
By: Senator Lawlah

Introduced and read first time: January 23, 1996

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Washington Suburban Sanitary Commission - Collective Bargaining**

3 FOR the purpose of establishing collective bargaining rights for certain employees of the
4 Washington Suburban Sanitary Commission; establishing certain bargaining units;
5 requiring the Commission to recognize an employee organization certified as
6 exclusive representative; imposing certain requirements on a certified employee
7 organization; providing for the appointment of a labor relations administrator;
8 providing for the release of certain employee records under certain circumstances;
9 establishing procedures for resolving disputes concerning eligibility of employees in
10 bargaining units; requiring the Commission and a certified employee organization to
11 engage in good faith collective bargaining in regard to certain subjects of bargaining;
12 providing procedures for arbitration, mediation, and fact-finding in certain
13 situations; requiring the Commission and a certified employee organization to
14 execute a collective bargaining agreement; authorizing and requiring that a
15 collective bargaining agreement include certain provisions; requiring a collective
16 bargaining agreement to be effective upon a certain approval; requiring the
17 Commission to include adequate funding to carry out an agreement in its proposed
18 operating budget; allowing the Commission and an employee organization to reopen
19 an agreement within a certain period if Montgomery County or Prince George's
20 County deletes or reduces any item in the Commission's budget; granting the
21 Commission, a certified employee organization, and certain employees of the
22 Commission certain rights; prohibiting certain actions; providing unfair labor
23 practice procedures; defining certain terms; and generally relating to collective
24 bargaining and labor relations matters involving the Washington Suburban Sanitary
25 Commission.

26 BY adding to

27 Article 29 - Washington Suburban Sanitary District
28 Section 11-118
29 Annotated Code of Maryland
30 (1993 Replacement Volume and 1995 Supplement)

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

2

1 **Article 29 - Washington Suburban Sanitary District**

2 11-118.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

5 (2) "CONFIDENTIAL EMPLOYEE" MEANS AN EMPLOYEE WHO ASSISTS
6 OR ACTS IN A CONFIDENTIAL CAPACITY WITH RESPECT TO AN INDIVIDUAL WHO
7 FORMULATES, DETERMINES, OR EFFECTUATES MANAGEMENT POLICIES IN THE
8 FIELD OF LABOR-MANAGEMENT RELATIONS.

9 (3) "PROBATIONARY EMPLOYEE" MEANS AN EMPLOYEE DURING THE
10 PENDENCY OF THE EMPLOYEE'S INITIAL PROBATIONARY PERIOD FOLLOWING
11 EMPLOYMENT.

12 (B) THE RIGHTS GRANTED TO COMMISSION EMPLOYEES UNDER THIS
13 SECTION DO NOT APPLY TO:

14 (1) ATTORNEYS IN THE GENERAL COUNSEL'S OFFICE;

15 (2) CONFIDENTIAL EMPLOYEES;

16 (3) EMPLOYEES WHO ARE AT GRADE 20 OR ABOVE;

17 (4) PROBATIONARY EMPLOYEES; OR

18 (5) SUPERVISORS, AS DEFINED IN SECTION 2(11) OF THE NATIONAL
19 LABOR RELATIONS ACT.

20 (C) COMMISSION EMPLOYEES ARE DIVIDED INTO TWO BARGAINING UNITS
21 THAT CONSIST OF:

22 (1) THE OFFICE, PROFESSIONAL, AND TECHNICAL UNIT THAT
23 INCLUDES:

24 (I) OFFICE CLASSIFICATION TITLES IN WHICH EMPLOYEES ARE
25 RESPONSIBLE FOR INTERNAL AND EXTERNAL COMMUNICATIONS, RECORDING AND
26 RETRIEVING INFORMATION, AND PAPERWORK REQUIRED IN AN OFFICE;

27 (II) PROFESSIONAL CLASSIFICATION TITLES IN WHICH EMPLOYEES
28 HAVE SPECIAL OR THEORETICAL KNOWLEDGE THAT USUALLY IS ACQUIRED
29 THROUGH COLLEGE TRAINING, OTHER TRAINING THAT PROVIDES COMPARABLE
30 KNOWLEDGE, OR WORK EXPERIENCE;

31 (III) PARAPROFESSIONAL CLASSIFICATION TITLES IN WHICH
32 EMPLOYEES PERFORM, IN A SUPPORTIVE ROLE, SOME OF THE DUTIES OF A
33 PROFESSIONAL OR TECHNICIAN BUT THAT USUALLY REQUIRE LESS FORMAL
34 TRAINING OR EXPERIENCE THAN THOSE DUTIES PERFORMED BY THOSE WITH
35 PROFESSIONAL OR TECHNICAL STATUS; AND

36 (IV) TECHNICAL CLASSIFICATION TITLES IN WHICH EMPLOYEES
37 HAVE A COMBINATION OF BASIC SCIENTIFIC OR TECHNICAL KNOWLEDGE AND
38 MANUAL SKILL THAT ARE USUALLY ACQUIRED THROUGH SPECIALIZED

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1 POSTSECONDARY SCHOOL EDUCATION OR THROUGH EQUIVALENT ON-THE-JOB
2 TRAINING; AND

3 (2) THE SERVICE, LABOR, AND TRADES UNIT THAT INCLUDES:

4 (I) CLASSIFICATION TITLES IN WHICH EMPLOYEES PERFORM
5 SERVICE AND MAINTENANCE, MAY OPERATE SPECIALIZED MACHINERY OR HEAVY
6 EQUIPMENT, AND WHOSE DUTIES CONTRIBUTE TO THE COMFORT AND
7 CONVENIENCE OF THE PUBLIC OR TO THE UPKEEP AND CARE OF COMMISSION
8 BUILDINGS, FACILITIES, OR GROUNDS; AND

9 (II) CLASSIFICATION TITLES IN WHICH EMPLOYEES ARE
10 REQUIRED TO HAVE A SPECIAL MANUAL SKILL AND A THOROUGH KNOWLEDGE OF
11 PROCESSES THAT ARE ACQUIRED THROUGH ON-THE-JOB TRAINING, EXPERIENCE,
12 APPRENTICESHIP, OR OTHER FORMAL TRAINING PROGRAMS.

