

Expedited Bill No. 11-11
Concerning: Personnel - Retirement Plans - Contributions
Revised: May 26, 2011 Draft No. 4
Introduced: April 5, 2011
Enacted: May 26, 2011
Executive: June 6, 2011
Effective: July 1, 2011 (with exceptions)
Sunset Date: None
Ch. 9, Laws of Mont. Co. 2011

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

- (1) amend the Optional and Integrated Plans of the Employees' Retirement System to increase member contributions;
- (2) amend the Guaranteed Retirement Income Plan of the Employee's Retirement System and the Retirement Savings Plan to decrease employer contributions and permit an additional after-tax employee contribution in Fiscal Year 2012; [and]
- (3) amend the cost-of-living provisions in the Optional and Integrated Plans of the Employees' Retirement System and the Disability Benefits Plan of the Retirement Savings Plan; and
- (4) generally amend the law regarding the employees' retirement system.

By amending

Montgomery County Code
Chapter 33, Personnel and Human Resources
Sections 33-39, 33-40, 33-44, 33-116, ~~[[and]]~~ 33-117, 33-118, and 33-131

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:

2 **Sec. 1. Sections 33-39, 33-40, 33-44, 33-116, [[and]] 33-117, 33-118,**
 3 **and 33-131 are amended as follows:**

4 **33-39. Member Contributions and Credited Interest.**

5 (a) Member contributions. Each member of the retirement system must
 6 contribute a portion of the member's regular earnings through regular
 7 payroll deductions.

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

11 (A) Group A or H member, [6] 7 percent for service
 12 beginning on the first pay period after June 30, 2011 and 8
 13 percent for service beginning on the first pay period after June
 14 30, 2012;

15 (B) Group B member, 7 percent;

16 (C) Group D member, 7½ percent; and

17 (D) Group E, F, or G member, [8½] 9½ percent for service
 18 beginning on the first pay period after June 30, 2011 and 10½
 19 percent for service beginning on the first pay period after June
 20 30, 2012.

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

24 (A) Group A, [4] 5 percent for service beginning on the first
 25 pay period after June 30, 2011 and 6 percent for service
 26 beginning on the first pay period after June 30, 2012 up
 27 to the maximum Social Security wage base, and [6] 7
 28 percent for service beginning on the first pay period after

- 29 June 30, 2011 and 8 percent for service beginning on the
 30 first pay period after June 30, 2012 of regular earnings
 31 that exceed the wage base;
- 32 (B) Group B, 4½ percent up to the maximum Social Security
 33 wage base, and 7 percent of regular earnings that exceed
 34 the wage base;
- 35 (C) Group E, [4¾] 5¾ percent for service beginning on the
 36 first pay period after June 30, 2011 and 6¾ percent for
 37 service beginning on the first pay period after June 30,
 38 2012 up to the maximum Social Security wage base, and
 39 [8½] 9½ percent for service beginning on the first pay
 40 period after June 30, 2011 and 10½ percent for service
 41 beginning on the first pay period after June 30, 2012 of
 42 regular earnings that exceed the wage base;
- 43 (D) Group F, [4 ¾] 5¾ percent for service beginning on the
 44 first pay period after June 30, 2011 and 6¾ percent for
 45 service beginning on the first pay period after June 30,
 46 2012 up to the maximum Social Security wage base and
 47 [8½] 9½ percent for service beginning on the first pay
 48 period after June 30, 2011 and 10½ percent for service
 49 beginning on the first pay period after June 30, 2012 of
 50 regular earnings that exceed the wage base;
- 51 (E) Group G:
- 52 (i) [5½] 6½ percent for service beginning on the first
 53 pay period after June 30, 2011 and 7½ percent for
 54 service beginning on the first pay period after June
 55 30, 2012 up to the maximum Social Security wage

56 base, and [9¼] 10¼ percent for service beginning
 57 on the first pay period after June 30, 2011 and
 58 11¼ percent for service beginning on the first pay
 59 period after June 30, 2012 of regular earnings that
 60 exceed the wage base;

- 61 (ii) starting in the 25th year from the member's leave
 62 accrual date under the County payroll system, [4¾]
 63 5¾ percent for service beginning on the first pay
 64 period after June 30, 2011 and 6¾ percent for
 65 service beginning on the first pay period after June
 66 30, 2012 up to the maximum Social Security wage
 67 base, and [8½] 9½ percent for service beginning
 68 on the first pay period after June 30, 2011 and 10½
 69 percent for service beginning on the first pay
 70 period after June 30, 2012 of regular earnings that
 71 exceed the wage base on and after the member's
 72 25th year of credited service;

- 73 (F) Group H, [4] 5 percent for service beginning on the first
 74 pay period after June 30, 2011 and 6 percent for service
 75 beginning on the first pay period after June 30, 2012 up
 76 to the maximum Social Security wage base and [6] 7
 77 percent for service beginning on the first pay period after
 78 June 30, 2011 and 8 percent for service beginning on the
 79 first pay period after June 30, 2012 of regular earnings
 80 that exceed the wage base.

