

HOUSE BILL 278

C8

8lr0579

By: **Montgomery County Delegation**

Introduced and read first time: January 19, 2018

Assigned to: Appropriations

Committee Report: Favorable with amendments

Committee amendments withdrawn, March 13, 2018

House action: Adopted with substitute committee amendments

Read second time: March 13, 2018

CHAPTER _____

1 AN ACT concerning

2 **Montgomery County – Housing Opportunities Commission – Binding**
3 **Arbitration ~~for Wages~~ – Revisions**

4 MC 14–18

5 FOR the purpose of requiring a certain employee organization to disclose to certain
6 employees all offers regarding wages made by the Housing Opportunities
7 Commission of Montgomery County during certain collective bargaining
8 negotiations; authorizing the parties to use a certain mediator–arbitrator panel in a
9 collective bargaining impasse under certain circumstances; providing for the
10 membership and selection of a mediator–arbitrator panel; requiring a certain labor
11 relations administrator to name a certain member of the panel by a certain date;
12 requiring the mediator–arbitrator panel to first consider and give the highest
13 priority to the ability of the Montgomery Commission to pay for certain expenses by
14 considering certain factors in considering the terms and conditions of the final offer
15 regarding wages; authorizing the mediator–arbitrator panel ~~of a collective~~
16 bargaining impasse concerning certain employees of the Housing Opportunities
17 Commission of Montgomery County to include wages in the report choosing the more
18 reasonable final offer; requiring the mediator–arbitrator panel, in determining the
19 more reasonable offer, to consider the bargaining history of certain employees’ wages
20 and comparisons of certain wages; requiring the Executive Director of the
21 Montgomery Commission, on or before a certain date, to submit certain terms or
22 conditions of the final offer regarding wages to the Montgomery Commission;
23 authorizing the Montgomery Commission to accept or reject certain terms and

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 ~~conditions; making certain conforming changes;~~ and generally relating to binding
 2 arbitration ~~for wages of employees~~ of the Housing Opportunities Commission of
 3 Montgomery County.

4 BY adding to

5 Article – Housing and Community Development
 6 Section 16–308.1
 7 Annotated Code of Maryland
 8 (2006 Volume and 2017 Supplement)

9 BY repealing and reenacting, with amendments,

10 Article – Housing and Community Development
 11 Section 16–310 and 16–311
 12 Annotated Code of Maryland
 13 (2006 Volume and 2017 Supplement)

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

16 **Article – Housing and Community Development**

17 **16–308.1.**

18 **AN EMPLOYEE ORGANIZATION CERTIFIED AS EXCLUSIVE REPRESENTATIVE**
 19 **SHALL DISCLOSE TO THE EMPLOYEES REPRESENTED BY THE EMPLOYEE**
 20 **ORGANIZATION ALL OFFERS REGARDING WAGES MADE BY THE MONTGOMERY**
 21 **COMMISSION DURING COLLECTIVE BARGAINING NEGOTIATIONS CONDUCTED**
 22 **UNDER THIS SUBTITLE.**

23 16–310.

24 (a) (1) If the parties have not reached an agreement on or before December 1
 25 on a collective bargaining agreement that would become effective the following July 1, the
 26 parties shall jointly appoint a mediator–arbitrator **PANEL**.

27 (2) If the parties are unable to agree on a **JOINTLY APPOINTED**
 28 mediator–arbitrator **AS REQUIRED UNDER § 16–311 OF THIS SUBTITLE**, the labor
 29 relations administrator shall name the **JOINTLY APPOINTED** mediator–arbitrator on or
 30 before December 7.

31 (3) Notwithstanding appointment of the mediator–arbitrator **PANEL**, this
 32 subsection does not require beginning mediation–arbitration before the date set forth in
 33 subsection (b)(2) of this section.

34 (b) (1) During the collective bargaining:

1 (i) either party may declare an impasse and request the services of
2 the mediator–arbitrator PANEL; or

3 (ii) the parties may jointly request the services of a
4 mediator–arbitrator PANEL before an impasse is declared.

5 (2) If the mediator–arbitrator PANEL finds in the ~~mediator–arbitrator’s~~
6 discretion OF THE PANEL that the parties are at a bona fide impasse, or on February 1, if
7 they still have not agreed on a contract, whichever happens first, the mediator–arbitrator
8 PANEL shall require the parties to submit:

9 (i) a joint memorandum listing all items to which the parties have
10 previously agreed; and

11 (ii) a separate memorandum of the party’s last final offer presented
12 in negotiations on all items to which the parties have not previously agreed.

13 (c) (1) On or before February 10, if the parties have not agreed on a contract,
14 the mediator–arbitrator PANEL shall hold a nonpublic hearing on the parties’ proposals at
15 a time, date, and place chosen by the mediator–arbitrator PANEL.

16 (2) Each party shall submit evidence or make oral and written argument
17 in support of the party’s last final offer.

18 (3) The mediator–arbitrator PANEL may not open the hearing to a person
19 who is not a party to the mediation–arbitration.

20 (d) (1) On or before February 15, the mediator–arbitrator PANEL shall issue a
21 report choosing the final offer[, exclusive of wages,] that the mediator–arbitrator PANEL
22 determines to be more reasonable when viewed as a whole.

