Unofficial Copy L5 2002 Regular Session 2lr0487

By: Prince George's County Deleg	gation and Montgomery County	7

Delegation

Introduced and read first time: February 6, 2002 Assigned to: Commerce and Government Matters Reassigned: Appropriations, February 12, 2002

Committee Report: Favorable House action: Adopted

Read second time: March 23, 2002

CHAPTER

1 AN ACT concerning

2 Maryland-National Capital Park and Planning Commission - Park Police
3 Officers - Binding Arbitration
4 PG/MC 110-02

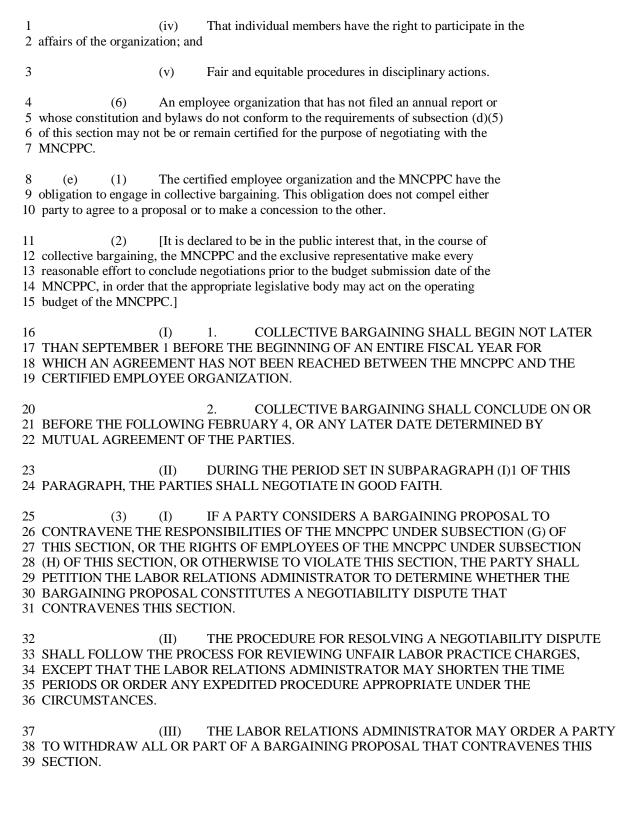
- 5 FOR the purpose of establishing procedures for binding arbitration between the
- 6 Maryland-National Capital Park and Planning Commission and park police
- officers; providing for the appointment of a labor relations administrator in a
- 8 certain manner; requiring that collective bargaining between the Commission
- and the exclusive representative of the bargaining unit for park police officers to
- begin not later than a certain date each year and to end not later than a certain
- date each year; requiring that negotiations be conducted in good faith;
- establishing a procedure for resolving a negotiability dispute; repealing certain
- provisions authorizing the appointment of a fact finder and the use of
- fact-finding procedures; establishing procedures for the appointment of an
- arbitrator and for binding arbitration under certain circumstances; setting
- certain deadlines; requiring the arbitrator to take certain actions in determining
- a final reasonable offer; requiring the arbitrator to direct the parties to submit
- certain memoranda; limiting the items which the arbitrator may consider in
- selecting a final offer; prohibiting the arbitrator from compromising or altering
- 20 the final offer selected; providing that the parties need not ratify, but must
- 21 execute, the final offer; providing for the treatment of the final offer; providing
- 22 that the economic terms of the final offer are subject to being funded by the
- 23 Montgomery and Prince George's county councils; requiring the Commission to
- 24 request funds for all economic provisions of the final agreement in the
- Commission's final budget; requiring the parties to reopen negotiations if the

