

Expedited Bill No. 30-09
Concerning: Personnel – Retirement –
Guaranteed Retirement Income Plan –
Retirement Savings Plan
Revised: 9/16/09 Draft No. 4
Introduced: July 28, 2009
Enacted: September 22, 2009
Executive: October 5, 2009
Effective: October 5, 2009
Sunset Date: None
Ch. 23, Laws of Mont. Co. 2009

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

- (1) permit certain non-represented public safety employees to participate in the Guaranteed Retirement Income Plan;
- (2) eliminate the distinction between disability benefits for highly compensated employees and non-highly compensated employees under the Retirement Savings Plan;
- (3) establish default beneficiaries for participants in the Retirement Savings Plan; and
- (4) generally amend the retirement laws.

By amending

Montgomery County Code
Chapter 33, Personnel and Human Resources
Sections 33-35, 33-37, 33-39, 33-40, 33-43, 33-52, 33-113, 33-115, 33-119, 33-120, 33-128, 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:

1 **Sec. 1. Sections 33-35, 33-37, 33-39, 33-40, 33-43, 33-52, 33-113, 33-115,**
2 **33-119, 33-120, 33-128, 33-131 are amended as follows:**

3 **33-35. Definitions.**

4 In this Article, the following words and phrases have the following meanings:

5 * * *

6 *Public safety employee*: An employee who is a:

7 (1) sworn officer of the [[Montgomery County]] Police
8 Department;

9 (2) paid firefighter, [[a]] paid fire officer, or [[a]] paid rescue
10 service worker of the Montgomery County [[Department of]]
11 Fire and Rescue [[Services]] Service;

12 (3) sworn [[Montgomery County]] deputy sheriff;

13 (4) [[Montgomery County]] correctional officer; or

14 (5) [[Montgomery]] County employee who provides services to a
15 correctional facility and designated as a public safety employee
16 by the Chief Administrative Officer.

17 * * *

18 **33-37. Membership requirements and membership groups.**

19 * * *

20 (f) *Membership groups and eligibility.* Any full-time or part-time
21 employee is eligible for membership in the appropriate membership
22 group outlined below if the employee meets all of the requirements
23 for the group:

24 * * *

25 (5) Group F: sworn police officers.

26 (A) A group F member who has reached elective early
27 retirement date may retain membership in group F if the

28 member is transferred from the position that qualified the
 29 member for group F membership.

30 (B) A group F member who is temporarily transferred from
 31 the position that qualified the member for group F
 32 membership may retain membership in group F as long
 33 as the temporary transfer from the group F position does
 34 not exceed 3 years.

35 (C) Notwithstanding the foregoing provisions in group F, an
 36 employee who is eligible for membership in group F
 37 must participate in the retirement savings plan under
 38 Article VIII or the guaranteed retirement income plan if
 39 the employee:

40 (i) [(a)] begins, or returns to, County service on or
 41 after October 1, 1994 (except as provided in the
 42 last sentence of subsection (e)(2));

43 (ii) [(b)] is not represented by an employee
 44 organization; and

45 (iii) [(c)] does not occupy a bargaining unit position.];
 46 or]

47 (D) An employee who is eligible for membership in group F
 48 must participate in the retirement savings plan under
 49 Article VIII if the employee:

50 (i) [(ii) (a)] begins County service on or after October 1,
 51 1994; and

52 (ii) [(b)] is subject to the terms of a collective
 53 bargaining agreement between the County and an

54 employee organization that requires the employee
 55 to participate in the retirement savings plan.

56 [D] (E) * * *

57 (6) Group G: Any paid firefighter, paid fire officer, and paid rescue
 58 service personnel. Any group G member who has reached
 59 normal retirement may retain membership in group G if the
 60 member transfers from the position which qualified the member
 61 for group G. Any group G member who is temporarily
 62 transferred from the position which qualified the member for
 63 Group G may retain membership in group G as long as the
 64 temporary transfer from the group G position does not exceed 3
 65 years.

