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By: **Montgomery County Delegation**  
Introduced and read first time: February 8, 1999  
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Committee Report: Favorable  
House action: Adopted  
Read second time: March 24, 1999

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2                                   **Housing Opportunities Commission of Montgomery County - Collective**  
3                                                           **Bargaining**  
4                                                           **MC 907-99**

5 FOR the purpose of establishing collective bargaining rights for certain employees of  
6 the Housing Opportunities Commission of Montgomery County; establishing  
7 certain bargaining units; requiring the negotiation of a single contract with an  
8 employee organization under certain circumstances; requiring the Commission  
9 to 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 the  
25 Commission's budget is funded inadequately; granting the Commission, a  
26 certified employee organization, and certain employees of the Commission  
27 certain rights; prohibiting certain actions; establishing unfair labor practice

1 procedures; defining certain terms; and generally relating to collective  
2 bargaining and labor relations matters involving the Housing Opportunities  
3 Commission of Montgomery County.

4 BY adding to  
5 Article 44A - Housing Authorities  
6 Section 2-106  
7 Annotated Code of Maryland  
8 (1998 Replacement Volume)

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

11 **Article 44A - Housing Authorities**

12 2-106.

13 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
14 INDICATED.

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

19 (3) "PROBATIONARY EMPLOYEE" MEANS A COMMISSION MERIT SYSTEM  
20 EMPLOYEE DURING THE PENDENCY OF THE EMPLOYEE'S INITIAL PROBATIONARY  
21 PERIOD FOLLOWING EMPLOYMENT.

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

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

25 (2) CONFIDENTIAL EMPLOYEES;

26 (3) PROBATIONARY EMPLOYEES; OR

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

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

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

32 1. OFFICE CLASSIFICATION TITLES IN WHICH EMPLOYEES  
33 ARE RESPONSIBLE FOR INTERNAL AND EXTERNAL COMMUNICATIONS, RECORDING  
34 AND RETRIEVING INFORMATION, AND PAPERWORK REQUIRED IN AN OFFICE;

1                               2.       PROFESSIONAL CLASSIFICATION TITLES WHICH  
2 EMPLOYEES HAVE, SPECIAL OR THEORETICAL KNOWLEDGE THAT USUALLY IS  
3 ACQUIRED THROUGH COLLEGE TRAINING, OTHER TRAINING THAT PROVIDES  
4 COMPARABLE KNOWLEDGE, OR WORK EXPERIENCE;

5                               3.       PARAPROFESSIONAL CLASSIFICATION TITLES IN WHICH  
6 EMPLOYEES PERFORM, IN A SUPPORTIVE ROLE, SOME OF THE DUTIES OF A  
7 PROFESSIONAL OR TECHNICIAN BUT THAT USUALLY REQUIRE LESS FORMAL  
8 TRAINING OR EXPERIENCE THAN THOSE DUTIES PERFORMED BY THOSE WITH  
9 PROFESSIONAL OR TECHNICAL STATUS; AND

10                              4.       TECHNICAL CLASSIFICATION TITLES IN WHICH  
11 EMPLOYEES HAVE A COMBINATION OF BASIC SCIENTIFIC OR TECHNICAL  
12 KNOWLEDGE AND MANUAL SKILL THAT IS USUALLY ACQUIRED THROUGH  
13 SPECIALIZED POSTSECONDARY SCHOOL EDUCATION OR THROUGH EQUIVALENT  
14 ON-THE-JOB TRAINING; AND

15                              (II)       THE SERVICE/LABOR/TRADE UNIT THAT INCLUDES:

16                              1.       CLASSIFICATION TITLES IN WHICH EMPLOYEES PERFORM  
17 SERVICE AND MAINTENANCE AND MAY OPERATE SPECIALIZED MACHINERY OR  
18 HEAVY EQUIPMENT AND WHOSE DUTIES CONTRIBUTE TO THE COMFORT AND  
19 CONVENIENCE OF THE PUBLIC OR TO THE UPKEEP AND CARE OF COMMISSION  
20 BUILDINGS, FACILITIES, OR GROUNDS; AND

