

Chapter 127

(House Bill 278)

AN ACT concerning

**Montgomery County – Housing Opportunities Commission – Binding
Arbitration ~~for Wages~~ – Revisions****MC 14–18**

FOR the purpose of requiring a certain employee organization to disclose to certain employees all offers regarding wages made by the Housing Opportunities Commission of Montgomery County during certain collective bargaining negotiations; authorizing the parties to use a certain mediator–arbitrator panel in a collective bargaining impasse under certain circumstances; providing for the membership and selection of a mediator–arbitrator panel; requiring a certain labor relations administrator to name a certain member of the panel by a certain date; requiring the mediator–arbitrator panel to first consider and give the highest priority to the ability of the Montgomery Commission to pay for certain expenses by considering certain factors in considering the terms and conditions of the final offer regarding wages; authorizing the mediator–arbitrator panel ~~of a collective bargaining impasse concerning certain employees of the Housing Opportunities Commission of Montgomery County~~ to include wages in the report choosing the more reasonable final offer; requiring the mediator–arbitrator panel, in determining the more reasonable offer, to consider the bargaining history of certain employees' wages and comparisons of certain wages; requiring the Executive Director of the Montgomery Commission, on or before a certain date, to submit certain terms or conditions of the final offer regarding wages to the Montgomery Commission; authorizing the Montgomery Commission to accept or reject certain terms and conditions; making certain conforming changes; and generally relating to binding arbitration ~~for wages of employees~~ of the Housing Opportunities Commission of Montgomery County.

BY adding to

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

BY repealing and reenacting, with amendments,
 Article – Housing and Community Development
 Section 16–310 and 16–311
 Annotated Code of Maryland
 (2006 Volume and 2017 Supplement)

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

Article – Housing and Community Development

16-308.1.

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

16-310.

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

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

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

(b) (1) During the collective bargaining:

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) the public interest and welfare;

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

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

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

(3) IN CONSIDERING THE TERMS AND CONDITIONS OF THE FINAL OFFER REGARDING WAGES, THE MEDIATOR–ARBITRATOR PANEL SHALL FIRST

CONSIDER AND GIVE THE HIGHEST PRIORITY TO THE ABILITY OF THE MONTGOMERY COMMISSION TO PAY FOR ADDITIONAL SHORT-TERM AND LONG-TERM EXPENSES BY CONSIDERING:

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

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

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

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

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

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

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

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

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

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

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

1. AN APPROPRIATION OF FUNDS; OR

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

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

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

16-311.

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

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

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

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

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

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

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

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

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

Approved by the Governor, April 10, 2018.