition has not changed;
- you cannot perform <u>any job</u> for which you are reasonably suited, based on your education, training or retraining and experience; and,
- your condition is likely to be permanent. If you are a public safety employee, you also must also be unable to earn substantially similar final earnings.

If you qualify for service-connected benefits, you may be considered partially incapacitated. If you are partially incapacitated, you are considered unable to perform one or more of the essential functions of the job you held when you became disabled but you may still perform other substantial gainful employment.

See non-service-connected and service-connected for more information.

Application Process
You (or your representative) may file an application for disability benefits with the Chief Administrative Officer. Applications should be filed through the Montgomery County Employee Retirement Plans (MCERP), 101 Monroe Street, 15th Floor, Rockville, MD 20850.

In applying for LTD benefits, MCERP will provide you with the proper forms and any assistance you require with the application process. In addition to completing the forms and submitting to MCERP, you will also need to provide copies of your medical records to the MCERP Disability Manager. Your application and your medical records will be forwarded to the Disability Review Panel.

In order to receive service-connected benefits for an accidental injury that does not cause mental impairment, you must report the injury as soon as practicable, but within one year of the injury <u>or</u> you must submit a timely claim for workers' compensation. You must also file an application for benefits within one year of separation from County service. These time periods do not begin if you have incapacitating injuries and are unable to make a report due to the injuries.

For a non-service-connected disability, the disabling condition or injury must have occurred prior to termination of employment.

Disability Review Panel
The Disability Review Panel will review your application and medical records. Upon completion of the review, the Panel will recommend to the Chief Administrative Officer whether or not you are eligible to receive LTD benefits. When making its determination, the Disability Review Panel may require you to undergo an independent medical examination.

MCERP will notify you in writing of the Chief Administrative Officer's decision. The effective date of your payments would be the earlier of the date by which you have exhausted all accrued sick and compensatory leave in excess of 80 hours or the date of the Chief Administrative Officer's decision.

Benefits
The monthly benefits (payments) you receive from the LTD plan replace a percentage of your final earnings. Your final earnings are your highest average annual pay earned at the County or participating agency (less shift pay differential) for any 18 consecutive-month period. The amount you receive depends on whether your disability is service-connected or non-service-connected. Employment taxes (FICA) will be withheld from your payments for the first six months.

<u>Service-Connected Disability</u>
A service-connected disability is a condition due to an accident, illness, occupational disease or condition which is aggravated while performing your duties as an employee.

Amount of Benefits

- <u>Partial Incapacity</u> - You receive 52-1/2% of your final earnings (minus any offset) if the Disability Review Panel determines that you do not qualify for total incapacity. If you are partially incapacitated, you are considered unable to perform one or more of the essential functions of the job you held when you became disabled, but you may still perform other substantial gainful employment.

- <u>Total Incapacity</u> - You receive at least 70% of your final earnings (minus any offsets) if the Disability Review Panel determines that the disability meets the Social Security Administration's requirements for disability. In order to be determined to be disabled by the Social Security Administration, you must be unable to engage in any substantial gainful activity because of a medically determinable physical or mental impairment that can be expected to end in death, or last for at least 12 months.

  You do not have to actually have a Social Security determination in order to be eligible for the 70% benefit.

  <u>Social Security Award</u> – You will receive 70% of your final earnings (minus any offsets) if you meet the following conditions:

(a) you are awarded Social Security disability benefits;
(b) you applied for Social Security benefits within 90 days of the County's notification to you of the disability determination.;
(c) you submit the information within 60 days of receiving the Social Security decision; and
(d) the Social Security benefits were based on the same impairment.

Ineligibility
You are not eligible to receive service or non-service-connected benefits until you have been employed by the County (or participating agency) for at least 6 months and you are a member of a County retirement plan.

You are not eligible to receive service-connected disability benefits if you committed an offense that would justify termination for misconduct.

Alternative Position
You may receive a 5% salary increase if you accept an alternative position in the County government for which you are qualified. Your salary in the alternative position will not exceed the maximum salary of the pay grade assigned to the position. A member of the Office, Professional and Technical Bargaining Unit or the Service, Labor and Trades Bargaining Unit who accepts an alternative placement incentive is not eligible to apply for a service-connected disability benefit based on the disability for which the alternative placement was made.

