

Emergency Bill No. 25-01  
Concerning: Personnel – Retirement -  
Amendments  
Revised: 7-31-01 Draft No. 3  
Introduced: July 10, 2001  
Enacted: July 31, 2001  
Executive: Returned Unsigned  
Effective: August 14, 2001 (See §3.)  
Sunset Date: None  
Ch. 21, Laws of Mont. Co. 2001

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Councilmember Praisner

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**AN EMERGENCY ACT to:**

- (1) allow an individual of the opposite sex to qualify as the domestic partner of a member of the Police collective bargaining unit for purposes of employee benefits;
- (2) change the minimum service requirements for retirement for Police Telecommunicators and members of the Service, Labor, and Trades bargaining unit;
- (3) increase the amount of member contributions required for certain retirement groups;
- (4) allow refunds of member contributions used to purchase prior service if County law is later amended to reduce the maximum years of service for which a member may receive credit;
- (5) change the amount of pension at normal retirement for certain retirement groups;
- (6) clarify that medical reevaluation under the current disability retirement provisions applies to all retired members;
- (7) for retirement Group G, allow the Disability Review Panel to request and consider an independent vocational assessment in recommending an appropriate service-connected disability benefit;
- (8) allow a "pop-up" joint and survivor pension payment option;
- (9) change the cost-of-living adjustment for certain members;
- (10) for a Retirement Savings Plan member, allow reinstatement of forfeited County contributions if the individual is reemployed by the County within [[6]] 12 months of separation;
- (11) allow certain former employees who return to County service to transfer the present value of certain benefits to the Retirement Savings Plan;
- (12) require certain employees to be notified of the opportunity to transfer certain retirement benefits, and allow certain benefits to be transferred retroactively during a limited time period; and
- (13) generally amend the law regarding County employee retirement programs.

## By amending

Montgomery County Code

Chapter 33, Personnel and Human Resources

Sections 33-22, 33-35, 33-37, 33-38, 33-39, 33-39A, 33-40, 33-41, 33-42, 33-43, 33-44,  
33-45, and 33-120

|                              |  |
|------------------------------|--|
| <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:*





- 53                    **(B) After June 30, 2002, a Group A member who is a Police**  
54                    **Telecommunicator must have at least:**
- 55                    **(i) 5 years of credited service and be at least age 60;**  
56                    **or**
- 57                    **(ii) 30 years of credited service and be at least age 50.**
- 58                    **(2) Group B: The member [has] must have at least:**
- 59                    **(A) 15 years of credited service and [has reached] be at least**  
60                    **age 55[,]; or**
- 61                    **(B) [has at least] 30 years of credited service and [has**  
62                    **reached] be at least age 51.**
- 63                    **(3) Group D: The member [meets] must meet the requirements**  
64                    **[contained in] of the County police relief and retirement fund**  
65                    **law[ of the County].**
- 66                    **(4) Group E: The member [has] must have at least:**
- 67                    **(A) 15 years of credited service and [has reached] be at least**  
68                    **age 55[,]; or**
- 69                    **(B) [has at least] 25 years of credited service and [has**  
70                    **reached] be at least age 46.**
- 71                    **(5) Group F: The member [has] must have at least:**
- 72                    **(A) 15 years of credited service and [has reached] be at least**  
73                    **age 55[,]; or**
- 74                    **(B) [has at least] 25 years of credited service and [has**  
75                    **reached] be at least age 46.**
- 76                    **(6) Group G: The member [has] must have at least:**
- 77                    **(A) 15 years of credited service and [has reached] be at least**  
78                    **age 55; or**
- 79                    **(B) 25 years of credited service, regardless of age.**

- 80 (7) (A) Group H: The member [has] must have at least:  
 81 (i) 5 years of credited service and [has reached] be at  
 82 least age 60[,]; or  
 83 (ii) [has at least] 30 years of credited service and [has  
 84 reached] be at least age 55.

85 (B) After June 30, 2002, a Group H member who is a Police  
 86 Telecommunicator must have at least:

- 87 (i) 5 years of credited service and be at least age 60;  
 88 or  
 89 (ii) 30 years of credited service and be at least age 50.

90 (C) After June 30, 2002, a Group H member who is also an  
 91 SLT bargaining unit member must have at least:

- 92 (i) 5 years of credited service and be at least age 60;  
 93 or  
 94 (ii) 30 years of credited service and be at least age 50.

95 (8) [The normal retirement date for an] An elected officials'  
 96 participant [is the first day of the month after the month the  
 97 elected officials' participant attains age 62 and has] must have  
 98 at least the lesser of a full term of office or 4 years of credited  
 99 service and be at least age 62.

