

HOUSE BILL 673

E4, P4

11r2195
CF SB 699

By: **Delegate Clagett**

Introduced and read first time: February 9, 2011

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **State Law Enforcement Officers – Collective Bargaining – Certain Police**
3 **Employees**

4 FOR the purpose of establishing collective bargaining rights for certain State law
5 enforcement officers who are represented by a certain organization; specifying
6 which police employees are eligible to participate in the collective bargaining
7 process; establishing that this Act applies only to the negotiation of a certain
8 memorandum of understanding; requiring certain individuals or entities to
9 designate one or more representatives to participate as a party in collective
10 bargaining; requiring the exclusive representative to make a certain notification
11 of the intent to commence negotiations on or before a certain date; requiring the
12 parties to begin negotiations on or before a certain date; requiring the parties to
13 meet at reasonable times and engage in collective bargaining in good faith;
14 requiring the parties to request a certain list of arbitrators within a certain
15 period of time; authorizing a certain party under certain circumstances to
16 request arbitration by a certain board; authorizing a certain party under certain
17 circumstances to provide written notice that an impasse has been reached;
18 providing for the composition of the board of arbitration; requiring each party to
19 provide a certain final proposal to the board on or before a certain date;
20 requiring the board to begin arbitration proceedings within a certain period of
21 time and to issue a decision on or before a certain date; authorizing the parties
22 to modify certain terms by mutual agreement; establishing the powers and
23 duties of the board; authorizing the board to receive and consider certain
24 evidence; requiring the written decision of the board to be delivered to certain
25 parties; requiring a party that rejects the decision of the board to submit a
26 certain written notice to certain parties; authorizing the board to stop or delay
27 arbitration under certain circumstances; providing that arbitration may not be
28 stopped or delayed because of certain acts; authorizing the parties to reach a
29 certain voluntary settlement; prohibiting a party from altering certain
30 conditions of employment during a certain period of time except under certain
31 circumstances; requiring certain expenses to be divided equally between the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 parties; requiring a memorandum of understanding to be executed in a certain
2 manner; establishing that, under certain circumstances, a certain written
3 decision of the board is binding on the parties; requiring certain matters to be
4 recommended to the General Assembly for approval; requiring the Governor to
5 include certain amounts in the budget bill; providing that certain matters not
6 included in a certain budget bill be paid retroactively to certain employees on a
7 certain date; providing that negotiations for a memorandum of understanding
8 are considered closed sessions; defining certain terms; and generally relating to
9 collective bargaining rights for certain State law enforcement officers who are
10 represented by a certain exclusive representative.

11 BY adding to
12 Article – Public Safety
13 Section 2–419
14 Annotated Code of Maryland
15 (2003 Volume and 2010 Supplement)

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

18 **Article – Public Safety**

19 **2–419.**

20 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
21 MEANINGS INDICATED.

22 (2) “BOARD” MEANS THE THREE MEMBER BOARD OF
23 ARBITRATION ESTABLISHED UNDER SUBSECTION (G) OF THIS SECTION.

24 (3) “NONCOMMISSIONED RANK” HAS THE MEANING STATED IN §
25 2–101 OF THIS TITLE.

26 (B) (1) THIS SECTION APPLIES ONLY TO:

27 (I) SWORN, NONCOMMISSIONED POLICE EMPLOYEES WHO
28 ARE REPRESENTED BY THE STATE LAW ENFORCEMENT OFFICERS LABOR
29 ALLIANCE; AND

30 (II) THE NEGOTIATION OF A NEW MEMORANDUM OF
31 UNDERSTANDING OR THE NEGOTIATION OF A SUCCESSOR TO AN EXISTING
32 MEMORANDUM OF UNDERSTANDING.

33 (2) THIS SECTION DOES NOT APPLY TO A DISPUTE OVER A
34 PROVISION IN AN EXISTING MEMORANDUM OF UNDERSTANDING.