Non-Service-Connected Disability
A non-service-related disability is a condition due to an accident or illness that is not the direct result of performing your duties as an employee. You will not receive any benefits for an accident or illness caused by your own willful misconduct or willful negligence. You must have worked for the County for the six months immediately preceding the disability.

If your disability is non-service-connected, you will receive 2% of your final earnings multiplied by the number of years you have been a member of one or more of the County's retirement plans, up to a maximum of 60% of your final earnings. You will receive a minimum benefit of 30% of your final earnings. In addition, see Reduction in Benefits section.

Examples:

1. If you have been a member of the County's retirement plan for 17 years, your monthly payment is 34% of your final earnings (2% x 17 years of service).

2. If you have been a member of the retirement plan for 10 years, your monthly payment is 30% of your final earnings. The minimum payment is 30%.

Public Safety Employee Cost of Living Adjustment
If you are a public safety employee, you will receive a cost of living adjustment each year. This will equal 60% of the annual change in the cost of living index (as determined by the Baltimore-Washington Area Consumer Price Index). The cost of living adjustment is limited to 3% each year. If you receive a disability retirement benefit for a disability occurring after June 30, 2011, as determined by the Disability Review Panel, any adjustment of your benefit payment will not exceed 2.5%.

Reduction in Benefits

Your benefits will be reduced for the following:

1. Other LTD Benefits
   Your benefits will be reduced one dollar for each one dollar you receive from:

   - Social Security disability benefits (including benefits paid to your dependents because of your disability)
   - any other government group income maintenance insurance coverage
   - any government disability plan
   - the Employees' Retirement System
   - the GRIP or RSP – any amount you are entitled to receive (i.e., your plan account) for a public safety employee

   A. If you receive any of these payments as a lump sum, your LTD benefit will be adjusted as if the lump sum were being paid as an annuity.

   B. You are required to apply for Social Security disability benefits. If you receive retroactive benefits covering the period of time you received benefits from the LTD Plan, you must reimburse the County.

   C. The benefit calculated under this formula may be adjusted by benefits from other sources and you may receive less than 30% of your final earnings.

2. Employment

   Your County disability benefit will be reduced one dollar for each three dollars of your earnings or income you receive because of employment, including net earnings from self-employment.

3. Workers' Compensation

   The LTD payment you receive from the County is subject to a reduction by any workers' compensation award for which you may be eligible. If you are eligible for both and your disability benefit is greater than what you are entitled to receive from workers' compensation, you will receive only the disability benefit. (Your

16

LTD payment satisfies the County's workers' compensation obligation.) You must report any changes in your income to the MCERP.

Payment Period
If you are a non public safety employee, your continued disability benefits will generally last until:

- you recover from your disability (before age 65)
- you fail to provide the Chief Administrative Officer with any necessary information (such as any earnings or tax information), or if you refuse to see a doctor)
- you reach age 65 (unless you became disabled after age 62), or
- your death.

If you are disabled at age 62 or older your benefits will last as follows:

Age	Length of benefits
62-64	3 years (36 payments)
65-67	2 years (24 payments)
68+	1 year (12 payments)

If you are a public safety employee and your disability is service-connected, your benefit will last for your lifetime (as long as you remain disabled and provide requested information). Your benefits will not automatically end when you turn 65.

Employer Contributions to the Retirement Savings Plan and Guaranteed Income Retirement Plan
If you are a non-public safety employee and you become disabled, you may receive employer contributions to your retirement plan until you reach age 62. To qualify for these employer contributions, your disability must be determined by the Disability Review Panel to make you unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. You may not receive a distribution of your account balance in the RSP or GRIP while you are receiving these contributions.

Re-Evaluation of Continuation of Payments
After the initial disability period, you must undergo a medical examination to determine if you are entitled to receive continued disability benefits. If you are found to be ineligible, the disability benefits under this LTD Plan will end.

