

1 Commission does not fund all provisions of the final agreement; providing for
2 the treatment of the final offer; requiring the parties to share equally in paying
3 the costs of arbitration; making certain stylistic changes; providing for the
4 application of this Act; and generally relating to procedures for the appointment
5 of a mediator-arbitrator and binding arbitration in collective bargaining
6 between the Housing Opportunities Commission of Montgomery County and the
7 exclusive representative of a bargaining unit for Commission employees.

8 BY renumbering

9 Article 44A - Housing Authorities
10 Section 2-106(k), (m), (n), (o), (p), (q), (r), (s), (t), and (u), respectively
11 to be 2-106(m), (n), (o), (p), (q), (r), (s), (t), (u), and (v), respectively
12 Annotated Code of Maryland
13 (1998 Replacement Volume and 2001 Supplement)

14 BY repealing and reenacting, with amendments,

15 Article 44A - Housing Authorities
16 Section 2-106(j)
17 Annotated Code of Maryland
18 (1998 Replacement Volume and 2001 Supplement)

19 BY adding to

20 Article 44A - Housing Authorities
21 Section 2-106(k) and (l)
22 Annotated Code of Maryland
23 (1998 Replacement Volume and 2001 Supplement)

24 BY repealing

25 Article 44A - Housing Authorities
26 Section 2-106(l)
27 Annotated Code of Maryland
28 (1998 Replacement Volume and 2001 Supplement)

29 BY repealing and reenacting, with amendments,

30 Article 44A - Housing Authorities
31 Section 2-106(o)(2) and (p)
32 Annotated Code of Maryland
33 (1998 Replacement Volume and 2001 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) 2-106(k), (m), (n), (o), (p), (q), (r), (s), (t), and (u),
37 respectively, of Article 44A - Housing Authorities of the Annotated Code of Maryland
38 be renumbered to be Section(s) 2-106(m), (n), (o), (p), (q), (r), (s), (t), (u), and (v),
39 respectively.

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

3 **Article 44A - Housing Authorities**

4 2-106.

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) Pension and other retirement benefits for active employees;

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

15 (iv) Hours and working conditions;

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

19 1. Binding third party arbitration, provided that:

20 A. The Commission and the employee organization share the
21 costs of binding arbitration equally; and

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

24 2. Provisions for the exclusivity of forum;

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

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

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

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

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

4 2. SHALL COMPLETE COLLECTIVE BARGAINING ON OR
5 BEFORE THE FOLLOWING FEBRUARY 1.

6 (II) DURING THE PERIOD SET FORTH IN SUBPARAGRAPH (I) OF THIS
7 PARAGRAPH, THE PARTIES SHALL NEGOTIATE IN GOOD FAITH.

8 (K) (1) IF A PARTY CONSIDERS A BARGAINING PROPOSAL TO CONTRAVENE
9 THE RIGHTS AND RESPONSIBILITIES OF THE COMMISSION UNDER SUBSECTION (S)
10 OF THIS SECTION OR TO OTHERWISE VIOLATE THIS SECTION, THE PARTY SHALL
11 PETITION THE LABOR RELATIONS ADMINISTRATOR FOR A DETERMINATION OF
12 WHETHER THE BARGAINING PROPOSAL CONSTITUTES A NEGOTIABILITY DISPUTE
13 THAT CONTRAVENES THIS SECTION.

14 (2) THE PROCEDURE FOR RESOLVING A NEGOTIABILITY DISPUTE SHALL
15 FOLLOW THE PROCEDURE FOR REVIEWING UNFAIR LABOR PRACTICE CHARGES,
16 EXCEPT THAT THE LABOR RELATIONS ADMINISTRATOR MAY SHORTEN THE TIME
17 PERIODS OR ORDER ANY EXPEDITED PROCEDURE APPROPRIATE UNDER THE
18 CIRCUMSTANCES.

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

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

25 [(1) (1) A fact finder may be used in the collective bargaining process
26 whenever:

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

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

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

34 (3) If agreement cannot be reached on the selection of a fact finder, the
35 fact finder shall be selected by the labor relations administrator.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (5) (I) ON OR BEFORE FEBRUARY 15, THE MEDIATOR-ARBITRATOR
2 SHALL ISSUE A REPORT SELECTING BETWEEN THE FINAL OFFERS SUBMITTED BY
3 THE PARTIES, EXCLUSIVE OF WAGES, THAT THE MEDIATOR-ARBITRATOR
4 DETERMINES TO BE MORE REASONABLE, VIEWED AS A WHOLE.

5 (II) IN DETERMINING THE MORE REASONABLE OFFER, THE
6 MEDIATOR-ARBITRATOR MAY CONSIDER ONLY THE FOLLOWING FACTORS:

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

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

14 3. A COMPARISON OF ~~WAGES~~, HOURS, BENEFITS, AND
15 CONDITIONS OF EMPLOYMENT OF SIMILAR EMPLOYEES OF PRIVATE EMPLOYERS IN
16 MONTGOMERY COUNTY;

17 4. THE PUBLIC INTEREST AND WELFARE;

18 5. THE ABILITY OF THE EMPLOYER TO FINANCE ANY
19 ECONOMIC ADJUSTMENTS REQUIRED UNDER THE PROPOSED AGREEMENT;

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

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

26 (III) IN DETERMINING THE MOST REASONABLE OFFER, THE
27 MEDIATOR-ARBITRATOR SHALL CONSIDER TO BE INTEGRATED WITH EACH OFFER
28 ALL ITEMS ON WHICH THE PARTIES AGREED PRIOR TO THE
29 MEDIATION-ARBITRATION.

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

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

36 (7) (I) 1. SUBJECT TO SUB-SUBPARAGRAPH 2 OF THIS
37 SUBPARAGRAPH, WITHOUT RATIFICATION BY THE PARTIES, THE OFFER SELECTED
38 BY THE MEDIATOR-ARBITRATOR, AS INTEGRATED WITH THE ITEMS ON WHICH THE

