

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

1997 Legislative Session

Bill No. CB-40-1997

Chapter No.

Proposed and Presented by Council Member Maloney

Introduced by Council Member Maloney

Co-Sponsors

Date of Introduction October 21, 1997

BILL

AN ACT concerning

Personnel Law

For the purpose of amending the 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, and generally relating to reductions in force.

BY repealing and reenacting with amendments:

SUBTITLE 16. PERSONNEL.

Sections 16-102, 16-132, 16-133, 16-137,
16-174, 16-185, and 16-188,

The Prince George's County Code
(1995 Edition, 1996 Supplement).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 16-102, 16-132, 16-133, 16-137, 16-174, 16-185, and 16-188 of the Prince George's County Code be and the same are hereby repealed and reenacted with the following amendments:

SUBTITLE 16. PERSONNEL.

DIVISION 1. GENERAL PROVISIONS.

Sec. 16-102. Definitions.

(a) For purposes of this Subtitle, the following words and phrases shall have the meanings respectively ascribed to them by this Section, except where the context clearly requires otherwise:

(1) Adverse Action means certain actions authorized and effectuated in writing by any appointing authority or the Personnel Officer which adversely affect an employee by virtue of a reduction in the employee's pay and/or employment status. As used herein, the term "adverse action" shall only mean and include any dismissal, suspension, demotion, forfeiture of annual leave as a disciplinary action, a step rate reduction as a disciplinary action, the imposition of a fine as a disciplinary action, a separation from a position under a displacement action, a separation from County employment under a reduction-in-force action, and a termination under separation-disability action.

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(20) Displacement means the personnel action by which the Personnel Officer authorizes a permanent status employee who has been separated from the employee's class of work through reduction-in-force action, or who has been separated from a position in the classified service through the exercise of displacement rights by another employee, to displace, on the basis of relative standing on a retention register, another employee occupying a position in a class of lower grade of the same class series, within the same agency, department or office. As defined herein, the term "displacement" shall also refer to the corresponding action of the Personnel Officer in authorizing the separation of an employee from a position by virtue of the exercise of displacements rights by another employee.

(21) Displacement Rights means the legal entitlement of a permanent status employee who has been separated from the employee's class of work through reduction-in-force action, or who has been separated from a position in the classified service through the exercise of displacement rights by another employee, to displace, on the basis of relative standing on a retention register, another employee occupying a position in a class of lower grade of the same class series, within the same agency, department or office.

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(50) Retention Points means the numerically weighted factors of continuous length of County employment[, County residency,] and prior official performance ratings, which factors constitute the formula for the derivation of the quantitative score assigned to each permanent status employee occupying a position in the classified service and determine each such employee's relative standing or rank on a retention register. In determining continuous length of County employment, any employee absence due to a reduction-in-force (provided that the employee is reemployed following the reduction-in-force), or the grant of approved leave, including but not limited to military leave, disability leave or leave taken pursuant to the Family and Medical Leave Act, shall not constitute a break in service.

(51) Retention Register means a written record of a given class of work within the classified service and all positions allocated to said class of work within a given department, agency, or office, wherein the names of employees occupying positions allocated to said class of work are ranked by the Personnel Officer on the basis of their priority for retention due to a scheduled reduction-in-force action. Any such retention register shall also include a ranking of the names of all employees occupying positions in said department, agency, or office which are allocated to lower graded classes within the same class series.

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DIVISION 4. SALARY.

Sec. 16-132. Salary rate upon demotion.

(a) When an employee is demoted, except for demotions pursuant to the reallocation of a position to a class with a lower grade, or as set forth in Subsection (c), hereof, the rate within the salary range applicable to the position to which the employee is demoted shall be established by the Personnel Officer in accordance with the Salary Plan at a rate in the salary range applicable to the position to which the employee is demoted.