13 (D) (1) THE COMMISSION SHALL RECOGNIZE THE RIGHT OF AN EMPLOYEE
14 ORGANIZATION, CERTIFIED UNDER THIS SECTION AS THE EXCLUSIVE
15 REPRESENTATIVE OF A BARGAINING UNIT, TO REPRESENT THE EMPLOYEES OF THE
16 BARGAINING UNIT IN COLLECTIVE BARGAINING AND IN THE SETTLEMENT OF
17 GRIEVANCES.

18 (2) AN EMPLOYEE ORGANIZATION CERTIFIED AS EXCLUSIVE
19 REPRESENTATIVE OF A BARGAINING UNIT SHALL:

20 (I) SERVE AS THE SOLE BARGAINING AGENT FOR THE UNIT IN
21 COLLECTIVE BARGAINING; AND

22 (II) REPRESENT ALL EMPLOYEES IN THE BARGAINING UNIT
23 FAIRLY, WITHOUT DISCRIMINATION, AND WITHOUT REGARD TO WHETHER AN
24 EMPLOYEE IS A MEMBER OF THE EMPLOYEE ORGANIZATION.

25 (3) AN EMPLOYEE ORGANIZATION MEETS THE REQUIREMENTS OF
26 PARAGRAPH (2)(II) OF THIS SUBSECTION AS LONG AS ITS ACTIONS WITH RESPECT TO
27 EMPLOYEES WHO ARE MEMBERS OF THE EMPLOYEE ORGANIZATION AND
28 EMPLOYEES WHO ARE NOT MEMBERS OF THE EMPLOYEE ORGANIZATION ARE NOT
29 ARBITRARY, DISCRIMINATORY, OR IN BAD FAITH.

30 (E) (1) AFTER A PUBLIC HEARING ON THE APPOINTMENT, INITIALLY THE
31 COMMISSION SHALL APPOINT AN EXPERIENCED NEUTRAL THIRD PARTY TO SERVE
32 AS LABOR RELATIONS ADMINISTRATOR FOR 1 YEAR.

33 (2) AFTER THE TERM FOR THE NEUTRAL THIRD PARTY APPOINTED
34 UNDER PARAGRAPH (1) OF THIS SUBSECTION EXPIRES, THE EXCLUSIVE
35 REPRESENTATIVE OR REPRESENTATIVES AND THE COMMISSION SHALL APPOINT,
36 FROM A LIST OF FIVE NOMINEES WHOM THEY HAVE AGREED UPON, A LABOR
37 RELATIONS ADMINISTRATOR FOR A TERM OF 2 YEARS.

38 (3) AFTER THE TERM FOR THE NEUTRAL THIRD PARTY APPOINTED
39 UNDER PARAGRAPH (1) OF THIS SUBSECTION EXPIRES AND AFTER A PUBLIC
40 HEARING ON THE APPOINTMENT, IF NO EXCLUSIVE REPRESENTATIVE HAS BEEN

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1 CERTIFIED UNDER THIS SECTION, THE COMMISSION SHALL APPOINT THE NEXT
2 LABOR RELATIONS ADMINISTRATOR FOR A TERM NOT EXCEEDING 1 YEAR.

3 (4) A LABOR RELATIONS ADMINISTRATOR IS ELIGIBLE FOR
4 REAPPOINTMENT.

5 (F) (1) AN EMPLOYEE ORGANIZATION THAT IS CERTIFIED OR THAT SEEKS
6 CERTIFICATION AS AN EXCLUSIVE REPRESENTATIVE UNDER THIS SECTION SHALL
7 SUBMIT TO THE LABOR RELATIONS ADMINISTRATOR:

8 (I) A COPY OF THE EMPLOYEE ORGANIZATION'S CONSTITUTION
9 AND BYLAWS; AND

10 (II) ANY CHANGES IN THE CONSTITUTION OR BYLAWS.

11 (2) THE CONSTITUTION OR BYLAWS SHALL INCLUDE:

12 (I) A PLEDGE THAT THE EMPLOYEE ORGANIZATION ACCEPTS
13 MEMBERS WITHOUT REGARD TO AGE, MARITAL STATUS, NATIONAL ORIGIN, RACE,
14 RELIGION, DISABILITIES, SEXUAL ORIENTATION, OR GENDER;

15 (II) THE RIGHT OF MEMBERS TO PARTICIPATE IN THE AFFAIRS OF
16 THE EMPLOYEE ORGANIZATION;

17 (III) PROCEDURES FOR PERIODIC ELECTIONS FOR OFFICERS BY
18 SECRET BALLOT;

19 (IV) FAIR PROCEDURES GOVERNING DISCIPLINARY ACTIONS;

20 (V) PROCEDURES FOR THE ACCURATE ACCOUNTING OF ALL
21 INCOME AND EXPENDITURES;

22 (VI) A REQUIREMENT THAT A CERTIFIED ANNUAL FINANCIAL
23 REPORT BE PRODUCED; AND

24 (VII) THE RIGHT OF MEMBERS TO INSPECT THE ORGANIZATION'S
25 ACCOUNTS.

