
By: **Prince George's County Delegation and Montgomery County
Delegation**

Introduced and read first time: February 10, 2000
Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland-National Capital Park and Planning Commission - Binding**
3 **Arbitration**
4 **PG/MC 9-00**

5 FOR the purpose of establishing procedures for the appointment of an arbitrator and
6 binding arbitration when there is an impasse in collective bargaining between
7 the Maryland-National Capital Park and Planning Commission and the
8 exclusive representative of a bargaining unit for Commission employees;
9 requiring the arbitrator to take certain actions in determining a final reasonable
10 offer; authorizing the arbitrator to hold a nonpublic hearing to consider the
11 proposals submitted by the parties; limiting the items which the arbitrator may
12 consider in selecting a final offer; prohibiting the arbitrator from compromising
13 or altering the final offer selected; providing that the parties need not ratify, but
14 must execute, the final offer; providing for the treatment of the final offer;
15 requiring the parties to share equally in paying the costs of arbitration;
16 providing for the application of this Act; and generally relating to procedures for
17 the appointment of an arbitrator and binding arbitration in collective
18 bargaining between the Maryland-National Capital Park and Planning
19 Commission and the exclusive representative of a bargaining unit for
20 Commission employees.

21 BY repealing
22 Article 28 - Maryland-National Capital Park and Planning Commission
23 Section 2-112.1(l)
24 Annotated Code of Maryland
25 (1997 Replacement Volume and 1999 Supplement)

26 BY adding to
27 Article 28 - Maryland-National Capital Park and Planning Commission
28 Section 2-112.1(l)
29 Annotated Code of Maryland
30 (1997 Replacement Volume and 1999 Supplement)

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

3 **Article 28 - Maryland-National Capital Park and Planning Commission**

4 2-112.1.

5 [(1) (1) A fact finder may be used in the collective bargaining process
6 whenever:

7 (i) The Commission and the employee organization agree to
8 fact-finding; or

9 (ii) An impasse results, and the Commission or the employee
10 organization requests fact-finding.

11 (2) The fact finder shall be mutually selected by the Commission and the
12 employee organization from a list supplied by the American Arbitration Association or
13 the Federal Mediation and Conciliation Service.

14 (3) If agreement cannot be reached on the selection of a fact finder, the
15 fact finder shall be selected by the Labor Relations Administrator.

16 (4) (i) The fact finder shall hold hearings and may administer oaths.

17 (ii) Within 30 days after appointment, the fact finder shall give to
18 the Commission and the employee organization a written report with findings and
19 recommendations to resolve the impasse.

20 (5) If the impasse continues for 10 days after submission of the fact
21 finder's report, the fact finder shall make the report available to the public.

22 (6) The Commission and the employee organization shall share equally
23 the costs of the fact finder.]

24 (L) (1) IF THE PARTIES HAVE NOT REACHED AN AGREEMENT ON OR
25 BEFORE DECEMBER 15 ON A COLLECTIVE BARGAINING AGREEMENT THAT WOULD
26 BECOME EFFECTIVE THE FOLLOWING JULY 1, THE PARTIES SHALL DECLARE A
27 BARGAINING IMPASSE AND SHALL NOMINATE AN ARBITRATOR.

28 (2) (I) IF THE PARTIES HAVE USED A MEDIATOR DURING THE
29 BARGAINING CYCLE, THE MEDIATOR SHALL BECOME THE ARBITRATOR.

30 (II) IF THE PARTIES HAVE NOT USED A MEDIATOR DURING THE
31 BARGAINING CYCLE AND THE PARTIES ARE UNABLE TO AGREE ON AN ARBITRATOR,
32 THE LABOR RELATIONS ADMINISTRATOR SHALL NAME THE ARBITRATOR ON
33 DECEMBER 15.

1 (3) (I) ON OR BEFORE DECEMBER 18, THE ARBITRATOR SHALL DIRECT
2 EACH PARTY TO SUBMIT A FINAL OFFER IN EITHER OF THE FOLLOWING FORMS
3 CHOSEN BY THE ARBITRATOR:

4 1. A COMPLETE DRAFT OF A PROPOSED COLLECTIVE
5 BARGAINING AGREEMENT; OR

6 2. A COMPLETE PACKAGE PROPOSAL.

7 (II) IF THE ARBITRATOR CHOOSES TO REQUIRE COMPLETE
8 PACKAGE PROPOSALS, THE ARBITRATOR SHALL REQUIRE THE PARTIES TO SUBMIT A
9 JOINT MEMORANDUM LISTING ALL ITEMS TO WHICH THE PARTIES PREVIOUSLY
10 AGREED.