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- 82 (4) Member contributions to the guaranteed retirement income
83 plan.
- 84 (A) A non-public safety employee member in the guaranteed
85 retirement income plan must contribute 4% of regular
86 earnings less than or equal to the Social Security wage
87 base and 8% of regular earnings that exceed the Social
88 Security wage base.
- 89 (B) A public safety employee member in the guaranteed
90 retirement income plan must contribute 3% of regular
91 earnings less than or equal to the Social Security wage
92 base and 6% of regular earnings that exceed the Social
93 Security wage base.
- 94 (C) For service beginning on the first pay period after June
95 30, 2011 and before the first pay period beginning after
96 July 1, 2012, a member may contribute an additional 2%
97 of regular earnings on an after-tax basis by making an
98 irrevocable election in writing on or before September 1,
99 2011.
- 100 (D) To the extent allowed under Section 414(h)(2) of the
101 Internal Revenue Code, the County must “pick up” (as
102 described in the Internal Revenue Code) member
103 contributions to the guaranteed retirement income plan.
104 A member is always vested in the member’s
105 contributions.
- 106 ~~[(D)]~~ (E) When a member rejoins County service after
107 military service that qualifies under Section 33-41(q) as
108 credited service, the County must credit the member with

109 the amount that the member would have contributed if
 110 the member had worked for the County during military
 111 service. Contribution credits for military service must be
 112 based on the regular earnings the member would have
 113 earned during military service. If the regular earnings are
 114 not reasonably ascertainable, the credit must be based on
 115 the member's regular earnings during a period
 116 immediately preceding the military service. The
 117 averaging period is 12 months, or the full length of the
 118 member's County service, whichever is shorter. The
 119 member must not receive any retroactive credited interest
 120 on the contribution credits. The County must not credit a
 121 member with a discretionary after-tax contribution under
 122 subparagraph C unless the member elects to make up the
 123 contribution under Internal Revenue Code Section
 124 414(u), as amended.

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126 **33-40. Employer Contributions.**

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128 (d) Elected officials' plan. Subsections 33-40(a), (b), and (c) do not apply
 129 to the elected officials' plan. Instead, the following provisions apply:

130 (1) The County must contribute to the elected officials' plan in
 131 monthly installments, on behalf of each elected officials'
 132 participant, an amount equal to [8] ~~[[6]]~~ 8 percent of the elected
 133 officials' participants' regular earnings. The county's elected
 134 officials' contributions are to be adjusted to take into account
 135 any forfeiture under subsection 33-40(d)(2)(D). In determining

136 the amount of the County elected officials' contributions, only
 137 an elected officials' participant's regular earnings earned while
 138 that elected officials' participant made required elected officials'
 139 participant contributions are counted.

140 * * *

141 (e) Guaranteed Retirement Income Plan.

142 (1) Each pay period, the County must credit to each non-public
 143 safety member's guaranteed retirement income plan account an
 144 amount equal to [8%] 6% for service beginning on the first pay
 145 period after June 30, 2011 and 8% for service beginning on the
 146 first pay period after June 30, 2012 of the member's regular
 147 earnings. [[The County must make a one-time credit equal to
 148 .36% of the member's fiscal year 2010 regular earnings to the
 149 member's guaranteed retirement income plan account on the
 150 second pay period in July 2010 for a member who is on the
 151 County payroll as of June 30, 2009 and who is also on the
 152 County payroll as of June 30, 2010.]] Interest must be credited
 153 at an annual rate of 7.25% on the County contribution credits. If
 154 the annual 7.25% interest rate does not comply with applicable
 155 law, the third segment rate described in Internal Revenue Code
 156 Section 430(h)(2)(G) or any successor provision must apply.
 157 Interest must be credited to a member's guaranteed retirement
 158 income plan account balance on a monthly basis as of the last
 159 day of the month.

160 (2) Each pay period, the County must credit to each public safety
 161 member's guaranteed retirement income plan account an
 162 amount equal to [10%] 8% for service beginning on the first

163 pay period after June 30, 2011 and 10% for service beginning
 164 on the first pay period after June 30, 2012 of the member's
 165 regular earnings. Interest must be credited at an annual rate of
 166 7.25% on the County contribution credits. If the annual 7.25%
 167 interest rate does not comply with applicable law, the third
 168 segment rate described in Internal Revenue Code Section
 169 430(h)(2)(G) or any successor provision must apply. Interest
 170 must be credited to a member's guaranteed retirement income
 171 plan account balance on a monthly basis as of the last day of the
 172 month.