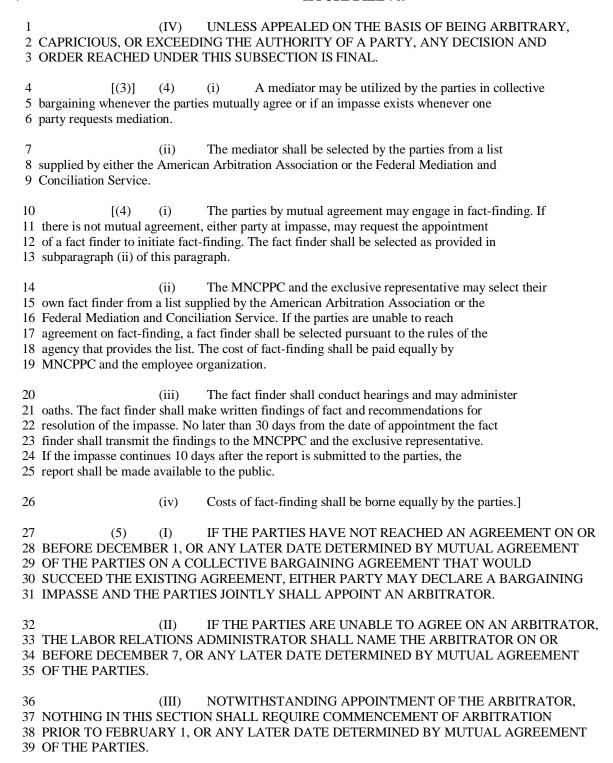
1 2 3 4 5 6 7	county councils do not fund all provisions of the final agreement; requiring the parties to share equally in paying the costs of arbitration; clarifying the rights and responsibilities of the Commission; making certain stylistic changes; defining certain terms; providing for the application of this Act; and generally relating to collective bargaining between the Maryland-National Capital Park and Planning Commission and the exclusive representative for park police officers.						
8 9 10 11 12	Section 5-114.1 Annotated Code of Maryland						
13 14			IT ENACTED BY THE GENERAL ASSEMBLY OF the Laws of Maryland read as follows:				
15			Article 28 - Maryland-National Capital Park and Planning Commission				
16	5-114.1.						
17	(a)	(1)	In this section the following words have the meanings indicated.				
18 19	Planning C	(2) ommissio	"MNCPPC" means the Maryland-National Capital Park and n.				
	Maryland-Norganizatio		"Agreement" means a written contract between the Capital Park and Planning Commission and an employee				
	grievance d		"Arbitration" means a procedure whereby parties involved in a omit their differences to an impartial 3rd party for a final and				
26 27	or below th	(5) e rank of	"Bargaining unit" includes all employees who are ranked as sergeant sergeant, except a confidential employee.				
30	their mutua	l obligation	"Collective bargaining" means the performance by the certified on through its designated representative and the MNCPPC, of ons to negotiate in good faith with respect to wages, hours, and itions of employment.				
32 33	Industry or	(7) his design	"Commissioner" means the State Commissioner of Labor and nee.				
34		(8)	"Confidential employee" means an employee who:				
35			(i) Assists and acts in a confidential capacity;				

1 2	(ii) Formulates and effectuates MNCPPC policies with regard to collective bargaining with employees; or
	(iii) Has access to confidential information not generally available to employees regarding the formulation and effectuation of policies that concern collective bargaining.
6 7	(9) "Employee" means a police officer who is ranked as a sergeant or below the rank of sergeant employed by MNCPPC.
	(10) "Employee organization" means any organization of employees which has as one of its primary purposes representing law enforcement employees in collective bargaining.
	(11) "Exclusive representative" means an employee organization that has been certified by the Commissioner as representing the employees of the bargaining unit.
16	(12) ["Fact-finding" means identification of the major issues in a particular impasse, review of the positions of the parties and resolution of factual differences by an impartial individual or panel, and the making of recommendations for settlement of the impasse.
	(13)] "Grievance" means a dispute concerning the application or interpretation of the terms of the collective bargaining agreement or the rules and regulations of the MNCPPC.
23	[(14)] (13) "Impasse" means failure of the MNCPPC and an exclusive representative to achieve agreement at least 30 days before the date that the MNCPPC budget is due for submission to the Montgomery County Council and the Prince George's County Council.
25 26	[(15)] (14) "LABOR RELATIONS ADMINISTRATOR" MEANS AN EXPERIENCED NEUTRAL PARTY.
	(15) "Mediation" means assistance by an impartial 3rd party to reconcile a dispute arising out of collective bargaining through interpretation, suggestion, and advice.
32 33	(16) "Strike" means an employee's refusal, in concerted action with others, to report for duty, or willful absence from the position, or stoppage of work, or abstinence in whole or in part from the proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in the wages, hours, or other terms and conditions of employment.
35 36	(17) "Supervisory employee" means an employee who serves at the rank or title of captain and above.