26 (G) (1) EXCEPT AS PROVIDED IN SUBSECTION (G)(8) OF THIS SECTION, THE
27 LABOR RELATIONS ADMINISTRATOR SHALL CONDUCT AN ELECTION FOR AN
28 EXCLUSIVE REPRESENTATIVE AFTER:

29 (I) AN EMPLOYEE ORGANIZATION DEMONSTRATES, BY PETITION,
30 THAT AT LEAST 30% OF THE ELIGIBLE EMPLOYEES IN A BARGAINING UNIT SUPPORT
31 REPRESENTATION BY AN EXCLUSIVE REPRESENTATIVE FOR COLLECTIVE
32 BARGAINING; OR

33 (II) AN EMPLOYEE OR AN EMPLOYEE ORGANIZATION
34 DEMONSTRATES, BY PETITION, THAT AT LEAST 30% OF THE ELIGIBLE EMPLOYEES IN
35 A BARGAINING UNIT NO LONGER SUPPORT THE CURRENT EXCLUSIVE
36 REPRESENTATIVE.

37 (2) (I) AT LEAST 30 DAYS BEFORE AN ELECTION UNDER PARAGRAPH
38 (1) OF THIS SUBSECTION, THE LABOR RELATIONS ADMINISTRATOR SHALL OBTAIN

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1 FROM THE COMMISSION AND PROVIDE TO THE EMPLOYEE ORGANIZATION A LIST
2 OF THE NAMES, ADDRESSES, AND TELEPHONE NUMBERS OF EVERY EMPLOYEE IN
3 THE BARGAINING UNIT.

4 (II) THE PROVISION OF A LIST UNDER THIS PARAGRAPH BY THE
5 COMMISSION, THE LABOR RELATIONS ADMINISTRATOR, OR ANY COMMISSION
6 OFFICIALS, EMPLOYEES, OR OTHER AGENTS DOES NOT CONSTITUTE A VIOLATION
7 OF § 10-617(E) OF THE STATE GOVERNMENT ARTICLE OR ANY OTHER STATE OR
8 LOCAL LAW, STATUTE, REGULATION, OR ORDINANCE.

9 (3) ELECTIONS SHALL BE CONDUCTED BY SECRET BALLOT.

10 (4) THE BALLOT SHALL CONTAIN:

11 (I) THE NAME OF EACH EMPLOYEE ORGANIZATION THAT
12 SUBMITS A VALID PETITION REQUIRING AN ELECTION;

13 (II) THE NAME OF ANY OTHER EMPLOYEE ORGANIZATION
14 SUPPORTED BY A PETITION SIGNED BY AT LEAST 10% OF THE ELIGIBLE EMPLOYEES
15 IN THE BARGAINING UNIT; AND

16 (III) AN OPTION FOR NO REPRESENTATION.

17 (5) (I) IF NONE OF THE CHOICES ON THE BALLOT RECEIVES A
18 MAJORITY OF THE VOTES CAST, THE LABOR RELATIONS ADMINISTRATOR SHALL
19 HOLD A RUNOFF ELECTION.

20 (II) IN THE RUNOFF ELECTION, THE BALLOT SHALL CONTAIN THE
21 TWO CHOICES THAT RECEIVED THE HIGHEST NUMBER OF VOTES IN THE INITIAL
22 ELECTION.

23 (6) AFTER THE ELECTION, THE LABOR RELATIONS ADMINISTRATOR
24 SHALL CERTIFY THE APPROPRIATE EMPLOYEE ORGANIZATION AS THE EXCLUSIVE
25 REPRESENTATIVE.

26 (7) THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL
27 SHARE EQUALLY THE COSTS OF THE ELECTION PROCEDURES.

28 (8) AN EMPLOYEE ORGANIZATION RECOGNIZED BY THE COMMISSION
29 AS AN EXCLUSIVE REPRESENTATIVE FOR A BARGAINING UNIT BEFORE JULY 1, 1993,
30 SHALL BE CERTIFIED BY THE LABOR RELATIONS ADMINISTRATOR AS THE
31 EXCLUSIVE REPRESENTATIVE UNDER THIS ARTICLE.

32 (H) (1) ELECTIONS MAY NOT BE CONDUCTED:

33 (I) WITHIN 1 YEAR FROM THE DATE OF A VALID ELECTION
34 UNDER THIS SECTION; OR

35 (II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
36 DURING THE TERM OF A COLLECTIVE BARGAINING AGREEMENT.

37 (2) DURING THE TERM OF A COLLECTIVE BARGAINING AGREEMENT, A
38 PETITION FOR AN ELECTION MAY BE FILED ONLY DURING NOVEMBER OF THE
39 FISCAL YEAR IN WHICH THE AGREEMENT EXPIRES.

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1 (I) (1) IF THE COMMISSION AND AN EMPLOYEE ORGANIZATION DISPUTE
2 THE ELIGIBILITY OF AN EMPLOYEE IN A BARGAINING UNIT, THE DISPUTE SHALL BE
3 SUBMITTED TO THE LABOR RELATIONS ADMINISTRATOR.

4 (2) THE LABOR RELATIONS ADMINISTRATOR SHALL HOLD
5 EVIDENTIARY HEARINGS AT WHICH THE COMMISSION AND INTERESTED EMPLOYEE
6 ORGANIZATIONS SHALL HAVE THE OPPORTUNITY TO PRESENT TESTIMONY,
7 DOCUMENTARY AND OTHER EVIDENCE, AND ARGUMENTS.

8 (3) THE DECISION OF THE LABOR RELATIONS ADMINISTRATOR IS
9 FINAL.

