

SENATE BILL 699

E4, P4

11r1761
CF HB 673

By: **Senator Klausmeier**

Introduced and read first time: February 4, 2011

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 21, 2011

CHAPTER _____

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 a hearing before the State Labor Relations Board; requiring a certain
17 party under certain circumstances to provide written notice that an impasse has
18 been reached; requiring each party to provide a certain final proposal to the
19 State Board and the other party; requiring the State Board to conduct a hearing
20 within a certain period of time and to issue a decision on or before a certain
21 date; establishing certain powers and duties of the State Board; authorizing the
22 State Board to receive and consider certain evidence; requiring the written
23 decision of the State Board to be delivered to certain parties; requiring a party
24 that rejects the decision of the State Board to submit a certain written notice to
25 certain parties; authorizing a certain party under certain circumstances to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 request arbitration by a certain board; authorizing a certain party under certain
 2 circumstances to provide written notice that an impasse has been reached;
 3 providing for the composition of the board of arbitration; requiring each party to
 4 provide a certain final proposal to the board on or before a certain date;
 5 requiring the board to begin arbitration proceedings within a certain period of
 6 time and to issue a decision on or before a certain date; authorizing the parties
 7 to modify certain terms by mutual agreement; establishing the powers and
 8 duties of the board; authorizing the board to receive and consider certain
 9 evidence; requiring the written decision of the board to be delivered to certain
 10 parties; requiring a party that rejects the decision of the board to submit a
 11 certain written notice to certain parties; authorizing the board to stop or delay
 12 arbitration under certain circumstances; providing that arbitration may not be
 13 stopped or delayed because of certain acts; authorizing the parties to reach a
 14 certain voluntary settlement; prohibiting a party from altering certain
 15 conditions of employment during a certain period of time except under certain
 16 circumstances; requiring certain expenses to be divided equally between the
 17 parties; requiring a memorandum of understanding to be executed in a certain
 18 manner; establishing that, under certain circumstances, a certain written
 19 decision of the board is binding on the parties; requiring certain matters to be
 20 recommended to the General Assembly for approval; requiring the Governor to
 21 include certain amounts in the budget bill; providing that certain matters not
 22 included in a certain budget bill be paid retroactively to certain employees on a
 23 certain date; providing that negotiations for a memorandum of understanding
 24 are considered closed sessions; defining certain terms; and generally relating to
 25 collective bargaining rights for certain State law enforcement officers who are
 26 represented by a certain exclusive representative.

27 BY adding to
 28 Article – Public Safety
 29 Section 2–419
 30 Annotated Code of Maryland
 31 (2003 Volume and 2010 Supplement)

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

34 **Article – Public Safety**

35 **2–419.**

36 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
 37 MEANINGS INDICATED.

38 (2) “BOARD” MEANS THE THREE MEMBER BOARD OF
 39 ARBITRATION ESTABLISHED UNDER SUBSECTION ~~(G)~~ (H) OF THIS SECTION.

1 (3) "NONCOMMISSIONED RANK" HAS THE MEANING STATED IN §
2 2-101 OF THIS TITLE.

3 (4) "STATE BOARD" MEANS THE STATE LABOR RELATIONS
4 BOARD.

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

6 (I) SWORN, ~~NONCOMMISSIONED~~ POLICE EMPLOYEES
7 HOLDING A NONCOMMISSIONED RANK WHO ARE REPRESENTED BY THE STATE
8 LAW ENFORCEMENT OFFICERS LABOR ALLIANCE; AND

9 (II) THE NEGOTIATION OF A NEW MEMORANDUM OF
10 UNDERSTANDING OR THE NEGOTIATION OF A SUCCESSOR TO AN EXISTING
11 MEMORANDUM OF UNDERSTANDING.

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

14 (C) THE FOLLOWING INDIVIDUALS OR ENTITIES SHALL DESIGNATE ONE
15 OR MORE REPRESENTATIVES TO PARTICIPATE AS A PARTY IN COLLECTIVE
16 BARGAINING:

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

18 (2) ON BEHALF OF THE EXCLUSIVE EMPLOYEE REPRESENTATIVE,
19 THE PRESIDENT OF THE EXCLUSIVE REPRESENTATIVE.