100 \* \* \*

101 (f) *Trial retirement.*

102 \* \* \*

- 103 (6)  
 104 [a.] (A) \* \* \*  
 105 [b.] (B) \* \* \*  
 106 [c.] (C) \* \* \*

107 [d.] (D) \* \* \*

108 (7) \* \* \*

109 [a.] (A) \* \* \*

110 [b.] (B) \* \* \*

111 (8) \* \* \*

112 [a.] (A) \* \* \*

113 [b.] (B) \* \* \*

114 \* \* \*

115 **33-39. Member contributions and credited interest.**

116 (a) [*Percent of member*] Member contributions. Each member of the  
 117 retirement system must contribute[, through regular payroll  
 118 deductions,] a portion of the member's regular earnings [as follows:]  
 119 through regular payroll deductions.

120 (1) Member Contributions to the Optional Retirement Plan. A  
 121 member of the Optional Retirement Plan must contribute the  
 122 following percentage of regular earnings:

123 (A) [For members who elect to remain in the Optional  
 124 Retirement Plan, the contribution is] Group A or H  
 125 member, 6 percent [for a group A or H member,];

126 (B) Group B member, 7 percent [for a group B member,];

127 (C) Group D member, 7½ percent [for a group D, E, or F  
 128 member,]; and

129 (D) Group E, F, or G member, 8½ percent [for a Group G  
 130 member].

131 [B. To the extent allowed under Section 414(h)(2) of the  
 132 Internal Revenue Code, the County must "pick up" (as  
 133 described in the Internal Revenue Code) mandatory

134 member contributions to the Optional Retirement Plan  
 135 for pay periods beginning on or after July 1, 1989.  
 136 C. The Chief Administrative Officer may allow an agency  
 137 that is not an "employing unit" (as described in Section  
 138 414(h)(2) of the Internal Revenue Code) to participate in  
 139 the retirement system. The County must not "pick up"  
 140 (as described in the Internal Revenue Code) mandatory  
 141 contributions of members employed by a participating  
 142 agency that is not an "employing unit".]

143 (2) Member Contributions to the Integrated Retirement Plan.

144 [(A)]

145 [For members] A member of the Integrated Retirement Plan,  
 146 the contribution is] must contribute the following percentage of  
 147 regular earnings:

148 [(i)] (A) Group A[ - 3], 4 percent up to the maximum Social  
 149 Security wage base, and 6 percent of regular earnings  
 150 that exceed the wage base[.];

151 [(ii)] (B) Group B[ - 3 ½], 4½ percent up to the maximum  
 152 Social Security wage base, and 7 percent of regular  
 153 earnings that exceed the wage base[.];

154 [(iii)] (C) Group E[ - 3 ¾], 4¾ percent up to the maximum  
 155 Social Security wage base, and [7 ½] 8½ percent of  
 156 regular earnings that exceed the wage base[.];

157 [(iv)] (D) Group F[ - 4], 4¾ percent up to the maximum Social  
 158 Security wage base and [8] 8½ percent of regular  
 159 earnings that exceed the wage base[.];



- 160 [(v)] (E) Group G[ -], 4¾ percent up to the maximum Social  
 161 Security wage base and 8½ percent of regular earnings  
 162 that exceed the wage base[.] and;
- 163 [(vi)] (F) Group H[ - 3], 4 percent up to the maximum Social  
 164 Security wage base and 6 percent of regular earnings that  
 165 exceed the wage base.
- 166 [(B) To the extent allowed under Section 414(h)(2) of the  
 167 Internal Revenue Code, the County must "pick up" (as  
 168 described in the Internal Revenue Code) mandatory  
 169 member contributions to the Integrated Retirement Plan  
 170 for pay periods beginning on or after July 1, 1989.
- 171 (C) The Chief Administrative Officer may allow an agency  
 172 that is not an "employing unit" (as described in Section  
 173 414(h)(2) of the Internal Revenue Code) to participate in  
 174 the retirement system. The County must not "pick up"  
 175 (as described in the Internal Revenue Code) mandatory  
 176 contributions of members employed by a participating  
 177 agency that is not an "employing unit."]
- 178 (3) Member Contributions to the Elected Officials' Plan. [For  
 179 members] A member of the Elected Officials' Plan[, the  
 180 contribution is] must contribute 3 percent. To the extent  
 181 allowed under Section 414(h)(2) of the Internal Revenue Code,  
 182 the County must "pick up" (as described in the Internal  
 183 Revenue Code) mandatory member contributions to the Elected  
 184 Officials' Plan.
- 185 (4) To the extent allowed under Section 414(h)(2) of the Internal  
 186 Revenue Code, the County must "pick up" (as described in the

187 Internal Revenue Code) mandatory member contributions to the  
 188 Optional and Integrated, Retirement Plans for pay periods  
 189 beginning after June 30, 1989.

190 (5) The Chief Administrative Officer may allow an agency that is  
 191 not an "employing unit" (as described in Section 414(h)(2) of  
 192 the Internal Revenue Code) to participate in the retirement  
 193 system. The County must not "pick up" (as described in the  
 194 Internal Revenue Code) mandatory contributions of members  
 195 employed by a participating agency that is not an "employing  
 196 unit".