10 (4) THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL
11 SHARE EQUALLY THE COSTS OF THE HEARINGS.

12 (J) (1) THE COMMISSION AND AN EMPLOYEE ORGANIZATION CERTIFIED
13 AS EXCLUSIVE REPRESENTATIVE SHALL MEET AND ENGAGE IN COLLECTIVE
14 BARGAINING IN GOOD FAITH IN REGARD TO THE FOLLOWING SUBJECTS OF
15 BARGAINING:

16 (I) SALARY AND WAGES, INCLUDING THE PERCENTAGE OF THE
17 INCREASE IN THE SALARY AND WAGES BUDGET THAT WILL BE DEVOTED TO MERIT
18 INCREMENTS AND CASH AWARDS, PROVIDED THAT SALARIES AND WAGES SHALL
19 BE UNIFORM FOR ALL EMPLOYEES IN THE SAME CLASSIFICATION;

20 (II) ON OR AFTER JUNE 1, 1997, PENSION AND OTHER RETIREMENT
21 BENEFITS FOR ACTIVE EMPLOYEES;

22 (III) EMPLOYEE BENEFITS SUCH AS INSURANCE, LEAVE, HOLIDAYS,
23 AND VACATIONS;

24 (IV) HOURS AND WORKING CONDITIONS;

25 (V) PROVISIONS FOR THE ORDERLY PROCESSING AND
26 SETTLEMENT OF GRIEVANCES CONCERNING THE INTERPRETATION AND
27 IMPLEMENTATION OF A COLLECTIVE BARGAINING AGREEMENT THAT MAY
28 INCLUDE:

29 1. BINDING THIRD PARTY ARBITRATION, PROVIDED THAT
30 THE ARBITRATOR HAS NO AUTHORITY TO AMEND, ADD TO, OR SUBTRACT FROM
31 THE PROVISIONS OF THE COLLECTIVE BARGAINING AGREEMENT; AND

32 2. PROVISIONS FOR THE EXCLUSIVITY OF FORUM;

33 (VI) MATTERS AFFECTING THE HEALTH AND SAFETY OF
34 EMPLOYEES; AND

35 (VII) THE EFFECT OF THE EXERCISE OF THE COMMISSION'S RIGHTS
36 AND RESPONSIBILITIES UNDER SUBSECTION (P) OF THIS SECTION ON EMPLOYEES.

37 (2) THIS SUBSECTION DOES NOT REQUIRE THE COMMISSION OR THE
38 EMPLOYEE ORGANIZATION TO AGREE TO ANY PROPOSAL OR TO MAKE ANY
39 CONCESSION.

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1 (3) THE COMMISSION AND AN EMPLOYEE ORGANIZATION CERTIFIED
2 AS EXCLUSIVE REPRESENTATIVE SHALL MAKE EVERY REASONABLE EFFORT TO
3 COMPLETE NEGOTIATIONS AT LEAST 2 MONTHS BEFORE THE COMMISSION'S
4 BUDGET SUBMITTAL DEADLINE.

5 (K) (1) A MEDIATOR MAY BE USED IN THE COLLECTIVE BARGAINING
6 PROCESS WHENEVER:

7 (I) THE COMMISSION AND THE EMPLOYEE ORGANIZATION
8 AGREE TO MEDIATION; OR

9 (II) AN IMPASSE RESULTS, AND THE COMMISSION OR THE
10 EMPLOYEE ORGANIZATION REQUESTS MEDIATION.

11 (2) (I) THE MEDIATOR SHALL BE MUTUALLY SELECTED BY THE
12 COMMISSION AND THE EMPLOYEE ORGANIZATION FROM A LIST SUPPLIED BY THE
13 AMERICAN ARBITRATION ASSOCIATION OR THE FEDERAL MEDIATION AND
14 CONCILIATION SERVICE.

15 (II) IF THE COMMISSION AND THE EMPLOYEE ORGANIZATION ARE
16 UNABLE TO MUTUALLY AGREE ON THE SELECTION OF A MEDIATOR, THE LABOR
17 RELATIONS ADMINISTRATOR SHALL SELECT THE MEDIATOR.

18 (3) THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL
19 SHARE EQUALLY THE COSTS OF MEDIATION.

20 (L) (1) A FACT FINDER MAY BE USED IN THE COLLECTIVE BARGAINING
21 PROCESS WHENEVER:

22 (I) THE COMMISSION AND THE EMPLOYEE ORGANIZATION
23 AGREE TO FACT-FINDING; OR

24 (II) AN IMPASSE RESULTS, AND THE COMMISSION OR THE
25 EMPLOYEE ORGANIZATION REQUESTS FACT-FINDING.

26 (2) THE FACT FINDER SHALL BE MUTUALLY SELECTED BY THE
27 COMMISSION AND THE EMPLOYEE ORGANIZATION FROM A LIST SUPPLIED BY THE
28 AMERICAN ARBITRATION ASSOCIATION OR THE FEDERAL MEDIATION AND
29 CONCILIATION SERVICE.

30 (3) IF AGREEMENT CANNOT BE REACHED ON THE SELECTION OF A
31 FACT FINDER, THE FACT FINDER SHALL BE SELECTED BY THE LABOR RELATIONS
32 ADMINISTRATOR.

33 (4) (I) THE FACT FINDER SHALL HOLD HEARINGS AND MAY
34 ADMINISTER OATHS.

35 (II) WITHIN 30 DAYS AFTER APPOINTMENT, THE FACT FINDER
36 SHALL GIVE TO THE COMMISSIONER AND THE EMPLOYEE ORGANIZATION A
37 WRITTEN REPORT THAT INCLUDES FINDINGS AND RECOMMENDATIONS TO
38 RESOLVE THE IMPASSE.

