

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2010, Legislative Day No. 2

Bill No. 6-10

Introduced by Mr. Benoit and Mr. Ferrar  
and  
Mr. Middlebrooks, Chairman  
(by request of the County Executive)

By the County Council, January 19, 2010

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Introduced and first read on January 19, 2010  
Public Hearing set for and held on February 16, 2010  
Public Hearing on AMENDED BILL set for March 1, 2010  
Bill Expires April 24, 2010

By Order: Judy C. Holmes, Administrative Officer

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A BILL ENTITLED

- 1 AN ORDINANCE concerning: Pensions – Military Disability Pension Benefit  
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3 FOR the purpose of creating disability pension benefits for employees who become  
4 disabled as a result of military service; amending death benefits for families of  
5 employees killed in the course of military service; making certain technical  
6 corrections; providing for the application of this Ordinance; and generally relating to  
7 benefits.  
8  
9 BY repealing and reenacting, with amendments: §§ 5-3-307(a) and (d); 5-3-309(a); 5-4-  
10 206(a) and (d)(3); 5-4-207(b); 5-5-205(a) and (d)(3); 5-5-206(b); 5-6-207(a) and  
11 (d)(3); and 5-6-209(a)  
12 Anne Arundel County code (2005, as amended)  
13  
14 BY renumbering: § 5-3-307(e) through (h) to be § 5-3-307(f) through (i), respectively  
15 Anne Arundel County Code (2005, as amended)  
16  
17 BY adding: §§ 5-3-307(d); 5-4-206(d)(4); 5-5-205(d)(4); and 5-6-207(d)(4)  
18 Anne Arundel County Code (2005, as amended)

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EXPLANATION: CAPITALS indicate new matter added to existing law.  
[Brackets] indicate matter stricken from existing law.  
Underlining indicates amendments to bill.  
~~Strikeover~~ indicates matter stricken from bill by amendment.

1 SECTION 1. *Be it enacted by the County Council of Anne Arundel Count, Maryland,*  
2 That § 5-3-307(e) through (h) of the Anne Arundel County Code (2005, as amended) is  
3 hereby renumbered to be § 5-3-307(f) through (i), respectively.  
4

5 SECTION 2. *And be it further enacted,* That Section(s) of the Anne Arundel County  
6 Code (2005, as amended) read as follows:  
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8 **ARTICLE 5. PENSIONS**  
9 **TITLE 3. EMPLOYEES' RETIREMENT PLAN**

10  
11 **5-3-307. Disability pension.**

12  
13 (a) **Total and permanent disability.** In this section, "total and permanent disability"  
14 does not include disability resulting from or consisting of the participant currently  
15 engaging in the illegal use of drugs or narcotics; a willful effort on the participant's part  
16 to bring about injury or illness to the participant or another person, while the participant  
17 is sane or insane; the participant engaging in any illegal or criminal enterprise or activity;  
18 injuries incurred on the job while under the influence of alcohol; or injuries incurred as a  
19 result of military service, OTHER THAN AS SET FORTH IN SUBSECTION (D).  
20

21 (D) **Military Service Disability Retirement Pension.** A PARTICIPANT WHO IS NOT  
22 ELIGIBLE TO RETIRE ON A NORMAL RETIREMENT PENSION MAY BE RETIRED BY THE  
23 PERSONNEL OFFICER WITH A DISABILITY PENSION BEGINNING ON THE DATE FOLLOWING  
24 A DETERMINATION BY THE PERSONNEL OFFICER THAT THE PARTICIPANT:  
25

26 (1) HAS A TOTAL AND PERMANENT DISABILITY AS A DIRECT RESULT OF  
27 QUALIFIED MILITARY SERVICE BASED ON A MEDICAL EXAMINATION BY ONE OR MORE  
28 PHYSICIANS SELECTED BY THE PERSONNEL OFFICER;  
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30 (2) WAS INJURED WHILE PERFORMING MILITARY SERVICE THAT QUALIFIES AS  
31 CREDITED IN-PLAN MILITARY SERVICE;  
32

