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By: **Montgomery County Delegation**  
Introduced and read first time: February 6, 2002  
Assigned to: Commerce and Government Matters

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A BILL ENTITLED

1 AN ACT concerning

2                                   **Housing Opportunities Commission of Montgomery County - Binding**  
3   **Arbitration**  
4   **MC 209-02**

5 FOR the purpose of requiring that collective bargaining between the Housing  
6 Opportunities Commission of Montgomery County and the exclusive  
7 representative of a bargaining unit for Commission employees begin each year  
8 not later 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 Council; requiring the  
24 Commission to request funds for all economic provisions of the final agreement  
25 in the Commission's final budget; requiring the parties to reopen negotiations if  
26 the county council does not fund all provisions of the final agreement; providing  
27 for the treatment of the final offer; requiring the parties to share equally in  
28 paying the costs of arbitration; making certain stylistic changes; providing for  
29 the application of this Act; and generally relating to procedures for the  
30 appointment of a mediator-arbitrator and binding arbitration in collective  
31 bargaining between the Housing Opportunities Commission of Montgomery  
32 County and the exclusive representative of a bargaining unit for Commission  
33 employees.

34 BY renumbering

1 Article 44A - Housing Authorities  
2 Section 2-106(k), (m), (n), (o), (p), (q), (r), (s), (t), and (u), respectively  
3 to be 2-106(m), (n), (o), (p), (q), (r), (s), (t), (u), and (v), respectively  
4 Annotated Code of Maryland  
5 (1998 Replacement Volume and 2001 Supplement)

6 BY repealing and reenacting, with amendments,  
7 Article 44A - Housing Authorities  
8 Section 2-106(j)  
9 Annotated Code of Maryland  
10 (1998 Replacement Volume and 2001 Supplement)

11 BY adding to  
12 Article 44A - Housing Authorities  
13 Section 2-106(k) and (l)  
14 Annotated Code of Maryland  
15 (1998 Replacement Volume and 2001 Supplement)

16 BY repealing  
17 Article 44A - Housing Authorities  
18 Section 2-106(l)  
19 Annotated Code of Maryland  
20 (1998 Replacement Volume and 2001 Supplement)

21 BY repealing and reenacting, with amendments,  
22 Article 44A - Housing Authorities  
23 Section 2-106(o)(2) and (p)  
24 Annotated Code of Maryland  
25 (1998 Replacement Volume and 2001 Supplement)  
26 (As enacted by Section 1 of this Act)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
28 MARYLAND, That Section(s) 2-106(k), (m), (n), (o), (p), (q), (r), (s), (t), and (u),  
29 respectively, of Article 44A - Housing Authorities of the Annotated Code of Maryland  
30 be renumbered to be Section(s) 2-106(m), (n), (o), (p), (q), (r), (s), (t), (u), and (v),  
31 respectively.

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

**Article 44A - Housing Authorities**

2 2-106.

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) Pension and other retirement benefits for active employees;

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

13 (iv) Hours and working conditions;

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

17 1. Binding third party arbitration, provided that:

18 A. The Commission and the employee organization share the  
19 costs of binding arbitration equally; and

20 B. The arbitrator has no authority to amend, add to, or  
21 subtract from the provisions of the collective bargaining agreement; and

22 2. Provisions for the exclusivity of forum;

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

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

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

28 (3) (I) [The Commission and an employee organization certified as  
29 exclusive representative shall make every reasonable effort to complete negotiations  
30 at least 2 months prior to the Commission's budget submittal deadline.] THE  
31 COMMISSION AND AN EMPLOYEE ORGANIZATION CERTIFIED AS EXCLUSIVE  
32 REPRESENTATIVE:

33 1. MAY NOT BEGIN TO ENGAGE IN COLLECTIVE BARGAINING  
34 LATER THAN SEPTEMBER 1 BEFORE THE BEGINNING OF A FISCAL YEAR FOR WHICH  
35 AN AGREEMENT HAS NOT BEEN REACHED; AND



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 PRECOLLECTIVE 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;

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.