66 (A) Notwithstanding the foregoing provisions in group G,
 67 any employee who is eligible for membership in group G
 68 must participate in the retirement savings plan under
 69 Article VIII if the employee:

70 [(A) (i) begins, or returns to, County service on or
 71 after October 1, 1994 (except as provided in the
 72 last sentence of subsection (e)(2));

73 (ii) is not represented by an employee organization;
 74 and

75 (iii) does not occupy a bargaining unit position; or

76 (B)] (i) begins County service on or after October 1,
 77 1994; and

78 (ii) is subject to the terms of a collective bargaining
 79 agreement between the County and an employee

80 organization which requires the employee to participate
81 in the retirement savings plan.

82 (B) An employee who is eligible for membership in group G
83 must participate in the retirement savings plan under
84 Article VIII or the guaranteed retirement income plan if:

85 (i) the employee begins, or returns to, County service
86 on or after October 1, 1994 (except as provided in
87 the last sentence of subsection (e)(2)); [[and]]

88 (ii) is not represented by an employee organization;
89 and

90 (iii) does not occupy a bargaining unit position.

91 * * *

92 (k) Election to join the guaranteed retirement income plan.

93 * * *

94 (3) [A] An eligible full-time employee hired on or after July 1,
95 2009 and a part-time or temporary employee who becomes full-
96 time on or after July 1, 2009 who does not participate in the
97 retirement savings plan [and who is not a public safety
98 employee, as defined in Section 33-113(o)], may elect to
99 participate in the guaranteed retirement income plan. An
100 eligible employee must make an irrevocable election during the
101 first 150 days of full-time employment. If an eligible employee
102 elects to participate, participation must begin on the first
103 [payroll] pay period after an employee has completed 180 days
104 of full-time employment. An employee who does not
105 participate in the guaranteed retirement income plan must
106 participate in the retirement savings plan beginning on the first

107 [payroll] pay period after the employee completes 180 days of
 108 full-time employment.

109 (4) [A] An eligible part-time or temporary employee hired on or
 110 after October 1, 1994 who does not participate in the retirement
 111 savings plan [, and who is not a public safety employee as
 112 defined in Section 33-113(o),] may make a one time irrevocable
 113 election to participate in the guaranteed retirement income plan
 114 after the employee completes at least 150 days of employment.
 115 Participation must begin on the first full [payroll] pay period
 116 beginning 30 days after the employee makes the election.

117 (5) An eligible full-time or part-time public safety employee hired
 118 on or after October 1, 1994 and before January 1, 2009 who
 119 participates in the retirement savings plan may make a one time
 120 irrevocable election to terminate participation in the retirement
 121 savings plan and participate in the guaranteed retirement
 122 income plan, effective the first full pay period after [[October
 123 1,]] December 31, 2009. An employee must make this election
 124 between [[June 30, 2009 and September 1, 2009]] October 1,
 125 2009 and December 1, 2009. An employee who makes this
 126 election must have his or her retirement savings plan account
 127 balance transferred to the guaranteed retirement income plan.
 128 The amount transferred into the guaranteed retirement income
 129 plan must become the participant's initial guaranteed retirement
 130 income plan account balance. An employee who does not make
 131 this election must continue to participate in the retirement
 132 savings plan.

133 * * *

134 **33-39. Member Contributions and credited interest.**

135 (a) Member contributions. Each member of the retirement system must
 136 contribute a portion of the member's regular earnings through regular
 137 payroll deductions.

138 * * *

139 (4) Member contributions to the guaranteed retirement income
 140 plan.

141 (A) A non-public safety employee member in the guaranteed
 142 retirement income plan must contribute 4% of regular
 143 earnings less than or equal to the Social Security wage
 144 base and 8% of regular earnings that exceed the Social
 145 Security wage base.

146 (B) A public safety employee member in the guaranteed
 147 retirement income plan must contribute 3% of regular
 148 earnings less than or equal to the Social Security wage
 149 base and 6% of regular earnings that exceed the Social
 150 Security wage base.

151 [(B)] (C) * * *

152 [(C)] (D) * * *

153 (b) Credited interest.

154 * * *

155 (5) A member of the guaranteed retirement income plan must
 156 receive credited interest at [a] an annual rate of 7.25% on the
 157 member's contributions in the member's guaranteed retirement
 158 income plan account. If the annual 7.25% interest rate does not
 159 comply with applicable law, the third segment rate described in
 160 Internal Revenue Code Section 430(h)(2)(G) or any successor

161 provision must apply. Interest must be credited to a member's
 162 guaranteed retirement income plan account balance on a
 163 monthly basis as of the last day of the month.