197 \* \* \*

198 (c) *Return of member contributions.* [Member contributions may be  
 199 refunded:]

200 (1) [(A)] [Upon termination of county] Refund after employee's  
 201 separation. The County must refund contributions to a member  
 202 who is separated from County service, [except by death or  
 203 retirement, each] unless the member dies or retires. The County  
 204 must pay a member who has not elected to vest [shall be paid]  
 205 the full amount of accumulated contributions with credited  
 206 interest, less any indebtedness to the County government or the  
 207 Montgomery County Employees Federal Credit Union.

208 [(B)] (2) Refund after separation of an elected officials' participant.

209 An elected officials' participant who ends employment with the  
 210 County before [the] that participant's normal retirement date [of  
 211 that elected officials' participant], and who does not receive a  
 212 mandatory refund of [that elected officials'] the participant's  
 213 account balances under Section 33-40(d)(2)(D), may, at the

214 [elected officials'] participant's request, receive the account  
215 balances, including picked-up contributions, in the required and  
216 the voluntary elected officials' participant contributions  
217 accounts established for that [elected officials'] participant, less  
218 any indebtedness to the [county government] County or the  
219 Montgomery County Employees Federal Credit Union, in a  
220 single lump-sum payment.

221 [(2)] (3) Refund after a member's death. If a member dies, the Chief  
222 Administrative Officer must pay to the designated beneficiary  
223 accumulated member contributions plus credited interest, less  
224 any indebtedness to the County government, unless the  
225 beneficiary is eligible for an annuity under Section 33-46. If an  
226 elected officials' participant dies before the County has  
227 implemented the method of distribution under Section 33-44,  
228 the Chief Administrative Officer must pay to the beneficiary, in  
229 accordance with Section 33-46(g), the account balances,  
230 including picked-up contributions, in the required and the  
231 voluntary elected officials' participant contributions accounts,  
232 less any indebtedness to the [county government] County or the  
233 Montgomery County Employees Federal Credit Union.

234 [(3)] (4) Refund after an employee elects to participate in the  
235 integrated plan instead of the optional plan. [Upon election]  
236 When a member elects to participate in the integrated  
237 retirement plan instead of the optional retirement plan, [a] the  
238 member must receive a refund of member contributions that  
239 exceeded the amount that would have been paid [had] if the  
240 contribution rate of the integrated retirement plan had been in

241 effect from date of enrollment to date of election, plus credited  
 242 interest earned on those contributions. Despite this  
 243 requirement, a member who elects to participate in the  
 244 integrated retirement plan instead of the optional retirement  
 245 plan while still employed by the County government must not  
 246 receive a refund of picked-up contributions made on or after  
 247 July 1, 1989 or credited interest earned on those contributions.  
 248 [A refund of picked-up] Picked-up contributions made on or  
 249 after July 1, 1989 and credited interest may be [made] refunded  
 250 only if one of the events described in Section 33-45(b) occurs.

251 (5) Refund after a statutory change that reduces the maximum  
 252 years of credited service for a retirement group.

253 (A) If a member purchases prior service and this Chapter is  
 254 later amended to reduce the maximum years of service  
 255 for which a member may receive credit, the County must  
 256 refund to the member that portion of the retirement  
 257 contributions made to purchase the unneeded prior  
 258 service, with interest, if the member requests a refund  
 259 before the member retires.

260 (B) The County must refund to the member, with interest,  
 261 that portion of the payment made to purchase any prior  
 262 service which exceeds the maximum credited service for  
 263 the employee's retirement group. In this subsection  
 264 "payment" means the lump sum amount, determined at  
 265 the time of purchase on an actuarial or flat payment basis,  
 266 less any interest paid by the member or any contributions  
 267 that were previously refunded. Interest paid under this

268 subsection must be credited in the same manner and  
 269 amount as for a member's accumulated contributions  
 270 under subsection (b). To calculate interest on a refunded  
 271 payment, the amount must be assumed to have been paid  
 272 in full when the service was purchased. The proper  
 273 refund must be paid to the member after the member's  
 274 retirement begins.

275 \* \* \*

276 **33-39A. Investment of contributions to the elected officials' plan.**

277 \* \* \*

278 (b) \* \* \*

279 \* \* \*

280 (2) \* \* \*

281 [a.] (A) \* \* \*

282 [b.] (B) \* \* \*

283 [c.] (C) \* \* \*

284 **33-40. Employer contributions.**

285 \* \* \*

286 (d) \* \* \*

287 \* \* \*

288 (2) \* \* \*

289 [a.] (A) \* \* \*

290 [b.] (B) \* \* \*

291 [c.] (C) \* \* \*

292 [d.] (D) \* \* \*

293 **33-41. Credited service.**

294 (a) *Member's credited service.*

295 \* \* \*

296 (5) The Chief Administrative Officer must notify each eligible  
 297 employee who attains 5 years of County service of the  
 298 opportunity provided under this Section to purchase credited  
 299 service. The Chief Administrative Officer must also notify  
 300 each [[eligible]] new employee that any person who transfers  
 301 from State service or from a dual merit system position [[of any  
 302 opportunity]] may be eligible to transfer credited service to the  
 303 County retirement system.