21                              2.       CLASSIFICATION TITLES IN WHICH EMPLOYEES ARE  
22 REQUIRED TO HAVE A SPECIAL MANUAL SKILL AND THOROUGH KNOWLEDGE OF  
23 PROCESSES THAT ARE ACQUIRED THROUGH ON-THE-JOB TRAINING, EXPERIENCE,  
24 APPRENTICESHIP, OR OTHER FORMAL TRAINING PROGRAMS.

25                              (2)       WHERE A SINGLE EMPLOYEE ORGANIZATION IS CERTIFIED TO  
26 REPRESENT MORE THAN ONE BARGAINING UNIT, THE COMMISSION SHALL  
27 NEGOTIATE A SINGLE CONTRACT WITH THAT ORGANIZATION COVERING ALL  
28 EMPLOYEES THE ORGANIZATION REPRESENTS.

29       (D)       (1)       THE COMMISSION SHALL RECOGNIZE THE RIGHT OF AN EMPLOYEE  
30 ORGANIZATION, CERTIFIED UNDER THIS SECTION AS THE EXCLUSIVE  
31 REPRESENTATIVE OF A BARGAINING UNIT, TO REPRESENT THE EMPLOYEES OF THE  
32 BARGAINING UNIT IN COLLECTIVE BARGAINING AND IN THE SETTLEMENT OF  
33 GRIEVANCES.

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

36                              (I)       SERVE AS THE SOLE BARGAINING AGENT FOR THE UNIT IN  
37 COLLECTIVE BARGAINING; AND

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

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

6     (E)     (1)     AFTER A PUBLIC HEARING, THE COMMISSION SHALL APPOINT AN  
7 EXPERIENCED NEUTRAL THIRD PARTY TO SERVE AS LABOR RELATIONS  
8 ADMINISTRATOR FOR 1 YEAR.

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

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

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

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

24                   (I)     A COPY OF THE EMPLOYEE ORGANIZATION'S CONSTITUTION  
25 AND BYLAWS; AND

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

27           (2)     THE CONSTITUTION OR BYLAWS SHALL INCLUDE:

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

31                   (II)    THE RIGHT OF MEMBERS TO PARTICIPATE IN THE AFFAIRS OF  
32 THE EMPLOYEE ORGANIZATION;

33                   (III)   PROCEDURES FOR PERIODIC ELECTIONS FOR OFFICERS BY  
34 SECRET BALLOT;

35                   (IV)   FAIR PROCEDURES GOVERNING DISCIPLINARY ACTIONS;

36                   (V)     PROCEDURES FOR THE ACCURATE ACCOUNTING OF ALL  
37 INCOME AND EXPENDITURES;

1 (VI) A REQUIREMENT THAT A CERTIFIED ANNUAL FINANCIAL  
2 REPORT BE PRODUCED; AND

3 (VII) THE RIGHT OF MEMBERS TO INSPECT THE ORGANIZATION'S  
4 ACCOUNTS.

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

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

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

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

20 (II) THE PROVISION OF A LIST UNDER THIS PARAGRAPH BY THE  
21 COMMISSION, THE LABOR RELATIONS ADMINISTRATOR, OR ANY COMMISSION  
22 OFFICIALS, EMPLOYEES, OR OTHER AGENTS DOES NOT CONSTITUTE A VIOLATION OF  
23 § 10-617(E) OF THE STATE GOVERNMENT ARTICLE OR ANY STATE OR LOCAL LAW,  
24 STATUTE, REGULATION, OR ORDINANCE.

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

26 (4) THE BALLOT SHALL CONTAIN:

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

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

32 (III) AN OPTION FOR NO REPRESENTATION.

