

# HOUSE BILL 710

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By: **Montgomery County Delegation and Prince George's County Delegation**  
Introduced and read first time: February 8, 2007  
Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland–National Capital Park and Planning Commission – Service**  
3 **Contracts**

4 **MC/PG 117–07**

5 FOR the purpose of prohibiting the Maryland–National Capital Park and Planning  
6 Commission from soliciting a certain service contract unless the Executive  
7 Director of the Commission provides certain certification, the Commission  
8 submits a certain plan, and bargains in good faith with a certain certified  
9 representative under certain circumstances; authorizing the certified  
10 representative of an adversely affected Commission employee to submit a  
11 proposal in response to a certain solicitation; specifying that noncompliance  
12 with the provisions of the Act may not invalidate certain contract awards or  
13 proposed contract awards; authorizing a certified representative to file an action  
14 in a certain court on behalf of a Commission employee if the Commission fails to  
15 comply with certain provisions of this Act; providing for the application of this  
16 Act; providing for a certain remedy; defining certain terms; and generally  
17 relating to Maryland–National Capital Park and Planning Commission service  
18 contracts.

19 BY adding to

20 Article 28 – Maryland–National Capital Park and Planning Commission  
21 Section 2–112.2  
22 Annotated Code of Maryland  
23 (2003 Replacement Volume and 2006 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article 28 – Maryland–National Capital Park and Planning Commission**

4 **2–112.2.**

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
6 MEANINGS INDICATED.

7 (2) “ADVERSELY AFFECT” MEANS:

8 (I) A LOSS OF EXISTING COMMISSION EMPLOYMENT;

9 (II) A LOSS OF BARGAINING UNIT WORK;

10 (III) A REDUCTION IN PAY GRADE; OR

11 (IV) A REDUCTION IN PAY OR BENEFITS.

12 (3) “CERTIFIED REPRESENTATIVE” MEANS AN EMPLOYEE  
13 ORGANIZATION CERTIFIED AS THE COLLECTIVE BARGAINING REPRESENTATIVE  
14 OF COMMISSION EMPLOYEES IN ACCORDANCE WITH § 2–112.1(C) OF THIS  
15 SUBTITLE.

16 (4) “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR  
17 OF THE COMMISSION.

18 (5) “SERVICE CONTRACT” MEANS A PROCUREMENT CONTRACT  
19 FOR SERVICES THAT WILL BE PROVIDED TO THE COMMISSION.

20 (B) (1) THIS SECTION APPLIES TO A SERVICE CONTRACT THAT:

21 (I) WILL ADVERSELY AFFECT A COMMISSION EMPLOYEE;  
22 AND

23 (II) IN THE ESTIMATION OF THE COMMISSION  
24 PROCUREMENT OFFICER, WILL EXCEED AN ANNUAL COST OF \$50,000 AS  
25 CALCULATED UNDER PARAGRAPH (2) OF THIS SUBSECTION.

1           **(2) THE COMMISSION SHALL ADJUST THE ANNUAL COST**  
2 **ESTIMATION DESCRIBED IN PARAGRAPH (1)(II) OF THIS SUBSECTION TO THE**  
3 **NEAREST \$100 EVERY 2 YEARS, BEGINNING ON OCTOBER 1, 2007, TO REFLECT**  
4 **ANY AGGREGATE INCREASE IN THE CONSUMER PRICE INDEX FOR ALL URBAN**  
5 **CONSUMERS, FOR THE WASHINGTON-BALTIMORE METROPOLITAN AREA, OR**  
6 **ANY SUCCESSOR INDEX, FOR THE PREVIOUS 2 YEARS.**

7           **(3) THIS SECTION DOES NOT APPLY TO:**

8                   **(I) A CONTRACT IN WHICH THE PRIMARY PURPOSE IS TO**  
9 **OBTAIN GOODS OR CONSTRUCTION SERVICES;**

10                   **(II) A SERVICE THAT THE MONTGOMERY COUNTY OR**  
11 **PRINCE GEORGE'S COUNTY COUNCILS AUTHORIZE OR REQUIRE TO BE**  
12 **PROVIDED BY AN INDEPENDENT CONTRACTOR;**

