

HOUSE BILL 806

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P4
SB 146/97 - FIN

1998 Regular Session
8r2328
CF 8r1387

By: **Delegates Malone and Moe**

Introduced and read first time: February 12, 1998

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Collective Bargaining and Binding Arbitration for Fire and Rescue**
3 **Personnel**

4 FOR the purpose of authorizing collective bargaining for certain fire, emergency
5 medical services, paramedic, and rescue personnel, and paramedics who are
6 employed by a county or municipal corporation of the State; providing for
7 arbitration in certain situations; establishing requirements for formation of
8 boards of arbitration; requiring compliance with decisions of boards of
9 arbitration; authorizing certain special elections by voters in a county or
10 municipal corporation to decide certain offers of employment contracts; defining
11 certain terms; repealing certain provisions that will be made obsolete by this
12 Act; providing that before this Act is effective in a county or municipal
13 corporation it first must be submitted to a referendum of legally qualified voters
14 in the county or municipal corporation for approval by the voters at the
15 referendum; requiring certain Boards of Supervisors of Elections and municipal
16 election officials to give written notice of the results of the referendum held in a
17 county or municipal corporation to the Department of Legislative Services
18 within a certain time after the referendum is held; and generally relating to
19 collective bargaining for certain fire, emergency medical services, paramedic,
20 and rescue personnel.

21 BY repealing
22 Article - Labor and Employment
23 Section 4-501 through 4-505, inclusive, and the subtitle "Subtitle 5.
24 Employment Rights for Public Safety Officers"
25 Annotated Code of Maryland
26 (1991 Volume and 1997 Supplement)

27 BY adding to
28 Article - Labor and Employment
29 Section 4-501 through 4-510, inclusive, to be under the new subtitle "Subtitle 5.
30 Collective Bargaining and Binding Arbitration for Fire and Rescue
31 Personnel"
32 Annotated Code of Maryland

1 (1991 Volume and 1997 Supplement)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
3 MARYLAND, That Section(s) 4-501 through 4-505, inclusive, and the subtitle
4 "Subtitle 5. Employment Rights for Public Safety Officers" of Article - Labor and
5 Employment of the Annotated Code of Maryland be repealed.

6 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
7 read as follows:

8 **Article - Labor and Employment**

9 SUBTITLE 5. COLLECTIVE BARGAINING AND BINDING ARBITRATION FOR FIRE AND
10 RESCUE PERSONNEL.

11 4-501.

12 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
13 INDICATED.

14 (B) "BARGAINING AGENT" MEANS A REPRESENTATIVE DESIGNATED
15 THROUGH AN ELECTION OF ELIGIBLE EMPLOYEES TO REPRESENT AND BARGAIN
16 FOR THOSE EMPLOYEES RELATING TO ANY TERMS OR CONDITIONS OF
17 EMPLOYMENT.

18 (C) "EMPLOYEE" MEANS A FIRE, EMERGENCY MEDICAL SERVICES,
19 PARAMEDIC, OR RESCUE EMPLOYEE HIRED OR COMPENSATED BY THE EMPLOYER.

20 (D) "EMPLOYER" MEANS A COUNTY OR MUNICIPAL CORPORATION OF THE
21 STATE.

22 4-502.

23 THIS SUBTITLE DOES NOT APPLY IN A COUNTY OR MUNICIPAL CORPORATION
24 THAT, AS OF JUNE 1, 1998, HAS A BINDING ARBITRATION LAW, UNLESS THE COUNTY
25 OR MUNICIPAL CORPORATION AND ITS EMPLOYEES AGREE THAT THIS SUBTITLE
26 SHALL APPLY.

27 4-503.