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

1 (II) IN THE RUNOFF ELECTION, THE BALLOT SHALL CONTAIN THE  
2 TWO CHOICES THAT RECEIVED THE HIGHEST NUMBER OF VOTES IN THE INITIAL  
3 ELECTION.

4 (6) AFTER THE ELECTION, THE LABOR RELATIONS ADMINISTRATOR  
5 SHALL CERTIFY THE APPROPRIATE EMPLOYEE ORGANIZATION AS THE EXCLUSIVE  
6 REPRESENTATIVE.

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

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

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

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

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

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

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

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

25 (4) THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL  
26 SHARE EQUALLY THE COSTS OF THE HEARINGS.

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

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

35 (II) PENSION AND OTHER RETIREMENT BENEFITS FOR ACTIVE  
36 EMPLOYEES;

1 (III) EMPLOYEE BENEFITS SUCH AS INSURANCE, LEAVE, HOLIDAYS,  
2 AND VACATIONS;

3 (IV) HOURS AND WORKING CONDITIONS;

4 (V) PROVISIONS FOR THE ORDERLY PROCESSING AND  
5 SETTLEMENT OF GRIEVANCES CONCERNING THE INTERPRETATION AND  
6 IMPLEMENTATION OF A COLLECTIVE BARGAINING AGREEMENT THAT MAY INCLUDE:

7 1. BINDING THIRD PARTY ARBITRATION, PROVIDED THAT:

8 A. THE COMMISSION AND THE EMPLOYEE ORGANIZATION  
9 SHARE THE COSTS OF BINDING ARBITRATION EQUALLY; AND

10 B. THE ARBITRATOR HAS NO AUTHORITY TO AMEND, ADD  
11 TO, OR SUBTRACT FROM THE PROVISIONS OF THE COLLECTIVE BARGAINING  
12 AGREEMENT; AND

13 2. PROVISIONS FOR THE EXCLUSIVITY OF FORUM;

14 (VI) MATTERS AFFECTING THE HEALTH AND SAFETY OF  
15 EMPLOYEES; AND

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

18 (2) THIS SUBSECTION DOES NOT REQUIRE THE COMMISSION OR THE  
19 EMPLOYEE ORGANIZATION TO AGREE TO ANY PROPOSAL OR TO MAKE ANY  
20 CONCESSION.

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

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

27 (I) THE COMMISSION AND THE EMPLOYEE ORGANIZATION AGREE  
28 TO MEDIATION; OR

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

31 (2) (I) THE MEDIATOR SHALL BE MUTUALLY SELECTED BY THE  
32 COMMISSION AND THE EMPLOYEE ORGANIZATION FROM A LIST SUPPLIED BY THE  
33 AMERICAN ARBITRATION ASSOCIATION OR THE FEDERAL MEDIATION AND  
34 CONCILIATION SERVICE.

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

4 (3) THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL  
5 SHARE EQUALLY THE COSTS OF MEDIATION.

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

8 (I) THE COMMISSION AND THE EMPLOYEE ORGANIZATION AGREE  
9 TO FACT-FINDING; OR

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

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

16 (3) IF AGREEMENT CANNOT BE REACHED ON THE SELECTION OF A FACT  
17 FINDER, THE FACT FINDER SHALL BE SELECTED BY THE LABOR RELATIONS  
18 ADMINISTRATOR.

19 (4) (I) THE FACT FINDER SHALL HOLD HEARINGS AND MAY  
20 ADMINISTER OATHS.

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

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

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

29 (M) (1) THE COMMISSION AND AN EMPLOYEE ORGANIZATION CERTIFIED AS  
30 EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT SHALL EXECUTE A  
31 COLLECTIVE BARGAINING AGREEMENT INCORPORATING ALL MATTERS OF  
32 AGREEMENT ON WAGES, HOURS, AND OTHER TERMS AND CONDITIONS OF  
33 EMPLOYMENT.