13                   **(III) A SERVICE PROVIDED BY A CONSULTANT; OR**

14                   **(IV) A PROFESSIONAL SERVICE, UNLESS THE SERVICE IS**  
15 **PROVIDED BY BARGAINING UNIT EMPLOYEES WHEN THE CONTRACT IS**  
16 **SOLICITED.**

17           **(4) THIS SECTION DOES NOT APPLY TO OR LIMIT THE AUTHORITY**  
18 **OF THE COMMISSION TO ABOLISH A BARGAINING UNIT POSITION OR CONDUCT A**  
19 **REDUCTION IN FORCE.**

20           **(C) THE COMMISSION MAY NOT SOLICIT A SERVICE CONTRACT UNDER**  
21 **THIS SUBTITLE UNLESS THE EXECUTIVE DIRECTOR HAS CERTIFIED THAT THE**  
22 **SERVICE CONTRACT COMPLIES WITH SUBSECTIONS (D) AND (E) OF THIS**  
23 **SECTION.**

24           **(D) (1) THE EXECUTIVE DIRECTOR MAY NOT CERTIFY THAT THE**  
25 **COMMISSION MAY SOLICIT A SERVICE CONTRACT UNLESS THE COMMISSION:**

26                   **(I) HAS TAKEN STEPS TO CONSIDER ALTERNATIVES TO THE**  
27 **SERVICE CONTRACT, INCLUDING REORGANIZATION, REEVALUATION OF**  
28 **SERVICE, AND REEVALUATION OF PERFORMANCE;**

1                   **(II) HAS CONSULTED WITH THE CERTIFIED**  
2 **REPRESENTATIVE OF ANY COMMISSION EMPLOYEES WHO WILL BE ADVERSELY**  
3 **AFFECTED IF THE COMMISSION ENTERS INTO THE SERVICE CONTRACT; AND**

4                   **(III) HAS DEMONSTRATED, BASED ON A COST COMPARISON**  
5 **ANALYSIS, THAT THE COMMISSION WILL SAVE, OVER THE TERM OF THE**  
6 **SERVICE CONTRACT, 25% OR MORE OF THE VALUE OF THE SERVICE CONTRACT.**

7                   **(2) THE COMMISSION SHALL COMPARE THE FOLLOWING IN THE**  
8 **COST COMPARISON ANALYSIS:**

9                   **(I) DIRECT COSTS, INCLUDING FRINGE BENEFITS AND THE**  
10 **ASSUMPTION THAT THE CONTRACTOR WILL PAY EMPLOYEES WHO PERFORM**  
11 **WORK UNDER THE SERVICE CONTRACT AT RATES COMPARABLE TO RATES IN**  
12 **ANY EXISTING COLLECTIVE BARGAINING AGREEMENT;**

13                   **(II) INDIRECT OVERHEAD COSTS, INCLUDING THE**  
14 **PROPORTIONAL SHARE OF EXISTING ADMINISTRATIVE SALARIES AND**  
15 **BENEFITS, RENT, EQUIPMENT COSTS, UTILITIES, AND MATERIALS; AND**

16                   **(III) ANY CONTINUING OR TRANSITIONAL COSTS THAT**  
17 **WOULD BE DIRECTLY ASSOCIATED WITH CONTRACTING FOR THE SERVICES,**  
18 **INCLUDING UNEMPLOYMENT COMPENSATION AND THE COSTS OF**  
19 **TRANSITIONAL SERVICES.**

20                   **(E) (1) THE COMMISSION SHALL:**

21                   **(I) DEVELOP AND SUBMIT A FORMAL PLAN OF ASSISTANCE**  
22 **FOR EACH COMMISSION EMPLOYEE WHO WILL BE ADVERSELY AFFECTED BY**  
23 **THE SERVICE CONTRACT; AND**