28 EMPLOYEES MAY:

29 (1) BARGAIN COLLECTIVELY WITH THEIR EMPLOYER AND BE
30 REPRESENTED BY A BARGAINING AGENT IN THE COLLECTIVE BARGAINING WITH
31 RESPECT TO WAGES, SALARIES, HOURS, RATES OF PAY, RETIREMENT, PENSIONS,
32 BENEFITS, GRIEVANCES, WORKING CONDITIONS, AND ANY OTHER TERM OR
33 CONDITION OF EMPLOYMENT; AND

34 (2) SETTLE DISPUTES OR GRIEVANCES IN ACCORDANCE WITH THIS
35 SUBTITLE.

1 4-504.

2 EMPLOYEES AND THEIR EMPLOYER SHALL MAKE EVERY REASONABLE EFFORT
3 TO SETTLE DISPUTES BY ENGAGING IN COLLECTIVE BARGAINING IN GOOD FAITH
4 AND ENTERING INTO WRITTEN AGREEMENTS FOR SETTLEMENT OF DISPUTES OR
5 GRIEVANCES.

6 4-505.

7 (A) A BARGAINING AGENT OR EMPLOYER MAY REQUEST A MEETING FOR
8 COLLECTIVE BARGAINING PURPOSES BY PROVIDING WRITTEN NOTICE OF THE
9 REQUEST TO THE OTHER PARTY.

10 (B) WITHIN 10 DAYS AFTER RECEIPT OF WRITTEN NOTICE GIVEN UNDER
11 SUBSECTION (A) OF THIS SECTION, A MEETING FOR THE PURPOSE OF GOOD FAITH
12 COLLECTIVE BARGAINING BETWEEN THE BARGAINING AGENT AND THE EMPLOYER
13 SHALL BE SCHEDULED AT A REASONABLE TIME.

14 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ANY
15 COLLECTIVE BARGAINING AGREEMENT THAT RESULTS FROM NEGOTIATIONS
16 BETWEEN THE BARGAINING AGENT AND THE EMPLOYER SHALL BE IN WRITING AND
17 IN EFFECT FOR ONLY 1 YEAR.

18 (2) UNLESS A REQUEST FOR COLLECTIVE BARGAINING IS MADE BY THE
19 BARGAINING AGENT OR THE EMPLOYER AT LEAST 30 DAYS BEFORE THE
20 ANNIVERSARY DATE OF AN EXISTING COLLECTIVE BARGAINING OR OTHER
21 EMPLOYMENT AGREEMENT, THE AGREEMENT SHALL BE AUTOMATICALLY
22 EXTENDED FROM YEAR TO YEAR FOR 1-YEAR TERMS.

23 4-506.

24 IF THE BARGAINING AGENT AND THE EMPLOYER ARE UNABLE TO REACH AN
25 AGREEMENT AS TO THE TERMS AND CONDITIONS OF EMPLOYMENT WITHIN 30 DAYS
26 AFTER THE DATE OF THE FIRST MEETING FOR COLLECTIVE BARGAINING PURPOSES
27 UNDER § 4-505 OF THIS SUBTITLE, THE BARGAINING AGENT OR THE EMPLOYER MAY:

28 (1) REQUEST THE APPOINTMENT OF A BOARD OF ARBITRATION UNDER
29 THIS SUBTITLE BY PROVIDING WRITTEN NOTICE TO THE OTHER PARTY; AND

30 (2) SUBMIT ANY UNRESOLVED ISSUES TO THE BOARD.

31 4-507.

32 (A) A BOARD OF ARBITRATION SHALL CONSIST OF THREE MEMBERS.

33 (B) THE MEMBERSHIP OF A BOARD SHALL BE AS FOLLOWS:

34 (1) ONE SHALL BE APPOINTED BY THE EMPLOYER;

35 (2) ONE SHALL BE APPOINTED BY THE BARGAINING AGENT; AND

1 (3) ONE SHALL BE APPOINTED BY AGREEMENT BY BOTH THE EMPLOYER
2 AND THE BARGAINING AGENT.