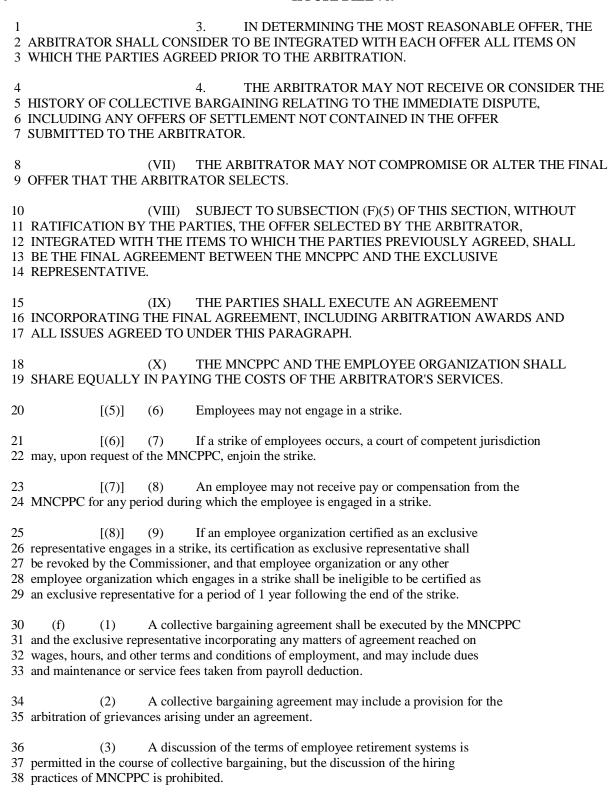
			THE LABOR RELATIONS ADMINISTRATOR SHALL BE APPOINTED HE MNCPPC AND THE EXCLUSIVE REPRESENTATIVE FROM ON WHICH THEY AGREE.
			IF NO EXCLUSIVE REPRESENTATIVE HAS BEEN CERTIFIED TO DEFINE BARGAINING UNIT, THE MNCPPC SHALL APPOINT DMINISTRATOR FOR A TERM NOT TO EXCEED 1 YEAR.
			A LABOR RELATIONS ADMINISTRATOR IS ELIGIBLE FOR AY BE THE SAME PERSON AS THE LABOR RELATIONS FED UNDER § 2-112.1 OF THIS ARTICLE.
12 13	bargaining unit, the d mutually agreed on fi the Federal Mediation	lispute sharom a list n and Cor	ute exists that concerns the eligibility of an employee in the all be submitted to [a neutral 3rd party who is provided by the American Arbitration Association or aciliation Service] THE LABOR RELATIONS I and binding arbitration.
15 16	(c) (1) conducted by the Cor		ly 1, 1986, an election for an exclusive representative shall be er.
17	(2)	A petitio	on for an election may be submitted by:
	the police officers in by an exclusive repre		An employee organization that demonstrates that 30 percent of ing unit wish to be represented for collective bargaining;
23			An employee, a group of employees, or an employee that 35 percent of the employees certify that the ative is no longer the representative of the majority of
27	certified as the exclus	sive repre	The MNCPPC demonstrating that 1 or more employee it a claim, supported by substantial proof, to be sentative, and the Commissioner finds, on at a valid question of representation exists.
29	(3)	There sh	all be on the ballot:
30 31	the valid petition;	(i)	The name or names of the employee organization submitting
	designated on a valid	(ii) petition s	The name of any other employee organization or organizations signed by more than 10 percent of the bargaining unit;
35		(iii)	A provision for "no representation".
36 37	` '		oction where none of the choices on the ballot receives a noff election shall be conducted, with the ballot

