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

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CHAPTER _____

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~~ requiring the arbitrator to hold a nonpublic hearing to
11 consider the proposals submitted by the parties; limiting the items which the
12 arbitrator may consider in selecting a final offer; prohibiting the arbitrator from
13 compromising or altering the final offer selected; providing that the parties need
14 not ratify, but must execute, the final offer; providing that the economic terms of
15 the final offer are subject to being funded by the Montgomery County and Prince
16 George's County Councils; requiring the Commission to request certain funds in
17 the Commission's final budget; providing for the treatment of the final offer;
18 requiring the parties to share equally in paying the costs of arbitration; making
19 certain stylistic changes; providing for the application of this Act; and generally
20 relating to procedures for the appointment of an arbitrator and binding
21 arbitration in collective bargaining between the Maryland-National Capital
22 Park and Planning Commission and the exclusive representative of a bargaining
23 unit for Commission employees.

24 BY renumbering
25 Article 28 - Maryland-National Capital Park and Planning Commission

1 Section 2-112.1(k), (m), (n), (o), (p), (q), (r), (s), (t), and (u), respectively
 2 to be Section 2-112.1(m), (n), (o), (p), (q), (r), (s), (t), (u), and (v), respectively
 3 Annotated Code of Maryland
 4 (1997 Replacement Volume and 1999 Supplement)

5 BY repealing and reenacting, with amendments,
 6 Article 28 - Maryland-National Capital Park and Planning Commission
 7 Section 2-112.1(j)
 8 Annotated Code of Maryland
 9 (1997 Replacement Volume and 1999 Supplement)

10 BY repealing
 11 Article 28 - Maryland-National Capital Park and Planning Commission
 12 Section 2-112.1(l)
 13 Annotated Code of Maryland
 14 (1997 Replacement Volume and 1999 Supplement)

15 BY adding to
 16 Article 28 - Maryland-National Capital Park and Planning Commission
 17 Section 2-112.1(k) and(l)
 18 Annotated Code of Maryland
 19 (1997 Replacement Volume and 1999 Supplement)

20 BY repealing and reenacting, with amendments,
 21 Article 28 - Maryland-National Capital Park and Planning Commission
 22 Section 2-112.1(o)(2) and (p)
 23 Annotated Code of Maryland
 24 (1997 Replacement Volume and 1999 Supplement)
 25 (As enacted by Section 1 of this Act)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 27 MARYLAND, That Section(s) 2-112.1(k), (m), (n), (o), (p), (q), (r), (s), (t), and (u),
 28 respectively, of Article 28 - Maryland-National Capital Park and Planning
 29 Commission of the Annotated Code of Maryland be renumbered to be Section(s)
 30 2-112.1(m), (n), (o), (p), (q), (r), (s), (t), (u), and (v), respectively.

31 ~~SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF~~
 32 ~~MARYLAND~~ 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
 33 as follows:

Article 28 - Maryland-National Capital Park and Planning Commission

2 2-112.1.

3 (j) (1) The Commission and an employee organization certified as exclusive
4 representative shall meet and engage in collective bargaining in good faith in regard
5 to the following subjects of bargaining:

6 (i) Salary and wages, including the percentage of the increase in
7 the salary and wages budget that will be devoted to merit increments and cash
8 awards, provided that salaries and wages shall be uniform for all employees in the
9 same classification;

10 (ii) On or after June 1, 1994, pension and other retirement benefits
11 for active employees;

12 (iii) Employee benefits such as insurance, leave, holidays, and
13 vacations;

14 (iv) Hours and working conditions;

15 (v) Provisions for the orderly processing and settlement of
16 grievances concerning the interpretation and implementation of a collective
17 bargaining agreement that may include:

18 1. Binding third party arbitration, provided that the
19 arbitrator has no authority to amend, add to, or subtract from the provisions of the
20 collective bargaining agreement; and

21 2. Provisions for the exclusivity of forum;

22 (vi) Matters affecting the health and safety of employees; and

23 (vii) The effect of the exercise of the Commission's rights and
24 responsibilities under subsection [(p)] (Q) of this section on employees.

25 (2) This subsection does not require the Commission or the employee
26 organization to agree to any proposal or to make any concession.

27 (3) [The Commission and an employee organization certified as
28 exclusive representative shall make every reasonable effort to complete negotiations
29 at least 2 months prior to the Commission's budget submittal deadline.]

