

**Bill 37-08, Personnel– Disability Retirement  
Summary of Key Provisions**

1. The Bill would modify the procedures for determining eligibility for a disability retirement pension to make them consistent for all employees as follows:

- Creates a **Medical Review Panel** consisting of 4 physicians, 2 of whom must be board certified in occupational medicine or have at least 10 years of experience in occupational medicine. The Medical Review Panel would replace the current Disability Review Panel and make recommendations on medical issues only. The current Disability Review Panel is responsible for making recommendations to the CAO on both medical and administrative decisions.
- The Executive would appoint the members of the Medical Review Panel, subject to Council confirmation, from a list of qualified physicians prepared by an impartial medical organization retained by the County to solicit and provide qualified applicants. The current Disability Review Panel is appointed jointly by the CAO and the employee unions.
- The Medical Review Panel must act with 3 members on each case. If only 2 members agree, the 3d member must write a minority recommendation. The current Disability Review Panel can act with 2 members and no minority recommendation is required. A minority recommendation would give the new Disability Review Board a more complete picture of the medical issues when there is a split vote by the Medical Review Panel.
- The Medical Review Panel must require an independent medical examination. Currently, the Disability Review Panel can, but often does not, require an independent medical examination.
  
- Creates a **Disability Review Board** to make decisions on disability retirements based upon the recommendations of the Medical Review Panel. The Board consists of 3 *ex officio* members (Dir. of Finance, Dir. of Management & Budget, and Dir. of HR), 1 current employee nominated by the employee unions, and 1 public member. The members are appointed by the Executive, subject to Council confirmation.
- The CAO no longer makes the disability decision. This would require an administrative board consisting of representatives of management, labor, and the public to make administrative decisions related to an employee's eligibility for disability.
- Changes the current Disability Arbitration Board to a single independent **Disability Arbitrator** to hear appeals of decisions made by the Disability Review Board. There would be 4 Disability Arbitrators pre-selected jointly by the County and the employee unions. Current law provides for a neutral arbitrator to chair a 3 person board with 1 member appointed by the CAO and 1 member appointed by

the employee unions. Current law also creates a separate Police Arbitration Board for appeals from members of the Police Department.

2. The Bill would make the following changes in the benefits for ERS members, including police and fire employees:

- Creates a service-connected disability with *total incapacity* with a minimum payment of **70%** of final earnings.
- Total incapacity requires an inability to perform substantial gainful activity based on the Social Security disability standard.
- Creates a service-connected disability with *partial incapacity* with a minimum payment of **52½%** of final earnings.
- Partial incapacity requires an inability to perform the essential functions of the current position while retaining the ability to perform substantial gainful activity. Current law provides for a minimum 66 2/3 % benefit for both total and partial disability for all employees other than members of Group G (Fire and Rescue). The Bill would extend the current Group G partial/total split benefit to all ERS members.
- Requires a one-for-one reduction in service-connected disability payments for any disability retirement payments received from another employer for the same impairment. Current law does not contain this provision.
- Prohibits an award of a service-connected disability pension to an employee who commits an offense that would justify removal for cause. Current law permits an employee who commits such an offense to receive a service-connected disability retirement.
- Requires a member to apply for a service-connected disability retirement due to an accidental injury within 1 year after separation from service and within 5 years after the accident occurred. There are no current restrictions on when applications for disability can be filed.
- Requires a member to report an accidental injury causing the incapacity that forms the basis of the disability at the time of the injury. Current law does not require such a report.

3. Other Points

- Disability benefits for Retirement Savings Plan (RSP) employees remain unchanged, although the procedures used to determine eligibility and appeals are modified to be consistent with the procedures for ERS employees. The RSP consists of non-public safety employees hired after October 1, 1994.
- The current RSP *continued service-connected disability pension* is **66 2/3%** until age 65 with dollar for dollar deductions for other group income maintenance insurance, Social Security disability benefits, any government disability plan, and the amount received from RSP. There is also a deduction of 1 dollar for every 3 dollars in earned income. Disability benefits for RSP members end at age 65.

- The Bill expressly provides that the amendments in the Bill are not subject to collective bargaining.
- This is an expedited Bill. The amendments would apply to any application for disability benefits filed after it becomes law.
- The Bill has a 90 day transition period for the Executive and Council to appoint members of the Medical Review Panel and the Disability Review Board. During this transition, applications would continue to be reviewed and decided by the existing Disability Review Panel serving in the role of the Medical Review Panel and the CAO serving as the Disability Review Board.