304 \* \* \*

305 **33-42. Amount of pension at normal retirement date or early retirement**  
 306 **date.**

307 \* \* \*

308 (b) *Amount of pension at normal retirement date.*

309 (1) Pension amount for an Optional Retirement Plan member.

310 (A) Except for a Group E, F, or G member, the annual  
 311 pension for a member of the optional retirement plan who  
 312 retires on a normal retirement must equal 2 percent of  
 313 average final earnings multiplied by years of credited  
 314 service, up to a maximum of 36 years, plus sick leave  
 315 credits. Years of credited service of less than one full  
 316 year must be prorated.

317 (B) For a Group E member who is a member of the optional  
 318 plan and retires on a normal retirement, the annual  
 319 pension must equal 2.4 percent of average final earnings  
 320 for each of the first 25 years of credited service  
 321 completed, and 2 percent of average final earnings for

322 each year of credited service of more than 25 years, to a  
323 maximum of 31 years plus sick leave credits. Years of  
324 credited service of less than one full year must be  
325 prorated. Sick leave credits used for years in excess of  
326 25 years must be credited at 2 percent of average final  
327 earnings. The maximum benefit with the application of  
328 sick leave credits must not exceed 76 percent of average  
329 final earnings.

330 (C) For a Group F member who is a member of the optional  
331 plan and retires on a normal retirement, the annual  
332 pension must equal 2.4 percent of average final earnings  
333 multiplied by years of credited service, up to a maximum  
334 of 30 years, plus sick leave credits. Years of credited  
335 service of less than one full year must be prorated. Sick  
336 leave credits used for years in excess of 30 years must be  
337 credited at 2 percent of average final earnings. The  
338 maximum benefit with the application of sick leave  
339 credits must not exceed 76 percent of average final  
340 earnings.

341 (D) For a Group G member who is a member of the optional  
342 plan and retires on a normal retirement, the annual  
343 pension must equal 2 percent of average final earnings  
344 for each of the first 20 years of credited service  
345 completed, 3 percent of average final earnings for  
346 completion of any year, or prorated portion of a year of  
347 credited service, in years 21 through 24, 8 percent of  
348 average final earnings for the 25th year of credited

349 service completed or for a prorated portion of credited  
350 service of more than 24 years up to the completion of 25  
351 years, and 2 percent of average final earnings for each  
352 year or prorated portion of a year of credited service of  
353 more than 25 years, to a maximum of 31 years plus sick  
354 leave credits.

355 (2) Pension amount for an Integrated Retirement Plan member.

356 (A) For a Group A, B, or H member in the integrated  
357 retirement plan who retires on a normal retirement, the  
358 annual pension must be computed as follows:

359 (i) From date of retirement to the month of attainment  
360 of Social Security retirement age: 2 percent of  
361 average final earnings multiplied by years of  
362 credited service up to a maximum of 36 years, plus  
363 sick leave credits. Credited service of less than  
364 one full year must be prorated.

365 (ii) From the month of attainment of Social Security  
366 retirement age: 1¼ percent of average final  
367 earnings up to the Social Security maximum  
368 covered compensation level at time of retirement,  
369 plus 2 percent of average final earnings above the  
370 Social Security maximum covered compensation  
371 level at time of retirement, multiplied by years of  
372 credited service up to a maximum of 36 years, plus  
373 sick leave credits. Credited service of less than  
374 one full year must be prorated. This amount is  
375 subject initially to the cost-of-living adjustment



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provided in Section 33-44(c) from date of retirement to Social Security retirement age.

**(B)** [Except for a Group F or G] For a Group D member, the annual pension for a member of the integrated retirement plan who retires on a normal retirement must be computed as follows:

- (i) From date of retirement to the month of attainment of Social Security retirement age: 2 percent of average final earnings multiplied by years of credited service up to a maximum of 36 years, plus sick leave credits. Years of credited service of less than one full year[,] must be prorated.
- (ii) From the month of attainment of Social Security retirement age: one percent of average final earnings up to the Social Security maximum covered compensation level at time of retirement, plus 2 percent of average final earnings in excess of the Social Security maximum covered compensation level at time of retirement, multiplied by years of credited service, up to a maximum of 36 years, plus sick leave credits. Years of credited service of less than one full year must be prorated. This amount is subject initially to the cost-of-living adjustment provided in [subsection (c) of] Section 33-44(c) from date of retirement to Social Security retirement age, if any.