164 * * *

165 **33-40. Employer Contributions.**

166 * * *

167 (e) Guaranteed retirement income plan.

168 (1) Each pay period, the County must credit to each non-public
 169 safety member's guaranteed retirement income plan account an
 170 amount equal to 8% of the member's regular earnings. Interest
 171 must be credited at [a] an annual rate of 7.25% on the County
 172 contribution credits. If the annual 7.25% interest rate does not
 173 comply with applicable law, the third segment rate described in
 174 Internal Revenue Code Section 430(h)(2)(G) or any successor
 175 provision must apply. Interest must be credited to a member's
 176 guaranteed retirement income plan account balance on a
 177 monthly basis as of the last day of the month.

178 (2) Each pay period, the County must credit to each public safety
 179 member's guaranteed retirement income plan account an
 180 amount equal to 10% of the member's regular earnings.
 181 Interest must be credited at an annual rate of 7.25% on the
 182 County contribution credits. If the annual 7.25% interest rate
 183 does not comply with applicable law, the third segment rate
 184 described in Internal Revenue Code Section 430(h)(2)(G) or
 185 any successor provision must apply. Interest must be credited
 186 to a member's guaranteed retirement income plan account
 187 balance on a monthly basis as of the last day of the month.

188 [(2)] (3) * * *
 189 * * *

190 **33-43. Disability Retirement.**

191 * * *

192 (n) Guaranteed retirement income plan. Subsections (a)-(m) do not apply
 193 to a participant in the guaranteed retirement income plan.

194 (1) Non-public safety employees. If a non-public safety employee
 195 participant incurs a disability before termination from County
 196 employment which makes the participant unable to engage in
 197 any substantial gainful activity by reason of any medically
 198 determinable physical or mental impairment which can be
 199 expected to result in death or which has lasted or can be
 200 expected to last for a continuous period of not less than 12
 201 months, the disabled participant must remain a participant in
 202 the guaranteed retirement income plan under the following
 203 rules:

204 [(1)](A) All amounts credited to the participant's
 205 guaranteed retirement income plan account, including
 206 County contributions, are 100% vested regardless of the
 207 participant's credited service.

208 [(2)](B) The participant must participate in the guaranteed
 209 retirement income plan under this Section until the
 210 participant dies, reaches his or her normal retirement
 211 date, or recovers from the disability.

212 [(3)](C) In determining the credited amount of County
 213 contributions under Section 33-40, the participant's
 214 regular earnings means the regular earnings the

215 participant would have received for the year if the
 216 participant were paid for the full year at the rate of
 217 compensation paid in the pay period immediately before
 218 the participant became disabled.

219 ~~[(4)](D)~~ The participant must not receive a distribution
 220 during any period in which the participant receives a
 221 County contribution credit.

222 ~~[(5)](E)~~ The participant must not make member
 223 contributions under Section 33-39 during the disability
 224 participation.

225 (2) Public Safety Employees. If a public safety employee
 226 participant incurs a disability before retirement or other
 227 separation from service which, in the opinion of a physician
 228 selected or approved by the Chief Administrative Officer,
 229 renders the participant unable to perform duties satisfactorily
 230 for the employment the participant held with the County before
 231 the disability, the participant's employment and participation in
 232 the guaranteed retirement income plan must be terminated and
 233 deemed a disability retirement under the following rules:

234 (A) All amounts credited to the participant's guaranteed
 235 retirement income plan account, including County
 236 contributions, are 100% vested regardless of the
 237 participant's years of credited service.

238 (B) The Chief Administrative Officer must determine the
 239 date on which a disability retirement is effective. After a
 240 participant submits a properly completed distribution
 241 form, the Chief Administrative Officer must distribute

242 the value of the former participant's account balance to
 243 the former participant under this Section.

