


MEMORANDUM

March 14, 2014

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Introduction:** Bill 19-14, Personnel – Regulations – Hiring Preference – County Residents

Bill 19-14, Personnel – Regulations – Hiring Preference – County Residents, sponsored by Councilmember Branson, is scheduled to be introduced on March 18, 2014. A public hearing is tentatively scheduled for April 8, 2014 at 1:30 p.m.

Bill 19-14 would require the Executive to adopt a Personnel Regulation establishing a preference for the initial hiring of a County resident if the resident is rated the same as a person who is not a County resident after all other preferences have been applied. The Bill would apply to a merit system position that is not in any bargaining unit.

Background

Md. Local Government Code Ann. §1-201 prohibits a County from requiring an employee to reside in the County as a condition of employment. Section 1-201 also authorizes a County to:

...grant a resident of the State, county, or municipality additional points or credits in employment or promotion decisions if the points or credits are provided in accordance with a merit system established by the county or municipality by local law or ordinance.

The County Personnel Regulations currently provide a hiring preference for certain persons with a disability and certain veterans. Bill 16-14 would establish a residency preference in the initial hiring for an unrepresented merit position that would only apply to a person in the highest rating category to break a tie with a non-resident after all other preferences are applied.

In order to be eligible for the residency preference, a person must be domiciled in the County at the time of application and appointment. The Court of Appeals recently described domicile as “the particular permanent home of an individual, to which place he has, whenever he is absent, the intention of returning.” *Jones v. Anne Arundel County*, 432 Md. 386, 389 (2013). If appointed, the person would not have to remain a County resident as a condition of employment.

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Bill No. 19-14
Concerning: Personnel – Regulations –
Hiring Preference – County
Residents
Revised: March 10, 2014 Draft No. 2
Introduced: March 18, 2014
Expires: September 18, 2015
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Branson

AN ACT to:

- (1) establish a hiring preference for a County resident for certain positions;
- (2) require the Executive to adopt regulations implementing a hiring preference for a County resident who applies for certain positions; and
- (3) generally amend the merit system law concerning hiring preferences for certain County positions.

By amending

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

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:

Sec. 33-7 is amended as follows:

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

* * *

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

(A) define a person with a disability eligible for a competitive appointment with a preference as:

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

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

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

(C) require medical certification of a qualifying disability.

(3) Competitive appointment.

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

(i) an employee who is unable to perform the employee's job because of a disability or injury under the ADA;

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- (ii) an employee subject to reduction-in-force;
- (iii) an employee who was granted a temporary disability retirement under the Employees Retirement System or an initial or temporary disability benefit of any type under the Retirement Savings Plan or the Guaranteed Retirement Income Plan but is no longer eligible for such a temporary disability retirement or benefit;
- (iv) a veteran with a disability;
- (v) an equal preference for a veteran without a disability and a non- veteran with a disability.

(B) This regulation must only apply the preference to a person who is among the highest rating category in a normal competitive process.

(C) This regulation must apply a preference for the initial hiring of a person who is domiciled in the County at the time of application and appointment if:

- (i) the position to be filled is a County merit position that is not in any bargaining unit; and
- (ii) the person is rated the same as a person who is not domiciled in the County after all other preferences have been applied.

* * *

Approved:

Craig L. Rice, President, County Council

Date

LEGISLATIVE REQUEST REPORT

Bill 19-14

Personnel – Regulations – Hiring Preference – County Residents

DESCRIPTION: The Bill would require the Executive to adopt a Personnel Regulation establishing a preference for the initial hiring of a County resident if the resident is rated the same as a person who is not a County resident after all other preferences have been applied. The Bill would apply to a merit system position that is not in any bargaining unit.

PROBLEM: There is currently no preference for a County resident under the merit system.

GOALS AND OBJECTIVES: The goal is to increase the number of well qualified County residents holding merit positions.

COORDINATION: Human Resources, County Attorney

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, 240-777-7895

APPLICATION WITHIN MUNICIPALITIES: Not applicable.

PENALTIES: None.