

Introduced \_\_\_\_\_  
Public Hearing \_\_\_\_\_  
Council Action \_\_\_\_\_  
Executive Action \_\_\_\_\_  
Effective Date \_\_\_\_\_

## County Council Of Howard County, Maryland

2013 Legislative Session

Legislative Day No. 5

### Bill No. 13 -2013

Introduced by: The Chairperson at the request of the County Executive

AN ACT amending the Howard County Police and Fire Employees' Retirement Plan pursuant to the Heroes Earnings Assistance and Relief Tax Act of 2008; amending certain definitions; amending certain death benefits, disability benefits, and differential wage provisions for pension plan participants with military service; and generally relating to the Howard County Police and Fire Employees' Retirement Plan.

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Introduced and read first time \_\_\_\_\_, 2013. Ordered posted and hearing scheduled.

By order \_\_\_\_\_  
Stephen LeGendre, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on \_\_\_\_\_, 2013.

By order \_\_\_\_\_  
Stephen LeGendre, Administrator

This Bill was read the third time on \_\_\_\_\_, 2013 and Passed \_\_\_\_, Passed with amendments \_\_\_\_\_, Failed \_\_\_\_\_.

By order \_\_\_\_\_  
Stephen LeGendre, Administrator

Sealed with the County Seal and presented to the County Executive for approval this \_\_\_\_ day of \_\_\_\_\_, 2013 at \_\_\_\_ a.m./p.m.

By order \_\_\_\_\_  
Stephen LeGendre, Administrator

Approved/Vetoed by the County Executive \_\_\_\_\_, 2013

\_\_\_\_\_  
Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland that the Howard  
2 County Code is amended as follows:

3  
4 By amending:

- 5 1. Title 1- Human Resources  
6 Section 1.406A(ad) “Definitions”  
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- 8 2. Title 1 –Human Resources  
9 Section 1.414A(b) “Leaves of absence”  
10
- 11 3. Title 1 – Human Resources  
12 Section 1.426A(a) and (b) “Pick-up contributions”  
13
- 14 4. Title 1 – Human Resources  
15 Section 1.431A(e) “Disability benefits”  
16
- 17 5. Title 1 – Human Resources  
18 Section 1.439A(a)(1) and (b) “Death benefits”  
19

20 **Title 1. Human Resources.**

21 **Subtitle 4A. Police and Fire Employees’ Retirement Plan.**

22 **Article 1A. Generally.**

23  
24 **Section 1.406A. Definitions.**

25 (ad) *Participant* means any employee who is currently benefiting under the plan, and, where  
26 appropriate according to the context of the plan, any former employee who is or may become (or  
27 whose beneficiaries may become) eligible to receive a benefit under the plan. EFFECTIVE  
28 JANUARY 1, 2009, *PARTICIPANT* INCLUDES A PERSON RECEIVING DIFFERENTIAL WAGE PAYMENTS AS  
29 DEFINED IN SECTION 3401(H) OF THE INTERNAL REVENUE CODE.

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**Title 1. Human Resources.**

**Subtitle 4A. Police and Fire Employees' Retirement Plan.**

**Article IIA. Credited Service.**

**Section 1.414A. Leaves of Absence.**

(b) *Credit for Service During Unpaid Leave of Absence for Military Service.*

Notwithstanding the foregoing, the participant will not receive credit for service during an unpaid leave of absence for military service, except to the extent required by the Uniformed Services Employment and Reemployment Rights Act of 1994 and the State Personnel and Pensions Article, title 38, of the Annotated Code of Maryland. TO THE EXTENT REQUIRED BY THE HEROES EARNINGS ASSISTANCE AND RELIEF TAX ACT OF 2008, IF A PARTICIPANT FAILS TO AGAIN BECOME AN EMPLOYEE AS A RESULT OF HIS DEATH WHILE IN MILITARY SERVICE ON OR AFTER JULY 1, 2007, THE PARTICIPANT SHALL BE ENTITLED TO ELIGIBILITY SERVICE FOR SUCH MILITARY SERVICE.

**Title 1. Human Resources.**

**Subtitle 4A. Police and Fire Employees' Retirement Plan.**

**Article 3A. Trust Fund.**

**Section 1.426A. Pick-up contributions.**

Under limited circumstances described below, participant contributions and monies from other Government employers may be accepted by the plan.

(a) *Types of Contributions/Transfers.*

(1) County pick-up contributions.