2 3 4	providing for a selection between the 2 choices receiving the highest number of ballots cast in the election. An employee organization that receives a majority of votes cast in an election shall be certified by the Commissioner as the exclusive representative for collective bargaining purposes. An employee organization may not be certified as an exclusive representative, except pursuant to the provisions of this section.			
6	(5)	All elec	tions shall be conducted:	
7		(i)	By secret ballot; and	
8		(ii)	By the Commissioner.	
9 10	(6) within the preceding		ns may not be conducted if a valid election has been held	
	(d) (1) the exclusive repres bargaining and in the	sentative th	NCPPC shall extend to an employee organization certified as ne right to represent the employees in collective ent of grievances.	
16	represent fairly and	argaining a without d	oloyee organization certified as the exclusive representative agent for the bargaining unit. The organization shall iscrimination all public employees without regard to embers of the employee organization.	
20	the employee organ	ative shall ization's c	mployee organization which has or seeks certification as an file with the MNCPPC and the Commissioner, a copy of onstitution and bylaws. All changes and amendments to nall be promptly reported.	
22 23	(4) MNCPPC and the 0		mployee organization shall file an annual report with the oner. The annual report shall include a financial report:	
24 25	officers; and	(i)	Signed by its president and treasurer or corresponding principal	
26 27	disclose its financia	(ii) ll condition	Contain information in such detail as necessary to accurately and operations.	
28 29	(5) provide:	The con	stitution or bylaws of every employee organization shall	
30 31	regard to age, race,	(i) sex, religi	A pledge that the organization will accept members without on, marital status, or national origin;	
	financial report. Th organization;	(ii) e accounts	Accurate accounts of all income and expenses and an annual shall be open for inspection by any member of the	
35 36	safeguards;	(iii)	Periodic elections by secret ballot subject to recognized	





(IV) ON OR BEFORE FEBRUARY 1, OR ANY LATER DATE DETERMINED 2 BY MUTUAL AGREEMENT OF THE PARTIES, THE ARBITRATOR SHALL DIRECT THE 3 PARTIES TO SUBMIT: A JOINT MEMORANDUM LISTING ALL ITEMS TO WHICH 1. 5 THE PARTIES PREVIOUSLY AGREED; AND A SEPARATE MEMORANDUM OF THE PARTY'S LAST FINAL 6 2. 7 OFFER PRESENTED IN NEGOTIATIONS ON ALL ITEMS TO WHICH THE PARTIES DID 8 NOT PREVIOUSLY AGREE. 9 (V) ON OR BEFORE FEBRUARY 10, OR ANY LATER DATE 1. 10 DETERMINED BY MUTUAL AGREEMENT OF THE PARTIES. THE ARBITRATOR SHALL 11 HOLD A NONPUBLIC HEARING ON THE PARTIES' PROPOSALS AT A TIME, DATE, AND 12 PLACE SELECTED BY THE ARBITRATOR. 13 EACH PARTY SHALL SUBMIT EVIDENCE OR MAKE ORAL 14 AND WRITTEN ARGUMENTS IN SUPPORT OF THE PARTY'S LAST FINAL OFFER. THE ARBITRATOR MAY NOT OPEN THE HEARING TO A 15 3. 16 PERSON WHO IS NOT A PARTY TO THE ARBITRATION. 17 ON OR BEFORE FEBRUARY 15, OR ANY LATER DATE (VI) 1. 18 DETERMINED BY MUTUAL AGREEMENT OF THE PARTIES, THE ARBITRATOR SHALL 19 ISSUE A REPORT SELECTING BETWEEN THE FINAL OFFERS SUBMITTED BY THE 20 PARTIES THAT THE ARBITRATOR DETERMINES TO BE MORE REASONABLE, VIEWED 21 AS A WHOLE. 22 IN DETERMINING THE MORE REASONABLE OFFER, THE 23 ARBITRATOR MAY CONSIDER ONLY THE FOLLOWING FACTORS: 24 PAST COLLECTIVE BARGAINING CONTRACTS BETWEEN A. 25 THE PARTIES, INCLUDING THE PAST BARGAINING HISTORY THAT LED TO THE 26 AGREEMENT OR THE PRECOLLECTIVE BARGAINING HISTORY OF EMPLOYEE WAGES, 27 HOURS, BENEFITS, AND OTHER WORKING CONDITIONS: 28 B. A COMPARISON OF WAGES, HOURS, BENEFITS, AND 29 OTHER CONDITIONS OF EMPLOYMENT OF POLICE OFFICERS IN MONTGOMERY 30 COUNTY AND PRINCE GEORGE'S COUNTY: C. 31 THE PUBLIC INTEREST AND WELFARE; 32 D. THE ABILITY OF THE EMPLOYER TO FINANCE ANY 33 ECONOMIC ADJUSTMENTS REQUIRED UNDER THE PROPOSED AGREEMENT; AND E. THE EFFECTS OF ANY ECONOMIC ADJUSTMENTS ON THE 34 35 STANDARD OF PUBLIC SERVICES NORMALLY PROVIDED BY THE EMPLOYER.