- 402                   (C) For a Group E member in the integrated retirement plan  
403                   who retires on a normal retirement, the annual pension  
404                   must be computed as follows:
- 405                   (i) From the date of retirement to the month that the  
406                   member reaches Social Security normal retirement  
407                   age: 2.4 percent of average final earnings for each  
408                   of the first 25 years of credited service completed,  
409                   and 2 percent of average final earnings for each  
410                   year of credited service of more than 25 years, to a  
411                   maximum of 31 years plus sick leave credits.  
412                   Years of credited service of less than one full year  
413                   must be prorated. Sick leave credits used for years  
414                   in excess of 25 years must be credited at 2 percent  
415                   of average final earnings. The maximum benefit  
416                   with the application of sick leave credits must not  
417                   exceed 76 percent of average final earnings.
- 418                   (ii) From the month the member reaches Social  
419                   Security normal retirement age: 1.25 percent of  
420                   average final earnings up to the Social Security  
421                   maximum covered compensation in effect on the  
422                   date of retirement for each year of credited service  
423                   to a maximum of 31 years plus sick leave credits,  
424                   plus 2.4 percent of average final earnings above  
425                   the Social Security maximum covered  
426                   compensation in effect on the date of retirement  
427                   for each of the first 25 years of credited service  
428                   completed, and 2 percent of average final earnings

429 above the Social Security maximum covered  
 430 compensation in effect on the date of retirement  
 431 for each year of credited service of more than 25  
 432 years, to a maximum of 31 years plus sick leave  
 433 credits. Years of credited service of less than one  
 434 full year must be prorated. Sick leave credits used  
 435 for years in excess of 25 years must be credited at  
 436 2 percent of average final earnings above the  
 437 Social Security maximum covered compensation  
 438 in effect on the date of retirement.

439 [(B)] (D) For a Group F member in the integrated retirement  
 440 plan who retires on a normal retirement, the annual  
 441 pension must be computed as follows:

- 442 (i) From date of retirement to the month of attainment  
 443 of Social Security retirement age: [2] 2.4 percent  
 444 of average final earnings multiplied by years of  
 445 credited service up to a maximum of [36] 30 years,  
 446 plus sick leave credits. Credited service of less  
 447 than one full year must be prorated. Sick leave  
 448 credits used for years in excess of 30 years must be  
 449 credited at 2 percent of average final earnings.  
 450 The maximum benefit with the application of sick  
 451 leave credits must not exceed 76 percent of  
 452 average final earnings.
- 453 (ii) [From the month of attainment of Social Security  
 454 retirement age: 1 ¼ percent of average final  
 455 earnings up to the Social Security maximum

456 covered compensation level at time of retirement,  
457 plus 2 percent of average final earnings above the  
458 Social Security maximum covered compensation  
459 level at time of retirement, multiplied by years of  
460 credited service up to a maximum of 36 years, plus  
461 sick leave credits. Credited service of less than  
462 one full year must be prorated. This amount is  
463 subject initially to the cost-of-living adjustment  
464 provided in subsection (c) of Section 33-44 from  
465 date of retirement to Social Security retirement  
466 age.] From the month the member reaches Social  
467 Security normal retirement age: 1.65 percent of  
468 average final earnings up to the maximum of 30  
469 years, and 1.25 percent of average final earnings  
470 for years in excess of 30 years, credited with sick  
471 leave, up to the Social Security maximum covered  
472 compensation in effect on the date of retirement,  
473 plus 2.4 percent of average final earnings above  
474 the Social Security maximum covered  
475 compensation in effect on the date of retirement,  
476 multiplied by years of credited service up to a  
477 maximum of 30 years, plus sick leave credits.  
478 Years of credited service of less than one full year  
479 must be prorated. Sick leave credits used for years  
480 in excess of 30 years must be credited at 2 percent  
481 of average final earnings above the Social Security

482 maximum covered compensation in effect on the  
 483 date of retirement.

484 [(C)] (E) For a Group G member in the integrated retirement  
 485 plan who retires on a normal retirement, the annual  
 486 pension must be computed as follows:

487 \* \* \*

488 **33-43. Disability retirement.**

489 (a) *Applicability.* This Section applies to[ an application for disability  
 490 benefits under this Article filed]:

491 (1) an application for disability benefits filed on or after March 1,  
 492 2000, by a member who is also a member of the Police  
 493 Bargaining Unit; [or]

494 (2) an application for disability benefits filed after May 18, 1995,  
 495 by any other member[.]; or

496 (3) a medical reevaluation of a disability retiree under subsection  
 497 (g), regardless of when an application for disability benefits  
 498 was filed.

499 \* \* \*

500 (d) Disability retirement procedures.

501 \* \* \*

502 (8) (A) If the Panel is unable to make a determination based on  
 503 the evidence presented to it, the Panel may:

504 (i) direct the applicant to undergo a medical  
 505 examination (including all relevant medical tests)  
 506 by a medical doctor who is not a member of the  
 507 Disability Review Panel; and

508                   (ii) if required for the Panel to make a  
 509                               recommendation under Section 33-43(i)(2),  
 510                               request an independent vocational assessment.

511           (B) The County must pay the cost of the examination and  
 512                   assessment.

513           (C) The Panel must issue its written recommendation within  
 514                   30 calendar days after the Panel receives the later of:

515                   (i) the full report [is received] from the medical  
 516                               doctor who conducted the examination; or

517                   (ii) the full report of the results of the independent  
 518                               vocational assessment.