(i) *General.* Effective July 1, 1990, and in accordance with rules established by the County, each participant shall make contributions to the plan equal to 7.7 percent of his or her compensation.

(ii) *Special rule for Police Officers.* Effective July 1, 2001, and in accordance

1 with the rules established by the County, each participant who is a Police  
2 Officer shall make contributions to the plan equal to 11.6 percent of his or  
3 her compensation.

4 The participant contributions referred to in this section 1.426A shall be  
5 picked up by the County, as described in Section 414(h)(2) of the Internal  
6 Revenue Code, deducted from the pay of the contributing participants as  
7 salary reduction contributions, and paid by the County to the trustees with  
8 reasonable promptness after the total of such contributions during any  
9 month has been determined, and in any event by the end of the succeeding  
10 month. The contributions made pursuant to this section 1.426A shall be  
11 made a part of the participant's employee contributions benefit, that is, a  
12 part of his or her accrued benefit.

13 (iii) If a participant on leave of absence for military service receives  
14 [[supplemental pay]] DIFFERENTIAL WAGE PAYMENTS AS DEFINED IN  
15 SECTION 3401(H) OF THE INTERNAL REVENUE CODE from the  
16 County, the participant's pick-up contributions shall be deducted  
17 from the participant's [[supplemental pay]] DIFFERENTIAL WAGE  
18 PAYMENTS.

19 (2) *Transfer of pick-up contributions from other Government employers.* Pursuant to  
20 the provisions of section 1.417A or subsection 1.419A(d), the trust may accept a  
21 transfer of monies directly from another Government employer retirement plan.  
22 Such transfer shall consist of contributions made by the participant, but  
23 characterized by such other Government employer as employer pick-up  
24 contributions, plus earnings previously credited upon such contributions. Such  
25 amounts shall be made a part of the participant's employee contributions benefit,  
26 that is, a part of the participant's accrued benefit.

27 (3) *Purchase of service pick-up contributions.* Pursuant to the provisions of  
28 subsection 1.419A(e), a participant may enter into a payroll deduction  
29 authorization with the County pursuant to which the participant may purchase

1 credit for service. The participant contributions referred to in this subsection  
2 1.426A(a)(3) shall be:

- 3 (i) Picked up by the County, as described in Section 414(h)(2) of the Internal  
4 Revenue Code;
- 5 (ii) Deducted from the pay of the contributing participant as salary reduction  
6 contributions; and
- 7 (iii) Paid by the County to the trustees with reasonable promptness after the  
8 total of such contributions during any month has been determined, and in  
9 any event by the end of the succeeding month.

10 (b) *Suspension of Contributions.* EXCEPT AS PROVIDED IN SUBSECTION 1.426A(A)(1)(III), A  
11 [[A]] participant's salary reduction contributions shall be automatically suspended for any  
12 payroll period during which the participant is not a covered employee or during which he  
13 or she is on an unpaid leave of absence. Moreover, a participant's contributions pursuant  
14 to subsection 1.426A(a)(1) (but not subsection 1.426A(a)(2) or subsection 1.426A(a)(3))  
15 shall no longer be required for any period after which the participant has received credit  
16 for 30 years of creditable service, and, unless otherwise required by subsection  
17 1.437A(g)(2), the participant's salary reduction contributions pursuant to subsection  
18 1.426A(a)(1) (but not subsection 1.426A(a)(2) or subsection 1.426A(a)(3)) shall be  
19 suspended as of such date.  
20

21 **Section 1.431A. Disability Benefits.**

22 (e) *General Provisions Relating to Disability.*

- 23 (1) *Commencement of disability benefits.* Disability benefits shall commence on the  
24 first day of the month coincident with or otherwise next following the  
25 determination of disability by the County; provided, however, that benefits  
26 payable pursuant to this section shall be reduced by any benefits payable from  
27 workers' compensation.
- 28 (2) *Forms of benefit.* The benefits payable pursuant to this section shall be payable in  
29 the normal form provided by section 1.428A, unless an optional form of payment

1 has been elected pursuant to section 1.442A.

2 (3) *Definition.*

3 (i) Total and permanent disability shall mean a medically determinable  
4 physical or mental impairment which can be expected to be permanent or  
5 result in death, and by reason of which the participant will be prevented  
6 from performing the usual duties of his or her position with the County as  
7 required by the County Code.