34 (2) IF A COLLECTIVE BARGAINING AGREEMENT PROVIDES FOR A  
35 GRIEVANCE PROCEDURE, THAT GRIEVANCE PROCEDURE SHALL BE THE SOLE  
36 PROCEDURE FOR EMPLOYEES IN THE BARGAINING UNIT.



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

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

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

7 (6) A COLLECTIVE BARGAINING AGREEMENT SHALL BE EFFECTIVE  
8 UPON THE APPROVAL OF THE COMMISSION AND THE MEMBERSHIP OF THE UNION  
9 REPRESENTING THE BARGAINING UNIT.

10 (N) (1) THE COMMISSION SHALL INCLUDE IN ITS ANNUAL PROPOSED  
11 OPERATING BUDGET ADEQUATE FUNDING TO CARRY OUT A COLLECTIVE  
12 BARGAINING AGREEMENT.

13 (2) UNLESS THE COMMISSION'S BUDGET IS FUNDED ADEQUATELY SO AS  
14 TO IMPLEMENT THE TERMS OF THE COLLECTIVE BARGAINING AGREEMENT, THE  
15 COMMISSION OR AN EMPLOYEE ORGANIZATION, WITHIN 20 DAYS AFTER FINAL  
16 BUDGET ACTION, MAY GIVE WRITTEN NOTICE TO THE OTHER PARTY THAT IT IS  
17 REOPENING THE NEGOTIATED AGREEMENT.

18 (O) IF A PROVISION IN A COLLECTIVE BARGAINING AGREEMENT IS RULED  
19 INVALID OR IS NOT FUNDED ADEQUATELY, THE REMAINDER OF THE AGREEMENT  
20 REMAINS IN EFFECT UNLESS REOPENED UNDER SUBSECTION (N)(2) OF THIS  
21 SECTION.

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

25 (I) DETERMINE THE OVERALL BUDGET AND MISSION OF THE  
26 COMMISSION;

27 (II) MAINTAIN AND IMPROVE THE EFFICIENCY AND  
28 EFFECTIVENESS OF OPERATIONS;

29 (III) DETERMINE THE SERVICES TO BE RENDERED AND THE  
30 OPERATIONS TO BE PERFORMED;

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

35 (V) DIRECT AND SUPERVISE EMPLOYEES;

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

1 (VII) RELIEVE EMPLOYEES FROM DUTIES BECAUSE OF LACK OF  
2 WORK OR FUNDS OR WHEN THE COMMISSION DETERMINES CONTINUED WORK  
3 WOULD BE INEFFICIENT OR NONPRODUCTIVE;

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

6 (IX) TRANSFER AND SCHEDULE EMPLOYEES;

7 (X) DETERMINE THE SIZE, GRADES, AND COMPOSITION OF THE  
8 WORKFORCE;

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

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

13 (XIII) MAKE AND IMPLEMENT SYSTEMS FOR AWARDED  
14 OUTSTANDING SERVICE INCREMENTS, EXTRAORDINARY PERFORMANCE AWARDS,  
15 AND OTHER MERIT AWARDS;

16 (XIV) INTRODUCE NEW OR IMPROVED TECHNOLOGY, RESEARCH,  
17 DEVELOPMENT, AND SERVICES;

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

21 (XVI) MAINTAIN INTERNAL SECURITY STANDARDS;

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

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

33 (XIX) ISSUE AND ENFORCE RULES, POLICIES, AND REGULATIONS  
34 NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SUBSECTION AND ALL OTHER  
35 MANAGERIAL FUNCTIONS THAT ARE NOT INCONSISTENT WITH THIS ARTICLE,  
36 FEDERAL OR STATE LAW, OR THE TERMS OF A COLLECTIVE BARGAINING  
37 AGREEMENT.