Re-Employment Program
The Chief Administrative Officer may offer you a job through a program for employees who are on disability. The re-employment program would assign you a job you could perform with your disability, and which is suited for you based on your training, education, experience and physical and mental capabilities. You will be notified if you

17

qualify for this program. If you are selected for the program, you must participate or you will forfeit your benefits.

Appeals
The Chief Administrator has the full discretion to interpret the Plan. If you disagree with any decisions regarding your eligibility for disability benefits, including a decision to discontinue your benefits, you may appeal the decision within 20 days of your receipt of written claim denial. The appeal should be sent to the Office of Human Resources at 101 Monroe Street, 7th Floor, Rockville, Maryland 20850. The Disability Arbitration Board will review your appeal and should issue a decision within 30 days after a hearing.

Errors
If you receive any monetary amount due to an error, you must return it to the County.

Resources

MCERP

Mail:	101 Monroe Street, 15th Floor Rockville, MD 20850
Email:	Retirement@montgomerycountymd.gov
Phone:	240-777-8230
Fax:	301-279-1424
Web:	www.montgomerycountymd.gov/retirement

Disability Manager

Mail:	101 Monroe Street, 15th Floor Rockville, MD 20850
Phone:	240-777-8238

**MEMORANDUMOF UNDERSTANDING
BETWEEN THE MONTGOMERY COUNTY GOVERNMENT
AND THEMUNICIPAL & COUNTY GOVERNMENT EMPLOYEES ORGANIZATION
UNITED FOOD & COMMERCIAL WORKERS, LOCAL 1994, AFL-CIO**

The Montgomery County Government (Employer) and the Municipal & County Government Employees Organization, UFCW Local 1994, AFL-CIO (Union) (hereinafter parties) engaged in a collective bargaining mid-term change to the Long Term Disability Benefits (LTD2) for affected Montgomery County bargaining unit employees hired after October 1994, who are non-public safety and public safety employees who participate in the Retirement Savings Plan or the Guaranteed Retirement Income Plan.

This Memorandum of Agreement is to address what the parties recognize is a needed change in the Montgomery County Code (Code), Sec.33-133 regarding Termination of Benefits, for non-public safety and public safety employees who participate in the LTD2 program. In the Code, the administrator must terminate initial or continued disability benefits to a non-public safety or public safety employee covered by the program if the employee has attained the age of 65 or a later age if required under federal law.

After discussions on the termination of LTD2 benefits for affected employees turning 65, the parties have come to an agreement to recommend amending the termination date in the County Code from age 65 to age 70.

This Agreement takes into account that full unreduced Social Security benefits are not available to employees born after 1943 until the they reach the age of 66 or later (reduced benefits are still available at age 62). On average affected County employees were born after 1943. The income replacement, or monthly benefit, payable from the County's Long Term Disability Plan (LTD2) stops at age 65 as defined in the Code. Stopping at age 65 forces participants receiving LTD2 benefits, who are not receiving Social Security disability benefits, to apply for the reduced Social Security benefits when the LTD2 benefit ends at 65. Taking a reduction from the full benefit from Social Security places an undue hardship on the LTD2 participants. The bulk of those participants receiving LTD2 benefits became disabled performing their day-to-day County duties and were awarded service connected disability benefits. Providing this increased benefit for the approximately 6,000 employees covered by the program results in a very minimal increase in the monthly premium paid by the County and employees and results in a better alignment with benefits provided by the Social Security Administration.

However minimum, the parties recognize that there is an increased cost both to the County and to the affected employees. To address this increase in LTD2 benefits, the parties agree that the contribution amount will increase for each party, but the cost sharing will remain the same at the current 75/25 percentage level, with the County's share at 75 percent and the affected employees at 25%.

The parties will submit legislation to the County Council that would amend Montgomery County Code to provide for this change in LTD2 benefits. This change to the benefits will be effective

January 1, 2017 and will also apply to individuals receiving benefits or entitled to benefits as of that date.

IN WITNESS WHEREOF, the parties hereto have caused their names to be subscribed by their duly authorized officers and representatives this __ day of October 2017.