1 **(C) THE FOLLOWING INDIVIDUALS OR ENTITIES SHALL DESIGNATE ONE**
2 **OR MORE REPRESENTATIVES TO PARTICIPATE AS A PARTY IN COLLECTIVE**
3 **BARGAINING:**

4 **(1) ON BEHALF OF THE STATE, THE GOVERNOR; AND**

5 **(2) ON BEHALF OF THE EXCLUSIVE EMPLOYEE REPRESENTATIVE,**
6 **THE PRESIDENT OF THE EXCLUSIVE REPRESENTATIVE.**

7 **(D) THE EXCLUSIVE REPRESENTATIVE SHALL NOTIFY THE GOVERNOR**
8 **OR THE GOVERNOR'S REPRESENTATIVE OF THE EXCLUSIVE REPRESENTATIVE'S**
9 **INTENTION TO BEGIN NEGOTIATIONS ON OR BEFORE JULY 1.**

10 **(E) THE PARTIES SHALL:**

11 **(1) BEGIN NEGOTIATIONS ON OR BEFORE SEPTEMBER 1; AND**

12 **(2) MEET AT REASONABLE TIMES AND ENGAGE IN COLLECTIVE**
13 **BARGAINING, AS DEFINED IN § 3-101 OF THE STATE PERSONNEL AND**
14 **PENSIONS ARTICLE, IN GOOD FAITH TO CONCLUDE A WRITTEN MEMORANDUM**
15 **OF UNDERSTANDING OR OTHER WRITTEN UNDERSTANDING.**

16 **(F) WITHIN 2 WEEKS AFTER NEGOTIATIONS HAVE BEGUN THE PARTIES**
17 **SHALL REQUEST A LIST OF 10 LABOR ARBITRATORS FROM THE AMERICAN**
18 **ARBITRATION ASSOCIATION.**

19 **(G) (1) IF THE PARTIES HAVE NOT REACHED AN AGREEMENT BY**
20 **OCTOBER 15 EITHER PARTY MAY REQUEST ARBITRATION BY A BOARD OF**
21 **ARBITRATION.**

22 **(2) A BOARD UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL**
23 **BE COMPOSED OF THREE MEMBERS:**

24 **(I) ONE MEMBER APPOINTED BY THE GOVERNOR;**

25 **(II) ONE MEMBER APPOINTED BY THE EXCLUSIVE**
26 **BARGAINING REPRESENTATIVE; AND**

27 **(III) A NEUTRAL MEMBER WITH EXPERIENCE IN INTEREST**
28 **ARBITRATION SELECTED BY THE OTHER TWO MEMBERS.**

29 **(3) (I) THE MEMBERS SELECTED BY THE GOVERNOR AND BY**
30 **THE EXCLUSIVE BARGAINING REPRESENTATIVE UNDER PARAGRAPH (2)(I) AND**

1 (II) OF THIS SUBSECTION SHALL BE SELECTED WITHIN 4 DAYS OF THE REQUEST
2 FOR ARBITRATION.

3 (II) THE NEUTRAL MEMBER SELECTED UNDER PARAGRAPH
4 (2)(III) OF THIS SUBSECTION SHALL BE SELECTED WITHIN 8 DAYS OF THE
5 REQUEST FOR ARBITRATION.

6 (4) (I) THE NEUTRAL MEMBER SHALL BE SELECTED:

7 1. FROM THE LIST OF LABOR ARBITRATORS
8 PROVIDED UNDER SUBSECTION (F) OF THIS SECTION; AND

9 2. IN ACCORDANCE WITH THE PROCEDURES OF THE
10 AMERICAN ARBITRATION ASSOCIATION.

11 (II) IF THE PARTIES MUTUALLY AGREE, THE PARTIES MAY
12 SELECT A NEUTRAL MEMBER WHO IS NOT INCLUDED IN THE LIST OF LABOR
13 ARBITRATORS PROVIDED UNDER SUBSECTION (F) OF THIS SECTION.

14 (5) ALL MEMBERS OF THE BOARD SHALL BE SELECTED ON OR
15 BEFORE NOVEMBER 1.

16 (6) ON OR BEFORE NOVEMBER 1, THE BOARD SHALL SCHEDULE
17 TENTATIVE DATES FOR THE ARBITRATION THAT ARE CONSISTENT WITH THE
18 TIME REQUIREMENTS IMPOSED BY THIS SECTION.

19 (H) IF THE PARTIES HAVE REACHED AN AGREEMENT ON OR BEFORE
20 OCTOBER 31:

21 (1) THE PARTIES SHALL NOTIFY THE BOARD THAT ARBITRATION
22 WILL NOT BE NEEDED; AND

23 (2) ANY FEES FOR CANCELLATION OF THE NEUTRAL MEMBER'S
24 SERVICES SHALL BE PAID EQUALLY BY THE STATE AND THE EXCLUSIVE
25 REPRESENTATIVE.