11 (4) (I) THE ARBITRATOR MAY REQUIRE EACH PARTY TO SUBMIT
12 EVIDENCE OR PRESENT AN ORAL OR WRITTEN ARGUMENT IN SUPPORT OF THE
13 PARTY'S PROPOSAL.

14 (II) ON OR BEFORE DECEMBER 23, THE ARBITRATOR MAY HOLD A
15 NONPUBLIC HEARING ON THE PARTIES' PROPOSALS AT A TIME, DATE, AND PLACE
16 SELECTED BY THE ARBITRATOR.

17 (III) THE ARBITRATOR MAY NOT OPEN THE HEARING TO A PERSON
18 WHO IS NOT A PARTY TO THE ARBITRATION.

19 (5) (I) ON OR BEFORE DECEMBER 30, THE ARBITRATOR SHALL SELECT
20 THE FINAL OFFER SUBMITTED BY THE PARTIES THAT THE ARBITRATOR
21 DETERMINES TO BE MORE REASONABLE, VIEWED AS A WHOLE.

22 (II) IN DETERMINING THE MORE REASONABLE OFFER, THE
23 ARBITRATOR MAY CONSIDER ONLY:

24 1. PAST COLLECTIVE BARGAINING CONTRACTS BETWEEN
25 THE PARTIES, INCLUDING THE PAST BARGAINING HISTORY OF EMPLOYEE WAGES,
26 HOURS, BENEFITS, AND OTHER CONDITIONS OF EMPLOYMENT;

27 2. A COMPARISON OF WAGES, HOURS, BENEFITS, AND
28 OTHER CONDITIONS OF EMPLOYMENT OF SIMILAR EMPLOYEES OF OTHER PUBLIC
29 EMPLOYERS IN THE WASHINGTON METROPOLITAN AREA AND IN THE STATE;

30 3. A COMPARISON OF WAGES, HOURS, BENEFITS, AND
31 OTHER CONDITIONS OF EMPLOYMENT OF SIMILAR EMPLOYEES OF PRIVATE
32 EMPLOYERS IN MONTGOMERY COUNTY AND IN PRINCE GEORGE'S COUNTY;

33 4. THE PUBLIC INTEREST AND WELFARE;

34 5. THE ABILITY OF THE EMPLOYER TO FINANCE ANY
35 ECONOMIC ADJUSTMENTS REQUIRED UNDER THE PROPOSED AGREEMENT; AND

1 6. THE EFFECTS OF ANY ECONOMIC ADJUSTMENTS ON THE
2 STANDARD OF PUBLIC SERVICES NORMALLY PROVIDED BY THE EMPLOYER.

3 (III) IN DETERMINING THE MOST REASONABLE OFFER, THE
4 ARBITRATOR SHALL CONSIDER TO BE INTEGRATED WITH EACH OFFER ALL ITEMS ON
5 WHICH THE PARTIES AGREED PRIOR TO THE ARBITRATION.

6 (IV) THE ARBITRATOR MAY NOT RECEIVE OR CONSIDER THE
7 HISTORY OF COLLECTIVE BARGAINING RELATING TO THE IMMEDIATE DISPUTE,
8 INCLUDING ANY OFFERS OF SETTLEMENT NOT CONTAINED IN THE OFFER
9 SUBMITTED TO THE ARBITRATOR.

10 (6) THE ARBITRATOR MAY NOT COMPROMISE OR ALTER THE FINAL
11 OFFER THAT THE ARBITRATOR SELECTS.

12 (7) (I) WITHOUT RATIFICATION BY THE PARTIES, THE OFFER
13 SELECTED BY THE ARBITRATOR, AS INTEGRATED WITH THE ITEMS ON WHICH THE
14 PARTIES PREVIOUSLY AGREED, SHALL BE THE FINAL AGREEMENT BETWEEN THE
15 COMMISSION AND THE EXCLUSIVE REPRESENTATIVE.

16 (II) THE PARTIES SHALL EXECUTE THE AGREEMENT SELECTED BY
17 THE ARBITRATOR.

18 (III) SUBSECTIONS (M) THROUGH (O) OF THIS SECTION SHALL APPLY
19 TO ANY OFFER SELECTED BY THE ARBITRATOR.

20 (8) THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL
21 SHARE EQUALLY IN PAYING THE COSTS OF THE ARBITRATOR'S SERVICES.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2000 and shall apply to all bargaining cycles that begin after the effective
24 date of this Act.