For the Employer

Isiah Leggett, County Executive Date

10/13/17
Timothy L. Firestine, CAO Date
Chief Administrative Officer

10/12/17
Shawn Y. Stokes, Director, OHR Date

10-9-17
William F. Scott, Chief Negotiator Date

10/9/2017
County Attorney Date
Approved for form and legality

For the Union

10-11-17
Gino Renne, President Date

44.5 Long Term Disability Benefit

The following constitute benefits provided under the long term disability component of the defined contribution plan:

(a) Basic Benefit:
 (1) Service connected: 66 2/3 percent of pay
 (2) Non-service connected: 2 percent of pay x yrs. service, minimum 30 percent, maximum 60 percent of pay.

(b) Definition of Disability:
 (1) Service connected: your occupation for 3 years; after 3 years, any occupation with similar earnings.
 (2) Non-service connected: your occupation for 1 year; any occupation thereafter (see current LTD plan for longer definition).

(c) Date Payment Ends:
 (1) Service connected: life (or until recovered prior to age 65).
 (2) Non-service connected: age 65 or until recovery.

(d) Eligibility: All bargaining unit employees regularly scheduled to work 20 or more hours (.5 work year or more).

(e) Direct Offsets: Offset is dollar for dollar for actual payments received from Social Security or Workers' Compensation. Lump sum Workers' Compensation payments will be annuitized as is currently done. Offsets also made for lifetime annuitized total defined contribution account balances regardless of whether or not they are annuitized or paid out.

(f) Earnings Offset: Earnings reduce LTD benefits on a 1 for 3 basis. Earnings include "Incorporation" income from a company controlled by a family member or due to work performed. There is no specific limit to the sum of LTD benefit plus income.

AON
Empower Results®

November 21, 2017

Ms. Linda Herman
Executive Director
Montgomery County Employee Retirement Plans
101 Monroe Street
15th Floor
Rockville, MD 20850

RE: Montgomery County Disability Benefits Plan

Dear Linda:

We have analyzed the Montgomery County Disability Benefits Plan (LTD2) for the impact of changes from the current structure to extending benefits to a participant's age 70.

The expected total cost increase for the first year would be as follows and are inclusive of the RSP/GRIP payment.

Expansion to Age 70 – Total Annual Costs

	County Portion	Employee Portion	Total
Current	$873,000	$291,000	$1,164,000
Increase for expansion to age 70	$420,000	$140,000	$560,000
Total	**$1,293,000**	**$431,000**	**$1,724,000**

The following tables show the expected cost increase per employee per month. This assumes a population of 5,264 actives consistent with the Long-Term Disability Plan Valuation as of July 2016 and Montgomery County is responsible for 75% of costs while participants are responsible for the remaining 25% of costs.

Expansion to Age 70 – Monthly Costs Per Employee Per Month

	County Portion	Employee Portion	Total
Current	$13.82	$4.61	$18.43
Increase for expansion to age 70	$6.65	$2.22	$8.87
Total	**$20.47**	**$6.83**	**$27.30**

Aon Hewitt | Retirement & Investment Consulting
259 N. Radnor-Chester Road, Suite 160 | Radnor, PA 19087
t +1.610.834.2197 | f +1.610.834.2176 | aon.com

This analysis assumes rates of disability and splits of service connected and non-service connected disability as detailed in the Montgomery County Employees' Retirement System Actuarial Valuation as of July 1, 2016 report and was based on the demographics of the plan consistent with the Montgomery County Government Post-Employment Benefits (Other than Pensions) Actuarial Valuation Report for Fiscal Year 2017.

Sincerely,

Thomas G Vicente

Tom Vicente, FSA, EA
Partner

cc: Joe Romanies – Aon

LONG TERM DISABILITY (LTD1)

LTD1 for full-time employees who are members of the optional or integrated plan under the Employees' Retirement System (ERS):

If you are a full-time employee and a member of the optional or integrated plan under the ERS, you are required to have LTD1 coverage (part-time employees who are members of the optional or integrated plan under the ERS are not eligible for coverage). Your coverage becomes effective after 6 months of continuous active service with the County. You are not eligible to participate upon your 70th birthday.

The monthly income benefit under LTD1 is 60% of your basic monthly earnings, up to a maximum of $2,500. Your monthly income benefit will be reduced by certain other sources of income, including amounts you and your dependents may be eligible to receive under Social Security due to your disability.