26 (I) IF THE PARTIES HAVE NOT REACHED AN AGREEMENT ON OR
27 BEFORE OCTOBER 25, EITHER PARTY MAY DECLARE THAT AN IMPASSE HAS
28 BEEN REACHED BY PROVIDING WRITTEN NOTICE THAT AN IMPASSE HAS BEEN
29 REACHED AND ARBITRATION WILL COMMENCE AS SCHEDULED TO:

30 (1) THE OTHER PARTY; AND

31 (2) THE BOARD.

1 **(J) ON OR BEFORE NOVEMBER 3, EACH PARTY SHALL PROVIDE TO**
2 **EACH MEMBER OF THE BOARD A DETAILED ITEMIZATION OF THE PARTY'S FINAL**
3 **PROPOSAL MADE PRIOR TO THE DECLARATION OF IMPASSE.**

4 **(K) THE BOARD SHALL:**

5 **(1) BEGIN ARBITRATION PROCEEDINGS WITHIN 2 WEEKS OF THE**
6 **DATE OF THE NOTICE PROVIDED UNDER SUBSECTION (I) OF THIS SECTION; AND**

7 **(2) ISSUE A DECISION BEFORE NOVEMBER 30.**

8 **(L) ANY REQUIRED TIME FRAME PROVIDED IN THIS SECTION MAY BE**
9 **MODIFIED BY MUTUAL AGREEMENT OF THE PARTIES.**

10 **(M) THE BOARD:**

11 **(1) MAY ARBITRATE ONLY ITEMS THAT WERE THE SUBJECT OF**
12 **THE MOST RECENT COLLECTIVE BARGAINING NEGOTIATIONS AND ARE**
13 **PRESENTED TO THE FACT FINDER BY EITHER PARTY AS DISPUTED ITEMS;**

14 **(2) MAY GIVE NOTICE AND HOLD HEARINGS IN ACCORDANCE**
15 **WITH THE AMERICAN ARBITRATION ASSOCIATION'S LABOR ARBITRATION**
16 **RULES;**

17 **(3) SHALL SELECT THE LAST BEST OFFER OF EITHER PARTY IN**
18 **ITS ENTIRETY; AND**

19 **(4) BEFORE NOVEMBER 30, SHALL ISSUE A WRITTEN DECISION**
20 **EXPLAINING THE BASIS OF ITS DECISION REGARDING WAGES, HOURS, WORKING**
21 **CONDITIONS, AND ANY OTHER TERMS OR CONDITIONS OF EMPLOYMENT THAT**
22 **MAY BE IN DISPUTE.**

23 **(N) THE BOARD MAY RECEIVE AND CONSIDER EVIDENCE REGARDING:**

24 **(1) THE HISTORY OF CURRENT AND PRIOR NEGOTIATIONS**
25 **BETWEEN THE PARTIES;**

26 **(2) THE WAGES, HOURS, WORKING CONDITIONS, AND ANY OTHER**
27 **TERMS OR CONDITIONS OF EMPLOYMENT OF OTHER LAW ENFORCEMENT**
28 **OFFICERS IN THE STATE;**

29 **(3) THE WAGES, HOURS, WORKING CONDITIONS, AND ANY OTHER**
30 **TERMS OR CONDITIONS OF EMPLOYMENT OF SIMILAR LAW ENFORCEMENT**

1 OFFICERS IN DELAWARE, NEW JERSEY, NEW YORK, PENNSYLVANIA, VIRGINIA,
2 AND WEST VIRGINIA;

3 (4) RECRUITMENT AND RETENTION DATA;

4 (5) THE FINANCIAL CONDITION AND FISCAL CONSTRAINTS OF
5 THE STATE;

6 (6) THE COSTS OF THE PROPOSALS OF EACH OF THE PARTIES;

7 (7) LIMITATIONS PLACED ON THE EMPLOYER'S USE OF SPECIAL
8 FUNDS BY FEDERAL OR STATE LAW;

9 (8) THE COST OF LIVING IN THE STATE, INCLUDING ANY RECENT
10 CHANGES TO THE COST OF LIVING;

11 (9) THE MEDIAN HOUSEHOLD INCOME AND AVERAGE PER CAPITA
12 INCOME IN THE STATE, INCLUDING ANY RECENT CHANGES TO THESE
13 STATISTICS;