3 (C) THE TWO MEMBERS APPOINTED BY THE EMPLOYER AND THE
4 BARGAINING AGENT, RESPECTIVELY, SHALL BE NAMED WITHIN 5 DAYS AFTER THE
5 DAY ON WHICH THE WRITTEN NOTICE IS GIVEN UNDER § 4-506 OF THIS SUBTITLE.

6 (D) THE MEMBER WHO IS TO BE APPOINTED BY AGREEMENT OF THE
7 EMPLOYER AND BARGAINING AGENT SHALL BE NAMED WITHIN 10 DAYS AFTER THE
8 DAY ON WHICH THE OTHER TWO MEMBERS ARE APPOINTED.

9 (E) IF THE THIRD MEMBER IS NOT NAMED WITHIN THE PERIOD REQUIRED
10 UNDER SUBSECTION (D) OF THIS SECTION, EITHER OF THE OTHER TWO MEMBERS
11 MAY REQUEST THE AMERICAN ARBITRATION ASSOCIATION FOR A LIST OF THE
12 NAMES OF THREE MEMBERS OF THAT ASSOCIATION.

13 (F) (1) WITHIN 5 DAYS AFTER RECEIVING A LIST FROM THE AMERICAN
14 ARBITRATION ASSOCIATION, THE MEMBER APPOINTED BY THE EMPLOYER SHALL
15 ELIMINATE ONE NAME FROM THE LIST AND THEN, WITHIN 5 DAYS AFTER THE FIRST
16 NAME IS ELIMINATED, THE MEMBER APPOINTED BY THE BARGAINING AGENT SHALL
17 ELIMINATE ONE NAME FROM THE LIST.

18 (2) THE INDIVIDUAL WHOSE NAME REMAINS ON THE LIST UNDER
19 PARAGRAPH (1) OF THIS SUBSECTION SHALL BE THE THIRD MEMBER OF THE BOARD
20 AND SHALL ACT AS CHAIRMAN.

21 4-508.

22 (A) THE CHAIRMAN OF A BOARD OF ARBITRATION SHALL:

23 (1) SCHEDULE AND CONDUCT A HEARING IN ACCORDANCE WITH § 4-509
24 OF THIS SUBTITLE WITHIN 10 DAYS AFTER THE THIRD MEMBER IS SELECTED; AND

25 (2) AT LEAST 7 DAYS BEFORE CONDUCTING A HEARING, PROVIDE
26 WRITTEN NOTICE OF THE TIME, DATE, AND LOCATION OF A HEARING TO THE
27 MEMBERS OF THE BOARD, THE BARGAINING AGENT, AND THE EMPLOYER.

28 (B) AT LEAST 7 DAYS BEFORE THE DATE OF THE HEARING, THE BARGAINING
29 AGENT AND THE EMPLOYER SHALL SUBMIT A WRITTEN ARBITRATION STATEMENT
30 TO EACH OTHER AND THE BOARD MEMBERS THAT CONTAINS:

31 (1) A LIST OF ALL CONTRACT OR OTHER AGREEMENT TERMS THAT THE
32 PARTIES HAVE RESOLVED;

33 (2) A LIST OF ALL CONTRACT OR OTHER AGREEMENT ISSUES THAT ARE
34 UNRESOLVED; AND

35 (3) THE FINAL TERMS AND OFFERS ON EACH UNRESOLVED ISSUE THAT
36 CONSTITUTE THE LAST BEST OFFER OF EACH PARTY.

1 (C) (1) WITHIN 7 DAYS AFTER THE CONCLUSION OF THE HEARING AND
2 SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A MAJORITY OF THE BOARD
3 MEMBERS SHALL SELECT ONE OF THE TWO LAST BEST OFFERS AS THE CONTRACT
4 OR AGREEMENT BETWEEN THE EMPLOYEES AND THE EMPLOYER.

5 (2) THE BOARD MAY NOT MODIFY, ADD, OR DELETE PROVISIONS FROM
6 THE LAST BEST OFFER OF EITHER PARTY.

7 (D) WRITTEN NOTICE OF THE SELECTION OF THE BOARD UNDER THIS
8 SECTION SHALL BE MAILED OR DELIVERED TO THE BARGAINING AGENT AND THE
9 EMPLOYER.

10 (E) EXCEPT AS PROVIDED UNDER § 4-510 OF THIS SUBTITLE, ANY AGREEMENT
11 SELECTED BY THE BOARD UNDER THIS SECTION SHALL BE EFFECTIVE ON THE FIRST
12 DAY FOLLOWING THE EXPIRATION OF THE CURRENT AGREEMENT FOR THAT YEAR.

13 4-509.

14 (A) A BOARD HEARING CONDUCTED UNDER THIS SUBTITLE SHALL BE
15 CONDUCTED ON AN INFORMAL BASIS AND MAY NOT REQUIRE THE OBSERVANCE OF
16 THE RULES OF EVIDENCE FOLLOWED IN JUDICIAL OR ADMINISTRATIVE
17 PROCEEDINGS IN THE STATE.

18 (B) FOR THE PURPOSES OF CONDUCTING A HEARING UNDER THIS SUBTITLE,
19 A MAJORITY OF THE BOARD MAY:

20 (1) ADMINISTER OATHS TO WITNESSES THAT TESTIFY BEFORE THE
21 BOARD;

22 (2) ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE OF WITNESSES
23 AND THE PRODUCTION OF DOCUMENTS, BOOKS, RECORDS, OR OTHER INFORMATION
24 THAT THE BOARD DETERMINES TO BE RELEVANT TO THE ISSUES BEING
25 CONSIDERED IN THE HEARING; AND

26 (3) RECEIVE INTO EVIDENCE ANY INFORMATION THAT THE BOARD
27 DETERMINES TO BE RELEVANT TO THE ISSUES BEING CONSIDERED IN THE
28 HEARING.

29 (C) A BOARD HEARING CONDUCTED UNDER THIS SUBTITLE SHALL BE
30 CONCLUDED WITHIN 20 DAYS OF THE COMMENCEMENT DATE OF THE HEARING.

31 4-510.

32 (A) SUBJECT TO THE REQUIREMENTS OF THIS SECTION, IF THE LAST BEST
33 OFFER OF AN EMPLOYER THAT IS A COUNTY OR MUNICIPAL CORPORATION IS NOT
34 SELECTED BY THE BOARD UNDER § 4-508 OF THIS SUBTITLE, THE EMPLOYER MAY
35 SUBMIT THE LAST BEST OFFERS OF THE BARGAINING AGENT AND THE EMPLOYER
36 TO THE VOTERS OF THE COUNTY OR MUNICIPAL CORPORATION THAT GOVERN THE
37 EMPLOYER FOR A SPECIAL ELECTION TO SELECT ONE OF THE LAST BEST OFFERS.

1 (B) (1) IN ORDER TO REQUEST A SPECIAL ELECTION, AN EMPLOYER SHALL
2 FILE A WRITTEN REQUEST WITH THE CLERK OF THE COUNTY OR MUNICIPAL
3 CORPORATION WITHIN 10 DAYS OF THE WRITTEN DECISION OF THE BOARD.

4 (2) ON RECEIPT OF A REQUEST FOR A SPECIAL ELECTION, THE CLERK
5 SHALL NOTIFY THE GOVERNING BODY OF THE COUNTY OR MUNICIPAL
6 CORPORATION OF THE REQUEST.

7 (3) IF A REQUEST FOR A SPECIAL ELECTION IS NOT FILED WITHIN 10
8 DAYS OF THE WRITTEN DECISION OF THE BOARD, THE WRITTEN DECISION OF THE
9 BOARD IS FINAL AND SHALL CONSTITUTE THE AGREEMENT BETWEEN THE
10 EMPLOYEES AND THE EMPLOYER.

11 (C) (1) WITHIN 10 DAYS OF THE NOTIFICATION OF THE REQUEST FOR A
12 SPECIAL ELECTION TO THE GOVERNING BODY OF THE COUNTY OR MUNICIPAL
13 CORPORATION, THE GOVERNING BODY SHALL CALL FOR A SPECIAL ELECTION.

14 (2) AT LEAST 30 DAYS BEFORE CONDUCTING A SPECIAL ELECTION, A
15 GOVERNING BODY SHALL PROVIDE NOTICE OF A SPECIAL ELECTION TO THE COUNTY
16 OR MUNICIPAL CORPORATION ELECTION BOARD.

17 (3) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A SPECIAL
18 ELECTION CONDUCTED UNDER THIS SECTION SHALL BE GOVERNED BY STATE LAW
19 CONCERNING COUNTY OR MUNICIPAL CORPORATION SPECIAL ELECTIONS.

20 (D) (1) RESIDENTS OF THE COUNTY OR MUNICIPAL CORPORATION
21 CONDUCTING THE SPECIAL ELECTION ARE THE ONLY INDIVIDUALS WHO ARE
22 ELIGIBLE TO VOTE IN A SPECIAL ELECTION.

23 (2) THE BALLOT IN A SPECIAL ELECTION SHALL CONTAIN THE
24 FOLLOWING INFORMATION:

25 (I) INSTRUCTIONS FOR THE VOTER TO SELECT EITHER THE LAST
26 BEST OFFER OF THE BARGAINING AGENT OR THE EMPLOYER;

27 (II) A CLEAR STATEMENT OF THE TOTAL DOLLAR COSTS OF THE
28 LAST BEST OFFERS OF BOTH THE BARGAINING AGENT AND THE EMPLOYER; AND

29 (III) A CLEAR STATEMENT OF THE PERCENTAGE OF COST INCREASE
30 OR DECREASE OF THE LAST BEST OFFERS OF BOTH THE BARGAINING AGENT AND
31 THE EMPLOYER FROM THE LAST CONTRACT BETWEEN THE PARTIES.

32 (E) (1) THE LAST BEST OFFER THAT RECEIVES A MAJORITY OF THE VOTES
33 IN A SPECIAL ELECTION SHALL BECOME THE FINAL AGREEMENT BETWEEN THE
34 EMPLOYEES AND THE EMPLOYER.

35 (2) A FINAL AGREEMENT SELECTED UNDER PARAGRAPH (1) OF THIS
36 SUBSECTION SHALL BE EFFECTIVE ON THE FIRST DAY FOLLOWING THE EXPIRATION
37 OF THE CURRENT AGREEMENT FOR THAT YEAR.

1 SECTION 3. AND BE IT FURTHER ENACTED, That before this Act becomes
2 effective in a county or municipal corporation, it shall first be submitted to a
3 referendum of the legally qualified voters of the county or municipal corporation at
4 the general election to be held in November of 1998. The governing body and the
5 appropriate Board of Supervisors of Elections or municipal election official for the
6 county or municipal corporation shall do those things necessary and proper to provide
7 for and hold the referendum required by this section. If a majority of the votes cast on
8 the question are "For the referred law" the provisions of this Act shall become
9 effective on the 30th day following the official canvass of votes for the referendum, but
10 if a majority of the votes cast on the question are "Against the referred law" the
11 provisions of this Act are of no effect and null and void.

12 SECTION 4. AND BE IT FURTHER ENACTED, That the appropriate Board of
13 Supervisors of Elections or municipal election official for each county or municipal
14 corporation where a referendum was held pursuant to Section 3 of this Act, within 30
15 days after the referendum is held, shall give written notice to the Department of
16 Legislative Services of the results of the referendum.

17 SECTION 5. AND BE IT FURTHER ENACTED, That, subject to the provisions
18 of Section 3 of this Act and for the sole purpose of providing for the referendum
19 required by Section 3, this Act shall take effect June 1, 1998.