

shall, in determining whether such injury occurred or disease was contracted in the performance of police duties or such injury or disease was aggravated by such duty and such injury or disease or aggravation disabled him for the performance of police duties, solicit recommendations and advice from the county executive (except where the retirement application is initiated by the county executive), the superintendent of police, and competent medical authority as it may deem necessary.

(d) Whenever any member of the Montgomery County police, having served not less than five years, shall have become incapacitated either by accident, disease or disability contracted not in line of duty so as to be unable to perform his duties, such member may make written application to the county personnel board for retirement and relief or the county executive may make application for his retirement upon the member's failure or refusal to do so. Upon a finding of fact by the county personnel board in support of the foregoing provisions of this subsection he shall be retired from the service thereof and be entitled to receive relief from the police relief and retirement fund in an amount to be determined as follows: If he shall have served more than five years but less than six years on such police prior to being incapacitated, he shall receive compensation amounting to ten percentum per year of the salary received by him at the date of retirement and for each additional year he shall have served on such police prior to incapacitation, he shall receive an additional two percentum per year of the salary received by him at the date of retirement but in no case shall any member of such police who is retired under the provisions of this section receive compensation in excess of sixty percentum of his annual salary at the date of retirement.

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Section 4. Section 27-3, Chapter 27, title "In General" of the Montgomery County Code 1965, is hereby repealed and re-enacted, with amendments, to read as follows:

27-3. Authority of council to provide for disability and death benefits for members of fire departments and rescue squads; designation of board to conduct hearings.

The council is hereby authorized and empowered to provide for the payment of disability benefits for members of fire departments, fire companies and fire and ambulance rescue squads operating in the county, and for the payment of death benefits to their widows and to their children where such members are injured or killed in the line of duty with such fire department, fire company or fire or ambulance rescue squad; provided, that the council may provide, by way of illustration and not by limitation, for the implementation and administration of such disability and death benefits, for minimum and maximum benefits payable thereunder, for the source and funds from which such benefits shall be paid, and for rights of subrogation in the county.

Section 5. Severability.

The provisions of this Act are severable and if any provision, sentence, clause, section or part thereof is held illegal, invalid or unconstitutional or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of the act or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Act would have