519                               \*     \*     \*

520           (h) *Amount of pension at non-service-connected disability retirement.*

521                   [(1) A member, other than a Group G member, who retires on  
 522                               non-service-connected disability retirement must receive an  
 523                               annual pension equal to the greater of:

524                               (A) 2 percent of average final earnings for each year of  
 525                                       credited service, up to 36 years plus any additional sick  
 526                                       leave credits; or

527                               (B) 33 percent of final earnings.

528                   (2) A [Group G] member who retires on non-service-connected  
 529                               disability retirement must receive an annual pension equal to  
 530                               the greater of:

531                               [(A)] (1) the amount calculated under Section 33-42(b)(1); or

532                               [(B)] (2) 33 1/3 percent of final earnings.

533           (i) *Amount of pension at service-connected disability retirement.*

- 534 (1) A member, other than a Group G member, who retires on  
535 service-connected disability retirement must receive an annual  
536 pension [computed as follows:
- 537 (A) *For total incapacity.* 2 percent of final earnings,  
538 multiplied by years of credited service, up to a maximum  
539 of 36 years and any additional sick leave credits]  
540 calculated under Section 33-42(b)(1), but not less than 66  
541  $\frac{2}{3}$  percent of final earnings[, if the member is totally and  
542 permanently incapacitated].
- 543 [(B) *For partial incapacity.* 6 percent of final earnings for  
544 each 10 percent of permanent disability, but not less than  
545 25 percent of final earnings, if the member is partially  
546 and permanently incapacitated. However, if the member  
547 meets the age requirements for early retirement, not less  
548 than the yearly amount of retirement pension computed  
549 under Section 33-42(c) must be payable.]
- 550 (2) A Group G member must receive a service-connected disability  
551 pension benefit calculated under Section 33-42(b)(1), subject to  
552 the following:
- 553 (A) ~~[[the]]~~ The benefit must be at least 70 percent of final  
554 earnings if the Chief Administrative Officer [determines]  
555 finds, based on a recommendation from the Disability  
556 Review Panel, that:
- 557 (i) the member suffers from a medically determinable  
558 physical or mental impairment that makes the  
559 member unable to engage in any substantial

560 gainful activity and [which] is expected to end in  
 561 death or last for at least 12 consecutive months; or  
 562 (ii) the member's disability is so severe that the  
 563 member would qualify to receive disability  
 564 benefits from the U.S. Social Security  
 565 Administration, even though the member does not  
 566 receive or has not applied for such benefits[[]; or]]<sub>2</sub>  
 567 (B) ~~[[the]]~~ The benefit must be at least 52½ percent of final  
 568 earnings if the Chief Administrative Officer [determines]  
 569 finds that the member meets the standards to receive  
 570 service-connected disability benefits under subsection (f).  
 571 (3) Under this subsection, "final earnings" for a Group F or G  
 572 member who is participating in a job-sharing program under a  
 573 collective bargaining agreement between the County and a  
 574 certified representative means the regular earnings that the  
 575 member would have received if the member had been employed  
 576 on a full-time basis on the last date of active service.

577 \* \* \*

578 (l) *Appeal procedures.*

579 \* \* \*

580 (4) The Chairperson must:

581 (A) decide all issues on prehearing procedures, including any  
 582 issue related to discovery; and

583 (B) rule on all issues of law that arise before the hearing,  
 584 unless ruling on the issue would decide the appeal.

585 ~~[(4)]~~ (5) The Disability Arbitration Board and Police Disability  
 586 Arbitration Board must render a decision quickly. The



587 Disability Arbitration Board and Police Disability Arbitration  
 588 Board should issue the decision within 30 calendar days after  
 589 the hearing or receiving any post-hearing briefs.

590 \* \* \*

591 **33-44. Pension payment options and cost-of-living adjustments.**

592 (a) *[Election of pension] Pension payment [option] options.*

593 (1) A member may elect an optional form of pension actuarially  
 594 equivalent to the normal form of retirement pension otherwise  
 595 payable, unless the member qualifies for a non-service-  
 596 connected disability retirement before reaching the early  
 597 retirement date. The [determination of] Chief Administrative  
 598 Officer must not consider the health condition of the member  
 599 when deciding what is "actuarially equivalent" [shall not  
 600 include the health condition of the member whether or not  
 601 disabled].

602 (2) [A member who qualifies for a non-service-connected disability  
 603 retirement before reaching early retirement date is not eligible  
 604 to elect a pension payment option.] A member who qualifies  
 605 for non-service-connected disability retirement on or after  
 606 reaching the early retirement date [is eligible to] may elect a  
 607 pension payment option.

608 (3) A member who qualifies for a service-connected disability  
 609 retirement may elect a pension payment option, [irrespective]  
 610 regardless of age and credited service.

611 (4) To elect a pension payment option, the member must file the  
 612 appropriate form at least one [(1)] month before the normal,  
 613 early, or disability retirement date.