1 (5) IF THE IMPASSE CONTINUES FOR 10 DAYS AFTER SUBMISSION OF
2 THE FACT FINDER'S REPORT, THE FACT FINDER SHALL MAKE THE REPORT
3 AVAILABLE TO THE PUBLIC.

4 (6) THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL
5 SHARE EQUALLY THE COSTS OF THE FACT FINDER.

6 (M) (1) THE COMMISSION AND AN EMPLOYEE ORGANIZATION CERTIFIED
7 AS EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT SHALL EXECUTE A
8 COLLECTIVE BARGAINING AGREEMENT INCORPORATING ALL MATTERS OF
9 AGREEMENT ON WAGES, HOURS, AND OTHER TERMS AND CONDITIONS OF
10 EMPLOYMENT.

11 (2) IF A COLLECTIVE BARGAINING AGREEMENT PROVIDES FOR A
12 GRIEVANCE PROCEDURE, THAT GRIEVANCE PROCEDURE SHALL BE THE SOLE
13 PROCEDURE FOR EMPLOYEES IN THE BARGAINING UNIT.

14 (3) THE COLLECTIVE BARGAINING AGREEMENT MAY INCLUDE AN
15 AGENCY SHOP OR OTHER UNION SECURITY PROVISION.

16 (4) THE COLLECTIVE BARGAINING AGREEMENT SUPERSEDES ANY
17 CONFLICTING REGULATION OR ADMINISTRATIVE POLICY OF THE COMMISSION.

18 (5) A SINGLE YEAR OR MULTIPLE YEAR COLLECTIVE BARGAINING
19 AGREEMENT SHALL EXPIRE AT THE CLOSE OF THE APPROPRIATE FISCAL YEAR.

20 (6) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
21 PARAGRAPH, A COLLECTIVE BARGAINING UNIT SHALL BE EFFECTIVE UPON THE
22 APPROVAL OF THE COMMISSION AND THE MEMBERSHIP OF THE UNION
23 REPRESENTING THE BARGAINING UNIT.

24 (II) THE ECONOMIC REQUIREMENTS OF A COLLECTIVE
25 BARGAINING AGREEMENT SHALL BE EFFECTIVE ONLY UPON APPROVAL BY THE
26 MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY COUNCILS.

27 (N) (1) THE COMMISSION SHALL INCLUDE IN ITS ANNUAL PROPOSED
28 OPERATING BUDGET SUBMITTED TO THE COUNTY EXECUTIVES OF MONTGOMERY
29 COUNTY AND PRINCE GEORGE'S COUNTY ADEQUATE FUNDING TO CARRY OUT A
30 COLLECTIVE BARGAINING AGREEMENT.

31 (2) UNLESS THE MONTGOMERY COUNTY AND PRINCE GEORGE'S
32 COUNTY COUNCILS APPROVE THE COMMISSION'S BUDGET SO AS TO IMPLEMENT
33 THE TERMS OF THE COLLECTIVE BARGAINING AGREEMENT, THE COMMISSION OR
34 AN EMPLOYEE ORGANIZATION, WITHIN 20 DAYS AFTER FINAL BUDGET ACTION,
35 MAY GIVE WRITTEN NOTICE TO THE OTHER PARTY THAT IT IS REOPENING THE
36 NEGOTIATED AGREEMENT.

37 (O) IF A PROVISION IN A COLLECTIVE BARGAINING AGREEMENT IS RULED
38 INVALID OR IS NOT FUNDED BY MONTGOMERY COUNTY OR PRINCE GEORGE'S
39 COUNTY, THE REMAINDER OF THE AGREEMENT REMAINS IN EFFECT UNLESS
40 REOPENED UNDER SUBSECTION (N) (2) OF THIS SECTION.

1 (P) (1) THIS SECTION AND ANY AGREEMENT MADE UNDER IT MAY NOT
2 IMPAIR THE RIGHT AND RESPONSIBILITY OF THE COMMISSION TO PERFORM THE
3 FOLLOWING:

4 (I) DETERMINE THE OVERALL BUDGET AND MISSION OF THE
5 COMMISSION;

6 (II) MAINTAIN AND IMPROVE THE EFFICIENCY AND
7 EFFECTIVENESS OF OPERATIONS;

8 (III) DETERMINE THE SERVICES TO BE RENDERED AND THE
9 OPERATIONS TO BE PERFORMED;

10 (IV) DETERMINE THE LOCATION OF FACILITIES AND THE OVERALL
11 ORGANIZATIONAL STRUCTURE, METHODS, PROCESSES, MEANS, JOB
12 CLASSIFICATIONS, AND PERSONNEL BY WHICH OPERATIONS ARE TO BE
13 CONDUCTED;

14 (V) DIRECT AND SUPERVISE EMPLOYEES;

15 (VI) HIRE, SELECT, AND ESTABLISH THE STANDARDS GOVERNING
16 PROMOTION OF EMPLOYEES, AND CLASSIFY POSITIONS;

17 (VII) RELIEVE EMPLOYEES FROM DUTIES BECAUSE OF LACK OF
18 WORK OR FUNDS OR WHEN THE COMMISSION DETERMINES CONTINUED WORK
19 WOULD BE INEFFICIENT OR NONPRODUCTIVE;

20 (VIII) TAKE ACTIONS TO CARRY OUT THE MISSIONS OF
21 GOVERNMENT IN SITUATIONS OF EMERGENCY;