33 (3) HAS BEEN DISCHARGED AND AWARDED A MONTHLY MILITARY DISABILITY  
34 PENSION BY THE UNITED STATES GOVERNMENT; AND  
35

36 (4) IS UNABLE TO PERFORM THE DUTIES OF THE PARTICIPANT'S REGULAR  
37 ASSIGNMENT OR ANY OTHER ASSIGNMENT THAT IS SUITABLE BASED ON THE  
38 PARTICIPANT'S TRAINING AND EXPERIENCE.  
39

40 [(d)] (E) **Annual amount of disability retirement pension.**

41  
42 (1) The annual amount of disability retirement pension payable to each eligible  
43 participant shall be determined as provided in this subsection.  
44

45 (2) If a participant is determined to have a total and permanent disability under  
46 subsection (b), the participant is entitled to receive an annual disability retirement  
47 pension equal to A minus B, where:  
48

49 (i) A is the greater of:  
50

1           1. the annual pension that the participant would have been entitled to  
2 receive upon retirement determined under [§ 5-3-303(a)(1) or (a)(2)] § 5-3-303(1) OR (2)  
3 based upon the participant's credited service; or  
4

5           2. 25% of final average basic pay; and  
6

7           (ii) B is the amount of earnings received by the participant during the year in a  
8 gainful occupation, to the extent that the earnings exceed the current earnings of an  
9 employee similarly classified.  
10

11           (3) If a participant is determined to have a total and permanent disability under  
12 subsection (c), the participant is entitled to receive an annual disability retirement pension  
13 equal to 66 2/3% of the participant's final average basic pay.  
14

15           (4) IF A PARTICIPANT IS ELIGIBLE FOR RETIREMENT UNDER SUBSECTION (D), THE  
16 PARTICIPANT IS ENTITLED TO RECEIVE AN ANNUAL MILITARY DISABILITY PENSION  
17 BENEFIT EQUAL TO THE GREATER OF:  
18

19           (I) THE PARTICIPANT'S ACCRUED PENSION AS OF THE DATE OF DISABILITY,  
20 COMPUTED IN ACCORDANCE WITH THE PROVISIONS OF § 5-3-303;  
21

22           ~~(II) 66 2/3% OF THE PARTICIPANT'S FINAL AVERAGE BASIC PAY LESS THE~~  
23 ~~MONTHLY AMOUNT OF THE MILITARY DISABILITY PAYMENT AWARDED TO THE~~  
24 ~~PARTICIPANT BY THE UNITED STATES GOVERNMENT BEING RECEIVED BY THE~~  
25 ~~PARTICIPANT FROM THE UNITED STATES GOVERNMENT AT THE TIME OF RETIREMENT~~  
26 ~~CALCULATED ON AN ANNUALIZED BASIS; OR~~  
27

28           ~~(III) 25% OF THE PARTICIPANT'S FINAL AVERAGE BASIC PAY.~~  
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### 30 **5-3-309. Active participant's death benefits – Non-line of duty.**

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32           (a) **Generally.** This section applies to active participants whose deaths do not  
33 occur as a direct result of the active performance of duties, INCLUDING A PARTICIPANT  
34 WHOSE DEATH OCCURS AS A RESULT OF PERFORMING MILITARY SERVICE THAT  
35 QUALIFIES AS CREDITED IN-PLAN MILITARY SERVICE.  
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## 37 **TITLE 4. FIRE SERVICE RETIREMENT PLAN**

### 38 39 **5-4-206. Disability pension.**

40  
41           (a) **Limitations on "total and permanent disability".** In this section, "total and  
42 permanent disability" does not include disability resulting from or consisting of the  
43 participant currently engaging in the illegal use of drugs or narcotics; a willful effort on  
44 the participant's part to bring about injury or illness to the participant or another person,  
45 while the participant is sane or insane; the participant engaging in any illegal or criminal  
46 enterprise or activity; injuries incurred on the job while under the influence of alcohol; or  
47 injuries incurred as a result of military service, OTHER THAN AS SET FORTH IN  
48 SUBSECTION (D)(4).  
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50           (d) **Annual disability retirement pension.**