244 * * *

245 **33-52. Payment of benefits.**

246 * * *

247 (b) Discontinuance of pension payments. A member must not receive
 248 pension payments while serving in an appointed or elected County
 249 office that receives any compensation paid by the County. A member
 250 appointed to a full-time County position must become a member of
 251 the retirement system or the Retirement Savings Plan under Sections
 252 33-37 and 33-115 and make member contributions until later
 253 separation under Article III or Article VIII. The retirement benefit of
 254 an employee who resumes membership in the optional or integrated
 255 plan must be recalculated when the employee later separates from
 256 service. The retirement benefit under the integrated or optional plans
 257 of Article III of an employee who becomes a member of the
 258 Retirement Savings Plan or the guaranteed retirement income plan
 259 must resume when the employee later separates from service.

260 * * *

261 **33-113. Definitions.**

262 * * *

263 (o) Public safety employee means any employee who is a:
 264 (1) [a] sworn officer of the [[Montgomery County]] Police
 265 Department;
 266 (2) [a] paid firefighter, [[a]] paid fire officer, or [[a]] paid rescue
 267 service worker of the Montgomery County [[Department of]]
 268 Fire and Rescue [[Services]] Service;

- 270 (3) [a] sworn [[Montgomery County]] deputy sheriff;
 271 (4) [a] [[Montgomery County]] correctional officer; or
 272 (5) [a] [[Montgomery]] County [correctional staff member if]
 273 employee who provides services to a correctional facility and
 274 designated as a public safety employee by the Chief
 275 Administrative Officer.

276 * * *

277 **33-115. Participant requirements and participant groups.**

278 (a) *Participant Requirements.*

279 * * *

- 280 (7) Election to participate in the guaranteed retirement income
 281 plan.

282 (A) An eligible full-time employee hired on or after July 1,
 283 2009 and a part-time and temporary employee who
 284 becomes full-time after July 1, 2009[, who is not a public
 285 safety employee,] may participate in the guaranteed
 286 retirement income plan. An eligible employee must
 287 make a one time irrevocable election during the first 150
 288 days of employment. If an eligible employee elects to
 289 participate, participation must begin on the first [payroll]
 290 pay period after an employee has completed 180 days of
 291 full-time employment. A full-time employee who does
 292 not elect to participate in the guaranteed retirement
 293 income plan must participate in the retirement savings
 294 plan beginning on the first [payroll] pay period after the
 295 employee has completed 180 days of full-time
 296 employment.

297 (B) An eligible part-time or temporary employee hired on or
298 after October 1, 1994 who is not a participant in the
299 retirement savings plan[, and who is not a public safety
300 employee,] may make a one time irrevocable election to
301 participate in the guaranteed retirement income plan any
302 time after the employee has completed 150 days of
303 employment.

304 (b) *Participants groups and eligibility.*

305 * * *

306 (2) Group II.

307 (A) Except as provided in the last sentence of Section 33-
308 37(e)(2), [any] a full-time or career part-time employee
309 must participate in the retirement savings plan if the
310 employee begins, or returns to, County service on or after
311 October 1, 1994; and

312 [(i) (a) is not represented by an employee
313 organization;

314 (b) does not occupy a bargaining unit position; and

315 (c) is a public safety employee; or]

316 (i)[(ii)(a)] is a public safety employee; and

317 (ii)[(b)] is subject to the terms of a collective
318 bargaining agreement between the County and an
319 employee organization which requires the
320 employee to participate in the retirement savings
321 plan.

322 (B) A member of the Police Bargaining Unit may transfer to
323 Group II of the retirement savings plan if the employee

324 has accumulated enough credited service to obtain the
325 maximum retirement benefit under the optional or
326 integrated plan.

327 (C) Except as provided in the last sentence of Section 33-
328 37(e)(2), a full-time or career part-time employee must
329 participate in the retirement savings plan or the
330 guaranteed retirement income plan if the employee
331 begins, or returns to, County service on or after October
332 1, 1994; and

- 333 (i) is not represented by an employee organization;
- 334 (ii) does not occupy a bargaining unit position; and
- 335 (iii) is a public safety employee.

336 (c) *Transfers.*

337 * * *

338 (4) Transfer to the guaranteed retirement income plan.

