HOUSE BILL 1103

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2001 Regular Session 1lr0482

By: Montgomery County Delegation and Prince George's County **Delegation** Introduced and read first time: February 9, 2001 Assigned to: Commerce and Government Matters Committee Report: Favorable House action: Adopted Read second time: March 16, 2001 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 Maryland-National Capital Park and Planning Commission and the exclusive 6 7 representative of a bargaining unit for Commission employees begin not later each year than a certain date and end not later than a certain date; requiring 8 9 that negotiations be conducted in good faith; establishing a procedure for 10 resolving a negotiability dispute; repealing certain provisions authorizing the

appointment of a fact finder and the use of fact-finding procedures when there

exclusive representative; establishing procedures requiring the appointment of

a mediator-arbitrator and binding arbitration when there is an impasse; setting

agreements and hold a nonpublic hearing to consider the proposals submitted by the parties; limiting the items which the mediator-arbitrator may consider in

selecting a final offer; prohibiting the arbitrator from compromising or altering the final offer selected; providing that the parties need not ratify, but must

execute, the final offer; providing that the economic terms of the final offer are

subject to being funded by the Montgomery County and Prince George's County

councils; requiring the Commission to request funds for all economic provisions

of the final agreement in the Commission's final budget; requiring the parties to

reopen negotiations if the county councils do not fund all provisions of the final

certain deadlines; requiring the mediator-arbitrator to take certain actions in determining a final reasonable offer; requiring the mediator-arbitrator to direct

is an impasse in collective bargaining between the Commission and the

the parties to submit certain memoranda outlining previous offers and

- 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(1)
- 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.

HOUSE BILL 1103

1 2	SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:				
3		Article	28 - Mar	yland-National Capital Park and Planning Commission	
4	2-112.1.				
	(j) (1) The Commission and an employee organization certified as exclusive representative shall meet and engage in collective bargaining in good faith in regard to the following subjects of bargaining:				
10			at will be	nd wages, including the percentage of the increase in devoted to merit increments and cash as shall be uniform for all employees in the	
12 13	for active employees:	(ii)	On or af	ter June 1, 1994, pension and other retirement benefits	
14 15	vacations;	(iii)	Employe	ee benefits such as insurance, leave, holidays, and	
16		(iv)	Hours a	nd working conditions;	
17 18 19	7 (v) Provisions for the orderly processing and settlement of 8 grievances concerning the interpretation and implementation of a collective 9 bargaining agreement that may include:				
				Binding third party arbitration, provided that the d to, or subtract from the provisions of the	
23			2.	Provisions for the exclusivity of forum;	
24		(vi)	Matters	affecting the health and safety of employees; and	
25 26		(vii) subsecti		ct of the exercise of the Commission's rights and Q) of this section on employees.	
27 28	` /			loes not require the Commission or the employee r to make any concession.	
	exclusive representat	ive shall	make eve	n and an employee organization certified as ery reasonable effort to complete negotiations on's budget submittal deadline.]	
34	THAN SEPTEMBER	NOT BE	EEN REA	COLLECTIVE BARGAINING SHALL BEGIN NOT LATER BEGINNING OF A FISCAL YEAR FOR WHICH AN CHED BETWEEN THE COMMISSION AND THE	

HOUSE BILL 1103

1 2	2. COLLECTIVE BARGAINING SHALL FINISH ON OR BEFORE THE FOLLOWING FEBRUARY 1.
3	(II) DURING THE PERIOD SET IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE PARTIES SHALL NEGOTIATE IN GOOD FAITH.
7 8 9 10	(K) (1) IF A PARTY CONSIDERS A BARGAINING PROPOSAL TO CONTRAVENE THE RIGHTS AND RESPONSIBILITIES OF THE COMMISSION UNDER SUBSECTION (Q) OF THIS SECTION OR THE RIGHTS OF EMPLOYEES OF THE COMMISSION UNDER SUBSECTION (S) OF THIS SECTION OR TO OTHERWISE VIOLATE THIS SECTION, THE PARTY SHALL PETITION THE LABOR RELATIONS ADMINISTRATOR FOR A DETERMINATION OF WHETHER THE BARGAINING PROPOSAL CONSTITUTES A NEGOTIABILITY DISPUTE THAT CONTRAVENES THIS SECTION.
14	(2) THE PROCEDURE FOR RESOLVING A NEGOTIABILITY DISPUTE SHALL FOLLOW THE PROCESS FOR REVIEWING UNFAIR LABOR PRACTICE CHARGES, EXCEPT THAT THE LABOR RELATIONS ADMINISTRATOR MAY SHORTEN THE TIME PERIODS OR ORDER ANY EXPEDITED PROCEDURE APPROPRIATE UNDER THE CIRCUMSTANCES.
	(3) THE LABOR RELATIONS ADMINISTRATOR MAY ORDER A PARTY TO WITHDRAW ALL OR PART OF A BARGAINING PROPOSAL THAT CONTRAVENES THIS SECTION.
	(4) UNLESS APPEALED ON THE BASIS OF BEING ARBITRARY, CAPRICIOUS, OR EXCEEDING THE AUTHORITY OF A PARTY, ANY DECISION AND ORDER REACHED UNDER THIS SUBSECTION IS FINAL.
22 23	[(l) A fact finder may be used in the collective bargaining process whenever:
24 25	(i) The Commission and the employee organization agree to fact-finding; or
26 27	(ii) An impasse results, and the Commission or the employee organization requests fact-finding.
	(2) The fact finder shall be mutually selected by the Commission and the employee organization from a list supplied by the American Arbitration Association or the Federal Mediation and Conciliation Service.
31 32	(3) If agreement cannot be reached on the selection of a fact finder, the fact finder shall be selected by the Labor Relations Administrator.
33	(4) (i) The fact finder shall hold hearings and may administer oaths.
	(ii) Within 30 days after appointment, the fact finder shall give to the Commission and the employee organization a written report with findings and recommendations to resolve the impasse.