173 **33-44. Pension payment options and cost-of-living adjustments.**

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175 (c) *Cost-of-living adjustment.* A retired member or beneficiary, including
 176 the surviving spouse or domestic partner of a group D member or
 177 other beneficiary who survives the member under a pension option or
 178 who is otherwise eligible to receive benefits, must receive an annual
 179 cost-of-living adjustment in pension benefits.

180 (1) Each retired member or beneficiary ~~[[shall]]~~ must have a cost-
 181 of-living base which ~~[[shall]]~~ must be the Consumer Price
 182 Index most recently preceding the date of the member's
 183 retirement or death.

184 (2) The Consumer Price Index to be used for the fiscal year in
 185 which the cost-of- living adjustment is payable ~~[[shall]]~~ must be
 186 the index calculated for the month last preceding the end of the
 187 fiscal year immediately preceding the fiscal year in which the
 188 adjustment is to be effective.

- 189 (3) The percentage cost-of-living adjustment of pension benefits
 190 must be obtained by dividing the most recent index determined
 191 under paragraph (2) by the next preceding index multiplied by
 192 100 less 100.
- 193 (A) A member enrolled before July 1, 1978, must receive the
 194 full cost-of- living adjustment.
- 195 (B) A member enrolled on or after July 1, 1978, must receive
 196 100 percent of the change in the consumer price index up
 197 to 3 percent, and 60 percent of any change in the
 198 consumer price index greater than 3 percent, up to a total
 199 adjustment of 7 ½ percent in any year. The 7 ½ percent
 200 annual limit does not apply to:
- 201 (i) a retired member who is disabled; or
 202 (ii) a pensioner aged 65 or older for a fiscal year
 203 beginning after the date the pensioner reaches age
 204 65.
- 205 (4) For the purpose of this section, “Consumer Price Index” [[shall
 206 mean]] means, beginning January 1, 1978, the Consumer Price
 207 Index for All Urban Consumers issued for the Washington,
 208 D.C. Metropolitan Area (all items) as published by the United
 209 States Department of Labor, Bureau of Labor Statistics (for
 210 months before 1978, the Consumer Price Index published
 211 previously for urban wage earners and clerical workers for such
 212 months [[shall]] must be applicable.)
- 213 (5) Pension benefits are subject to decreases in the Consumer Price
 214 Index. In no instance, however, [[shall]] must a retired member

215 or beneficiary receive less than the amount of pension benefits
216 for which eligible at the time of the member's retirement.

217 (6) Notwithstanding the provisions of this Section, the cost-of-
218 living adjustment must not exceed 2.5% for:

219 (A) credited service beginning on the first pay period after
220 June 30, 2011; or

221 (B) a disability retirement pension based upon a disability
222 occurring after June 30, 2011.

223 * * *

224 **33-116. Participant contributions.**

225 (a) Percent of participant contributions.

226 (1) (A) Group I. Each participant in Group I must contribute,
227 through regular payroll deductions, 4% of regular
228 earnings less than or equal to the Social Security wage
229 base and 8% of regular earnings that exceed the Social
230 Security wage base.

231 (B) Group II. Each participant in Group II must contribute,
232 through regular payroll deductions, 3% of regular
233 earnings less than or equal to the Social Security wage
234 base and 6% of regular earnings that exceed the Social
235 Security wage base.

236 (C) For service beginning on the first pay period after June
237 30, 2011 and before the first pay period beginning after
238 July 1, 2012, a participant may contribute an additional
239 2% of regular earnings on an after-tax basis by making
240 an irrevocable election in writing on or before September
241 1, 2011.

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(4) The County must contribute on behalf of a participant who rejoins County service after military service that qualified under Section 33-119(b) as credited service an amount equal to the amount that the participant could have contributed if the participant had worked for the County during the period of military service.

(A) Contributions for the period of military service must be based on the regular earnings the participant would have earned during the period of military service. If this amount of regular earnings is not reasonably ascertainable, the contribution must be based on the participant's average regular earnings during a period immediately preceding military service. The averaging period is 12 months, or the full length of the participant's County service, whichever is shorter.

(B) Contributions under this paragraph count toward the maximum annual contribution limits under the Internal Revenue Code for the year for which the contributions relate.

(C) The participant is not entitled to any retroactive allocation of forfeitures or any retroactive crediting of earnings because of contributions under this subparagraph.

(D) The County must not credit a participant with a discretionary after-tax contribution under subsection (a)(1)(C) unless the participant elects to make up the

269 contribution under Internal Revenue Code Section
 270 414(u), as amended.