339 * * *

340 (C) A full-time or part-time employee hired on or after
341 October 1, 1994 and before January 1, 2009 who
342 participates in the retirement savings plan, and who is a
343 public safety employee not represented by an employee
344 organization and does not [[occupying]] occupy a
345 bargaining unit position, may make a one-time
346 irrevocable election to terminate participation in the
347 retirement savings plan and participate in the guaranteed
348 retirement income plan effective the first full pay period
349 after [[October 1,]] December 31, 2009. An employee
350 must make this election between [[June 30, 2009 and

351 September 1, 2009]] October 1, 2009 and December 1,
 352 2009. An employee who elects to terminate participation
 353 in the retirement savings plan must have his or her
 354 account balances transferred to the guaranteed retirement
 355 income plan. An employee who does not make this
 356 election must continue to participate in the retirement
 357 savings plan.

358 **33-119. Credited service.**

359 (a) A participant's credited service is the total County service the
 360 participant rendered under the Retirement Savings Plan, the optional
 361 retirement plan, [[and]] the integrated plan, and the guaranteed
 362 retirement income plan. A participant must receive credited service
 363 for any period when the participant was a part-time employee
 364 contributing to an employer-supported savings program provided by a
 365 participating agency. An employee hired before July 1, 2009 must
 366 receive 1 year of credited service for each year of County service.
 367 Each year of County service ends on the anniversary of the date the
 368 participant starting working for the County. An employee hired on or
 369 after July 1, 2009 must receive one year of credited service for each
 370 year of participation in a County retirement plan. A person who
 371 transferred to the Retirement Savings Plan under Section 115(a)(3) or
 372 (4) must receive credit for County service for creditable State service
 373 earned as a State employee of the County Department of Social
 374 Services. A person who does not transfer to the Retirement Savings
 375 Plan under Section 115(a)(3) must not receive credit for County
 376 service for this State service.

377 * * *

378 **33-120. Distribution of Benefit.**

379

* * *

380 (b) *Disability Benefits.*

381 (1) Public Safety Employees. If a participant who is a public safety
 382 employee incurs a disability before retirement or other
 383 separation from service which, in the opinion of a physician
 384 selected or approved by the Chief Administrative Officer,
 385 renders the participant unable to perform duties satisfactorily
 386 for the employment the participant held with the County before
 387 the disability, the participant's employment and participation in
 388 the retirement savings plan must be terminated and deemed a
 389 disability retirement[.] under the following rules:

390 (A) [In the event of a public safety participant's disability
 391 retirement, all] All amounts credited to the participant's
 392 retirement savings plan account, including County
 393 contributions, [account] are 100% vested regardless of
 394 the participant's years of credited service.

395 (B) The Chief Administrative Officer must determine the
 396 date on which a disability retirement is effective. After
 397 the participant submits a properly completed distribution
 398 form, [The] the Chief Administrative Officer must
 399 distribute the value of the former participant's account
 400 balances to the former participant under this Section.

401 [(2) Highly compensated, non-public safety employees. If a
 402 participant who is a non- public safety employee and who is a
 403 highly compensated employee under the Internal Revenue Code
 404 incurs a disability before retirement or other separation from

405 service which, in the opinion of a physician selected or
406 approved by the Chief Administrative Officer, renders the
407 participant unable to perform duties satisfactorily for the
408 employment the participant held with the County before the
409 disability, the participant's employment and participation in the
410 retirement savings plan must be terminated and deemed a
411 disability retirement.]

412 [(A) In the event of a highly compensated, non-public safety
413 participant's disability retirement, all amounts credited to
414 the County contributions account are 100% vested
415 regardless of the participant's years of credited service.]

416 [(B) The Chief Administrative Officer must determine the
417 date on which a disability retirement is effective. The
418 Chief Administrative Officer must distribute the value of
419 the former participant's account balances to the former
420 participant under this Section.]

421 [(3)] (2) [Non-highly compensated, non-public] Non-public safety
422 employees. If a participant who is a non-public safety
423 employee [and who is not a highly compensated employee
424 under the Internal Revenue Code] incurs a disability before
425 retirement or other separation from service which makes the
426 participant unable to engage in any substantial gainful activity
427 by reason of any medically determinable physical or mental
428 impairment which can be expected to result in death or which
429 has lasted or can be expected to last for a continuous period of
430 not less than 12 months, the disabled participant must remain a

431 participant in the retirement savings plan under the following
 432 rules:

433 (A) All amounts credited to the participant's retirement
 434 savings account, including County contributions,
 435 [account] are 100% vested regardless of the participant's
 436 years of credited service.