8 (ii) Such total and permanent disability must be evidenced by a certificate of a  
9 physician selected or approved by the County.

10 (iii) However, total and permanent disability shall not include any injury or  
11 disease which:

12 a. Resulted from or consists of chronic alcoholism or addiction to  
13 narcotics;

14 b. Was contracted, suffered or incurred while the participant was  
15 engaged in, or resulted from his or her having engaged in, a  
16 criminal enterprise;

17 c. Was intentionally self-inflicted; or

18 d. Arose as a result of willful negligence on the part of the  
19 participant.

20 (4) *Continuing disability.*

21 (i) Until a participant who has reached a termination date by reason of  
22 disability attains his or her normal retirement date, the continuation of the  
23 participant's right to receive disability benefits shall depend on the  
24 participant's continued survival, and the case shall be subject to periodic  
25 review in accordance with rules established by the County to determine the  
26 participant's employment status, including the requirement that the  
27 participant furnish to the County a copy of his or her Federal income tax  
28 return each year.

29 (ii) In the event a disabled participant ceases to submit to such review, prior to

1 his or her normal retirement date, the disability benefits payable pursuant  
2 to this section shall cease.

3 (iii) Except as provided in subparagraph (iv) of this paragraph, if, during a  
4 calendar year, the amount of a participant's earned income, worker's  
5 compensation benefits, and disability benefits paid to the participant  
6 pursuant to this section for such year exceed the participant's annualized  
7 average compensation at his or her termination date plus \$3,000.00  
8 (adjusted for c/l increases), effective as of the first day of the next  
9 following plan year, the disability benefit payable under the plan shall be  
10 reduced, dollar for dollar, to the extent of the excess.

11 (iv) Subparagraph (iii) of this paragraph does not apply to participants who  
12 retire pursuant to the provisions of subsection (b)(2) of this section.

13 (5) *Death of disabled participant.* In the event of the death of a disabled participant,  
14 no benefits with respect to the participant shall be payable except as otherwise  
15 provided in sections 1.439A and 1.440A.

16 (6) *Termination of employment after normal retirement date.* Notwithstanding any of  
17 the foregoing provisions, if a participant terminates employment with the County  
18 on a date at which he or she would be entitled to benefits pursuant to section  
19 1.428A, the participant shall be deemed to have elected retirement and shall  
20 receive the benefits provided under section 1.428A, as the case may be; provided,  
21 however, that if the participant qualifies for benefits payable pursuant to this  
22 section 1.431A the participant may elect to receive disability benefits under this  
23 section 1.431A in lieu of benefits under section 1.428A.

24 (7) A PARTICIPANT WHO REACHES A TERMINATION DATE BY REASON OF A  
25 DISABILITY INCURRED WHILE THE PARTICIPANT IS ON A LEAVE OF ABSENCE,  
26 INCLUDING A LEAVE OF ABSENCE FOR MILITARY SERVICE, SHALL BE ELIGIBLE  
27 TO APPLY FOR ORDINARY DISABILITY BENEFITS UNDER SUBSECTION (A) OF THIS  
28 SECTION 1.431 BUT SHALL NOT BE ELIGIBLE TO APPLY FOR LINE-OF-DUTY  
29 DISABILITY BENEFITS UNDER SUBSECTION (B) OF THIS SECTION 1.431.

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**Title 1. Human Resources.**

**Subtitle 4A. Police and Fire Employees' Retirement Plan.**

**Article IVA. Death Benefits.**

**Section 1.439A. Death Benefits.**

Upon a participant's death, those persons designated pursuant to section 1.448A shall receive a lump sum distribution of the participant's refundable contributions benefit, if the participant was entitled to the benefit. The only additional benefits payable under the plan in the event of the death of a participant shall be paid to those persons designated in accordance with this section 1.448A as follows:

(a) *Ordinary Death Benefit.* In the event of the death of a participant prior to his or her benefit commencement date, while not in the line of duty, the participant's beneficiary shall be entitled to receive one of the following benefits, as applicable:

(1) *General benefit.* The beneficiary shall be entitled to receive:

- (i) The participant's employee contributions benefit, payable in one or more installments over a period which meets the requirements of section 1.440A and which is designated by the participant, or, if the participant has made no designation, by his or her beneficiary; plus,
- (ii) An amount, payable as a single lump sum, equal to the participant's annualized compensation determined as of the date of death; provided, however, that the benefit provided by this subparagraph (ii) shall be payable only if the participant had died while a covered employee and after completing at least one year of creditable service. FOR PURPOSES OF THIS SUB-PARAGRAPH, A PARTICIPANT WHO DIES DURING MILITARY SERVICE IS CONSIDERED TO HAVE DIED AS A COVERED EMPLOYEE.