30 (I) THE COLLECTIVE BARGAINING SHALL BEGIN NO LATER THAN
31 SEPTEMBER 1 BEFORE THE BEGINNING OF THE FISCAL YEAR IN WHICH THERE IS NO
32 AGREEMENT BETWEEN THE COMMISSION AND THE CERTIFIED REPRESENTATIVE
33 AND FINISH ON OR BEFORE JANUARY 15.

34 (II) DURING THIS PERIOD, THE PARTIES SHALL NEGOTIATE IN
35 GOOD FAITH.

1 (K) (1) IF A PARTY CONSIDERS A BARGAINING PROPOSAL TO CONTRAVENE
2 THE RIGHTS AND RESPONSIBILITIES OF THE COMMISSION UNDER SUBSECTION (Q)
3 OF THIS SECTION, OR THE RIGHTS OF EMPLOYEES OF THE COMMISSION UNDER
4 SUBSECTION (S) OF THIS SECTION, OR OTHERWISE VIOLATES THIS SECTION, THE
5 PARTY SHALL PETITION THE LABOR RELATIONS ADMINISTRATOR FOR A
6 DETERMINATION OF WHETHER THE BARGAINING PROPOSAL CONTRAVENES THIS
7 SECTION.

8 (2) THE PROCEDURE FOR PROCESSING A NEGOTIABILITY DISPUTE
9 SHALL FOLLOW THE PROCESS FOR REVIEWING UNFAIR LABOR PRACTICE CHARGES,
10 EXCEPT THAT THE LABOR RELATIONS ADMINISTRATOR MAY SHORTEN THE TIME
11 PERIODS OR ORDER ANY EXPEDITED PROCEDURE APPROPRIATE UNDER THE
12 CIRCUMSTANCES.

13 (3) THE LABOR RELATIONS ADMINISTRATOR MAY ORDER A PARTY TO
14 WITHDRAW ALL OR PART OF A BARGAINING PROPOSAL THAT CONTRAVENES THIS
15 SECTION.

16 (4) UNLESS APPEALED ON THE BASIS OF BEING ARBITRARY,
17 CAPRICIOUS, OR EXCEEDING THE AUTHORITY OF A PARTY, ANY DECISION AND
18 ORDER REACHED UNDER THIS SUBSECTION IS FINAL.

19 [(1) (1) A fact finder may be used in the collective bargaining process
20 whenever:

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

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

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

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

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

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

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

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

1 (L) (1) IF THE PARTIES HAVE NOT REACHED AN AGREEMENT ON OR
 2 BEFORE ~~DECEMBER~~ JANUARY 15 ON A COLLECTIVE BARGAINING AGREEMENT THAT
 3 WOULD BECOME EFFECTIVE THE FOLLOWING JULY 1, THE PARTIES SHALL DECLARE
 4 A BARGAINING IMPASSE AND SHALL NOMINATE AN ARBITRATOR.

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

7 (II) IF THE PARTIES HAVE NOT USED A MEDIATOR DURING THE
 8 BARGAINING CYCLE AND THE PARTIES ARE UNABLE TO AGREE ON AN ARBITRATOR,
 9 THE LABOR RELATIONS ADMINISTRATOR SHALL NAME THE ARBITRATOR ON
 10 ~~DECEMBER~~ JANUARY 15.

11 (3) (H) ON OR BEFORE ~~DECEMBER~~ JANUARY 18, THE ARBITRATOR
 12 SHALL DIRECT ~~EACH PARTY~~ THE PARTIES TO SUBMIT:

13 (I) ~~A FINAL OFFER IN EITHER OF THE FOLLOWING FORMS CHOSEN~~
 14 ~~BY THE ARBITRATOR:~~

15 1. ~~A COMPLETE DRAFT OF A PROPOSED COLLECTIVE~~
 16 ~~BARGAINING AGREEMENT; OR~~

17 2. ~~A COMPLETE PACKAGE PROPOSAL.~~

18 (H) ~~IF THE ARBITRATOR CHOOSES TO REQUIRE COMPLETE~~
 19 ~~PACKAGE PROPOSALS, THE ARBITRATOR SHALL REQUIRE THE PARTIES TO SUBMIT A~~
 20 ~~JOINT MEMORANDUM LISTING ALL ITEMS TO WHICH THE PARTIES PREVIOUSLY~~
 21 ~~AGREED; AND~~

22 (II) A SEPARATE MEMORANDUM OF THE PARTY'S LAST FINAL
 23 OFFER PRESENTED IN NEGOTIATIONS ON ALL ITEMS TO WHICH THE PARTIES DID
 24 NOT PREVIOUSLY AGREE.