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(3) (i) If a participant has a total and permanent disability solely because the participant is prevented from engaging in any occupation or employment for remuneration or profit [in accordance with subsection (b)(1), or from continuing as an employee in accordance with subsection (b)(2)] as a result of a non-duty related cause, the participant is entitled to receive an annual disability retirement pension equal to the participant's accrued pension as of the participant's date of disability computed in accordance with the provisions of § 5-4-203 or 66 2/3% of the participant's final average basic pay, whichever is greater.

(ii) If a participant has a total and permanent disability solely because the participant is prevented from continuing as an employee in the participant's regular assignment or in some other assignment within the fire department [in accordance with subsection (b)(2)], as a result of a non-duty related cause, the participant is entitled to receive an annual disability retirement pension equal to the participant's accrued pension as of the participant's date of disability, computed in accordance with the provisions of § 5-4-203 or 20% of the participant's final average basic pay, whichever is greater.

(4) IF A PARTICIPANT HAS A TOTAL AND PERMANENT DISABILITY AS A DIRECT RESULT OF PERFORMING MILITARY SERVICE THAT QUALIFIES AS CREDITED IN-PLAN MILITARY SERVICE, HAS BEEN DISCHARGED FROM THE MILITARY AND AWARDED A MONTHLY MILITARY DISABILITY PENSION, AND IS PREVENTED FROM CONTINUING IN THE PARTICIPANT'S REGULAR ASSIGNMENT WITHIN THE FIRE DEPARTMENT AS A RESULT OF THIS DISABILITY, THE PARTICIPANT IS ENTITLED TO RECEIVE AN ANNUAL DISABILITY RETIREMENT PAYMENT EQUAL TO THE PARTICIPANT'S ACCRUED PENSION AS OF THE DATE OF DISABILITY, COMPUTED IN ACCORDANCE WITH THE PROVISIONS OF § 5-4-203, OR 66 2/3% OF THE PARTICIPANT'S FINAL AVERAGE BASIC PAY LESS THE MONTHLY AMOUNT OF THE MILITARY DISABILITY PAYMENT AWARDED TO THE PARTICIPANT BY THE UNITED STATES GOVERNMENT BEING RECEIVED BY THE PARTICIPANT FROM THE UNITED STATES GOVERNMENT AT THE TIME OF RETIREMENT CALCULATED ON AN ANNUALIZED BASIS, OR 20% OF THE PARTICIPANT'S FINAL AVERAGE BASIC PAY, WHICHEVER IS GREATER.

**5-4-207. Active participant's death benefits.**

(b) **Death not a result of active duty.** This subsection applies to active participants whose deaths do not occur as a direct result of the active performance of duties, INCLUDING A PARTICIPANT WHOSE DEATH OCCURS AS A RESULT OF PERFORMINNG MILITARY SERVICE THAT QUALIFIES AS CREDITED IN-PLAN MILITARY SERVICE PERIOD. On the death of an active participant, a death benefit is payable to the surviving spouse or, if there is no spouse, the unmarried minor children, in an annual amount equal to the participant's accrued benefit, computed in accordance with § 5-4-203, as of the participant's date of death.

**TITLE 5. POLICE SERVICE RETIREMENT PLAN**

**5-5-205. Disability pensions.**

(a) **Limitation on "total and permanent disability".** In this section, "total and permanent disability" does not include disability resulting from or consisting of the participant currently engaging in the illegal use of drugs or narcotics; a willful effort on

1 the participant's part to bring about injury or illness to the participant or another person,  
2 while the participant is sane or insane; the participant engaging in any illegal or criminal  
3 enterprise or activity; injuries incurred on the job while under the influence of alcohol; or  
4 injuries incurred as a result of military service, OTHER THAN AS SET FORTH IN  
5 SUBSECTION(D)(4).