(b) *Line of Duty Death Benefit.* In the event of the death of a participant, prior to the participant's benefit commencement date, while in the line of duty (as defined below), the participant's



1 beneficiary shall be entitled to receive the benefits described in subparagraphs (1), (2) or (3), as  
2 applicable.

3 (1) *General benefit.* The beneficiary shall be entitled to receive:

4 (i) The participant's employee contributions benefit, payable in one or more  
5 installments over a period which meets the requirements of section 1.440A  
6 and which is designated by the participant, or, if the participant has made  
7 no designation, by his or her beneficiary; plus.

8 (ii) An amount, payable as a single lump sum, equal to the participant's  
9 annualized compensation determined as of the date of death; provided,  
10 however, that the benefit provided by this subparagraph (ii) shall be  
11 payable only if the participant had died while a covered employee.

12 (2) *Surviving spouse benefit.*

13 (i) If all of the following conditions are met, then the surviving spouse of a  
14 deceased participant shall be entitled to receive a survivor benefit, in lieu  
15 of any other plan benefit:

16 a. The participant is married on the date of death;

17 b. The participant's death occurs before the benefit commencement  
18 date;

19 c. The participant has designated the participant's surviving spouse as  
20 his or her beneficiary;

21 d. The participant has died in the line of duty as described in this  
22 subsection 1.439A(b); and

23 e. Upon the death of the participant, the spouse does not elect to  
24 receive the benefits provided in subsection 1.439A(b)(1).

25 (ii) a. For purposes of this subsection, the line of duty survivor benefit is  
26 a monthly income commencing in the month next following the  
27 participant's death and continuing for the remainder of the spouse's  
28 life or earlier remarriage in an amount equal to 662/3 percent of the  
29 participant's compensation determined as of the day before the

1 participant's death.

2 b. In the event of the death or remarriage of the spouse following the  
3 death of the participant, a monthly benefit equal to 50 percent of  
4 such compensation shall be paid, in the aggregate, to the  
5 participant's surviving children who are named as contingent  
6 beneficiaries.

7 c. The monthly benefits payable to any child of the participant  
8 pursuant to this subsection shall continue until the first day of the  
9 month preceding the earlier of:

10 1. The death of the child; or

11 2. The later of the child's:

12 i. Attainment of age 18, or

13 ii. Attainment of age 23, but only so long as the child  
14 remains a full-time student.

15 (3) *Surviving children's benefit.*

16 (i) If all of the following conditions are met, then the surviving children of a  
17 deceased participant shall receive a survivor benefit, in lieu of any other  
18 plan benefit:

19 a. The participant's death occurs before the benefit commencement  
20 date;

21 b. The participant has designated one or more of the participant's  
22 children as his or her only primary beneficiaries; and

23 c. The participant has died in the line of duty as described in this  
24 subsection 1.439A(b).

25 (ii) a. For purposes of this subsection, the line of duty survivor children's  
26 benefit is a monthly income commencing in the month next  
27 following the participants death in an amount equal to 50 percent  
28 of the participant's compensation determined as of the day before  
29 the participant's death and paid, in the aggregate, to the

1 participant's surviving children who are named as primary  
2 beneficiaries.

3 b. The monthly benefits payable to any child of the participant  
4 pursuant to this subsection shall continue until the first day of the  
5 month preceding the earlier of:

6 1. The death of the child; or

7 2. The later of the child's:

8 i. Attainment of age 18; or

9 ii. Attainment of age 23, but only so long as the child  
10 remains a full-time student.

11 (4) *Line of duty definition.* For purposes of this section, the term *line of duty* means  
12 death from an injury or illness which has been sustained as an active covered  
13 employee and which has been ruled compensable under the Workers'  
14 Compensation Law of Maryland. *LINE OF DUTY* DOES NOT INCLUDE DEATH FROM  
15 AN INJURY OR ILLNESS WHICH HAS BEEN SUSTAINED DURING MILITARY SERVICE.  
16

17 ***Section 2. And Be It Further Enacted*** by the County Council of Howard County, Maryland that  
18 *this Act shall become effective 61 days after its enactment.*