

**PRINCE GEORGE'S COUNTY COUNCIL
AGENDA ITEM SUMMARY**

Meeting Date: 10/21/97

Reference No.: CB-40-1997

Proposer: Maloney

Draft No.: 1

Sponsors: Maloney

Item Title: To amend the Personnel Law procedures for reductions in force in accordance with the requirements of the Federal Age Discrimination in Employment Act and the Annotated Code of Maryland, to amend the procedures regarding retention points and displacement, for determining salary rate upon reallocation

Drafter: Ralph E. Grutzmacher
Legislative Officer

Resource Personnel: Andrew D. Eppelmann
Legislative Aide

LEGISLATIVE HISTORY:

| | | | |
|----------------------------|----------|--------------------------|-------------|
| Date Presented: | 4/1/97 | Executive Action: | ___/___/___ |
| Committee Referral: | 4/1/97 | Effective Date: | ___/___/___ |
| Committee Action: | 6/5/97 | | |
| Committee Action: | 7/3/97 | | |
| Committee Action: | 9/25/97 | | |
| Committee Action: | 10/16/97 | | |
| Date Introduced: | 10/21/97 | | |
| Pub. Hearing Date: | 11/25/97 | | 10:15 AM |

Council Action: 11/25/97 FAILED

Council Votes: DB:N, SD:N, JE:A, IG:N, TH:A, WM:A, RVR:-, AS:A, MW:N

Pass/Fail: F

Remarks: _____

PUBLIC SAFETY AND FISCAL MANAGEMENT COMMITTEE REPORT Date: 10/16/97

Committee Vote: Favorable, 3-2, (In favor: Council Members Estepp, Maloney, Scott. Opposed: Wilson, Gourdine)

There were four worksessions held on this legislation which will amend the Personnel Law

procedures for reductions-in-force in accordance with the Federal Age Discrimination in Employment Act (ADEA) and the Annotated Code of Maryland.

During the worksession on 4/16/97, Council Member Maloney stated that seniority has historically been a part of the workplace until CB-24-1995 and CB-25-1995 were enacted.

The Office of Personnel and Labor Relations expressed opposition to CB-40-1997. They are concerned that this bill would create a new preference group with regard to RIFs which may have unintended adverse consequences. The shielding of one group of employees, those over 40 years of age, may negatively impact other protected classes of workers. The issues they discussed concerning this bill were: (1) Impact on lowest level worker, (2) Administrative burdens, (3) Productivity, (4) Affirmative Action impact, (5) Preference assumptions, (6) Diversity impact, and (7) Seniority in the RIF process.

The Office of Law stated that the proposed language on page 7 of this legislation seeks to provide a safe harbor from reduction-in-force for employees solely because they are age 40 or above. Also, this language is subject to a challenge that the law unfairly discriminates against those employees under the age of 40, and violates Maryland Annotated Code Article 49B, Section 16, and the County Code Section 2-186. They do not think the proposed amendment would withstand a court challenge since the language gives the greatest protection to employees age 40 and above regardless of the length of time they have been employed and the amount of retention points earned.

The County Executive Council Liaison stated that the County Executive disagrees entirely with this bill and will veto it.

At the worksession on 6/5/97, John Bartlett, President, FOP, expressed a concern that senior officers could be riffed before junior officers. Senior officers have the knowledge and experience which the junior officers lack. Also, minority members of the FOP have expressed their concerns with the present legislation (CB-25-1995) and support CB-40-1997.

On 7/3/97, the following individuals expressed their support for CB-40-1997:

Mike Kelley, Office of Central Services (OCS), asked that the Council correct the mistakes of CB-25-1995 which affects 50 employees at this time.

Randy Smith, Assistant Manager, Central Facilities, OCS, stated that he will be demoted to a position which is a step below the position he was in 19 years ago. There are nine (9) people being displaced in his office. The employees being displaced have from 19-26 years of employment with the County.

The Director of the Office of Management and Budget stated that this legislation would establish a fourth priority category for a reduction-in-force. Currently, all permanent employees receiving a rating of at least satisfactory are placed in the first priority category, with probationary, limited-term

and permanent employees with less than a satisfactory rating on their last evaluation falling into the second category and temporary provisional and emergency employees in the third category. Under CB-40-1997, the first priority category would consist of all permanent employees afforded protection against age discrimination under the Federal statute which would include all employees over the age of forty.

The sponsor of this legislation, (Council Members Maloney), requested that this bill be held in committee until September.

There should not be any negative fiscal impact on the County as a result of enacting CB-40-1997.

BACKGROUND INFORMATION/FISCAL IMPACT

(Includes reason for proposal, as well as any unique statutory requirements)

The proposed bill would amend the Personnel Law procedures for reductions in force in accordance with the requirements of the Federal Age Discrimination in Employment Act and the Annotated Code of Maryland. The bill would restore a bona fide seniority system which was repealed by CB-25-1995. A bona fide seniority system is necessary to defend against age discrimination claims arising from

reductions in force (RIFs). The bill also removes the preference for County residence in RIFs enacted by CB-25 which was invalidated by State law. The bill makes a number of technical amendments to provide defined terms and processes which were deleted by CB-25 when RIFs were no longer conducted according to a seniority system.

CODE INDEX TOPICS:

Definitions

Displacement; displacement rights 16-102

Personnel

Salary

Salary rate upon

| | |
|--|--------|
| After promotion | 16-131 |
| Appointment | 16-127 |
| Demotion..... | 16-132 |
| Reallocation <u>or displacement</u> to a class with a lower grade..... | 16-133 |
| Reappointment | 16-138 |
| Reclassification | 16-135 |
| Reemployment | 16-137 |
| Reinstatement..... | 16-136 |
| Transfer or reassignment..... | 16-134 |