25 (4) (I) ~~THE ARBITRATOR MAY REQUIRE EACH PARTY TO SUBMIT~~
 26 ~~EVIDENCE OR PRESENT AN ORAL OR WRITTEN ARGUMENT IN SUPPORT OF THE~~
 27 ~~PARTY'S PROPOSAL.~~

28 (H) ON OR BEFORE ~~DECEMBER~~ JANUARY 23, THE ARBITRATOR ~~MAY~~
 29 SHALL HOLD A NONPUBLIC HEARING ON THE PARTIES' PROPOSALS AT A TIME, DATE,
 30 AND PLACE SELECTED BY THE ARBITRATOR.

31 (II) EACH PARTY SHALL SUBMIT EVIDENCE OR MAKE ORAL AND
 32 WRITTEN ARGUMENT IN SUPPORT OF THE PARTY'S LAST FINAL OFFER.

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

35 (5) (I) ON OR BEFORE ~~DECEMBER~~ JANUARY 30, THE ARBITRATOR
 36 SHALL ~~SELECT~~ ISSUE A REPORT SELECTING BETWEEN THE FINAL OFFER OFFERS

1 SUBMITTED BY THE PARTIES THAT THE ARBITRATOR DETERMINES TO BE MORE
2 REASONABLE, VIEWED AS A WHOLE.

3 (II) IN DETERMINING THE MORE REASONABLE OFFER, THE
4 ARBITRATOR MAY CONSIDER ONLY THE FOLLOWING FACTORS:

5 1. PAST COLLECTIVE BARGAINING CONTRACTS BETWEEN
6 THE PARTIES, INCLUDING THE PAST BARGAINING HISTORY THAT LED TO THE
7 AGREEMENT OR THE PRECOLLECTIVE BARGAINING HISTORY OF EMPLOYEE WAGES,
8 HOURS, BENEFITS, AND OTHER WORKING CONDITIONS ~~OF EMPLOYMENT~~;

9 2. A COMPARISON OF WAGES, HOURS, BENEFITS, AND
10 ~~OTHER~~ CONDITIONS OF EMPLOYMENT OF SIMILAR EMPLOYEES OF OTHER PUBLIC
11 EMPLOYERS IN THE WASHINGTON METROPOLITAN AREA AND IN THE STATE;

12 3. A COMPARISON OF WAGES, HOURS, BENEFITS, AND
13 ~~OTHER~~ CONDITIONS OF EMPLOYMENT OF SIMILAR EMPLOYEES OF PRIVATE
14 EMPLOYERS IN MONTGOMERY COUNTY AND IN PRINCE GEORGE'S COUNTY;

15 4. THE PUBLIC INTEREST AND WELFARE;

16 5. THE ABILITY OF THE EMPLOYER TO FINANCE ANY
17 ECONOMIC ADJUSTMENTS REQUIRED UNDER THE PROPOSED AGREEMENT; ~~AND~~

18 6. THE EFFECTS OF ANY ECONOMIC ADJUSTMENTS ON THE
19 STANDARD OF PUBLIC SERVICES NORMALLY PROVIDED BY THE EMPLOYER; AND

20 7. THE ANNUAL INCREASE OR DECREASE IN CONSUMER
21 PRICES FOR ALL ITEMS AS REFLECTED IN THE MOST RECENT CONSUMER PRICE
22 INDEX - WAGE EARNERS AND CLERICAL WORKERS ("CPI-W") FOR THE
23 WASHINGTON-BALTIMORE METROPOLITAN AREA.

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

27 (IV) THE ARBITRATOR MAY NOT RECEIVE OR CONSIDER THE
28 HISTORY OF COLLECTIVE BARGAINING RELATING TO THE IMMEDIATE DISPUTE,
29 INCLUDING ANY OFFERS OF SETTLEMENT NOT CONTAINED IN THE OFFER
30 SUBMITTED TO THE ARBITRATOR.

31 (6) THE ARBITRATOR MAY NOT COMPROMISE OR ALTER THE FINAL
32 OFFER THAT THE ARBITRATOR SELECTS.

33 (7) (I) 1. SUBJECT TO SUB-SUBPARAGRAPH 2 OF THIS
34 SUBPARAGRAPH, WITHOUT RATIFICATION BY THE PARTIES, THE OFFER SELECTED
35 BY THE ARBITRATOR, AS INTEGRATED WITH THE ITEMS ON WHICH THE PARTIES
36 PREVIOUSLY AGREED, SHALL BE THE FINAL AGREEMENT BETWEEN THE
37 COMMISSION AND THE EXCLUSIVE REPRESENTATIVE.