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(5)

(I)

HOUSE BILL 1103 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. The Commission and the employee organization shall share equally 4 the costs of the fact finder.] IF THE PARTIES HAVE NOT REACHED AN AGREEMENT ON OR (L) (1) (I) 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 IF THE PARTIES ARE UNABLE TO AGREE ON A (II)10 MEDIATOR-ARBITRATOR, THE LABOR RELATIONS ADMINISTRATOR SHALL NAME THE 11 MEDIATOR-ARBITRATOR ON OR BEFORE DECEMBER 7. 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. DURING THE COURSE OF THE COLLECTIVE BARGAINING EITHER 16 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 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 A SEPARATE MEMORANDUM OF THE PARTY'S LAST FINAL 26 (II)27 OFFER PRESENTED IN NEGOTIATIONS ON ALL ITEMS TO WHICH THE PARTIES DID 28 NOT PREVIOUSLY AGREE. (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. EACH PARTY SHALL SUBMIT EVIDENCE OR MAKE ORAL AND 32 (II)33 WRITTEN ARGUMENT IN SUPPORT OF THE PARTY'S LAST FINAL OFFER. THE MEDIATOR-ARBITRATOR MAY NOT OPEN THE HEARING TO 34 (III)

35 A PERSON WHO IS NOT A PARTY TO THE MEDIATION-ARBITRATION.

37 SHALL ISSUE A REPORT SELECTING BETWEEN THE FINAL OFFERS SUBMITTED BY

ON OR BEFORE FEBRUARY 15, THE MEDIATOR-ARBITRATOR

- **HOUSE BILL 1103** 1 THE PARTIES THAT THE MEDIATOR-ARBITRATOR DETERMINES TO BE MORE 2 REASONABLE, VIEWED AS A WHOLE. (II)IN DETERMINING THE MORE REASONABLE OFFER, THE 4 MEDIATOR-ARBITRATOR MAY CONSIDER ONLY THE FOLLOWING FACTORS: 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 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: 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; THE EFFECTS OF ANY ECONOMIC ADJUSTMENTS ON THE 18 6 19 STANDARD OF PUBLIC SERVICES NORMALLY PROVIDED BY THE EMPLOYER; AND THE ANNUAL INCREASE OR DECREASE IN CONSUMER 20 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 IN DETERMINING THE MOST REASONABLE OFFER. THE (III)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. (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. THE MEDIATOR-ARBITRATOR MAY NOT COMPROMISE OR ALTER THE 32 33 FINAL OFFER THAT THE MEDIATOR-ARBITRATOR SELECTS.
- 34 SUBJECT TO SUB-SUBPARAGRAPH 2 OF THIS (I)1. 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.

- 1 2. THE ECONOMIC PROVISIONS OF THE FINAL AGREEMENT
- 2 ARE SUBJECT TO FUNDING BY THE MONTGOMERY COUNTY AND PRINCE GEORGE'S
- 3 COUNTY COUNCILS.
- 4 3. THE COMMISSION SHALL REQUEST FUNDS IN THE
- 5 COMMISSION'S FINAL BUDGET FROM THE COUNTY COUNCILS FOR ALL ECONOMIC
- 6 PROVISIONS OF THE FINAL AGREEMENT.
- 7 (II) THE PARTIES SHALL EXECUTE AN AGREEMENT
- 8 INCORPORATING THE FINAL AGREEMENT, INCLUDING ARBITRATION AWARDS AND
- 9 ALL ISSUES AGREED TO UNDER THIS SECTION.
- 10 (8) THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL
- 11 SHARE EQUALLY IN PAYING THE COSTS OF THE ARBITRATOR'S SERVICES.
- 12 (o) (2) Unless the Montgomery County and Prince George's County Councils
- 13 approve the Commission's budget so as to [implement] APPROVE the terms of the
- 14 collective bargaining agreement, the Commission [or an] AND THE employee
- 15 organization, within [20] 5 days after [final budget action, may give written notice to
- 16 the other party that it is reopening] THE JOINT COUNTY COUNCIL MEETING, SHALL
- 17 REOPEN the negotiated agreement AND BARGAIN WITH RESPECT TO THE PROVISIONS
- 18 OF THE AGREEMENT NOT APPROVED BY THE COUNTY COUNCILS.
- 19 (p) If a provision in a collective bargaining agreement is ruled invalid or is not
- 20 funded by Montgomery County or Prince George's County, the remainder of the
- 21 agreement remains in effect unless reopened under subsection [(n)] (O)(2) of this
- 22 section.
- 23 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 24 October 1, 2001 and shall apply to all bargaining cycles that begin after the effective
- 25 date of this Act.