20 (D) THE EXCLUSIVE REPRESENTATIVE SHALL NOTIFY THE GOVERNOR
21 OR THE GOVERNOR'S REPRESENTATIVE OF THE EXCLUSIVE REPRESENTATIVE'S
22 INTENTION TO BEGIN NEGOTIATIONS ON OR BEFORE JULY 1.

23 (E) THE PARTIES SHALL:

24 (1) BEGIN NEGOTIATIONS ON OR BEFORE ~~SEPTEMBER~~ AUGUST 1;
25 AND

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

30 (F) WITHIN 2 WEEKS AFTER NEGOTIATIONS HAVE BEGUN THE PARTIES
31 SHALL REQUEST A LIST OF 10 LABOR ARBITRATORS FROM THE AMERICAN
32 ARBITRATION ASSOCIATION.

1 (G) (1) (i) IF THE PARTIES HAVE NOT YET REACHED AN
2 AGREEMENT BY SEPTEMBER 1, EITHER PARTY MAY DECLARE THAT AN IMPASSE
3 HAS BEEN REACHED AND REQUEST A HEARING BEFORE THE STATE BOARD.

4 (ii) THE PARTY DECLARING THE IMPASSE SHALL PROVIDE
5 WRITTEN NOTICE THAT AN IMPASSE HAS BEEN REACHED TO:

6 1. THE OTHER PARTY; AND

7 2. THE STATE BOARD.

8 (2) EACH PARTY SHALL PROVIDE TO EACH MEMBER OF THE
9 STATE BOARD AND TO THE OTHER PARTY A DETAILED ITEMIZATION OF THE
10 PARTY'S FINAL PROPOSAL MADE PRIOR TO THE DECLARATION OF IMPASSE.

11 (3) THE STATE BOARD SHALL CONDUCT A HEARING WITHIN 10
12 DAYS AFTER RECEIVING A REQUEST UNDER PARAGRAPH (1) OF THIS
13 SUBSECTION.

14 (4) THE STATE BOARD:

15 (i) MAY CONSIDER ONLY ITEMS THAT WERE THE SUBJECT
16 OF THE MOST RECENT COLLECTIVE BARGAINING NEGOTIATIONS AND ARE
17 PRESENTED TO THE STATE BOARD BY EITHER PARTY AS DISPUTED ITEMS;

18 (ii) MAY GIVE NOTICE AND HOLD HEARINGS IN
19 ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT;

20 (iii) SHALL SELECT THE LAST BEST OFFER OF EITHER PARTY
21 IN ITS ENTIRETY; AND

22 (iv) BEFORE OCTOBER 1, SHALL ISSUE A WRITTEN DECISION
23 EXPLAINING THE BASIS OF ITS DECISION REGARDING WAGES, HOURS, WORKING
24 CONDITIONS, AND ANY OTHER TERMS OR CONDITIONS OF EMPLOYMENT THAT
25 MAY BE IN DISPUTE.

26 (5) THE STATE BOARD MAY RECEIVE AND CONSIDER EVIDENCE
27 REGARDING:

28 (i) THE HISTORY OF CURRENT AND PRIOR NEGOTIATIONS
29 BETWEEN THE PARTIES;

1 (II) THE WAGES, HOURS, WORKING CONDITIONS, AND ANY
2 OTHER TERMS OR CONDITIONS OF EMPLOYMENT OF OTHER LAW ENFORCEMENT
3 OFFICERS IN THE STATE;

4 (III) THE WAGES, HOURS, WORKING CONDITIONS, AND ANY
5 OTHER TERMS OR CONDITIONS OF EMPLOYMENT OF SIMILAR LAW
6 ENFORCEMENT OFFICERS IN DELAWARE, NEW JERSEY, NEW YORK,
7 PENNSYLVANIA, VIRGINIA, AND WEST VIRGINIA;

8 (IV) RECRUITMENT AND RETENTION DATA;

9 (V) THE FINANCIAL CONDITION AND FISCAL CONSTRAINTS
10 OF THE STATE;

11 (VI) THE COSTS OF THE PROPOSALS OF EACH OF THE
12 PARTIES;