(b) In no event, however, shall an employee's salary rate, upon demotion, be established at a rate below the entry level rate or a rate above the maximum salary rate within the salary range applicable to the position to which the employee is demoted. In those instances where

an employee is demoted while in a longevity step, the employee may be demoted to the same longevity step of the lower grade.

(c) In the case of any nondisciplinary demotion, upon written request of the appointing authority, the salary reduction otherwise required by this Section may be waived by the Personnel Officer, subject to the limitations of Subsection (b).

Sec. 16-133. Salary rate upon reallocation or displacement to a class with a lower grade.

(a) The salary rate of an employee occupying a position which has been reallocated to a class with a lower grade and the salary rate of an employee who is displaced to a position in a class with a lower grade within the same class series, shall be established by the Personnel Officer at the rate within the salary range applicable to the class to which the position has been reallocated or at the rate within the salary range applicable to the position which the employee occupies upon displacement which shall guarantee the same salary rate that the employee received immediately prior to the effective date of the reallocation or displacement, as the case may be.

(b) However, if the employee's salary rate immediately prior to the reallocation or displacement exceeds the maximum rate, exclusive of longevity rates, within the salary range applicable to the class to which the position has been reallocated or applicable to the position which the employee occupies upon displacement, the Personnel Officer shall establish the incumbent's salary rate at the maximum rate, exclusive of longevity rates, within the salary range applicable to the class to which the position was reallocated or applicable to the position which the employee occupies upon displacement, as the case may be. In those instances where an employee is reallocated or displaced while in a longevity step he may be placed in the same longevity step provided it does not exceed the salary prior to reallocation or displacement.

Sec. 16-137. Salary rate upon reemployment.

(a) The salary rate within the salary range applicable to a vacant position within the classified service which an employee occupies, upon reemployment, shall be recommended by the employee's appointing authority and approved by the Personnel Officer. In no event,

however, shall the Personnel Officer establish a salary rate for an employee, upon reemployment, at a rate in excess of the maximum rate, exclusive of longevity rates, within the applicable salary range. In those instances where the employee eligible for reemployment was in a longevity step prior to the separation, he may be reemployed to the same longevity step.

(b) The salary rate of an employee who has been reemployed in a vacant position in the classified service with a grade lower than the grade applicable to the position formerly occupied by the employee at the time of the employee's involuntary separation, shall be established by the Personnel Officer in accordance with the procedures stipulated under Section 16-133 as if the employee's position had been reallocated to a class with a lower grade or the employee had been displaced to a class with a lower grade.

DIVISION 10. EMPLOYEE STATUS.

Sec. 16-174. Employee status upon appointment.

(a) Probationary Status Employee. A probationary status employee shall mean any employee who is competitively or noncompetitively appointed to a position in the classified service and who, by virtue of said appointment, is in the process of serving the prescribed probationary period as defined in Section 16-102(a)(36). All probationary status employees shall be entitled to the rights and benefits specifically granted to permanent status employees under the provisions of this Subtitle except as provided under Section 16-173 with respect to appeal and grievance rights and under Section 16-188 with respect to retention and displacement rights under a separation-reduction-in-force action.

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DIVISION 12. NONDISCIPLINARY SEPARATIONS.

Sec. 16-188. Separation -- reduction-in-force.

(a) A duly authorized and allocated classified service position or positions may only be abolished under one (1) of the following sets of circumstances:

(1) Where the County Executive, pursuant to Section 822 of Article VIII of County Charter, revises a department or agency work program by reducing the expenditure level of

such department or agency due to an ascertained shortfall in revenue during any fiscal year and a reduction in the number of allocated positions within said department or agency is necessary in order to satisfy such reduction in the departmental or agency expenditure level;

(2) Where the Classification Plan is amended through classification action, as defined in Section 16-102(a)(12), by abolishing an established class of work and, by virtue of the provisions of Section 16-177, the abolition of all positions allocated to said class of work;