- 614 (5) The pension payment option [will be effective] must take effect  
 615 on the member's retirement date and [will be] is void if the  
 616 member or the named beneficiary dies before that date.
- 617 (6) The following forms of pension options are available:
- 618 [(1)] (A) *Ten-Year Certain and Continuous.* \* \* \*
- 619 [(2)] (B) *Cash Refund Pension Option (available to members who*  
 620 *were members of the employees' retirement system of the state*  
 621 *on August 15, 1965).* \* \* \*
- 622 [(3)] (C) *Joint and Survivor Pension Option.*
- 623 (i) [On or after May 1, 1970] Under this option, the  
 624 County must make pension payments in an  
 625 adjusted amount [may be paid] to the member  
 626 during the member's lifetime and, [if at a] at the  
 627 member's death, make pension payments to the  
 628 designated beneficiary (spouse, domestic partner,  
 629 or children only) who survives[,]. The County  
 630 must make the pension payments to the surviving  
 631 beneficiary for the rest of the beneficiary's lifetime  
 632 in the amount payable to the member or other  
 633 amount elected by the member, but not less than  
 634 10 percent of the amount payable to the member[,  
 635 must be paid for the balance of the beneficiary's  
 636 lifetime].
- 637 (ii) Upon the death of both the member and the  
 638 beneficiary, a death benefit must be paid in the  
 639 same manner as is provided under the normal form  
 640 of retirement pension for which the member had

641 been eligible. [Notwithstanding Article II of  
 642 Chapter 35 (Police Retirement and Relief Fund), a  
 643 group D member who retired before July 1, 1970,  
 644 may, not later than August 31, 1974, elect the joint  
 645 and survivor pension option effective July 1, 1974,  
 646 instead of the surviving spouse's benefit under  
 647 Section 35-15(b). A group D retiree's election of  
 648 the joint and survivor pension option does not  
 649 affect the amount of the retiree's pension. When  
 650 the group D retiree dies, the spouse's or domestic  
 651 partner's benefit must equal 50 percent of the  
 652 retiree's benefit on the date of death, payable until  
 653 the spouse or domestic partner dies.]

654 (iii) Pop-up Option. At retirement, the member may  
 655 elect the pop-up variation of a joint and survivor  
 656 option with an appropriate actuarial reduction.  
 657 Under this option, if the member and designated  
 658 beneficiary divorce or the designated beneficiary  
 659 dies before the member dies, the member's  
 660 monthly payments for the rest of the member's life  
 661 must "pop up" to the amount that they would have  
 662 been if the member had elected the modified cash  
 663 refund annuity at retirement.

664 [(4)] (D) Modified Cash Refund Annuity. \* \* \*  
 665 \* \* \*

666 (c) *Cost-of-living adjustment.* A retired member or beneficiary, including  
 667 the surviving spouse or domestic partner of a group D member or

668 other beneficiary who survives the member under a pension option or  
 669 who is otherwise eligible to receive benefits, must receive an annual  
 670 cost-of-living adjustment in pension benefits[ computed as follows:].

671 \* \* \*

672 (3) The percentage cost-of-living adjustment of pension benefits  
 673 must be obtained by dividing the most recent index determined  
 674 under paragraph (2) by the next preceding index multiplied by  
 675 100 less 100.

676 \* \* \*

677 (B) A member enrolled on or after July 1, 1978, must receive  
 678 [60] 100 percent of the [cost-of-living adjustment]  
 679 change in the consumer price index up to [a total  
 680 adjustment of 5] 3 percent, and 60 percent of any change  
 681 in the consumer price index greater than 3 percent, up to  
 682 a total adjustment of 7½ percent in any year. The [5-] 7½  
 683 percent annual [limitation] limit does not apply to:

- 684 (i) a retired member who is disabled; or  
 685 (ii) a pensioner aged 65 or older for a fiscal year  
 686 beginning after the date the pensioner reaches age  
 687 65.

688 [(C) A member of Group F or G enrolled on or after July 1,  
 689 1978, must receive 100 percent of the change in the  
 690 consumer price index up to 3 percent, and 60 percent of  
 691 any change in the consumer price index greater than 3  
 692 percent, up to a total adjustment of 7½ percent in any  
 693 year. The 7½ percent annual limitation does not apply  
 694 to:

- 695 (i) a retired Group F or G member who is disabled; or  
 696 (ii) a retired Group F or G member in a County fiscal  
 697 year that begins after the member reaches age 65.]

698 \* \* \*

699 **33-45. Vested benefits and withdrawal of contributions.**

700 \* \* \*

701 (e) *Discontinued service benefits of elected and appointed members.*

702 (1) [Should] If an elected or appointed member [enrolled or  
 703 reenrolled before January 22, 1974,] with 10 or more years of  
 704 credited service, is not [be] reappointed or reelected, the  
 705 member may [elect] opt to:

706 (A) receive a pension [commencing] immediately, if the  
 707 member enrolled or reenrolled before January 22, 1974;

708 or

709 (B) [for an elected] receive a pension at age 60, if the  
 710 member enrolled or reenrolled on or after January 22,  
 711 1974[, commencing at age 60].