13 (VII) LIMITATIONS PLACED ON THE EMPLOYER'S USE OF
14 SPECIAL FUNDS BY FEDERAL OR STATE LAW;

15 (VIII) THE COST OF LIVING IN THE STATE, INCLUDING ANY
16 RECENT CHANGES TO THE COST OF LIVING;

17 (IX) THE MEDIAN HOUSEHOLD INCOME AND AVERAGE PER
18 CAPITA INCOME IN THE STATE, INCLUDING ANY RECENT CHANGES TO THESE
19 STATISTICS;

20 (X) THE UNIQUE CHARACTERISTICS OF THE JOB,
21 INCLUDING THE HAZARDS OF EMPLOYMENT, TRAINING REQUIREMENTS, AND
22 SHIFT SCHEDULES OF EMPLOYEES;

23 (XI) THE INTERESTS AND WELFARE OF THE RESIDENTS OF
24 THE STATE;

25 (XII) THE INTERESTS AND WELFARE OF THE POLICE
26 EMPLOYEES;

27 (XIII) ANY STIPULATIONS OF THE PARTIES; AND

28 (XIV) ANY OTHER INFORMATION THAT THE STATE BOARD
29 CONSIDERS NECESSARY TO WEIGH FULLY THE FINAL PROPOSED OFFERS OF
30 EACH PARTY.

1 **(6) ON OR BEFORE OCTOBER 1, THE WRITTEN DECISION OF THE**
 2 **STATE BOARD RECOMMENDING THE IMPLEMENTATION, IN ITS ENTIRETY, OF**
 3 **THE LAST BEST OFFER OF ONE OF THE PARTIES SHALL BE DELIVERED TO:**

4 **(I) THE GOVERNOR;**

5 **(II) THE EXCLUSIVE REPRESENTATIVE;**

6 **(III) THE PRESIDENT OF THE SENATE; AND**

7 **(IV) THE SPEAKER OF THE HOUSE OF DELEGATES.**

8 **(7) (I) AFTER RECEIVING THE DECISION OF THE STATE**
 9 **BOARD, THE PARTIES MAY CONTINUE TO NEGOTIATE ANY DISPUTED ISSUES.**

10 **(II) WITHIN 14 DAYS AFTER THE STATE BOARD ISSUES ITS**
 11 **DECISION, EACH PARTY SHALL NOTIFY THE OTHER PARTY AS TO WHETHER IT**
 12 **ACCEPTS OR REJECTS THE DECISION OF THE STATE BOARD.**

13 **(III) IF EITHER PARTY REJECTS THE DECISION OF THE**
 14 **STATE BOARD AND DECLINES TO ENTER INTO A MEMORANDUM OF**
 15 **UNDERSTANDING, THE PARTY SHALL SUBMIT A WRITTEN NOTICE OF REJECTION**
 16 **TO THE OTHER PARTY WHICH SHALL INCLUDE THE REASONS FOR THE**
 17 **REJECTION.**

18 **(IV) A PARTY REJECTING THE DECISION OF THE STATE**
 19 **BOARD SHALL PROVIDE A COPY OF THE NOTICE REQUIRED UNDER**
 20 **SUBPARAGRAPH (III) OF THIS PARAGRAPH TO:**

21 **1. THE GOVERNOR;**

22 **2. THE PRESIDENT OF THE SENATE; AND**

23 **3. THE SPEAKER OF THE HOUSE OF DELEGATES.**

24 ~~(G)~~ **(H) (1) IF THE PARTIES HAVE NOT REACHED AN AGREEMENT**
 25 **BY OCTOBER 15 EITHER PARTY MAY REQUEST ARBITRATION BY A BOARD OF**
 26 **ARBITRATION.**

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

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

1 (II) ONE MEMBER APPOINTED BY THE EXCLUSIVE
2 BARGAINING REPRESENTATIVE; AND

3 (III) A NEUTRAL MEMBER WITH EXPERIENCE IN INTEREST
4 ARBITRATION SELECTED BY THE OTHER TWO MEMBERS.

