


**MEMORANDUM**

November 9, 2012

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Introduction:** Bill 32-12, Personnel – Regulations – Persons with Disabilities – Noncompetitive Appointment

Bill 32-12, Personnel – Regulations – Persons with Disabilities – Noncompetitive Appointment, sponsored by Councilmembers Andrews and Rice, Council Vice-President Navarro, Councilmembers Leventhal, Ervin, Floreen, and Elrich, Council President Berliner, and Councilmember Riemer, is scheduled to be introduced on November 13, 2012. A public hearing is tentatively scheduled for December 6 at 7:30 p.m.

Bill 32-12 would require the County Executive to adopt regulations permitting the noncompetitive appointment of a qualified person with a severe developmental, physical, or psychological disability to a County merit position. On November 6, 2012, the voters approved an amendment to Section 401 of the County Charter to allow the County to operate a program within the merit system to recruit and select qualified individuals with severe physical and mental disabilities on a noncompetitive basis. This Bill would implement the Council's authority under this new amendment to Section 401 of the County Charter.

The Bill would authorize a program that is similar to the noncompetitive appointment of a person with a disability to a merit position in the Federal Civil Service under Schedule A. Bill 46-09, enacted on February 2, 2010, created a preference for a qualified person with a disability who applies for a County merit position under the normal competitive process. Bill 46-09 was enacted to help reduce the high unemployment and underemployment rate for persons with a disability in the County. Bill 32-12 would create additional opportunities for a person with a severe disability to secure County employment through a noncompetitive appointment.

This packet contains:	<u>Circle #</u>
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Bill No. 32-12  
Concerning: Personnel – Regulations –  
Persons with Disabilities –  
Noncompetitive Appointment  
Revised: November 9, 2012 Draft No. 4  
Introduced: November 13, 2012  
Expires: May 13, 2014  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Councilmembers Andrews and Rice, Council Vice-President Navarro, Councilmembers Leventhal, Ervin, Floreen, and Elrich, Council President Berliner, and Councilmember Riemer

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**AN ACT** to:

- (1) establish a program, as authorized by the County Charter, permitting the noncompetitive appointment of certain qualified persons with severe disabilities who apply for a County merit position;
- (2) require the Executive to adopt regulations permitting the noncompetitive appointment of certain qualified persons with severe disabilities who apply for a County merit position; and
- (3) generally amend the merit system law concerning hiring persons with disabilities.

By amending

Montgomery County Code  
Chapter 33, Personnel and Human Resources  
Section 33-7

<b>Boldface</b>	<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:*

**Sec. 1. Short Title.**

This Act may be cited as the “Expanded Hiring of Persons with Disabilities Act.”

**Sec. 2. Section 33-7 is amended as follows:**

**33-7. County executive and merit system protection board responsibilities.**

\* \* \*

(d) *[Hiring preference] Special hiring rules for persons with disabilities.*

(1) Findings.

(A) Persons with disabilities are a largely untapped resource for outstanding candidates for County employment.

(B) There are many County residents with severe disabilities, including Wounded Warriors treated in the County at the Walter Reed National Military Medical Center.

~~[(B)]~~ (C) Persons with disabilities suffer from a high unemployment and underemployment rate in the County due in part to unfounded myths, fears and stereotypes associated with many disabilities.

~~[(C)]~~ (D) [A] Special hiring [preference] rules for persons with disabilities [is] are necessary to remedy past discrimination resulting from these unfounded myths, fears, and stereotypes and to enable the County to be a model employer of qualified persons with severe disabilities.

(E) Special hiring rules for qualified persons with severe disabilities would permit the County to hire highly productive interns with severe disabilities into merit system positions.

27 (F) The Charter permits the County to operate a program  
 28 within the merit system to recruit and select qualified  
 29 individuals with severe physical and mental disabilities  
 30 on a noncompetitive basis.

31 (2) The Executive must adopt by personnel regulation, under  
 32 Method (1), standards for establishing and maintaining [a  
 33 preference] special rules for the initial appointment of a  
 34 qualified person with a disability into a merit system position.  
 35 These standards must:

36 (A) define a person with a disability eligible for [the] a  
 37 competitive appointment with a preference as:

38 (i) a person with medical proof of a developmental  
 39 disability, a severe physical disability, or a  
 40 psychiatric disability; or

41 (ii) a veteran rated by the Department of Veterans  
 42 Affairs with a compensable service-connected  
 43 disability of 30 percent or more;

44 (B) define a person with a severe disability eligible for  
 45 noncompetitive appointment as a person with medical  
 46 proof of a severe developmental, physical, or psychiatric  
 47 disability; and

48 (C) require medical certification of a qualifying disability[;].

49 (3) Competitive appointment.

50 (A) The regulation must establish and maintain a preference  
 51 for the initial appointment of a qualified person with a  
 52 disability into a merit system position under the  
 53 following order of preference;

- 54 (i) an employee who is unable to perform the  
 55 employee's job because of a disability or injury  
 56 under the ADA;
- 57 (ii) an employee subject to reduction-in-force;
- 58 (iii) an employee who was granted a temporary  
 59 disability retirement under the Employees  
 60 Retirement System or an initial or temporary  
 61 disability benefit of any type under the Retirement  
 62 Savings Plan or the Guaranteed Retirement Income  
 63 Plan but is no longer eligible for such a temporary  
 64 disability retirement or benefit;
- 65 (iv) a veteran with a disability;
- 66 (v) an equal preference for a veteran without a  
 67 disability and a non- veteran with a disability[;  
 68 and] .

69 [(D)] (B) The regulation must only apply the preference to a  
 70 person who is among the highest rating category in a  
 71 normal competitive process.

72 (4) Noncompetitive appointment. The regulation must establish  
 73 and maintain standards for the noncompetitive appointment of a  
 74 qualified person with a severe disability to a position in the  
 75 merit system. The standards must:

76 (A) permit the noncompetitive appointment of a qualified  
 77 person with a severe disability without advertising the  
 78 position;

79 (B) require medical certification of disability;

- 80                    (C) apply only to the initial appointment of a qualified person
- 81                    with a severe disability to a merit system position; and
- 82                    (D) require the person to successfully complete the
- 83                    appropriate probationary period for the position.

84                    \*                    \*                    \*

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86 *Approved:*

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Roger Berliner, President, County Council	Date
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88 *Approved:*

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Isiah Leggett, County Executive	Date
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90 *This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council	Date
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## LEGISLATIVE REQUEST REPORT

Bill 32-12

*Personnel – Regulations – Persons with Disabilities – Noncompetitive Appointment*

**DESCRIPTION:** Bill 32-12 would require the County Executive to adopt regulations permitting the noncompetitive appointment of a qualified person with a severe developmental, physical, or psychological disability to a County merit position. The Bill would implement the Council's authority under a new amendment to Section 401 of the County Charter.

**PROBLEM:** Persons with a disability suffer from a high rate of unemployment and underemployment.

**GOALS AND OBJECTIVES:** To increase opportunities for persons with a disability to secure County employment.

**COORDINATION:** Human Resources, County Attorney

**FISCAL IMPACT:** To be requested.

**ECONOMIC IMPACT:** To be requested.

**EVALUATION:** To be requested.

**EXPERIENCE ELSEWHERE:** The Bill would create a hiring program similar to the Federal government's Schedule A program.

**SOURCE OF INFORMATION:** Robert H. Drummer, Senior Legislative Attorney, 240-777-7895

**APPLICATION WITHIN MUNICIPALITIES:** To be researched.

**PENALTIES:** Not applicable.