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7 **(d) Annual disability retirement pension.**  
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9 (3) (i) If a participant has a total and permanent disability solely because the  
10 participant is prevented from engaging in any occupation or employment for  
11 remuneration or profit [in accordance with subsection (b)(1) or from continuing as a  
12 participant in accordance with subsection (b)(2)] as a result of a [non-duty-related] NON-  
13 DUTY RELATED cause, the participant is entitled to receive an annual disability retirement  
14 pension equal to the participant's accrued pension as of the participant's date of disability  
15 computed in accordance with the provisions of § 5-5-203 or 66 2/3% of the participant's  
16 final average basic pay, whichever is greater.

17  
18 (ii) If a participant has a total and permanent disability solely because the  
19 participant is prevented from continuing as an employee in the participant's regular  
20 assignment or in some other assignment within the Police Department [in accordance  
21 with subsection (b)(2)], as a result of a non-duty related cause, the participant is entitled  
22 to receive an annual disability retirement pension equal to the participant's accrued  
23 pension as of the participant's date of disability, computed in accordance with the  
24 provisions of § 5-5-203, or 20% of the participant's final average basic pay, whichever is  
25 greater.

26  
27 (4) IF A PARTICIPANT HAS A TOTAL AND PERMANENT DISABILITY AS A DIRECT  
28 RESULT OF PERFORMING MILITARY SERVICE THAT QUALIFIES AS CREDITED IN-PLAN  
29 MILITARY SERVICE, HAS BEEN DISCHARGED FROM THE MILITARY AND AWARDED A  
30 MONTHLY MILITARY DISABILITY PENSION, AND IS PREVENTED FROM CONTINUING IN  
31 THE PARTICIPANT'S REGULAR ASSIGNMENT WITHIN THE POLICE DEPARTMENT AS A  
32 RESULT OF THIS DISABILITY, THE PARTICIPANT IS ENTITLED TO RECEIVE AN ANNUAL  
33 DISABILITY RETIREMENT PAYMENT EQUAL TO THE PARTICIPANT'S ACCRUED PENSION  
34 AS OF THE DATE OF DISABILITY, COMPUTED IN ACCORDANCE WITH THE PROVISIONS OF  
35 § 5-5-203, OR 66 2/3% OF THE PARTICIPANT'S FINAL AVERAGE BASIC PAY LESS THE  
36 MONTHLY AMOUNT OF THE MILITARY DISABILITY PAYMENT ~~AWARDED TO THE~~  
37 PARTICIPANT BY THE UNITED STATES GOVERNMENT BEING RECEIVED BY THE  
38 PARTICIPANT FROM THE UNITED STATES GOVERNMENT AT THE TIME OF RETIREMENT  
39 CALCULATED ON AN ANNUALIZED BASIS, OR 20% OF THE PARTICIPANT'S FINAL  
40 AVERAGE BASIC PAY, WHICHEVER IS GREATER.

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42 **5-5-206. Active participant's death benefits.**  
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44 (b) **Death not a result of active duty.** This subsection applies to active participants  
45 whose deaths do not occur as a direct result of the active performance of duties,  
46 INCLUDING A PARTICIPANT WHOSE DEATH OCCURS AS A RESULT OF PERFORMING  
47 MILITARY SERVICE THAT QUALIFIES AS CREDITED IN-PLAN MILITARY SERVICE. On the  
48 death of an active participant, a death benefit is payable to the surviving spouse or, if  
49 there is no spouse, the unmarried minor children, in an annual amount equal to the  
50 participant's accrued benefit, computed in accordance with § 5-5-203, as of the  
51 participant's date of death.