1 2	(4) regulations, and admir		ns of the agreement shall supersede any conflicting rules, policies of the MNCPPC.
		INCPPC	juest for funds necessary to implement the agreement shall in a timely fashion for consideration in the budget nty and Montgomery County.]
	SUBJECT TO FUND COUNCILS.	(I) ING BY	THE ECONOMIC PROVISIONS OF A FINAL AGREEMENT ARE THE MONTGOMERY AND PRINCE GEORGE'S COUNTY
	BUDGET FROM TH AGREEMENT.	(II) IE COUN	THE MNCPPC SHALL REQUEST FUNDS IN THE MNCPPC'S FINAL TY COUNCILS FOR ALL ECONOMIC PROVISIONS OF A FINAL
14 15 16	Montgomery County, after final budget acti agreement AND BAH	rejected , either pa on by the RGAIN V	puest for funds necessary to implement the agreement is by the governing bodies of Prince George's County and urty to the agreement [may], no later than [20] 5 days governing bodies, SHALL reopen the NEGOTIATED VITH RESPECT TO THE PROVISIONS OF THE AGREEMENT COUNTY COUNCILS.
20	RULED INVALID O GEORGE'S COUNT	OR IS NO Y, THE I	OVISION IN A COLLECTIVE BARGAINING AGREEMENT IS T FUNDED BY MONTGOMERY COUNTY AND PRINCE REMAINDER OF THE AGREEMENT REMAINS IN EFFECT R PARAGRAPH (6) OF THIS SUBSECTION.
22	(g) [The M	NCPPC n	nay:
		ited to the	ne how the statutory mandate and goals of the MNCPPC, e functions and programs of the MNCPPC, its overall tructure, are to be carried out; and
26	(2)	Direct p	ersonnel, subject to the collective bargaining agreement.]
	()	Y AGRE	T TO THE APPLICABLE LAWS AND REGULATIONS, THIS EMENT MADE UNDER IT MAY NOT IMPAIR THE RIGHTS AND EMNCPPC TO:
30 31	MNCPPC;	(I)	DETERMINE THE OVERALL BUDGET AND MISSION OF THE
32 33	EFFECTIVENESS C	(II) OF OPER	MAINTAIN AND IMPROVE THE EFFICIENCY AND ATIONS;
34 35	OPERATIONS TO E	(III) BE PERF	DETERMINE THE SERVICES TO BE RENDERED AND THE DRMED;
36 37			DETERMINE THE LOCATION OF THE FACILITIES AND OVERALL TURE, METHODS, PROCESSES, MEANS, JOB