5 (3) (I) THE MEMBERS SELECTED BY THE GOVERNOR AND BY
6 THE EXCLUSIVE BARGAINING REPRESENTATIVE UNDER PARAGRAPH (2)(I) AND
7 (II) OF THIS SUBSECTION SHALL BE SELECTED WITHIN 4 DAYS OF THE REQUEST
8 FOR ARBITRATION.

9 (II) THE NEUTRAL MEMBER SELECTED UNDER PARAGRAPH
10 (2)(III) OF THIS SUBSECTION SHALL BE SELECTED WITHIN 8 DAYS OF THE
11 REQUEST FOR ARBITRATION.

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

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

15 2. IN ACCORDANCE WITH THE PROCEDURES OF THE
16 AMERICAN ARBITRATION ASSOCIATION.

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

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

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

25 ~~(H)~~ (I) IF THE PARTIES HAVE REACHED AN AGREEMENT ON OR
26 BEFORE OCTOBER 31:

27 (1) THE PARTIES SHALL NOTIFY THE BOARD THAT ARBITRATION
28 WILL NOT BE NEEDED; ~~AND~~

29 (2) ANY FEES FOR CANCELLATION OF THE NEUTRAL MEMBER'S
30 SERVICES SHALL BE PAID EQUALLY BY THE STATE AND THE EXCLUSIVE
31 REPRESENTATIVE; AND

1 **(3) A MEMORANDUM OF UNDERSTANDING THAT INCORPORATES**
2 **ALL MATTERS OF AGREEMENT REACHED BY THE PARTIES SHALL BE EXECUTED**
3 **BY THE EXCLUSIVE REPRESENTATIVE AND THE GOVERNOR OR THE**
4 **GOVERNOR'S DESIGNEE.**

5 ~~(H)~~ **(J)** **IF THE PARTIES HAVE NOT REACHED AN AGREEMENT ON OR**
6 **BEFORE OCTOBER 25, EITHER PARTY MAY DECLARE THAT AN IMPASSE HAS**
7 **BEEN REACHED BY PROVIDING WRITTEN NOTICE THAT AN IMPASSE HAS BEEN**
8 **REACHED AND ARBITRATION WILL COMMENCE AS SCHEDULED TO:**

9 **(1) THE OTHER PARTY; AND**

10 **(2) THE BOARD.**

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

14 ~~(K)~~ **(L)** **THE BOARD SHALL:**

15 **(1) BEGIN ARBITRATION PROCEEDINGS WITHIN 2 WEEKS OF THE**
16 **DATE OF THE NOTICE PROVIDED UNDER SUBSECTION ~~(H)~~ (J) OF THIS SECTION;**
17 **AND**

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

19 ~~(L)~~ **(M)** **ANY REQUIRED TIME FRAME PROVIDED IN THIS SECTION MAY**
20 **BE MODIFIED BY MUTUAL AGREEMENT OF THE PARTIES.**

21 ~~(M)~~ **(N)** **THE BOARD:**

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

25 **(2) MAY GIVE NOTICE AND HOLD HEARINGS IN ACCORDANCE**
26 **WITH THE AMERICAN ARBITRATION ASSOCIATION'S LABOR ARBITRATION**
27 **RULES;**

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

30 **(4) BEFORE NOVEMBER 30, SHALL ISSUE A WRITTEN DECISION**
31 **EXPLAINING THE BASIS OF ITS DECISION REGARDING WAGES, HOURS, WORKING**

1 CONDITIONS, AND ANY OTHER TERMS OR CONDITIONS OF EMPLOYMENT THAT
2 MAY BE IN DISPUTE.

3 ~~(N)~~ (O) THE BOARD MAY RECEIVE AND CONSIDER EVIDENCE
4 REGARDING:

5 (1) THE HISTORY OF CURRENT AND PRIOR NEGOTIATIONS
6 BETWEEN THE PARTIES;

7 (2) THE WAGES, HOURS, WORKING CONDITIONS, AND ANY OTHER
8 TERMS OR CONDITIONS OF EMPLOYMENT OF OTHER LAW ENFORCEMENT
9 OFFICERS IN THE STATE;