712 [(1)] (2) The pension for a member enrolled or reenrolled on or before  
 713 September 26, 1983, or [a member] who [submits] submitted an  
 714 application to transfer from the optional plan to the integrated  
 715 plan before September 26, 1983, [must equal 2 percent of final  
 716 earnings, multiplied by years of credited service, up to a  
 717 maximum of 36 years, plus sick leave credits, but not less than  
 718 \$300.00 monthly] is the pension the member would have  
 719 received under Section 33-42(b) for regular retirement, except  
 720 that:

- 721 (A) “final earnings” replaces “average final earnings” in the  
 722 applicable formula in Section 33-42(b);
- 723 (B) a member who submitted an application to transfer from  
 724 the optional plan to the integrated plan before September  
 725 26, 1983, must be treated as if the member had remained  
 726 in the optional plan; and
- 727 (C) the monthly benefit must be at least \$300.
- 728 [(2)] (3) The pension for a member enrolled or reenrolled after  
 729 September 26, 1983, or a member who submits an application  
 730 to transfer from the optional plan to the integrated plan after  
 731 September 26, 1983, [must be computed as follows] is the  
 732 amount of pension the member would have received under  
 733 Section 33-42(b)(2) for regular retirement, except that:
- 734 [a.] (A) [From date of retirement to the month of attainment of  
 735 social security retirement age, 2 percent of final earnings,  
 736 multiplied by years of credited service, up to a maximum  
 737 of 36 years, plus sick leave credits, but not less than  
 738 \$300.00 monthly.] “final earnings” replaces “average  
 739 final earnings” in the applicable formula in Section 33-  
 740 42(b); and
- 741 [b.] (B) [From the month of attainment of social security  
 742 retirement age, benefits will be 2 percent of final  
 743 earnings, multiplied by years of credited service, up to a  
 744 maximum of 36 years, plus sick leave credits, reduced by  
 745 one percent of final earnings up to the social security  
 746 maximum covered compensation level at time of  
 747 retirement, multiplied by years of credited service, plus

748 sick leave credits. Years of credited service of less than  
 749 one full year will be prorated. The] the monthly benefit  
 750 [will not be less than] must be at least \$300[.00 monthly].

751

\* \* \*

752 **33-120.****Distribution of benefit.**

753

\* \* \*

754 (d) *Separation from service before normal retirement, death or disability*  
 755 *retirement.*

756

\* \* \*

757

(3) *Forfeitures.*

758

(A) If a participant has no vested interest in the County  
 759 contributions account at the time of the participant's  
 760 separation from service, the participant must forfeit the  
 761 entire County contributions account as of the date of  
 762 separation from service.

763

(B) The Chief Administrative Officer must allow a one-time  
 764 reinstatement of the forfeited County contributions to an  
 765 employee who is reemployed by the County within 12  
 766 months of separation and again becomes a member of the  
 767 Retirement Savings Plan. The amount reinstated by the  
 768 Chief Administrative Officer must be equal to the value  
 769 of the County contributions account, including  
 770 investment gains and losses, as of the date of the  
 771 employee's separation. This provision applies,  
 772 regardless of the member's separation or reemployment  
 773 date, if the member requests the reinstatement in writing  
 774 while the member is an active County employee.

775                   (C) The Chief Administrative Officer must use the forfeitures  
776                   to pay the operating expenses of the retirement savings  
777                   plan or to reduce the amount of County contributions.

778                   \*       \*       \*

779                   **Sec. 2. Applicability of amendments; transfer period.**

780                   (a) Section 33-37(e)(8), added by Section 1 of this Act, applies to any  
781                   employee to whom it would otherwise apply who returned to County  
782                   service before this Act took effect. Any such employee may transfer  
783                   to the Retirement Savings Plan the actuarial present value of the  
784                   employee's benefit in the Employees' Retirement System, calculated  
785                   using the System's latest published valuation assumptions, as of the  
786                   effective date of this Act.

787                   (b) Any active employee who was eligible at any time to transfer service  
788                   credits from any public retirement system in the state under Section  
789                   33-41(h), but did not do so within the applicable time period under  
790                   state law, may transfer all applicable credits to the County retirement  
791                   system, subject to all applicable requirements of state law, by  
792                   December 31, 2001. Any transfer under this subsection must be  
793                   retroactive to the date the employee was originally eligible to apply  
794                   for the transfer.

795                   **Sec. 3. Emergency Effective Date.**

796                   The Council declares that an emergency exists and that this legislation is  
797                   necessary for the immediate protection of the public health and safety. This act  
798                   takes effect on the date on which it becomes law. However, the amendments to  
799                   Sections 33-39, 33-42, and 33-44 made by Section 1 of this Act take effect on  
800                   November 1, 2001.



801 *Approved:*

802 *Blair G. Ewing* *August 1, 2001*

Blair G. Ewing, President, County Council

Date

803 *Approved:*

804 RETURNED UNSIGNED AUGUST 13, 2001

Douglas M. Duncan, County Executive

Date

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

806 *Mary A. Edgar* *August 13, 2001*

Mary A. Edgar, CMC, Clerk of the Council

Date