(3) Where a legislative act, or an executive order issued and approved pursuant to Section 503 of Article V of County Charter, abolishes a department, agency, or office, or any division or other portion thereof, and there is no provision set forth in such legislative act or executive order governing and effectuating the transfer of employees, positions, and funds from such department, agency or office, or division or other portion thereof;

(4) Where a reduction in the compensation level of a department, agency, or office is effectuated in the County's approved, annual expense budget;

(5) Where an appointing authority requests that a position or positions under the appointing authority's jurisdiction be abolished during any fiscal year and the Personnel Officer authorizes such request in accordance with the provisions of Section 16-116(b)(4); or,

(6) Where the County Executive, pursuant to Section 822 of Article VIII of County Charter, revises a department or agency work program by reducing or abolishing a unique service or function.

(b) Whenever a position or a group of positions is scheduled to be abolished under any one (1) of the sets of circumstances described in Subsection (a), above, the Personnel Officer shall implement the following procedures prior to initiating any final action to separate any employee under a separation -- reduction-in-force action:

(1) The Personnel Officer shall suspend the filling of any vacant position within the classes of work to be affected by the scheduled reduction-in-force action, as well as [and may, in his discretion, suspend] all lower graded classes within all class series of which said affected classes are a part, by any of the methods authorized under Sections 16-147 and 16-148, from the date the Personnel Officer is advised of the scheduled abolition of the position

or group of positions until the effective date of the separation of an employee or employees under the separation -- reduction-in-force action.

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(3) The Personnel Officer shall develop a retention register, as defined in Section 16-102(a)(51), for each class of work within which a position or a group of positions is scheduled to be abolished. Whenever any such class of work is part of a class series, as defined in Section 16- 102(1)(9), the retention register shall be developed, by class, for each class of work with a lower grade within each such class series.

(4) With respect to any retention register developed for a single class of work and, where applicable, for all classes of work with lower grades within the same class series, as provided under subparagraph (b)(3) above, the Personnel Officer shall place the names of all employees occupying positions in each such class of work within the department, agency, or office (highest organizational unit or entity) within which the position or group of positions is scheduled to be abolished into priority categories on each such register as follows:

(A) All permanent status employees afforded protection against discrimination on the basis of age by the Age Discrimination in Employment Act, as amended, Title 29 United States Code Sections 621 et seq. shall be placed in the first priority category;

(B) All other permanent status employees shall be placed in the second priority category;

(C) All probationary status employees, all limited- term status employees, and any employee that receives an aggregate performance rating equivalent to "less than satisfactory" during the official annual performance ratings period preceding the reduction-in-force shall be placed in the [second] third priority category; and,

~~[(C)]~~(D) All exempt status employees occupying classified service positions under the terms of temporary/provisional and temporary/emergency appointments shall be placed in the [third]fourth priority category.

(5) The Personnel Officer shall compute a retention points score, as defined in

Section 16-102(a)(50), for each permanent status employee whose name appears in any class of work on a retention register. The retention points score for each such employee shall be equal to the product of the sum of the points granted for the total months of continuous service in any classified service position multiplied by the quotient of the sum of the points granted for the official annual performance ratings received for the preceding three (3) years divided by the sum of the number of such official performance ratings, [and the total retention point score multiplied by 1.15 for County residents] where:

(A) Each such employee shall be granted one (1) point for each month or part thereof of continuous classified service in any classified service position, provided, however, that no points shall be granted for any month of service in a classified service position for which an employee receives a retirement payment;

(B) Each such employee shall be granted three (3) points for any official annual performance rating equivalent to "outstanding", two (2) points for any official performance rating equivalent to "exceeds satisfactory"; one (1) point for any official performance rating equivalent to "satisfactory"; and a point value of zero (0) for any official performance rating equivalent to "less than satisfactory"; provided, however, that:

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(c) Upon the development of any retention register in accordance with the procedures stipulated in Subsection (b), above, the Personnel Officer shall adhere to the following retention schedule for purposes of separating employees whose names appear within each class of work on such retention register wherein a position or a group of positions has been scheduled to be abolished:

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(2) All limited-term employees, probationary status employees, and any employee receiving an aggregate official annual performance rating of "less than satisfactory" for the period preceding the reduction- in-force will appear in the second priority category within each such affected class of work on such retention register, as provided in paragraph (b)(4)(B), above, and shall be separated from their class of work prior to the separation of any employee

whose name appears in the first priority category with the same class of work on any such register. It shall be the sole discretion of the appointing authority to determine which employees in the second priority category are to be separated from their class of work.