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2 **TITLE 6. DETENTION OFFICERS' AND DEPUTY SHERIFFS'**  
3 **RETIREMENT PLAN**  
4

5 **5-6-207. Disability pension.**  
6

7 (a) **Limitation on "total and permanent disability"**. In this section, "total and  
8 permanent disability" does not include disability resulting from or consisting of the  
9 participant currently engaging in the illegal use of drugs or narcotics; a willful effort on  
10 the participant's part to bring about injury or illness to the participant or another person,  
11 while the participant is sane or insane; the participant engaging in any illegal or criminal  
12 enterprise or activity; injuries incurred on the job while under the influence of alcohol; or  
13 injuries incurred as a result of military service, OTHER THAN A DISABILITY SET FORTH IN  
14 SUBSECTION (D)(4).  
15

16 (d) **Annual disability retirement pension.**  
17

18 (3) (i) If a participant has a total and permanent disability solely because the  
19 participant is prevented from engaging in any occupation or employment for  
20 remuneration or profit [in accordance with subsection (b)(1)] as a result of a [non-duty-  
21 related] NON-DUTY RELATED cause, the participant is entitled to receive an annual  
22 disability retirement pension equal to the participant's accrued benefit as of the  
23 participant's date of disability computed in accordance with the provisions of § 5-6-203  
24 or 66 2/3% of the participant's final average basic pay, whichever is greater.  
25

26 (ii) If a participant has a total and permanent disability solely because the  
27 participant is prevented from continuing as an employee in the participant's regular  
28 assignment or in some other assignment within the participant's department [in  
29 accordance with subsection (b)(2)], as a result of a non-duty related cause, the participant  
30 is entitled to receive an annual disability retirement pension equal to the participant's  
31 accrued pension as of the participant's date of disability, computed in accordance with the  
32 provisions of [§ 5-4-203] § 5-6-203, or 20% of the participant's final average basic pay,  
33 whichever is greater.  
34

35 (4) IF A PARTICIPANT HAS A TOTAL AND PERMANENT DISABILITY AS A DIRECT  
36 RESULT OF PERFORMING MILITARY SERVICE THAT QUALIFIES AS CREDITED IN-PLAN  
37 MILITARY SERVICE, HAS BEEN DISCHARGED FROM THE MILITARY AND AWARDED A  
38 MONTHLY MILITARY DISABILITY PENSION, AND IS PREVENTED FROM CONTINUING IN  
39 THE PARTICIPANT'S REGULAR ASSIGNMENT WITHIN THE DETENTION CENTER OR  
40 SHERIFF'S OFFICE AS A RESULT OF THIS DISABILITY, THE PARTICIPANT IS ENTITLED TO  
41 RECEIVE AN ANNUAL DISABILITY RETIREMENT PAYMENT EQUAL TO THE PARTICIPANT'S  
42 ACCRUED PENSION AS OF THE DATE OF DISABILITY, COMPUTED IN ACCORDANCE WITH  
43 THE PROVISIONS OF § 5-6-203, OR 66 2/3% OF THE PARTICIPANT'S FINAL AVERAGE BASIC  
44 PAY LESS THE MONTHLY AMOUNT OF THE MILITARY DISABILITY PAYMENT AWARDED  
45 ~~TO THE PARTICIPANT BY THE UNITED STATES GOVERNMENT BEING RECEIVED BY THE~~  
46 PARTICIPANT FROM THE UNITED STATES GOVERNMENT AT THE TIME OF RETIREMENT  
47 CALCULATED ON AN ANNUALIZED BASIS, OR 20% OF THE PARTICIPANT'S FINAL  
48 AVERAGE BASIC PAY, WHICHEVER IS GREATER.  
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50 **5-6-209. Active participant's death benefits – Non-line of duty.**  
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1       (a) **Generally.** This section applies to active participants whose deaths do not occur  
2 as a direct result of the active performance of duties, INCLUDING A PARTICIPANT WHOSE  
3 DEATH OCCURS AS A RESULT OF PERFORMING MILITARY SERVICE THAT QUALIFIES AS  
4 CREDITED IN-PLAN MILITARY SERVICE.

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6       SECTION 3. *And be it further enacted,* That this Ordinance shall be construed to  
7 apply retroactively and shall apply to an individual who becomes disabled or dies on or  
8 after January 1, 2007 while performing military service that qualifies as credited in-plan  
9 military service.

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11       SECTION 4. *And be it further enacted,* That this Ordinance shall take effect 45 days  
12 from the date it becomes law.