437 (B) The participant must remain a participant in the
 438 retirement savings plan under this Section until the
 439 participant dies, reaches his or her normal retirement
 440 date, or recovers from the disability.

441 (C) In determining the amount of the County contribution
 442 under Section 33-117, the participant's regular earnings
 443 means the regular earnings the participant would have
 444 received for the year if the participant was paid for the
 445 full year at the rate of compensation paid in the pay
 446 period immediately before the participant became
 447 disabled.

448 (D) The participant must not receive a distribution during any
 449 period in which the participant receives a County
 450 contribution.

451 (E) The participant must not make participant contributions
 452 under Section 33-116 during the period of disability
 453 participation in the retirement savings plan.

454 (c) *Death Benefits.*

455 * * *

456 (3) A participant may name a primary beneficiary or beneficiaries
 457 and contingent beneficiary or beneficiaries on a designation of

458 beneficiaries form filed with the Office of Human Resources.
459 If a participant names 2 or more persons as beneficiaries, the
460 persons are considered co-beneficiaries and share the benefit
461 equally unless the participant specifies otherwise on the
462 designation of beneficiaries form. A participant may change
463 any named beneficiary by completing a new designation of
464 beneficiaries form. The consent of the beneficiary or
465 beneficiaries is not required to name or change a beneficiary.
466 The designation is effective when the participant signs the form
467 even if the participant is not [[living]] alive when the Office
468 receives the request, but without prejudice for any payments
469 made before the Office received the request.

470 (4) If a participant dies without designating a surviving beneficiary
471 or the designation is not enforceable under subsection (5), the
472 surviving spouse or domestic partner (or if there is no surviving
473 spouse or domestic partner, each surviving child, sharing
474 equally with any other surviving child) is the designated
475 beneficiary. If no spouse, domestic partner, or child survives a
476 participant who left no enforceable beneficiary designation, the
477 participant's estate is the designated beneficiary.

478 (5) For purposes of this Section, a beneficiary designation is not
479 enforceable if:

480 (A) the designated beneficiary:

481 (i) predeceases the member;

482 (ii) disclaims the benefit; or

483 (iii) is not an identifiable person; or

484 (B) the designation is legally void for any reason.

485

* * *

486

487 **33-128. Definitions.**

488

* * *

489

(q) Public safety employee means any employee who is a:

490

(1) sworn, ranking officer of the [[Montgomery County]] Police
Department;

491

492

(2) paid firefighter, paid fire officer, or paid rescue service
employee of the Montgomery County [[Department of]] Fire
and Rescue [[Services]] Service;

493

494

495

(3) sworn deputy sheriff;

496

(4) [[Montgomery County]] correctional officer; or

497

(5) [[Montgomery]] County employee [correctional facility staff
member, if] who provides services to a correctional facility and
designated as a public safety employee by the Chief
Administrative Officer.

498

499

500

501

* * *

502 **33-131. Amount of benefits.**

503

* * *

504

(b) Non-service-connected disability. The annual amount of the non-
service-connected disability benefit payment equals 2 percent of the
employee's final earnings, multiplied by the number of years of
credited service earned under Section 33-41 or Section 33-119.
However the benefit must be at least 30 percent of the employee's
final earnings, but no more than 60 percent of the employee's final
earnings, less any reductions provided in Section 33-134.

505

506

507

508

509

510

511

* * *

512 **Sec. 2. Effective Date.**

513 The Council declares that this legislation is necessary for the immediate
514 protection of the public interest. This Act takes effect on the date on which it
515 becomes law.

516

517 *Approved:*

518

519 *Philip M. Andrews* *September 23, 2009*
Philip M. Andrews, President, County Council Date

520 *Approved:*

521 *Isiah Leggett* *October 5, 2009*
Isiah Leggett, County Executive Date

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

523 *Linda M. Lauer* *October 6, 2009*
Linda M. Lauer, Clerk of the Council Date