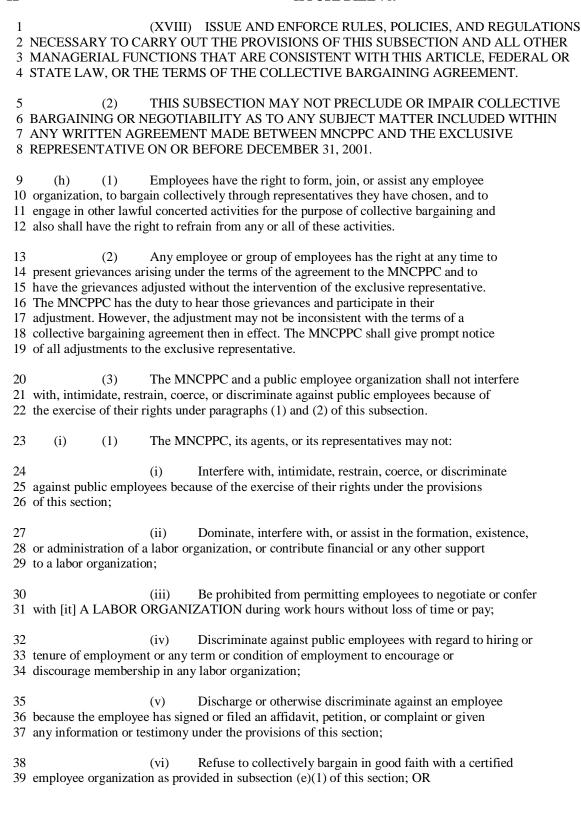
LI			HOUSE BILL 709
	CLASSIFICATIONS CONDUCTED;	, AND Pl	ERSONNEL BY WHICH OPERATIONS ARE TO BE
3		(V)	DIRECT AND SUPERVISE EMPLOYEES;
4 5	PROMOTION OF EM	(VI) MPLOYE	HIRE, SELECT, AND ESTABLISH THE STANDARDS GOVERNING SES AND CLASSIFYING POSITIONS;
	WORK OR FUNDS O		RELIEVE EMPLOYEES FROM DUTIES BECAUSE OF LACK OF N THE MNCPPC DETERMINES CONTINUED WORK WOULD RODUCTIVE;
9		(VIII)	TRANSFER AND SCHEDULE EMPLOYEES;
10 11	WORKFORCE;	(IX)	DETERMINE THE SIZES, GRADES, AND COMPOSITION OF THE
12		(X)	SET THE STANDARDS OF PRODUCTIVITY AND TECHNOLOGY;
			ESTABLISH EMPLOYEE PERFORMANCE STANDARDS AND EXCEPT THAT EVALUATION AND ASSIGNMENT PROCEDURES FAINING;
			MAKE AND IMPLEMENT SYSTEMS FOR AWARDING NCREMENTS, EXTRAORDINARY PERFORMANCE AWARDS, RDS;
19 20	DEVELOPMENT, A	(XIII) AND SER	INTRODUCE NEW OR IMPROVED TECHNOLOGY, RESEARCH VICES;
23			CONTROL AND REGULATE THE USE OF MACHINERY PROPERTY AND FACILITIES OF THE MNCPPC SUBJECT TO TO MATTERS AFFECTING THE HEALTH AND SAFETY OF
25		(XV)	MAINTAIN INTERNAL SECURITY STANDARDS;
28 29 30 31	JOB CLASSIFICAT SERVICE, PROVID EMPLOYEES MAY WRITTEN NOTICE	ED THA BE UNI TO THE	CREATE, ALTER, COMBINE, CONTRACT OUT, OR ABOLISH ANY PARTMENT, OPERATION, UNIT, OR OTHER DIVISION OR T NO CONTRACTING OF WORK THAT WILL DISPLACE DERTAKEN BY THE MNCPPC UNLESS THE MNCPPC GIVES CERTIFIED REPRESENTATIVE AT LEAST 90 DAYS BEFORE OR WITHIN A DIFFERENT PERIOD OF TIME AS AGREED BY

(XVII) SUSPEND, DISCHARGE, OR OTHERWISE DISCIPLINE

34 EMPLOYEES FOR CAUSE, SUBJECT TO THE GRIEVANCE PROCEDURE SET FORTH IN

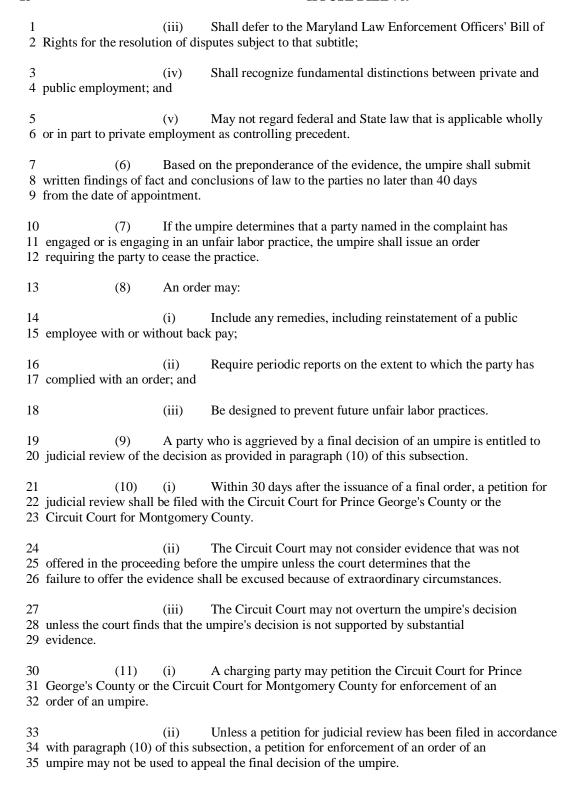
35 THE COLLECTIVE BARGAINING AGREEMENT;