22 (IX) TRANSFER AND SCHEDULE EMPLOYEES;

23 (X) DETERMINE THE SIZE, GRADES, AND COMPOSITION OF THE
24 WORK FORCE;

25 (XI) SET THE STANDARDS OF PRODUCTIVITY AND TECHNOLOGY;

26 (XII) ESTABLISH EMPLOYEE PERFORMANCE STANDARDS AND
27 EVALUATE AND ASSIGN EMPLOYEES, EXCEPT THAT EVALUATION AND ASSIGNMENT
28 PROCEDURES SHALL BE A SUBJECT FOR BARGAINING;

29 (XIII) MAKE AND IMPLEMENT SYSTEMS FOR AWARDING
30 OUTSTANDING SERVICE INCREMENTS, EXTRAORDINARY PERFORMANCE AWARDS,
31 AND OTHER MERIT AWARDS;

32 (XIV) INTRODUCE NEW OR IMPROVED TECHNOLOGY, RESEARCH,
33 DEVELOPMENT, AND SERVICES;

34 (XV) CONTROL AND REGULATE THE USE OF MACHINERY,
35 EQUIPMENT, AND OTHER PROPERTY AND FACILITIES OF THE COMMISSION, SUBJECT
36 TO THE PROVISIONS OF SUBSECTION (J)(1)(VI) OF THIS SECTION;

37 (XVI) MAINTAIN INTERNAL SECURITY STANDARDS;

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1 (XVII) CREATE, ALTER, COMBINE, CONTRACT OUT, OR ABOLISH ANY
2 JOB CLASSIFICATION, DEPARTMENT, OPERATION, UNIT, OR OTHER DIVISION OR
3 SERVICE, PROVIDED THAT NO CONTRACTING OF WORK WHICH WILL DISPLACE
4 EMPLOYEES MAY BE UNDERTAKEN BY THE COMMISSION UNLESS THE COMMISSION
5 GIVES WRITTEN NOTICE TO THE CERTIFIED REPRESENTATIVE AT LEAST 90 DAYS
6 BEFORE SIGNING THE CONTRACT OR WITHIN A DIFFERENT PERIOD OF TIME AS
7 AGREED BY THE PARTIES;

8 (XVIII) SUSPEND, DISCHARGE, OR OTHERWISE DISCIPLINE
9 EMPLOYEES FOR CAUSE, EXCEPT THAT ANY SUCH ACTION MAY BE SUBJECT TO THE
10 GRIEVANCE PROCEDURE SET FORTH IN THE COLLECTIVE BARGAINING
11 AGREEMENT; AND

12 (XIX) ISSUE AND ENFORCE RULES, POLICIES, AND REGULATIONS
13 NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SUBSECTION AND ALL OTHER
14 MANAGERIAL FUNCTIONS THAT ARE NOT INCONSISTENT WITH THIS ARTICLE,
15 FEDERAL OR STATE LAW, OR THE TERMS OF A COLLECTIVE BARGAINING
16 AGREEMENT.

17 (2) THE COMMISSION MAY NOT:

18 (I) INTERFERE WITH, COERCE, OR RESTRAIN AN EMPLOYEE IN
19 THE EXERCISE OF RIGHTS UNDER THIS SECTION;

20 (II) DOMINATE, INTERFERE WITH, OR ASSIST IN THE FORMATION,
21 ADMINISTRATION, OR EXISTENCE OF ANY EMPLOYEE ORGANIZATION OR
22 CONTRIBUTE FINANCIAL ASSISTANCE OR OTHER SUPPORT TO AN EMPLOYEE
23 ORGANIZATION;

24 (III) ENCOURAGE OR DISCOURAGE MEMBERSHIP IN ANY
25 EMPLOYEE ORGANIZATION BY DISCRIMINATING AGAINST THE EMPLOYEE
26 THROUGH HIRING, TENURE, PROMOTION, OR OTHER CONDITIONS OF
27 EMPLOYMENT;

28 (IV) DISCHARGE OR DISCRIMINATE AGAINST AN EMPLOYEE
29 BECAUSE THE EMPLOYEE HAS SIGNED OR FILED AN AFFIDAVIT, PETITION, OR
30 COMPLAINT OR GIVEN ANY INFORMATION OR TESTIMONY UNDER THIS SECTION;
31 OR

32 (V) REFUSE TO BARGAIN IN GOOD FAITH WITH AN EMPLOYEE
33 ORGANIZATION THAT IS CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE OF A
34 BARGAINING UNIT OVER ANY SUBJECT OF BARGAINING OR REFUSE TO
35 PARTICIPATE IN GOOD FAITH IN THE MEDIATION, FACT-FINDING, OR GRIEVANCE
36 PROCEDURE UNDER THIS SECTION.

37 (3) PARAGRAPH (2)(II) OF THIS SUBSECTION DOES NOT PROHIBIT THE
38 COMMISSION FROM ALLOWING EMPLOYEES TO NEGOTIATE OR TO CONFER WITH
39 THE COMMISSION OVER LABOR MATTERS DURING WORK HOURS WITHOUT THE
40 LOSS OF PAY OR TIME.