While covered under LTD1, you are entitled to benefits if you become totally disabled from performing the duties of your occupation due to sickness or accidental bodily injury and remain totally disabled continuously throughout the benefit waiting period of 5 months. After the expiration of the benefit waiting period, you will receive monthly income benefit payments during the continuation of your disability, but for no longer than 12 months.

If your monthly income benefit has been payable for 12 months and your disability completely prevents you from engaging in any occupation for which you are qualified by training, education or experience, you will continue to receive your monthly income benefit.

However, monthly income benefit payments will cease on the earlier of the following dates:

* The date you receive retirement benefits under any pension plan to which your employer contributes or makes payroll deductions, other than benefits which become payable solely because of disability.

* The date shown below, based on when your disability commences:

Age 61 or under – your 65th birthday or the day 36 payments have been made, whichever is later. Age 62, 63 or 64 – the date 36 payments have been made. Age 65, 66 or 67 – the date 24 payments have been made. Age 68 or 69 – the date 12 payments have been made.

11

TESTIMONY ON BEHALF OF COUNTY EXECUTIVE LEGGETT ON EXPEDITED BILL 33-17, LEGISLATION TO AMEND CHAPTER 33, PERSONNEL AND HUMAN RESOURCES

Good afternoon. I am Linda Herman, Executive Director of the Montgomery County Employee Retirement Plans, which oversees the assets and the administration of the County's three retirement plans as well as the Long Term Disability Program (LTD2). I am here today on behalf of the County Executive to testify in support of Bill 33-17.

The legislation would change the benefits provided under the Long Term Disability Program (LTD2) by extending the age at which benefits end from 65 to age 70. The change brings the LTD2 program's income replacement in line with the changes made to the availability for full unreduced Social Security benefits. Full Social Security benefits are not available to employees born after 1943 until they reach the age of 66 or later (reduced benefits are still available at age 62). On average affected County employees were born after 1943.

Stopping the benefits at age 65 forces participants receiving LTD2 benefits, who are not receiving Social Security disability benefits, to apply for the reduced Social Security benefits when the LTD2 benefit ends at 65. Taking a reduction from the full benefit from Social Security places an undue hardship on the LTD2 participants. The bulk of those participants receiving LTD2 benefits became disabled performing their day-to-day County duties and were awarded service connected disability benefits. Providing this increased benefit for the approximately 6,000 employees covered by the program results in a very minimal increase in the monthly premium paid by the County and employees and results in a better alignment with benefits provided by the Social Security Administration.

We look forward to working with the Council in its deliberations on this legislation.

Resolution No.: ______
Introduced: November 28, 2017
Adopted: ______

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Government Operations and Fiscal Policy Committee

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SUBJECT: Amendment to the Collective Bargaining Agreement with the Municipal & County Government Employees Organization

Background

1. Section 511 of the County Charter authorizes the County Council to provide by law for collective bargaining, with arbitration or other impasse resolution procedures, with authorized representatives of County Government employees.

2. Chapter 33, Article VII of the County Code implements Section 511 of the Charter and provides for collective bargaining by the County Executive with the certified representatives of County employees and for review of the resulting contract by the County Council.

3. On October 16, 2017, the County Executive submitted to the Council an out-of-cycle amendment to the collective bargaining agreement between the County government and Municipal and County Government Employees Organization effective July 1, 2017 through June 30, 2019. A copy of the Agreement is attached to this Resolution.

4. The Executive has submitted to the Council the Memorandum of Understanding (MOU) that requires changes in a County law and Expedited Bill 33-17 implementing the MOU.

5. A Government Operations and Fiscal Policy Committee considered the Agreement and recommended approval on November 30, 2017.

6. The County Council has considered these terms and conditions and is required by law to indicate its intention regarding the appropriation of funds or any legislation or regulations required to implement the MOU.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

> The County Council intends to approve the amendments to the Long Term Disability Plan made by Expedited Bill 33-17, Employees' Retirement Savings Plan – Disability Benefits Plan – Termination of Benefits – Amendments.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

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