

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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*Codification  
District of  
Columbia  
Official Code*

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To authorize, on a temporary basis, the Mayor to establish retirement incentives during the remainder of calendar year 2008.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Retirement Incentive Temporary Act of 2008”.

Sec. 2. Easy out retirement incentive.

(a) Notwithstanding section 1106 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.06) (“CMPA”), the Council adopts changes to the compensation system for the Career, Excepted, Legal, and Management Supervisory Services under section 1104 of the CMPA, that authorize the Mayor to establish a retirement incentive program for certain District employees.

(b) The changes to the compensation system are as follows:

(1) The Mayor is authorized to establish an easy out retirement incentive program (“Easy Out Program”) which may apply to eligible employees under the personnel authority of the Mayor, and employees of any other personnel authority that is under the pay authority of the Mayor if the personnel authority chooses to participate in the Easy Out Program.

(2) The Easy Out Program may be implemented by the appropriate personnel authority at any time during calendar year 2008 after the effective date of this act.

(3) The Easy Out Program shall be limited to employees retiring under the retirement provisions of the Civil Service Retirement System (Chapter 83 of Title 5 of the U.S. Code), except an employee retiring under the discontinued service/involuntary retirement provisions of 5 U.S.C. § 8336(d)(1) or under the disability retirement provisions of 5 U.S.C. § 8337.

(4) The Easy Out Program shall offer a retirement incentive of 50% of an employee’s annual rate of basic pay from the employee’s salary or pay schedule which was in effect on October 14, 2007, not to exceed \$25,000.

(5) Retirement incentive payments shall be prorated in the case of a part-time employee.

(6) Retirement incentive payments shall not be considered basic pay for computing retirement entitlement, insurance entitlement, any category of premium pay entitlement, lump-sum leave, or any other entitlement that is computed on basic pay.

(7) No incentive pay shall be paid to:

(A) An employee retiring under the discontinued service/involuntary retirement provisions of 5 U.S.C. § 8336(d)(1) or the disability retirement provisions of 5 U.S.C. § 8337;

(B) An employee who is a reemployed annuitant under the provisions of 5 U.S.C. § 8344;

(C) An employee who is in a critical position as defined by regulations promulgated by the Mayor;

(D) An employee who is under indictment or who is charged by information with or who has been convicted of a felony or who has been convicted after a plea of *nolo contendere* to a felony related to his or her employment duties; provided, that any employee who ultimately is acquitted or cleared of any charge that caused his or her ineligibility shall be eligible for all benefits as if that employee had never been indicted for or charged by information with a felony;

(E) An employee who, based on conduct related to his or her employment duties, has been convicted of a misdemeanor or who has plead guilty or has been convicted after a plea of *nolo contendere* to a misdemeanor; provided, that any employee who is ultimately acquitted or cleared of any charge which caused his or her ineligibility shall be eligible for all benefits as if that employee had never been charged with a misdemeanor; or

(F) An employee who is a sworn member of the Metropolitan Police Department or the Fire and Emergency Medical Services Department.

(8) For the purposes of paragraph (7)(D) of this subsection, the term “felony” means an offense that is punishable by a term of imprisonment that exceeds one year or a fine of at least \$1,000.

(9) An employee who receives an incentive payment under the Easy Out Program shall not be eligible for reemployment with the District government for 5 years from the date of retirement, or hired or retained as a sole source consultant or personal services contractor for 5 years from the date of retirement, unless he or she repays the incentive received if reemployed or hired or retained as a sole source consultant or personal services contractor before the end of the 5-year period.

(10) Notwithstanding the provisions of paragraph (9) of this subsection, and on a case-by-case basis, the Director of the D.C. Department of Human Resources or independent personnel authority may waive repayment of the incentive; provided, that in the case of an emergency situation involving a direct threat to life or property, the person has knowledge,

skills, or abilities directly related to resolving the emergency situation and will serve on a temporary basis not to exceed 60 days.

Sec. 3. Early out retirement incentive.

(a) Notwithstanding section 1106 of the CMPA, the Council adopts changes to the compensation system for the Career, Excepted, Legal, and Management Supervisory Services under section 1104 of the CMPA that authorize the Mayor to establish a retirement incentive program for certain District employees.

(b) The changes to the compensation system are as follows:

(1) The Mayor is authorized to establish an early out retirement incentive program ("Early Out Program") which may apply to eligible employees under the personnel authority of the Mayor and employees of any other personnel authority that is under the pay authority of the Mayor if the personnel authority chooses to participate in the Early Out Program.

(2) The Early Out Program may be implemented by the appropriate personnel authority at any time during calendar year 2008 after the effective date of this act.

(3) The Early Out Program shall be limited to employees retiring under the early retirement provisions of 5 U.S.C. § 8414(b)(1)(B).

(4) The Early Out Program shall offer a retirement incentive of 50% of an employee's annual rate of basic pay from the employee's salary or pay schedule which was in effect on October 14, 2007, not to exceed \$25,000.

(5) Retirement incentive payments shall be prorated in the case of a part-time employee.

(6) Retirement incentive payments shall not be considered basic pay for computing retirement entitlement, insurance entitlement, any category of premium pay entitlement, lump-sum leave, or any other entitlement that is computed on basic pay.