41 (Q) (1) AN EMPLOYEE ORGANIZATION MAY NOT:

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1 (I) INTERFERE WITH, RESTRAIN, OR COERCE ANY EMPLOYEE IN
2 THE EXERCISE BY THE EMPLOYEE OF ANY RIGHT UNDER THIS SECTION;

3 (II) CAUSE OR ATTEMPT TO CAUSE THE COMMISSION TO
4 DISCRIMINATE AGAINST ANY EMPLOYEE IN THE EXERCISE BY THE EMPLOYEE OF
5 ANY RIGHT UNDER THIS SECTION;

6 (III) COERCE, DISCIPLINE, FINE, OR ATTEMPT TO COERCE A
7 MEMBER OF AN EMPLOYEE ORGANIZATION AS PUNISHMENT OR REPRISAL;

8 (IV) COERCE, DISCIPLINE, FINE, OR ATTEMPT TO COERCE A
9 MEMBER OF AN EMPLOYEE ORGANIZATION FOR THE PURPOSE OF IMPEDING THE
10 MEMBER'S WORK PERFORMANCE;

11 (V) REFUSE TO NEGOTIATE IN GOOD FAITH WITH THE
12 COMMISSION AS REQUIRED BY THIS SECTION; OR

13 (VI) FAIL OR REFUSE TO COOPERATE IN IMPASSE PROCEDURES
14 AND IMPASSE DECISIONS AS REQUIRED BY THIS SECTION.

15 (2) ONLY AN ELIGIBLE EMPLOYEE MAY FILE AN UNFAIR LABOR
16 CHARGE AGAINST AN EMPLOYEE ORGANIZATION FOR A VIOLATION OF
17 PARAGRAPH (1)(III) OR (IV) OF THIS SUBSECTION.

18 (R) (1) EMPLOYEES OF THE COMMISSION SHALL RETAIN THE RIGHT TO:

19 (I) FORM, JOIN, OR ASSIST ANY EMPLOYEE ORGANIZATION;

20 (II) BARGAIN COLLECTIVELY THROUGH A REPRESENTATIVE THAT
21 THEY HAVE CHOSEN;

22 (III) ENGAGE IN OTHER LAWFUL CONCERTED ACTIVITIES FOR THE
23 PURPOSE OF COLLECTIVE BARGAINING; OR

24 (IV) REFRAIN FROM ANY ACTIVITY COVERED UNDER THIS
25 PARAGRAPH.

26 (2) AN EMPLOYEE MAY PRESENT A GRIEVANCE ARISING UNDER A
27 COLLECTIVE BARGAINING AGREEMENT TO THE COMMISSION ONLY THROUGH THE
28 EMPLOYEE ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE FOR
29 THE BARGAINING UNIT.

30 (S) (1) IN THIS SUBSECTION, "STRIKE" MEANS THE REFUSAL OF AN
31 EMPLOYEE, IN CONCERTED ACTION WITH OTHERS, TO REPORT TO WORK, TO STOP
32 OR SLOW DOWN WORK, OR TO ABSTAIN IN WHOLE OR IN PART FROM THE FULL,
33 FAITHFUL, AND PROPER PERFORMANCE OF DUTIES WHERE THE OBJECT IS TO
34 INDUCE, INFLUENCE, OR COERCE A CHANGE IN THE TERMS, CONDITIONS, RIGHTS,
35 OR PRIVILEGES OF EMPLOYMENT.

36 (2) A COMMISSION EMPLOYEE, GROUP OF COMMISSION EMPLOYEES, OR
37 EMPLOYEE ORGANIZATION MAY NOT ENGAGE IN, INDUCE, INITIATE, OR RATIFY A
38 STRIKE BY COMMISSION EMPLOYEES.

12

1 (3) IF A STRIKE OCCURS, ON REQUEST OF THE COMMISSION, A COURT
2 OF COMPETENT JURISDICTION MAY ENJOIN THE STRIKE.

3 (4) AN EMPLOYEE MAY NOT RECEIVE COMPENSATION FROM THE
4 COMMISSION WHILE THE EMPLOYEE IS ENGAGED IN A STRIKE.

5 (5) (I) IF AN EMPLOYEE ENGAGES IN, INDUCES, INITIATES, OR
6 RATIFIES A STRIKE, THE COMMISSION MAY TAKE APPROPRIATE DISCIPLINARY
7 ACTION AGAINST THE EMPLOYEE, INCLUDING SUSPENSION OR DISCHARGE.

8 (II) THE LABOR RELATIONS ADMINISTRATOR SHALL HOLD A
9 HEARING ON THE DISCIPLINARY ACTION AT WHICH THE COMMISSION, THE
10 EMPLOYEE, AND ANY INTERESTED EMPLOYEE ORGANIZATION MAY PRESENT
11 EVIDENCE AND ARGUMENT.

12 (6) (I) IF AN EMPLOYEE ORGANIZATION CERTIFIED AS AN
13 EXCLUSIVE REPRESENTATIVE IS FOUND AFTER A HEARING BY THE LABOR
14 RELATIONS ADMINISTRATOR TO HAVE ASSISTED, AUTHORIZED, OR INITIATED A
15 STRIKE INVOLVING THE REFUSAL OF COMMISSION EMPLOYEES TO REPORT FOR
16 WORK, THE LABOR RELATIONS ADMINISTRATOR SHALL REVOKE THE
17 CERTIFICATION OF THE EMPLOYEE ORGANIZATION.

18 (II) AN EMPLOYEE ORGANIZATION DECERTIFIED UNDER
19 SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT BE RECERTIFIED FOR 1 YEAR
20 FROM THE END OF THE STRIKE.

21 (III) IF AN EMPLOYEE ORGANIZATION CERTIFIED AS AN
22 EXCLUSIVE REPRESENTATIVE IS FOUND AFTER A HEARING BY THE LABOR
23 RELATIONS ADMINISTRATOR TO HAVE ASSISTED, AUTHORIZED, OR INITIATED ANY
24 OTHER TYPE OF STRIKE, THE LABOR RELATIONS ADMINISTRATOR MAY REVOKE
25 THE CERTIFICATION OF THE EMPLOYEE ORGANIZATION FOR UP TO 1 YEAR FROM
26 THE END OF THE STRIKE.