14 (10) THE UNIQUE CHARACTERISTICS OF THE JOB, INCLUDING THE
15 HAZARDS OF EMPLOYMENT, TRAINING REQUIREMENTS, AND SHIFT SCHEDULES
16 OF EMPLOYEES;

17 (11) THE INTERESTS AND WELFARE OF THE RESIDENTS OF THE
18 STATE;

19 (12) THE INTERESTS AND WELFARE OF THE POLICE EMPLOYEES;

20 (13) ANY STIPULATIONS OF THE PARTIES; AND

21 (14) ANY OTHER INFORMATION THAT THE BOARD CONSIDERS
22 NECESSARY TO WEIGH FULLY THE FINAL PROPOSED OFFERS OF EACH PARTY.

23 (O) ON OR BEFORE NOVEMBER 30, THE WRITTEN DECISION OF THE
24 BOARD RECOMMENDING THE IMPLEMENTATION, IN ITS ENTIRETY, OF THE LAST
25 BEST OFFER OF ONE OF THE PARTIES SHALL BE DELIVERED TO:

26 (1) THE GOVERNOR;

27 (2) THE EXCLUSIVE REPRESENTATIVE;

28 (3) THE PRESIDENT OF THE SENATE; AND

1 **(4) THE SPEAKER OF THE HOUSE OF DELEGATES.**

2 **(P) (1) AFTER RECEIVING THE DECISION OF THE BOARD, THE**
3 **PARTIES MAY CONTINUE TO NEGOTIATE ANY DISPUTED ISSUES.**

4 **(2) WITHIN 14 DAYS AFTER THE BOARD ISSUES ITS DECISION,**
5 **EACH PARTY SHALL NOTIFY THE OTHER PARTY AS TO WHETHER IT ACCEPTS OR**
6 **REJECTS THE DECISION OF THE BOARD.**

7 **(3) IF EITHER PARTY REJECTS THE DECISION OF THE BOARD AND**
8 **DECLINES TO ENTER INTO A MEMORANDUM OF UNDERSTANDING, THE PARTY**
9 **SHALL SUBMIT A WRITTEN NOTICE OF REJECTION TO THE OTHER PARTY WHICH**
10 **SHALL INCLUDE THE REASONS FOR THE REJECTION.**

11 **(4) A PARTY REJECTING THE DECISION OF THE BOARD SHALL**
12 **PROVIDE A COPY OF THE NOTICE REQUIRED UNDER PARAGRAPH (3) OF THIS**
13 **SUBSECTION TO:**

14 **(I) THE GOVERNOR;**

15 **(II) THE PRESIDENT OF THE SENATE; AND**

16 **(III) THE SPEAKER OF THE HOUSE OF DELEGATES.**

17 **(Q) (1) IF THE PARTIES HAVE NOT AGREED TO MODIFY A TIME FRAME**
18 **UNDER SUBSECTION (L) OF THIS SECTION AND EITHER PARTY ACTS TO DELAY**
19 **OR FAILS OR REFUSES TO PARTICIPATE IN THE ARBITRATION PROCEDURE**
20 **UNDER THIS SECTION, THE DELAY, FAILURE, OR REFUSAL TO PARTICIPATE**
21 **DOES NOT STOP OR DELAY THE ARBITRATION.**

22 **(2) THE BOARD MAY STOP OR DELAY THE ARBITRATION BECAUSE**
23 **OF AN UNFORESEEN EMERGENCY.**

24 **(3) IN THE ABSENCE OF AN ORDER TO STOP OR DELAY THE**
25 **ARBITRATION UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE ARBITRATION**
26 **SHALL CONTINUE AS THOUGH ALL PARTIES WERE PARTICIPATING.**

27 **(R) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT THE PARTIES**
28 **FROM REACHING A VOLUNTARY SETTLEMENT ON ANY UNRESOLVED ISSUES AT**
29 **ANY TIME BEFORE OR AFTER THE BOARD ISSUES A DECISION.**

30 **(S) AFTER A NOTICE OF IMPASSE HAS BEEN PROVIDED UNDER**
31 **SUBSECTION (I) OF THIS SECTION, AND BEFORE THE BOARD HAS ISSUED A**
32 **DECISION, A PARTY MAY ALTER ONLY THE EXISTING WAGES, HOURS, WORKING**