23 (2) ~~In~~ SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, IN
24 determining the more reasonable offer, the mediator–arbitrator PANEL may consider only:

25 (i) past collective bargaining contracts between the parties,
26 including the bargaining history that led to the agreement or the precollective bargaining
27 history of employee **WAGES**, hours, benefits, and other working conditions;

28 (ii) a comparison of **WAGES**, hours, benefits, and conditions of
29 employment of similar employees of other public employers in the Washington
30 Metropolitan Area and in the State;

31 (iii) a comparison of **WAGES**, hours, benefits, and conditions of
32 employment of similar employees of private employers in Montgomery County;

33 (iv) the public interest and welfare;

1 (v) the ability of the employer to finance any economic adjustments
2 required under the proposed agreement;

3 (vi) the effects of any economic adjustments on the standard of public
4 services normally provided by the employer; and

5 (vii) the annual increase or decrease in consumer prices for all items
6 as shown in the most recent Consumer Price Index – Wage Earners and Clerical Workers
7 (“CPI–W”) for the Washington–Baltimore Metropolitan Area.

8 **(3) IN CONSIDERING THE TERMS AND CONDITIONS OF THE FINAL**
9 **OFFER REGARDING WAGES, THE MEDIATOR–ARBITRATOR PANEL SHALL FIRST**
10 **CONSIDER AND GIVE THE HIGHEST PRIORITY TO THE ABILITY OF THE MONTGOMERY**
11 **COMMISSION TO PAY FOR ADDITIONAL SHORT–TERM AND LONG–TERM EXPENSES**
12 **BY CONSIDERING:**

13 **(I) THE LIMITS ON THE ABILITY OF THE MONTGOMERY**
14 **COMMISSION TO RAISE REVENUE;**

15 **(II) THE ADDED BURDEN RAISING REVENUE WOULD HAVE ON**
16 **CUSTOMERS OF THE MONTGOMERY COMMISSION; AND**

17 **(III) THE ABILITY OF THE MONTGOMERY COMMISSION TO**
18 **CONTINUE PROVIDING THE CURRENT LEVEL OF SERVICE TO ITS CUSTOMERS.**

19 ~~(3)~~ **(4)** In determining the more reasonable offer, the
20 mediator–arbitrator **PANEL** shall consider that all items on which the parties agreed before
21 the mediation–arbitration are integrated with each offer.

22 ~~(4)~~ **(5)** The mediator–arbitrator **PANEL** may not receive or consider the
23 history of collective bargaining relating to the immediate dispute, including any offers of
24 settlement not contained in the offer submitted to the mediator–arbitrator **PANEL**.

25 (e) The mediator–arbitrator **PANEL** may not compromise or alter the final offer
26 that the mediator–arbitrator **PANEL** chooses.

27 (f) (1) Subject to ~~paragraph (2)~~ **PARAGRAPHS (2) AND (5)** of this subsection
28 and without ratification by the parties, the offer that the mediator–arbitrator **PANEL**
29 chooses as integrated with the items on which the parties previously agreed is the final
30 agreement between the Montgomery Commission and the exclusive representative.

31 (2) The economic provisions of the final agreement are subject to funding
32 by the Montgomery Commission.

1 (3) ~~The~~ EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS
 2 SUBSECTION, THE Montgomery Commission shall appropriate money in the Montgomery
 3 Commission's final budget for all economic provisions of the final agreement.

4 (4) The parties shall execute an agreement that incorporates the final
 5 agreement, including arbitration awards and all issues agreed to under this section.

6 **(5) (I) ON OR BEFORE APRIL 1 OR A LATER DATE DETERMINED BY**
 7 **MUTUAL AGREEMENT OF THE PARTIES DUE TO EXTENUATING CIRCUMSTANCES, THE**
 8 **EXECUTIVE DIRECTOR OF THE MONTGOMERY COMMISSION SHALL SUBMIT TO THE**
 9 **MONTGOMERY COMMISSION ANY TERM OR CONDITION OF THE FINAL OFFER**
 10 **REGARDING WAGES THAT REQUIRES:**

11 **1. AN APPROPRIATION OF FUNDS; OR**

12 **2. THE ADOPTION OF A REGULATION THAT MAY RESULT**
 13 **IN A PRESENT OR FUTURE FISCAL IMPACT ON THE MONTGOMERY COMMISSION OR**
 14 **ITS CUSTOMERS.**

15 **(II) THE MONTGOMERY COMMISSION MAY ACCEPT OR REJECT**
 16 **ALL OR PART OF ANY TERM OR CONDITION THAT THE EXECUTIVE DIRECTOR IS**
 17 **REQUIRED TO SUBMIT UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.**

18 (g) The Montgomery Commission and the employee organization shall share the
 19 costs of the ~~arbitrator's~~ MEDIATOR-ARBITRATOR PANEL'S services equally.

20 16-311.

21 (a) A mediator PANEL may be used in collective bargaining when:

22 (1) the Montgomery Commission and the employee organization agree to
 23 mediation; or

24 (2) an impasse results, and the Montgomery Commission or the employee
 25 organization requests mediation.

26 (b) (1) The Montgomery Commission and the employee organization
 27 [together] shall:

28 **(I) EACH choose [the] ONE mediator from a list supplied by the**
 29 **American Arbitration Association or the Federal Mediation and Conciliation Service; AND**

30 **(II) TOGETHER CHOOSE A THIRD MEDIATOR FROM A LIST**
 31 **SUPPLIED BY THE AMERICAN ARBITRATION ASSOCIATION OR THE FEDERAL**
 32 **MEDIATION AND CONCILIATION SERVICE.**

1 (2) If the Montgomery Commission and the employee organization cannot
2 agree on a **JOINTLY APPOINTED** mediator, the labor relations administrator shall choose
3 the **THIRD** mediator.

4 (c) The Montgomery Commission and the employee organization shall share the
5 costs of mediation equally.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2018.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.