27 (T) (1) IT IS AN UNFAIR LABOR PRACTICE FOR THE COMMISSION OR AN
28 EMPLOYEE ORGANIZATION CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE OF A
29 BARGAINING UNIT TO VIOLATE THE RIGHTS OF A COMMISSION EMPLOYEE UNDER
30 THIS SECTION.

31 (2) WITHIN 30 BUSINESS DAYS AFTER THE ALLEGED VIOLATION, THE
32 PARTY CHARGING AN UNFAIR LABOR PRACTICE SHALL SUBMIT THE CHARGE IN
33 WRITING TO THE PARTY ALLEGED TO HAVE COMMITTED THE UNFAIR LABOR
34 PRACTICE.

35 (3) WITHIN 15 DAYS AFTER AN UNFAIR LABOR PRACTICE CHARGE IS
36 SUBMITTED, THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL
37 REQUEST THE LABOR RELATIONS ADMINISTRATOR TO HOLD HEARINGS AND
38 DECIDE WHETHER AN UNFAIR LABOR PRACTICE HAS OCCURRED.

39 (4) THE LABOR RELATIONS ADMINISTRATOR SHALL:

40 (I) ISSUE A FINDING OF FACTS AND CONCLUSION OF LAW;

13

1 (II) ORDER THE PARTY CHARGED WITH THE UNFAIR LABOR
2 PRACTICE TO CEASE AND DESIST FROM THE PROHIBITED PRACTICE; AND

3 (III) ORDER ALL RELIEF NECESSARY TO REMEDY THE VIOLATION
4 OF THIS SECTION AND TO OTHERWISE MAKE WHOLE ANY INJURED EMPLOYEE OR
5 EMPLOYEE ORGANIZATION OR THE COMMISSION, IF INJURED, INCLUDING
6 REINSTATEMENT, RESTITUTION, BACK PAY, OR INJUNCTIONS AS NECESSARY TO
7 RESTORE THE EMPLOYEE, THE EMPLOYEE ORGANIZATION, OR THE COMMISSION
8 TO THE POSITION OR CONDITION IT WOULD HAVE BEEN IN BUT FOR THE
9 VIOLATION.

10 (5) THE LABOR RELATIONS ADMINISTRATOR MAY NOT ORDER
11 PUNITIVE DAMAGES, CONSEQUENTIAL DAMAGES, DAMAGES FOR EMOTIONAL
12 DISTRESS, PAIN, AND SUFFERING, OR ATTORNEY FEES FOR PURPOSES OF
13 SATISFYING THE PROVISIONS OF PARAGRAPH (4)(III) OF THIS SUBSECTION.

14 (6) THE DECISION OF THE LABOR RELATIONS ADMINISTRATOR IS
15 FINAL UNLESS APPEALED ON THE BASIS OF BEING ARBITRARY, CAPRICIOUS, OR
16 EXCEEDING AUTHORITY.

17 (7) IF THE LABOR RELATIONS ADMINISTRATOR FINDS THAT THE PARTY
18 CHARGED WITH THE UNFAIR LABOR PRACTICE HAS NOT COMMITTED ANY
19 PROHIBITED PRACTICE, THE LABOR RELATIONS ADMINISTRATOR SHALL ISSUE AN
20 ORDER DISMISSING THE CHARGES.

21 (8) THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL
22 SHARE EQUALLY THE COST OF ANY UNFAIR LABOR PRACTICE PROCEEDING.

23 (9) IF THE PARTY FOUND TO HAVE COMMITTED THE UNFAIR LABOR
24 PRACTICE FAILS OR REFUSES TO COMPLY WITH THE LABOR RELATIONS
25 ADMINISTRATOR'S DECISION IN WHOLE OR IN PART, THE CHARGING PARTY MAY
26 FILE AN ACTION TO ENFORCE THE ORDER WITH THE CIRCUIT COURT FOR THE
27 COUNTY IN WHICH ANY OF THE INVOLVED EMPLOYEES WORK.

28 (U) (1) THIS SUBSECTION APPLIES TO THE EXPRESSION OF ANY PERSONAL
29 VIEW, ARGUMENT, OR OPINION OR THE MAKING OF ANY PERSONAL STATEMENT
30 WHICH:

31 (I) 1. PUBLICIZES THE FACT OF A REPRESENTATIONAL
32 ELECTION AND ENCOURAGES EMPLOYEES TO EXERCISE THEIR RIGHT TO VOTE IN
33 THE ELECTION;

34 2. CORRECTS THE RECORD WITH RESPECT TO ANY FALSE
35 OR MISLEADING STATEMENT MADE BY ANY PERSON; OR

36 3. INFORMS EMPLOYEES OF THE COMMISSION'S POLICY
37 RELATING TO LABOR-MANAGEMENT RELATIONS AND REPRESENTATION;

38 (II) CONTAINS NO THREAT OF REPRISAL, FORCE, OR PROMISE OF
39 BENEFIT; AND

40 (III) WAS NOT MADE UNDER COERCIVE CONDITIONS.

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1 (2) THE EXPRESSION OF ANY PERSONAL VIEW, ARGUMENT, OPINION,
2 OR STATEMENT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION DOES NOT
3 CONSTITUTE:

4 (I) AN UNFAIR LABOR PRACTICE UNDER THE PROVISIONS OF THIS
5 SECTION; OR

6 (II) GROUNDS FOR SETTING ASIDE ANY ELECTION CONDUCTED
7 UNDER THIS SECTION.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 1996.