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(d) The Personnel Officer shall adhere to the following displacement schedule whenever employees whose names appear on a retention register have been separated from their classes of work under the retention schedule procedures stipulated in Subsection (c), above.

(1) Whenever any permanent status employee whose name appears in the first priority category within any class of work on a retention register is separated from the employee's class of work, said employee shall be entitled to displace:

(A) Any probationary, limited-term, or exempt status employee whose name appears in a second or third priority category within any class of work with a lower grade in the same class series on the same retention register; or, in the event such displacement is not possible.

(B) Any permanent status employee with a lower retention points score within any class of work with a lower grade in the same class series on the same retention register.

(2) Whenever any probationary, limited-term, or exempt status employee in the second or third priority category within any class of work on a retention register is separated from the employee's class of work, any such employee shall not be entitled to exercise displacement rights; provided however, that:

(A) Any limited-term status employee who was occupying a position under the terms of a limited-term promotion, transfer, or reassignment shall be entitled to return to the employee's former or comparable position or, in the alternative, shall be entitled to be considered for priority placement in another vacant position as provided under Subsection (e), below; and,

(B) Any probationary status employee shall be entitled to be considered for priority placement in another vacant position as provided under Subsection (e), below.

[(d)](e) Prior to the effective date of any separation -- reduction- in-force action, the

Personnel Officer shall attempt to effectuate the reassignment, transfer, or demotion of employees whose positions are to be abolished into existing vacant positions in accordance with the provisions of Sections 16-148(a)(2), (3), (4), and (6).

[(e)](f) Any employee who is subject to a separation -- reduction-in- force action shall be given at least a fourteen (14) calendar day advance written notice thereof by the Personnel Officer. Each such notice shall state the reason or reasons for the separation--reduction-in- force action and the effective date thereof; and, where the notice of separation is given to a permanent, probationary, or limited-term status employee occupying a position under the terms of a limited-term reassignment, transfer, or promotion, said notice shall also state any such employee's right to appeal such action in accordance with the procedures stipulated in Section 16-201.

[(f)](g) Any permanent status employee who is separated under a separation--reduction-in-force action shall be entitled to have the employee's name placed on a reemployment priority register, as defined in Section 16-102(a)(48), and by virtue thereof, shall be entitled to be reemployed in certain vacant positions in accordance with the procedures stipulated in Section 16-148(a)(5).

[(g)](h) Notwithstanding any provision in this Section to the contrary, whenever any department or agency contains a separate organizational unit which is funded solely from funds derived under the terms of Federal, State or other grant-in-aid program, such separate organizational unit shall be deemed a "department, agency, or office" for the purpose of effecting a reduction-in-force.

[(h)](i) Notwithstanding any provision of this Section to the contrary, whenever any department or agency can effectively demonstrate that a separate organizational unit or division exists to provide a unique service or function, with the approval of the Personnel Officer, that unit or division shall constitute a single "department, agency, or office" for purposes of effecting a reduction in force.

SECTION 2. BE IT FURTHER ENACTED that this Act shall take effect 45 days after the date it becomes law.

Adopted this _____ day of _____, 1997.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY:

Dorothy F. Bailey
Chair

ATTEST:

Joyce T. Sweeney
Clerk of the Council

APPROVED:

DATE: _____

BY:

Wayne K. Curry
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks *** indicate intervening existing Code provisions that remain unchanged.