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

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CHAPTER _____

1 AN ACT concerning

2 **Maryland-National Capital Park and Planning Commission - Binding**
3 **Arbitration**
4 **MC/PG 116-01**

5 FOR the purpose of requiring that collective bargaining between the
6 Maryland-National Capital Park and Planning Commission and the exclusive
7 representative of a bargaining unit for Commission employees begin not later
8 each year than a certain date and end not later than a certain date; requiring
9 that negotiations be conducted in good faith; establishing a procedure for
10 resolving a negotiability dispute; repealing certain provisions authorizing the
11 appointment of a fact finder and the use of fact-finding procedures when there
12 is an impasse in collective bargaining between the Commission and the
13 exclusive representative; establishing procedures requiring the appointment of
14 a mediator-arbitrator and binding arbitration when there is an impasse; setting
15 certain deadlines; requiring the mediator-arbitrator to take certain actions in
16 determining a final reasonable offer; requiring the mediator-arbitrator to direct
17 the parties to submit certain memoranda outlining previous offers and
18 agreements and hold a nonpublic hearing to consider the proposals submitted by
19 the parties; limiting the items which the mediator-arbitrator may consider in
20 selecting a final offer; prohibiting the arbitrator from compromising or altering
21 the final offer selected; providing that the parties need not ratify, but must
22 execute, the final offer; providing that the economic terms of the final offer are
23 subject to being funded by the Montgomery County and Prince George's County
24 councils; requiring the Commission to request funds for all economic provisions
25 of the final agreement in the Commission's final budget; requiring the parties to
26 reopen negotiations if the county councils do not fund all provisions of the final

1 agreement; providing for the treatment of the final offer; requiring the parties to
2 share equally in paying the costs of arbitration; making certain stylistic
3 changes; providing for the application of this Act; and generally relating to
4 procedures for the appointment of a mediator-arbitrator and binding
5 arbitration in collective bargaining between the Maryland-National Capital
6 Park and Planning Commission and the exclusive representative of a bargaining
7 unit for Commission employees.

8 BY renumbering

9 Article 28 - Maryland-National Capital Park and Planning Commission
10 Section 2-112.1(k), (m), (n), (o), (p), (q), (r), (s), (t), and (u), respectively
11 to be Section 2-112.1(m), (n), (o), (p), (q), (r), (s), (t), (u), and (v), respectively
12 Annotated Code of Maryland
13 (1997 Replacement Volume and 2000 Supplement)

14 BY repealing and reenacting, with amendments,

15 Article 28 - Maryland-National Capital Park and Planning Commission
16 Section 2-112.1(j)
17 Annotated Code of Maryland
18 (1997 Replacement Volume and 2000 Supplement)

19 BY repealing

20 Article 28 - Maryland-National Capital Park and Planning Commission
21 Section 2-112.1(l)
22 Annotated Code of Maryland
23 (1997 Replacement Volume and 2000 Supplement)

24 BY adding to

25 Article 28 - Maryland-National Capital Park and Planning Commission
26 Section 2-112.1(k) and (l)
27 Annotated Code of Maryland
28 (1997 Replacement Volume and 2000 Supplement)

29 BY repealing and reenacting, with amendments,

30 Article 28 - Maryland-National Capital Park and Planning Commission
31 Section 2-112.1(o)(2) and (p)
32 Annotated Code of Maryland
33 (1997 Replacement Volume and 2000 Supplement)
34 (As enacted by Section 1 of this Act)

35 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
36 MARYLAND, That Section(s) 2-112.1(k), (m), (n), (o), (p), (q), (r), (s), (t), and (u),
37 respectively, of Article 28 - Maryland-National Capital Park and Planning
38 Commission of the Annotated Code of Maryland be renumbered to be Section(s)
39 2-112.1(m), (n), (o), (p), (q), (r), (s), (t), (u), and (v), respectively.

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

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

4 2-112.1.