10 (3) THE WAGES, HOURS, WORKING CONDITIONS, AND ANY OTHER
11 TERMS OR CONDITIONS OF EMPLOYMENT OF SIMILAR LAW ENFORCEMENT
12 OFFICERS IN DELAWARE, NEW JERSEY, NEW YORK, PENNSYLVANIA, VIRGINIA,
13 AND WEST VIRGINIA;

14 (4) RECRUITMENT AND RETENTION DATA;

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

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

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

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

22 (9) THE MEDIAN HOUSEHOLD INCOME AND AVERAGE PER CAPITA
23 INCOME IN THE STATE, INCLUDING ANY RECENT CHANGES TO THESE
24 STATISTICS;

25 (10) THE UNIQUE CHARACTERISTICS OF THE JOB, INCLUDING THE
26 HAZARDS OF EMPLOYMENT, TRAINING REQUIREMENTS, AND SHIFT SCHEDULES
27 OF EMPLOYEES;

28 (11) THE INTERESTS AND WELFARE OF THE RESIDENTS OF THE
29 STATE;

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

31 (13) ANY STIPULATIONS OF THE PARTIES; AND

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

3 ~~(O)~~ **(P) ON OR BEFORE NOVEMBER 30, THE WRITTEN DECISION OF**
4 **THE BOARD RECOMMENDING THE IMPLEMENTATION, IN ITS ENTIRETY, OF THE**
5 **LAST BEST OFFER OF ONE OF THE PARTIES SHALL BE DELIVERED TO:**

6 **(1) THE GOVERNOR;**

7 **(2) THE EXCLUSIVE REPRESENTATIVE;**

8 **(3) THE PRESIDENT OF THE SENATE; AND**

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

10 ~~(P)~~ **(Q) (1) AFTER RECEIVING THE DECISION OF THE BOARD, THE**
11 **PARTIES MAY CONTINUE TO NEGOTIATE ANY DISPUTED ISSUES.**

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

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

19 **(4) A PARTY REJECTING THE DECISION OF THE BOARD SHALL**
20 **PROVIDE A COPY OF THE NOTICE REQUIRED UNDER PARAGRAPH (3) OF THIS**
21 **SUBSECTION TO:**

22 **(I) THE GOVERNOR;**

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

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

25 ~~(Q)~~ **(R) (1) IF THE PARTIES HAVE NOT AGREED TO MODIFY A TIME**
26 **FRAME UNDER SUBSECTION ~~(L)~~ (M) OF THIS SECTION AND EITHER PARTY ACTS**
27 **TO DELAY OR FAILS OR REFUSES TO PARTICIPATE IN THE ARBITRATION**
28 **PROCEDURE UNDER THIS SECTION, THE DELAY, FAILURE, OR REFUSAL TO**
29 **PARTICIPATE DOES NOT STOP OR DELAY THE ARBITRATION.**

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

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

6 ~~**(R)**~~ **(S) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT THE**
7 **PARTIES FROM REACHING A VOLUNTARY SETTLEMENT ON ANY UNRESOLVED**
8 **ISSUES AT ANY TIME BEFORE OR AFTER THE BOARD ISSUES A DECISION.**

9 ~~**(S)**~~ **(T) AFTER A NOTICE OF IMPASSE HAS BEEN PROVIDED UNDER**
10 **SUBSECTION ~~**(H)**~~ **(J) OF THIS SECTION, AND BEFORE THE BOARD HAS ISSUED A****
11 **DECISION, A PARTY MAY ALTER ONLY THE EXISTING WAGES, HOURS, WORKING**
12 **CONDITIONS, OR ANY OTHER TERMS OR CONDITIONS OF EMPLOYMENT WITH**
13 **THE CONSENT OF THE OTHER PARTY.**

14 ~~**(T)**~~ **(U) (1) THE STATE AND THE EXCLUSIVE REPRESENTATIVE**
15 **SHALL DIVIDE THE FOLLOWING EXPENSES EQUALLY:**