24                   **(II) BARGAIN IN GOOD FAITH WITH THE CERTIFIED**  
25 **REPRESENTATIVE BEFORE ADOPTING A FINAL PLAN OF ASSISTANCE,**  
26 **INCLUDING, IF NECESSARY, SUBMISSION OF THE MATTER TO**  
27 **MEDIATION-ARBITRATION UNDER § 2-112.1(L) OF THIS SUBTITLE.**

28                   **(2) THE PLAN DESCRIBED IN PARAGRAPH (1)(I) OF THIS**  
29 **SUBSECTION SHALL INCLUDE:**

1                   **(I) EFFORTS TO PLACE EACH ADVERSELY AFFECTED**  
2 **COMMISSION EMPLOYEE IN A VACANT COMMISSION POSITION;**

3                   **(II) INCLUSION IN THE SERVICE CONTRACT OF A**  
4 **REQUIREMENT THAT THE CONTRACTOR SHALL:**

5                   **1. NOTIFY THE COMMISSION OF ANY VACANT**  
6 **POSITION FOR WHICH DISPLACED COMMISSION EMPLOYEES MAY APPLY; AND**

7                   **2. CONSIDER AND GIVE FIRST PREFERENCE TO**  
8 **DISPLACED COMMISSION EMPLOYEES; AND**

9                   **(III) WRITTEN NOTIFICATION OF THE ANTICIPATED**  
10 **ADVERSE EFFECT TO EACH AFFECTED COMMISSION EMPLOYEE AND THE**  
11 **CERTIFIED REPRESENTATIVE AT LEAST 120 DAYS BEFORE THE ANTICIPATED**  
12 **ADVERSE EFFECT WILL OCCUR.**

13                   **(F) THE CERTIFIED REPRESENTATIVE OF AN ADVERSELY AFFECTED**  
14 **COMMISSION EMPLOYEE MAY SUBMIT A PROPOSAL IN RESPONSE TO A**  
15 **SOLICITATION, UNDER APPLICABLE PROCUREMENT REGULATIONS, TO HAVE**  
16 **COMMISSION EMPLOYEES PERFORM THE SERVICES DESCRIBED IN THE**  
17 **SOLICITATION WHILE SUBSTANTIALLY ACHIEVING THE TARGETED SAVINGS.**

18                   **(G) (1) (I) IF THE COMMISSION FAILS TO COMPLY WITH ANY**  
19 **PROVISION OF THIS SUBTITLE AND A COMMISSION EMPLOYEE IS ADVERSELY**  
20 **AFFECTED, THE CERTIFIED REPRESENTATIVE OF THE EMPLOYEE MAY FILE AN**  
21 **ACTION ON BEHALF OF THE EMPLOYEE IN THE CIRCUIT COURT FOR**  
22 **MONTGOMERY COUNTY, THE CIRCUIT COURT FOR PRINCE GEORGE’S COUNTY,**  
23 **OR THE DISTRICT COURT OF MARYLAND, DEPENDING ON THE AMOUNT IN**  
24 **CONTROVERSY.**

25                   **(II) IF A COURT ENTERS A JUDGMENT IN FAVOR OF A**  
26 **COMMISSION EMPLOYEE, THE COMMISSION SHALL REIMBURSE THE EMPLOYEE**  
27 **FOR ANY LOSSES INCURRED BY THE EMPLOYEE AND REIMBURSE THE**  
28 **CERTIFIED REPRESENTATIVE FOR ALL COSTS AND ATTORNEYS’ FEES.**

29                   **(2) NONCOMPLIANCE WITH THIS SECTION MAY NOT INVALIDATE**  
30 **A CONTRACT AWARD OR PROPOSED CONTRACT AWARD THAT THE COMMISSION**  
31 **HAS OTHERWISE VALIDLY AWARDED OR ISSUED.**

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   October 1, 2007.