(7) No retirement incentive pay shall be paid under this section to:

(A) An employee retiring under the law enforcement or firefighter provisions of 5 U.S.C. § 8336(c), the discontinued service/involuntary retirement provisions of 5 U.S.C. § 8336 (d)(1), or the disability retirement provisions of 5 U.S.C. § 8337;

(B) An employee who is a reemployed annuitant under the provisions of 5 U.S.C. § 8344;

(C) An employee who is in a critical position as defined by regulations promulgated by the Mayor;

(D) An employee who is under the indictment or who is charged by information with or who has been convicted of a felony or who has been convicted after a plea of *nolo contendere* to a felony related to his or her employment duties; provided, that any employee who ultimately is acquitted or cleared of any charge that cause his or her ineligibility shall be eligible for all benefits as if that employee had never been indicted for or charged by information with a felony;

(E) An employee who, based on conduct related to his or her employment duties, has been convicted of a misdemeanor or who has plead guilty or has been convicted after a plea of *nolo contendere* to a misdemeanor; provided, that any employee who is ultimately acquitted or cleared of any charge which caused his or her ineligibility shall be eligible for all benefits as if that employee had never been charged with a misdemeanor; or

(F) An employee who is a sworn member of the Metropolitan Police Department or the Fire and Emergency Medical Services Department.

(8) For the purposes of paragraph (7)(D) of this subsection, the term “felony” means an offense that is punishable by a term of imprisonment that exceeds one year or a fine of at least \$1,000.

(9) An employee who receives an incentive payment under the Early Out Program shall not be eligible for reemployment with the District government for 5 years from the date of retirement, or hired or retained as a sole source consultant or personal services contractor for 5 years from the date of retirement, unless he or she repays the incentive if reemployed or rehired or retained as a sole source consultant or personal services contractor before the end of the 5-year period.

(10) Notwithstanding the provisions of paragraph (9) of this subsection, and on a case-by-case basis, the Director of the D.C. Department of Human Resources or independent personnel authority may waive repayment of the incentive; provided, that in the case of an emergency situation involving a direct threat to life or property, the person has knowledge, skills, or abilities directly related to the resolving the emergency situation and will serve on a temporary basis not to exceed 60 days.

#### Sec. 4. Retirement incentives for employees covered under other retirement systems.

(a) Notwithstanding section 1106 of the CMPA (D.C. Official Code § 1-611.06), the Council of the District of Columbia adopts changes to the compensation system for the Career, Excepted, Legal, and Management Supervisory Services under section 1104 of the CMPA that authorize the Mayor to establish a retirement incentive program for the following employees:

(1) Employees first employed by the District government after September 30, 1987 who have completed at least 5 years of creditable service with the District government, have vested under the Defined Contribution Plan as provided in section 2610 of the CMPA, and are separating from District government service after becoming entitled to retirement benefits under the Social Security Act; and

(2) Employees retiring under any of the other District government retirement systems.

(b) Retirement incentives under this section may be implemented by the appropriate personnel authority at any time during calendar year 2008 after the effective date of this act.

(c) Retirement incentives under this section shall consist of 50% of an employee’s annual rate of basic pay from the employee’s salary or pay schedule which was in effect on October 14, 2007, not to exceed \$25,000.

(d) Retirement incentive payments shall be prorated in the case of a part-time employee.

(e) Retirement incentive payments shall not be considered basic pay for computing retirement entitlement, insurance entitlement, any category of premium pay entitlement, lump-sum leave, or any other entitlement that is computed on basic pay.

(f) No retirement incentive under this section shall be paid to:

(1) An employee who is in a critical position as defined by regulations promulgated by the Mayor;

(2) An employee who is under the indictment or who is charged by information with or who has been convicted of a felony or who has been convicted after a plea of *nolo contendere* to a felony related to his or her employment duties; provided, that any employee who ultimately is acquitted or cleared of any charge that cause his or her ineligibility shall be eligible for all benefits as if that employee had never been indicted for or charged by information with a felony;

(3) An employee who, based on conduct related to his or her employment duties, has been convicted of a misdemeanor or who has plead guilty or has been convicted after a plea of *nolo contendere* to a misdemeanor; provided, that any employee who is ultimately acquitted or cleared of any charge which caused his or her ineligibility shall be eligible for all benefits as if that employee had never been charged with a misdemeanor; or

(4) An employee who is a sworn member of the Metropolitan Police Department or the Fire and Emergency Medical Services Department.

(g) For the purposes of paragraph (f)(2) of this section, the term “felony” means an offense that is punishable by a term of imprisonment that exceeds one year or a fine of at least \$1,000.

(h) An employee who receives an incentive payment under this section shall not be eligible for reemployment with the District government for 5 years from the date of retirement, or hired or retained as a sole source consultant or personal services contractor for 5 years from the date of retirement, unless he or she repays the incentive if reemployed or rehired or retained as a sole source consultant or personal services contractor before the end of the 5-year period.

(i) Notwithstanding the provisions of subsection (h) of this section, and on a case-by-case basis, the Director of the D.C. Department of Human Resources or independent personnel authority may waive repayment of the incentive; provided, that in the case of an emergency situation involving a direct threat to life or property, the person has knowledge, skills, or abilities directly related to the resolving the emergency situation and will serve on a temporary basis not to exceed 60 days.

#### Sec. 5. Retention award.

The Mayor shall issue rules to create and implement a Retention Award for Sustained Superior Performance for up to \$25,000 for the remainder of the calendar year 2008.

Sec. 6. Not an entitlement or private right of action.

No provision of this act shall be construed to create an entitlement or private right of action on the part of any District government employee with respect to the easy out retirement incentive or early out retirement incentive.

Sec. 7. Rules.

The Mayor shall issue rules to implement the provisions of sections 2, 3, 4, and 5.

Sec. 8. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 9. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia