
By: **Montgomery County Delegation**
Introduced and read first time: February 12, 1998
Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Housing Opportunities Commission of Montgomery County - Collective**
3 **Bargaining**
4 **MC 809-98**

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

31 BY adding to
32 Article 44A - Housing Authorities
33 Section 2-106

1 Annotated Code of Maryland
2 (1994 Replacement Volume and 1997 Supplement)

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

5 **Article 44A - Housing Authorities**

6 2-106.

7 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

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

13 (3) "PROBATIONARY EMPLOYEE" MEANS A CAREER MERIT SYSTEM
14 EMPLOYEE DURING THE PENDENCY OF THE EMPLOYEE'S INITIAL PROBATIONARY
15 PERIOD FOLLOWING EMPLOYMENT.

16 (B) THE RIGHTS GRANTED TO COMMISSION MERIT SYSTEM EMPLOYEES
17 UNDER THIS SECTION DO NOT APPLY TO:

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

19 (2) CONFIDENTIAL EMPLOYEES;

20 (3) PROBATIONARY EMPLOYEES; OR

21 (4) SUPERVISORS, AS DEFINED IN § 2(11) OF THE NATIONAL LABOR
22 RELATIONS ACT.

23 (C) (1) COMMISSION EMPLOYEES ARE DIVIDED INTO TWO BARGAINING
24 UNITS THAT CONSIST OF:

25 (I) THE OFFICE/PROFESSIONAL/TECHNICAL UNIT THAT INCLUDES:

26 1. OFFICE CLASSIFICATION TITLES IN WHICH EMPLOYEES
27 ARE RESPONSIBLE FOR INTERNAL AND EXTERNAL COMMUNICATIONS, RECORDING
28 AND RETRIEVING INFORMATION, AND PAPERWORK REQUIRED IN AN OFFICE;

29 2. PROFESSIONAL CLASSIFICATION TITLES WHICH
30 EMPLOYEES HAVE, SPECIAL OR THEORETICAL KNOWLEDGE THAT USUALLY IS
31 ACQUIRED THROUGH COLLEGE TRAINING, OTHER TRAINING THAT PROVIDES
32 COMPARABLE KNOWLEDGE, OR WORK EXPERIENCE;

33 3. PARAPROFESSIONAL CLASSIFICATION TITLES IN WHICH
34 EMPLOYEES PERFORM, IN A SUPPORTIVE ROLE, SOME OF THE DUTIES OF A

1 EMPLOYEES WHO ARE NOT MEMBERS OF THE EMPLOYEE ORGANIZATION ARE NOT
2 ARBITRARY, DISCRIMINATORY, OR IN BAD FAITH.

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

6 (2) AFTER THE TERM FOR THE NEUTRAL THIRD PARTY APPOINTED
7 UNDER PARAGRAPH (1) OF THIS SUBSECTION EXPIRES, THE EXCLUSIVE
8 REPRESENTATIVE OR REPRESENTATIVES AND THE COMMISSION SHALL APPOINT,
9 FROM A LIST OF FIVE NOMINEES WHOM THEY HAVE AGREED UPON, A LABOR
10 RELATIONS ADMINISTRATOR FOR A TERM OF 5 YEARS.

11 (3) AFTER THE TERM FOR THE NEUTRAL THIRD PARTY APPOINTED
12 UNDER PARAGRAPH (1) OF THIS SUBSECTION EXPIRES AND AFTER A PUBLIC
13 HEARING ON THE APPOINTMENT, IF NO EXCLUSIVE REPRESENTATIVE HAS BEEN
14 CERTIFIED UNDER THIS SECTION, THE COMMISSION SHALL APPOINT THE NEXT
15 LABOR RELATIONS ADMINISTRATOR FOR A TERM NOT EXCEEDING 1 YEAR.

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

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

21 (I) A COPY OF THE EMPLOYEE ORGANIZATION'S CONSTITUTION
22 AND BYLAWS; AND

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

24 (2) THE CONSTITUTION OR BYLAWS SHALL INCLUDE:

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

28 (II) THE RIGHT OF MEMBERS TO PARTICIPATE IN THE AFFAIRS OF
29 THE EMPLOYEE ORGANIZATION;

30 (III) PROCEDURES FOR PERIODIC ELECTIONS FOR OFFICERS BY
31 SECRET BALLOT;

32 (IV) FAIR PROCEDURES GOVERNING DISCIPLINARY ACTIONS;

33 (V) PROCEDURES FOR THE ACCURATE ACCOUNTING OF ALL
34 INCOME AND EXPENDITURES;

35 (VI) A REQUIREMENT THAT A CERTIFIED ANNUAL FINANCIAL
36 REPORT BE PRODUCED; AND

1 (VII) THE RIGHT OF MEMBERS TO INSPECT THE ORGANIZATION'S
2 ACCOUNTS.

3 (G) (1) THE LABOR RELATIONS ADMINISTRATOR SHALL CONDUCT AN
4 ELECTION FOR AN EXCLUSIVE REPRESENTATIVE AFTER:

5 (I) AN EMPLOYEE ORGANIZATION DEMONSTRATES, BY PETITION,
6 THAT AT LEAST 30 PERCENT OF THE ELIGIBLE EMPLOYEES IN A BARGAINING UNIT
7 SUPPORT REPRESENTATION BY AN EXCLUSIVE REPRESENTATIVE FOR COLLECTIVE
8 BARGAINING; OR

9 (II) AN EMPLOYEE OR AN EMPLOYEE ORGANIZATION
10 DEMONSTRATES, BY PETITION, THAT AT LEAST 30 PERCENT OF THE ELIGIBLE
11 EMPLOYEES IN A BARGAINING UNIT NO LONGER SUPPORT THE CURRENT EXCLUSIVE
12 REPRESENTATIVE.

13 (2) (I) AT LEAST 30 DAYS PRIOR TO AN ELECTION UNDER PARAGRAPH
14 (1) OF THIS SUBSECTION, THE LABOR RELATIONS ADMINISTRATOR SHALL OBTAIN
15 FROM THE COMMISSION AND PROVIDE TO THE EMPLOYEE ORGANIZATION A LIST OF
16 THE NAMES, HOME ADDRESSES, AND TELEPHONE NUMBERS OF EVERY EMPLOYEE
17 IN THE BARGAINING UNIT.

18 (II) THE PROVISION OF A LIST UNDER THIS PARAGRAPH BY THE
19 COMMISSION, THE LABOR RELATIONS ADMINISTRATOR, OR ANY COMMISSION
20 OFFICIALS, EMPLOYEES, OR OTHER AGENTS DOES NOT CONSTITUTE A VIOLATION OF
21 § 10-617(E) OF THE STATE GOVERNMENT ARTICLE OR ANY STATE OR LOCAL LAW,
22 STATUTE, REGULATION, OR ORDINANCE.

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

24 (4) THE BALLOT SHALL CONTAIN:

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

27 (II) THE NAME OF ANY OTHER EMPLOYEE ORGANIZATION
28 SUPPORTED BY A PETITION SIGNED BY AT LEAST 10 PERCENT OF THE ELIGIBLE
29 EMPLOYEES IN THE BARGAINING UNIT; AND

30 (III) AN OPTION FOR NO REPRESENTATION.

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

34 (II) IN THE RUNOFF ELECTION, THE BALLOT SHALL CONTAIN THE
35 TWO CHOICES THAT RECEIVED THE HIGHEST NUMBER OF VOTES IN THE INITIAL
36 ELECTION.

1 (6) AFTER THE ELECTION, THE LABOR RELATIONS ADMINISTRATOR
2 SHALL CERTIFY THE APPROPRIATE EMPLOYEE ORGANIZATION AS THE EXCLUSIVE
3 REPRESENTATIVE.

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

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

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

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

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

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

17 (2) THE LABOR RELATIONS ADMINISTRATOR SHALL HOLD EVIDENTIARY
18 HEARINGS AT WHICH THE COMMISSION AND INTERESTED EMPLOYEE
19 ORGANIZATIONS SHALL HAVE THE OPPORTUNITY TO PRESENT TESTIMONY,
20 DOCUMENTARY AND OTHER EVIDENCE, AND ARGUMENTS.

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

22 (4) THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL
23 SHARE EQUALLY THE COSTS OF THE HEARINGS.

24 (J) (1) THE COMMISSION AND AN EMPLOYEE ORGANIZATION CERTIFIED AS
25 EXCLUSIVE REPRESENTATIVE SHALL MEET AND ENGAGE IN COLLECTIVE
26 BARGAINING IN GOOD FAITH IN REGARD TO THE FOLLOWING SUBJECTS OF
27 BARGAINING:

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

32 (II) PENSION AND OTHER RETIREMENT BENEFITS FOR ACTIVE
33 EMPLOYEES;

34 (III) EMPLOYEE BENEFITS SUCH AS INSURANCE, LEAVE, HOLIDAYS,
35 AND VACATIONS;

36 (IV) HOURS AND WORKING CONDITIONS;

1 (V) PROVISIONS FOR THE ORDERLY PROCESSING AND
2 SETTLEMENT OF GRIEVANCES CONCERNING THE INTERPRETATION AND
3 IMPLEMENTATION OF A COLLECTIVE BARGAINING AGREEMENT THAT MAY INCLUDE:

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

7 2. PROVISIONS FOR THE EXCLUSIVITY OF FORUM;

8 (VI) MATTERS AFFECTING THE HEALTH AND SAFETY OF
9 EMPLOYEES; AND

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

12 (2) THIS SUBSECTION DOES NOT REQUIRE THE COMMISSION OR THE
13 EMPLOYEE ORGANIZATION TO AGREE TO ANY PROPOSAL OR TO MAKE ANY
14 CONCESSION.

15 (3) THE COMMISSION AND AN EMPLOYEE ORGANIZATION CERTIFIED AS
16 EXCLUSIVE REPRESENTATIVE SHALL MAKE EVERY REASONABLE EFFORT TO
17 COMPLETE NEGOTIATIONS AT LEAST 2 MONTHS PRIOR TO THE COMMISSION'S
18 BUDGET SUBMITTAL DEADLINE.

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

21 (I) THE COMMISSION AND THE EMPLOYEE ORGANIZATION AGREE
22 TO MEDIATION; OR

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

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

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

32 (3) THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL
33 SHARE EQUALLY THE COSTS OF MEDIATION.

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

1 (I) THE COMMISSION AND THE EMPLOYEE ORGANIZATION AGREE
2 TO FACT-FINDING; OR

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

5 (2) THE FACT FINDER SHALL BE MUTUALLY SELECTED BY THE
6 COMMISSION AND THE EMPLOYEE ORGANIZATION FROM A LIST SUPPLIED BY THE
7 AMERICAN ARBITRATION ASSOCIATION OR THE FEDERAL MEDIATION AND
8 CONCILIATION SERVICE.

9 (3) IF AGREEMENT CANNOT BE REACHED ON THE SELECTION OF A FACT
10 FINDER, THE FACT FINDER SHALL BE SELECTED BY THE LABOR RELATIONS
11 ADMINISTRATOR.

12 (4) (I) THE FACT FINDER SHALL HOLD HEARINGS AND MAY
13 ADMINISTER OATHS.

14 (II) WITHIN 30 DAYS AFTER APPOINTMENT, THE FACT FINDER
15 SHALL GIVE TO THE COMMISSION AND THE EMPLOYEE ORGANIZATION A WRITTEN
16 REPORT WITH FINDINGS AND RECOMMENDATIONS TO RESOLVE THE IMPASSE.

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

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

22 (M) (1) THE COMMISSION AND AN EMPLOYEE ORGANIZATION CERTIFIED AS
23 EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT SHALL EXECUTE A
24 COLLECTIVE BARGAINING AGREEMENT INCORPORATING ALL MATTERS OF
25 AGREEMENT ON WAGES, HOURS, AND OTHER TERMS AND CONDITIONS OF
26 EMPLOYMENT.

27 (2) IF A COLLECTIVE BARGAINING AGREEMENT PROVIDES FOR A
28 GRIEVANCE PROCEDURE, THAT GRIEVANCE PROCEDURE SHALL BE THE SOLE
29 PROCEDURE FOR EMPLOYEES IN THE BARGAINING UNIT.

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

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

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

36 (6) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
37 PARAGRAPH, A COLLECTIVE BARGAINING AGREEMENT SHALL BE EFFECTIVE UPON

1 THE APPROVAL OF THE COMMISSION AND THE MEMBERSHIP OF THE UNION
2 REPRESENTING THE BARGAINING UNIT.

3 (II) THE ECONOMIC REQUIREMENTS OF A COLLECTIVE
4 BARGAINING AGREEMENT SHALL BE EFFECTIVE ONLY UPON APPROVAL BY THE
5 MONTGOMERY COUNTY COUNCIL.

6 (N) (1) THE COMMISSION SHALL INCLUDE IN ITS ANNUAL PROPOSED
7 OPERATING BUDGET SUBMITTED TO THE COUNTY EXECUTIVES OF MONTGOMERY
8 COUNTY ADEQUATE FUNDING TO CARRY OUT A COLLECTIVE BARGAINING
9 AGREEMENT.

10 (2) UNLESS THE MONTGOMERY COUNTY COUNCIL APPROVES THE
11 COMMISSION'S BUDGET SO AS TO IMPLEMENT THE TERMS OF THE COLLECTIVE
12 BARGAINING AGREEMENT, THE COMMISSION OR AN EMPLOYEE ORGANIZATION,
13 WITHIN 20 DAYS AFTER FINAL BUDGET ACTION, MAY GIVE WRITTEN NOTICE TO THE
14 OTHER PARTY THAT IT IS REOPENING THE NEGOTIATED AGREEMENT.

15 (O) IF A PROVISION IN A COLLECTIVE BARGAINING AGREEMENT IS RULED
16 INVALID OR IS NOT FUNDED BY MONTGOMERY COUNTY, THE REMAINDER OF THE
17 AGREEMENT REMAINS IN EFFECT UNLESS REOPENED UNDER SUBSECTION (N) (2) OF
18 THIS SECTION.

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

22 (I) DETERMINE THE OVERALL BUDGET AND MISSION OF THE
23 COMMISSION;

24 (II) MAINTAIN AND IMPROVE THE EFFICIENCY AND
25 EFFECTIVENESS OF OPERATIONS;

26 (III) DETERMINE THE SERVICES TO BE RENDERED AND THE
27 OPERATIONS TO BE PERFORMED;

28 (IV) DETERMINE THE LOCATION OF FACILITIES AND THE OVERALL
29 ORGANIZATIONAL STRUCTURE, METHODS, PROCESSES, MEANS, JOB
30 CLASSIFICATIONS, AND PERSONNEL BY WHICH OPERATIONS ARE TO BE
31 CONDUCTED;

32 (V) DIRECT AND SUPERVISE EMPLOYEES;

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

35 (VII) RELIEVE EMPLOYEES FROM DUTIES BECAUSE OF LACK OF
36 WORK OR FUNDS OR WHEN THE COMMISSION DETERMINES CONTINUED WORK
37 WOULD BE INEFFICIENT OR NONPRODUCTIVE;

- 1 (VIII) TAKE ACTIONS TO CARRY OUT THE MISSIONS OF GOVERNMENT
2 IN SITUATIONS OF EMERGENCY;
- 3 (IX) TRANSFER AND SCHEDULE EMPLOYEES;
- 4 (X) DETERMINE THE SIZE, GRADES, AND COMPOSITION OF THE
5 WORK FORCE;
- 6 (XI) SET THE STANDARDS OF PRODUCTIVITY AND TECHNOLOGY;
- 7 (XII) ESTABLISH EMPLOYEE PERFORMANCE STANDARDS AND
8 EVALUATE AND ASSIGN EMPLOYEES, EXCEPT THAT EVALUATION AND ASSIGNMENT
9 PROCEDURES SHALL BE A SUBJECT FOR BARGAINING;
- 10 (XIII) MAKE AND IMPLEMENT SYSTEMS FOR AWARDING
11 OUTSTANDING SERVICE INCREMENTS, EXTRAORDINARY PERFORMANCE AWARDS,
12 AND OTHER MERIT AWARDS;
- 13 (XIV) INTRODUCE NEW OR IMPROVED TECHNOLOGY, RESEARCH,
14 DEVELOPMENT, AND SERVICES;
- 15 (XV) CONTROL AND REGULATE THE USE OF MACHINERY,
16 EQUIPMENT, AND OTHER PROPERTY AND FACILITIES OF THE COMMISSION, SUBJECT
17 TO THE PROVISIONS OF SUBSECTION (J)(1)(VI) OF THIS SECTION;
- 18 (XVI) MAINTAIN INTERNAL SECURITY STANDARDS;
- 19 (XVII) CREATE, ALTER, COMBINE, CONTRACT OUT, OR ABOLISH ANY
20 JOB CLASSIFICATION, DEPARTMENT, OPERATION, UNIT, OR OTHER DIVISION OR
21 SERVICE, PROVIDED THAT NO CONTRACTING OF WORK WHICH WILL DISPLACE
22 EMPLOYEES MAY BE UNDERTAKEN BY THE COMMISSION UNLESS THE COMMISSION
23 GIVES WRITTEN NOTICE TO THE CERTIFIED REPRESENTATIVE AT LEAST 90 DAYS
24 BEFORE SIGNING THE CONTRACT OR WITHIN A DIFFERENT PERIOD OF TIME AS
25 AGREED BY THE PARTIES;
- 26 (XVIII) SUSPEND, DISCHARGE, OR OTHERWISE DISCIPLINE
27 EMPLOYEES FOR CAUSE, EXCEPT THAT ANY SUCH ACTION MAY BE SUBJECT TO THE
28 GRIEVANCE PROCEDURE SET FORTH IN THE COLLECTIVE BARGAINING AGREEMENT;
29 AND
- 30 (XIX) ISSUE AND ENFORCE RULES, POLICIES, AND REGULATIONS
31 NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SUBSECTION AND ALL OTHER
32 MANAGERIAL FUNCTIONS THAT ARE NOT INCONSISTENT WITH THIS ARTICLE,
33 FEDERAL OR STATE LAW, OR THE TERMS OF A COLLECTIVE BARGAINING
34 AGREEMENT.
- 35 (2) THE COMMISSION MAY NOT:
- 36 (I) INTERFERE WITH, COERCE, OR RESTRAIN AN EMPLOYEE IN
37 THE EXERCISE OF RIGHTS UNDER THIS SECTION;

1 (II) DOMINATE, INTERFERE WITH, OR ASSIST IN THE FORMATION,
2 ADMINISTRATION, OR EXISTENCE OF ANY EMPLOYEE ORGANIZATION OR
3 CONTRIBUTE FINANCIAL ASSISTANCE OR OTHER SUPPORT TO AN EMPLOYEE
4 ORGANIZATION;

5 (III) ENCOURAGE OR DISCOURAGE MEMBERSHIP IN ANY EMPLOYEE
6 ORGANIZATION BY DISCRIMINATING AGAINST THE EMPLOYEE THROUGH HIRING,
7 TENURE, PROMOTION, OR OTHER CONDITIONS OF EMPLOYMENT;

8 (IV) DISCHARGE OR DISCRIMINATE AGAINST AN EMPLOYEE
9 BECAUSE THE EMPLOYEE HAS SIGNED OR FILED AN AFFIDAVIT, PETITION, OR
10 COMPLAINT OR GIVEN ANY INFORMATION OR TESTIMONY UNDER THIS SECTION; OR

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

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

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

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

23 (II) CAUSE OR ATTEMPT TO CAUSE THE COMMISSION TO
24 DISCRIMINATE AGAINST ANY EMPLOYEE IN THE EXERCISE BY THE EMPLOYEE OF
25 ANY RIGHT UNDER THIS SECTION;

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

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

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

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

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

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

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

3 (II) BARGAIN COLLECTIVELY THROUGH A REPRESENTATIVE THAT
4 THEY HAVE CHOSEN;

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

7 (IV) REFRAIN FROM ANY ACTIVITY COVERED UNDER THIS
8 PARAGRAPH.

9 (2) AN EMPLOYEE MAY ONLY PRESENT A GRIEVANCE ARISING UNDER A
10 COLLECTIVE BARGAINING AGREEMENT TO THE COMMISSION THROUGH THE
11 EMPLOYEE ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE FOR
12 THE BARGAINING UNIT.

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

19 (2) A COMMISSION EMPLOYEE, GROUP OF COMMISSION EMPLOYEES, OR
20 EMPLOYEE ORGANIZATION MAY NOT ENGAGE IN, INDUCE, INITIATE, OR RATIFY A
21 STRIKE BY COMMISSION EMPLOYEES.

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

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

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

29 (II) THE LABOR RELATIONS ADMINISTRATOR SHALL HOLD A
30 HEARING ON THE DISCIPLINARY ACTION AT WHICH THE COMMISSION, THE
31 EMPLOYEE, AND ANY INTERESTED EMPLOYEE ORGANIZATION MAY PRESENT
32 EVIDENCE AND ARGUMENT.

33 (6) (I) IF AN EMPLOYEE ORGANIZATION CERTIFIED AS AN EXCLUSIVE
34 REPRESENTATIVE IS FOUND AFTER A HEARING BY THE LABOR RELATIONS
35 ADMINISTRATOR TO HAVE ASSISTED, AUTHORIZED, OR INITIATED A STRIKE
36 INVOLVING THE REFUSAL OF COMMISSION EMPLOYEES TO REPORT FOR WORK, THE
37 LABOR RELATIONS ADMINISTRATOR SHALL REVOKE THE CERTIFICATION OF THE
38 EMPLOYEE ORGANIZATION.