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272 **33-117. Employer Contributions.**

273 (a) Amount of employer contributions.

274 (1) Group I participants. The County must contribute to the
 275 retirement savings plan in quarterly installments, on behalf of
 276 each Group I participant, an amount equal to [8%] 6% for
 277 service beginning on the first pay period after June 30, 2011
 278 and 8% for service beginning on the first pay period after June
 279 30, 2012 of that participant's regular earnings while a Group I
 280 participant during a plan year. [[The County must make a one-
 281 time contribution of .36% of the participant's fiscal year 2010
 282 regular earnings on the second pay period in July 2010 for a
 283 Group I participant on the County payroll as of June 30, 2009
 284 and who is also on the County payroll as of June 30, 2010.]]

285 (2) Group II participants. The County must contribute to the
 286 retirement savings plan in quarterly installments, on behalf of
 287 each Group II participant, an amount equal to [10%] 8% for
 288 service beginning on the first pay period after June 30, 2011
 289 and 10% for service beginning on the first pay period after June
 290 30, 2012 of that participant's regular earnings while a Group II
 291 participant during a plan year. [[The County must make a one-
 292 time contribution of .36% of the participant's fiscal year 2010
 293 regular earnings on the second pay period in July 2010 for a
 294 Group II participant on the County payroll as of June 30, 2009
 295 and who is also on the County payroll as of June 30, 2010.]]

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33-118. Maximum Annual Contribution

- (a) Contribution limitations.
 - (1) Notwithstanding any other provision in this Division, to the extent required under the Internal Revenue Code, the annual additions described in this Section that are allocated in any limitation year to the retirement accounts of any participant must not exceed the lesser of:
 - (A) \$30,000, effective January 1, 1995, or \$40,000, effective January 1, 2002 (the "dollar limitation"), as adjusted by the Internal Revenue Service from time to time to reflect cost of living increases; or
 - (B) 25 percent of the participant's compensation as defined below, or 100 percent of the participant's compensation, effective January 1, 2002, (the "percentage limitation").
 - (2) For purposes of this Section, the annual addition must be:
 - (A) County contributions;
 - (B) required participant contributions; ~~[[and]]~~
 - (C) forfeitures, but only if the retirement savings plan permits forfeitures to be added to the participant's account; and
 - (D) after-tax contributions.

* * *

33-131. Amount of benefits.

* * *

- (c) *Cost-of-living adjustments.* The administrator must make a cost-of-living adjustment annually to the disability benefits paid to any public safety employee under this plan. The cost of living adjustment must

323 be equal to 60% of the annual increase in the Baltimore-Washington
324 Area Consumer Price Index. However, the disability cost-of-living
325 increase must not increase the disability benefits by more than 3%
326 each 12-month period. A non-public safety employee must not
327 receive a cost-of-living adjustment for any benefit paid under this
328 plan. The cost-of-living adjustment for a disability benefit based upon
329 a disability occurring after June 30, 2011 must not exceed 2.5%.

330 **Sec. 2. Effective Date.**

331 The Council declares that this legislation is necessary for the immediate
332 protection of the public interest. This Act takes effect on July 1, 2011 except as
333 otherwise provided. For a member of the Optional Plan, Integrated Plan, [[Elected
334 Officials' Plan,]] or Guaranteed Retirement Income Plan holding the office of
335 County Executive, Councilmember, or Sheriff, the amendments to Sections 33-
336 39(a)(1), 33-39(a)(2), 33-44(c), [[, 33-40(d)(1)]] and 33-40(e)(1) take effect on
337 December 1, 2014. For a member of the Optional Plan, Integrated Plan, [[Elected
338 Officials' Plan,]] or Guaranteed Retirement Income Plan holding the office of
339 State's Attorney, the amendments to Sections 33-39(a)(1), 33-39(a)(2), 33-44(c),
340 [[, 33-40(d)(1)]] and 33-40(e)(1) take effect on January 5, 2015.

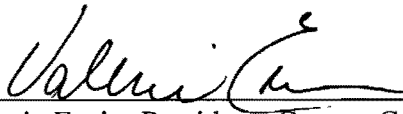
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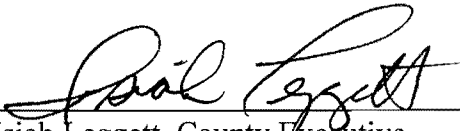
Valerie Ervin, President, County Council

5/26/2011

Date

346 *Approved:*

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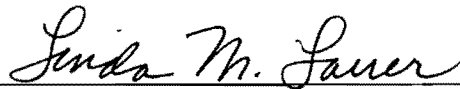
Isiah Leggett, County Executive

June 6, 2011

Date

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

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Linda M. Lauer, Clerk of the Council

June 7, 2011

Date