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

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

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

14 (iii) Employee benefits such as insurance, leave, holidays, and
15 vacations;

16 (iv) Hours and working conditions;

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

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

23 2. Provisions for the exclusivity of forum;

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

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

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

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

32 (I) 1. COLLECTIVE BARGAINING SHALL BEGIN NOT LATER
33 THAN SEPTEMBER 1 BEFORE THE BEGINNING OF A FISCAL YEAR FOR WHICH AN
34 AGREEMENT HAS NOT BEEN REACHED BETWEEN THE COMMISSION AND THE
35 CERTIFIED REPRESENTATIVE.

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

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

5 (L) (1) (I) IF THE PARTIES HAVE NOT REACHED AN AGREEMENT ON OR
6 BEFORE DECEMBER 1 ON A COLLECTIVE BARGAINING AGREEMENT THAT WOULD
7 BECOME EFFECTIVE THE FOLLOWING JULY 1, THE PARTIES SHALL JOINTLY APPOINT
8 A MEDIATOR-ARBITRATOR.

9 (II) IF THE PARTIES ARE UNABLE TO AGREE ON A
10 MEDIATOR-ARBITRATOR, THE LABOR RELATIONS ADMINISTRATOR SHALL NAME THE
11 MEDIATOR-ARBITRATOR ON OR BEFORE DECEMBER 7.

12 (III) NOTWITHSTANDING APPOINTMENT OF THE
13 MEDIATOR-ARBITRATOR, NOTHING IN THIS SUBSECTION SHALL REQUIRE
14 COMMENCEMENT OF MEDIATION-ARBITRATION PRIOR TO THE DATE SET FORTH IN
15 PARAGRAPH (3) OF THIS SUBSECTION.

16 (2) DURING THE COURSE OF THE COLLECTIVE BARGAINING EITHER
17 PARTY MAY DECLARE AN IMPASSE AND REQUEST THE SERVICES OF THE
18 MEDIATOR-ARBITRATOR, OR THE PARTIES MAY JOINTLY REQUEST THE SERVICES OF
19 A MEDIATOR-ARBITRATOR BEFORE AN IMPASSE IS DECLARED.

20 (3) IF THE MEDIATOR-ARBITRATOR FINDS IN THE
21 MEDIATOR-ARBITRATOR'S SOLE DISCRETION THAT THE PARTIES ARE AT A BONA
22 FIDE IMPASSE OR ON FEBRUARY 1, WHICHEVER OCCURS EARLIER, THE
23 MEDIATOR-ARBITRATOR SHALL DIRECT THE PARTIES TO SUBMIT:

24 (I) A JOINT MEMORANDUM LISTING ALL ITEMS TO WHICH THE
25 PARTIES PREVIOUSLY AGREED; AND

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

29 (4) (I) ON OR BEFORE FEBRUARY 10, THE MEDIATOR-ARBITRATOR
30 SHALL HOLD A NONPUBLIC HEARING ON THE PARTIES' PROPOSALS AT A TIME, DATE,
31 AND PLACE SELECTED BY THE MEDIATOR-ARBITRATOR.

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

34 (III) THE MEDIATOR-ARBITRATOR MAY NOT OPEN THE HEARING TO
35 A PERSON WHO IS NOT A PARTY TO THE MEDIATION-ARBITRATION.

36 (5) (I) ON OR BEFORE FEBRUARY 15, THE MEDIATOR-ARBITRATOR
37 SHALL ISSUE A REPORT SELECTING BETWEEN THE FINAL OFFERS SUBMITTED BY

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

3 (II) IN DETERMINING THE MORE REASONABLE OFFER, THE
4 MEDIATOR-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 PRE-COLLECTIVE BARGAINING HISTORY OF EMPLOYEE WAGES,
8 HOURS, BENEFITS, AND OTHER WORKING CONDITIONS;

9 2. A COMPARISON OF WAGES, HOURS, BENEFITS, AND
10 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 CONDITIONS OF EMPLOYMENT OF SIMILAR EMPLOYEES OF PRIVATE EMPLOYERS IN
14 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;

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 MEDIATOR-ARBITRATOR SHALL CONSIDER TO BE INTEGRATED WITH EACH OFFER
26 ALL ITEMS ON WHICH THE PARTIES AGREED PRIOR TO THE
27 MEDIATION-ARBITRATION.

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

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

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