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

4 (III) IF AN EMPLOYEE ORGANIZATION CERTIFIED AS AN EXCLUSIVE
5 REPRESENTATIVE IS FOUND AFTER A HEARING BY THE LABOR RELATIONS
6 ADMINISTRATOR TO HAVE ASSISTED, AUTHORIZED, OR INITIATED ANY OTHER TYPE
7 OF STRIKE, THE LABOR RELATIONS ADMINISTRATOR MAY REVOKE THE
8 CERTIFICATION OF THE EMPLOYEE ORGANIZATION FOR UP TO 1 YEAR FROM THE
9 END OF THE STRIKE.

10 (T) (1) IT IS AN UNFAIR LABOR PRACTICE FOR THE COMMISSION OR AN
11 EMPLOYEE ORGANIZATION CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE OF A
12 BARGAINING UNIT TO VIOLATE THE RIGHTS OF A COMMISSION EMPLOYEE UNDER
13 THIS SECTION.

14 (2) WITHIN 30 BUSINESS DAYS AFTER THE ALLEGED VIOLATION, THE
15 PARTY CHARGING AN UNFAIR LABOR PRACTICE SHALL SUBMIT THE CHARGE IN
16 WRITING TO THE LABOR RELATIONS ADMINISTRATOR AND THE PARTY ALLEGED TO
17 HAVE COMMITTED THE UNFAIR LABOR PRACTICE.

18 (3) WITHIN 15 BUSINESS DAYS AFTER AN UNFAIR LABOR PRACTICE
19 CHARGE IS SUBMITTED, THE COMMISSION AND THE EMPLOYEE ORGANIZATION
20 SHALL REQUEST THE LABOR RELATIONS ADMINISTRATOR TO HOLD HEARINGS AND
21 DECIDE WHETHER AN UNFAIR LABOR PRACTICE HAS OCCURRED.

22 (4) THE LABOR RELATIONS ADMINISTRATOR SHALL:

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

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

26 (III) ORDER ALL RELIEF NECESSARY TO REMEDY THE VIOLATION
27 OF THIS SECTION AND TO OTHERWISE MAKE WHOLE ANY INJURED EMPLOYEE OR
28 EMPLOYEE ORGANIZATION OR THE COMMISSION, IF INJURED, INCLUDING
29 REINSTATEMENT, RESTITUTION, BACK PAY, OR INJUNCTIONS AS NECESSARY TO
30 RESTORE THE EMPLOYEE, THE EMPLOYEE ORGANIZATION, OR THE COMMISSION TO
31 THE POSITION OR CONDITION IT WOULD HAVE BEEN IN BUT FOR THE VIOLATION.

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

36 (6) THE DECISION OF THE LABOR RELATIONS ADMINISTRATOR IS FINAL
37 UNLESS APPEALED ON THE BASIS OF BEING ARBITRARY, CAPRICIOUS, OR
38 EXCEEDING AUTHORITY.

1 (7) IF THE LABOR RELATIONS ADMINISTRATOR FINDS THAT THE PARTY
2 CHARGED WITH THE UNFAIR LABOR PRACTICE HAS NOT COMMITTED ANY
3 PROHIBITED PRACTICE, THE LABOR RELATIONS ADMINISTRATOR SHALL ISSUE AN
4 ORDER DISMISSING THE CHARGES.

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

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

12 (U) (1) THIS SUBSECTION APPLIES TO THE EXPRESSION OF ANY PERSONAL
13 VIEW, ARGUMENT, OR OPINION OR THE MAKING OF ANY PERSONAL STATEMENT
14 WHICH:

15 (I) 1. PUBLICIZES THE FACT OF A REPRESENTATIONAL
16 ELECTION AND ENCOURAGES EMPLOYEES TO EXERCISE THEIR RIGHT TO VOTE IN
17 THE ELECTION;

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

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

22 (II) CONTAINS NO THREAT OF REPRISAL, FORCE, OR PROMISE OF
23 BENEFIT; AND

24 (III) WAS NOT MADE UNDER COERCIVE CONDITIONS.

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

28 (I) AN UNFAIR LABOR PRACTICE UNDER THE PROVISIONS OF THIS
29 SECTION; OR

30 (II) GROUNDS FOR SETTING ASIDE ANY ELECTION CONDUCTED
31 UNDER THIS SECTION.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 1998.