16 **(I) THE FEES AND ITEMIZED EXPENSES OF THE NEUTRAL**
17 **MEMBER;**

18 **(II) ANY CANCELLATION FEES OF THE NEUTRAL MEMBER**
19 **UNDER SUBSECTION ~~**(H)**~~ **(I) OF THIS SECTION;****

20 **(III) ANY RENTAL FEES FOR FACILITIES USED DURING**
21 **ARBITRATION; AND**

22 **(IV) ANY COSTS FOR TRANSCRIPTS OF THE ARBITRATION**
23 **PROCEEDINGS.**

24 **(2) ALL OTHER COSTS SHALL BE PAID BY THE PARTY THAT**
25 **INCURS THE COST.**

26 ~~**(U)**~~ **(V) (1) A MEMORANDUM OF UNDERSTANDING THAT**
27 **INCORPORATES ALL MATTERS OF AGREEMENT REACHED BY THE PARTIES**
28 **SHALL BE EXECUTED BY THE EXCLUSIVE REPRESENTATIVE AND THE**
29 **GOVERNOR OR THE GOVERNOR'S DESIGNEE.**

30 **(2) TO THE EXTENT THESE MATTERS DO NOT REQUIRE THE**
31 **ENACTMENT OF LEGISLATION OR THE APPROPRIATION OF FUNDS, THE**
32 **MATTERS SHALL BE BINDING ON THE PARTIES.**

1 **(3) TO THE EXTENT THESE MATTERS REQUIRE THE ENACTMENT**
2 **OF LEGISLATION, THE GOVERNOR OR THE GOVERNOR'S DESIGNEE SHALL**
3 **~~RECOMMENDED~~ RECOMMEND THE MATTERS TO THE GENERAL ASSEMBLY FOR**
4 **APPROVAL DURING THE NEXT LEGISLATIVE SESSION BEGINNING AFTER THE**
5 **CONCLUSION OF THE NEGOTIATIONS.**

6 ~~(v)~~ **(w) (1) IN THE ANNUAL BUDGET BILL SUBMITTED TO THE**
7 **GENERAL ASSEMBLY, THE GOVERNOR SHALL INCLUDE ANY AMOUNTS IN THE**
8 **BUDGET OF THE DEPARTMENT REQUIRED TO ACCOMMODATE ANY ADDITIONAL**
9 **COST RESULTING FROM THE NEGOTIATIONS, INCLUDING THE ACTUARIAL**
10 **IMPACT OF ANY LEGISLATIVE CHANGES TO ANY OF THE STATE PENSION OR**
11 **RETIREMENT SYSTEMS THAT ARE REQUIRED AS A RESULT OF THE**
12 **NEGOTIATIONS FOR THE FISCAL YEAR BEGINNING THE FOLLOWING JULY 1 IF**
13 **THE LEGISLATIVE CHANGES HAVE BEEN NEGOTIATED TO BECOME EFFECTIVE**
14 **IN THAT FISCAL YEAR.**

15 **(2) IF THE GOVERNOR DOES NOT INCLUDE THE REQUIRED**
16 **AMOUNTS IN THE BUDGET BILL TO ACCOMMODATE THOSE ADDITIONAL COSTS**
17 **UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE GOVERNOR SHALL INCLUDE**
18 **THOSE AMOUNTS IN THE BUDGET OF THE DEPARTMENT FOR THE FOLLOWING**
19 **FISCAL YEAR.**

20 **(3) MONETARY OR OTHER BENEFITS THAT WERE MATTERS OF**
21 **AGREEMENT THAT WERE INCORPORATED INTO THE MEMORANDUM OF**
22 **UNDERSTANDING UNDER SUBSECTION ~~(u)~~ (v) OF THIS SECTION BUT WERE NOT**
23 **PAID TO MEMBERS OF THE BARGAINING UNIT BECAUSE THEY WERE NOT**
24 **INCLUDED IN THE BUDGET BILL UNDER PARAGRAPH (1) OF THIS SUBSECTION**
25 **SHALL BE PAID RETROACTIVELY TO THE AFFECTED EMPLOYEES ON THE**
26 **SECOND JULY 1 FOLLOWING THE CONCLUSION OF NEGOTIATIONS.**

27 ~~(w)~~ **(x) NEGOTIATIONS FOR A MEMORANDUM OF UNDERSTANDING**
28 **SHALL BE CONSIDERED CLOSED SESSIONS UNDER § 10-508 OF THE STATE**
29 **GOVERNMENT ARTICLE.**

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