1 CONDITIONS, OR ANY OTHER TERMS OR CONDITIONS OF EMPLOYMENT WITH
2 THE CONSENT OF THE OTHER PARTY.

3 (T) (1) THE STATE AND THE EXCLUSIVE REPRESENTATIVE SHALL
4 DIVIDE THE FOLLOWING EXPENSES EQUALLY:

5 (I) THE FEES AND ITEMIZED EXPENSES OF THE NEUTRAL
6 MEMBER;

7 (II) ANY CANCELLATION FEES OF THE NEUTRAL MEMBER
8 UNDER SUBSECTION (H) OF THIS SECTION;

9 (III) ANY RENTAL FEES FOR FACILITIES USED DURING
10 ARBITRATION; AND

11 (IV) ANY COSTS FOR TRANSCRIPTS OF THE ARBITRATION
12 PROCEEDINGS.

13 (2) ALL OTHER COSTS SHALL BE PAID BY THE PARTY THAT
14 INCURS THE COST.

15 (U) (1) A MEMORANDUM OF UNDERSTANDING THAT INCORPORATES
16 ALL MATTERS OF AGREEMENT REACHED BY THE PARTIES SHALL BE EXECUTED
17 BY THE EXCLUSIVE REPRESENTATIVE AND THE GOVERNOR OR THE
18 GOVERNOR'S DESIGNEE.

19 (2) TO THE EXTENT THESE MATTERS DO NOT REQUIRE THE
20 ENACTMENT OF LEGISLATION OR THE APPROPRIATION OF FUNDS, THE
21 MATTERS SHALL BE BINDING ON THE PARTIES.

22 (3) TO THE EXTENT THESE MATTERS REQUIRE THE ENACTMENT
23 OF LEGISLATION, THE MATTERS SHALL BE SUBMITTED BY THE GOVERNOR OR
24 THE GOVERNOR'S DESIGNEE TO THE GENERAL ASSEMBLY FOR APPROVAL
25 DURING THE NEXT LEGISLATIVE SESSION BEGINNING AFTER THE CONCLUSION
26 OF THE NEGOTIATIONS.

27 (V) (1) IN THE ANNUAL BUDGET BILL SUBMITTED TO THE GENERAL
28 ASSEMBLY, THE GOVERNOR SHALL INCLUDE ANY AMOUNTS IN THE BUDGET OF
29 THE DEPARTMENT REQUIRED TO ACCOMMODATE ANY ADDITIONAL COST
30 RESULTING FROM THE NEGOTIATIONS, INCLUDING THE ACTUARIAL IMPACT OF
31 ANY LEGISLATIVE CHANGES TO ANY OF THE STATE PENSION OR RETIREMENT
32 SYSTEMS THAT ARE REQUIRED AS A RESULT OF THE NEGOTIATIONS FOR THE
33 FISCAL YEAR BEGINNING THE FOLLOWING JULY 1 IF THE LEGISLATIVE

1 CHANGES HAVE BEEN NEGOTIATED TO BECOME EFFECTIVE IN THAT FISCAL
2 YEAR.

3 (2) IF THE GOVERNOR DOES NOT INCLUDE THE REQUIRED
4 AMOUNTS IN THE BUDGET BILL TO ACCOMMODATE THOSE ADDITIONAL COSTS
5 UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE GOVERNOR SHALL INCLUDE
6 THOSE AMOUNTS IN THE BUDGET OF THE DEPARTMENT FOR THE FOLLOWING
7 FISCAL YEAR.

8 (3) MONETARY OR OTHER BENEFITS THAT WERE MATTERS OF
9 AGREEMENT THAT WERE INCORPORATED INTO THE MEMORANDUM OF
10 UNDERSTANDING UNDER SUBSECTION (U) OF THIS SECTION BUT WERE NOT
11 PAID TO MEMBERS OF THE BARGAINING UNIT BECAUSE THEY WERE NOT
12 INCLUDED IN THE BUDGET BILL UNDER PARAGRAPH (1) OF THIS SUBSECTION
13 SHALL BE PAID RETROACTIVELY TO THE AFFECTED EMPLOYEES ON THE
14 SECOND JULY 1 FOLLOWING THE CONCLUSION OF NEGOTIATIONS.

15 (W) NEGOTIATIONS FOR A MEMORANDUM OF UNDERSTANDING SHALL
16 BE CONSIDERED CLOSED SESSIONS UNDER § 10-508 OF THE STATE
17 GOVERNMENT ARTICLE.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2011.