1 (2) THE COMMISSION MAY NOT:

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

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

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

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

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

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

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

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

26 (II) CAUSE OR ATTEMPT TO CAUSE THE COMMISSION TO  
27 DISCRIMINATE AGAINST ANY EMPLOYEE IN THE EXERCISE BY THE EMPLOYEE OF  
28 ANY RIGHT UNDER THIS SECTION;

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

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

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

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

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

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

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

6 (II) BARGAIN COLLECTIVELY THROUGH A REPRESENTATIVE THAT  
7 THEY HAVE CHOSEN;

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

10 (IV) REFRAIN FROM ANY ACTIVITY COVERED UNDER THIS  
11 PARAGRAPH.

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

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

22 (2) A COMMISSION EMPLOYEE, GROUP OF COMMISSION EMPLOYEES, OR  
23 EMPLOYEE ORGANIZATION MAY NOT ENGAGE IN, INDUCE, INITIATE, OR RATIFY A  
24 STRIKE BY COMMISSION EMPLOYEES.

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

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

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

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

36 (6) (I) IF AN EMPLOYEE ORGANIZATION CERTIFIED AS AN EXCLUSIVE  
37 REPRESENTATIVE IS FOUND AFTER A HEARING BY THE LABOR RELATIONS

1 ADMINISTRATOR TO HAVE ASSISTED, AUTHORIZED, OR INITIATED A STRIKE  
2 INVOLVING THE REFUSAL OF COMMISSION EMPLOYEES TO REPORT FOR WORK, THE  
3 LABOR RELATIONS ADMINISTRATOR SHALL REVOKE THE CERTIFICATION OF THE  
4 EMPLOYEE ORGANIZATION.

5 (II) AN EMPLOYEE ORGANIZATION DECERTIFIED UNDER  
6 SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT BE RECERTIFIED FOR 2 YEARS  
7 FROM THE END OF THE STRIKE.

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

14 (T) (1) IT IS AN UNFAIR LABOR PRACTICE FOR THE COMMISSION OR AN  
15 EMPLOYEE ORGANIZATION CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE OF A  
16 BARGAINING UNIT TO VIOLATE THE RIGHTS OF A COMMISSION EMPLOYEE UNDER  
17 THIS SECTION.

18 (2) WITHIN 30 BUSINESS DAYS AFTER THE ALLEGED VIOLATION, THE  
19 PARTY CHARGING AN UNFAIR LABOR PRACTICE SHALL SUBMIT THE CHARGE IN  
20 WRITING TO THE LABOR RELATIONS ADMINISTRATOR AND THE PARTY ALLEGED TO  
21 HAVE COMMITTED THE UNFAIR LABOR PRACTICE.

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

26 (4) THE LABOR RELATIONS ADMINISTRATOR SHALL:

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

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

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

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

1           (6)     THE DECISION OF THE LABOR RELATIONS ADMINISTRATOR IS FINAL  
2 UNLESS APPEALED ON THE BASIS OF BEING ARBITRARY, CAPRICIOUS, OR  
3 EXCEEDING AUTHORITY.

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

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

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

15    (U)    (1)     THIS SUBSECTION APPLIES TO THE EXPRESSION OF ANY PERSONAL  
16 VIEW, ARGUMENT, OR OPINION OR THE MAKING OF ANY PERSONAL STATEMENT  
17 WHICH:

18                   (I)    1.     PUBLICIZES THE FACT OF A REPRESENTATIONAL  
19 ELECTION AND ENCOURAGES EMPLOYEES TO EXERCISE THEIR RIGHT TO VOTE IN  
20 THE ELECTION;

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

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

25                   (II)   CONTAINS NO THREAT OF REPRISAL, FORCE, OR PROMISE OF  
26 BENEFIT; AND

27                   (III)   WAS NOT MADE UNDER COERCIVE CONDITIONS.

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

31                   (I)     AN UNFAIR LABOR PRACTICE UNDER THE PROVISIONS OF THIS  
32 SECTION; OR

33                   (II)    GROUNDS FOR SETTING ASIDE ANY ELECTION CONDUCTED  
34 UNDER THIS SECTION.

35    SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
36 October 1, 1999.