33



1 2	fact-finding as provid-	(vii) ed in subs	[Refuse to participate in good faith in the procedures for section (e)(4) of this section; or
3		(viii)]	Refuse or fail to comply with any provision of this section.
4 5	(2) representatives may n		ees of the MNCPPC, a labor organization, its agents, or its
	against an employee i section;	(i) n the exer	Interfere with, intimidate, restrain, coerce, or discriminate reise of the employee's rights provided under this
9 10	a public employee in	(ii) violation	Cause or attempt to cause the MNCPPC to discriminate against of paragraph (1)(iv) of this subsection;
13		lusive rep	Refuse to collectively bargain in good faith with the MNCPPC) of this section, if a labor organization has been bresentative of employees in a unit in accordance with) of this section;
15 16	fact-finding as provid	(iv) led in sub	[Refuse to participate in good faith in the procedures for section (e)(4) of this section;
17 18	section; or	(v)]	Engage in a strike in violation of subsection [(e)(5)] (E)(6) of this
19		[(vi)]	(V) Refuse or fail to comply with any provision of this section.
22 23	unfair labor practice	hic, or visunder any	ession of any views, arguments, or opinions, whether oral or sual form, may not constitute or be evidence of an of the provisions of this section, if the expression does or force, a promise of benefit, or a misrepresentation of
27 28 29	exclusive representat pay a maintenance or	C from no ive that reservice for the agree	in this section or in any other federal or State law may making a collective bargaining agreement with an equires an employee, as a condition of employment, to see as a contribution towards the cost of the negotiation ement, in an amount not greater than the regular ve representative.
31 32	(2) maintenance or service		ne MNCPPC discharges an employee who fails to pay a shall give the employee:
33		(i)	Written notice of the delinquent payment; and
34		(ii)	Adequate time to correct the delinquency.

	(3) the issue shall be subsubsection (k) of this	nitted to	NCPPC and the employee are unable to resolve the fee issue, an umpire in accordance with the provisions of
4 5	(k) (1) organization has enga		arge that the MNCPPC, a public employee, or a labor unfair labor practice shall:
6		(i)	Be in writing;
7 8	facts cannot be stated	(ii) in detail,	State concisely and simply the facts that are asserted or if the the issues that are involved; and
9 10	the violation within 1	(iii) 80 days o	Be served personally on the party alleged to have engaged in of the alleged violation.
	(2) matter, the charge sh rules:		parging party and the charged party are unable to resolve the smitted to an umpire selected according to the following
	list of 5 nominees ag Director of the [Com		The [Commission] MNCPPC shall appoint the umpire from a by the exclusive representative and the Executive MNCPPC.
17 18	reappointment.	(ii)	The umpire shall serve for 2 years and be eligible for
19 20	forth by agreement o	(iii) f the parti	1. The fees and expenses of the umpire shall be paid as set ies.
21 22	share equally the um	pire's cos	2. Unless otherwise provided by agreement, the parties shall ts.
23 24	[Commission] MNC	(iv) PPC or th	The umpire may not be otherwise employed by either the se exclusive representative.
25	(3)	The pow	ver of the umpire is exclusive.
26 27	(4) evidence.	The ump	pire may not require compliance with the technical rules of
28	(5)	The ump	pire:
29 30	this section, charges	(i) of engagi	Shall investigate and attempt to resolve or settle, as provided in ng in prohibited practices;
33		e grievan	Shall defer to any valid grievance procedure adopted by the the exclusive representative for the resolution of ce procedure, unless the deferral would result in a is section:



- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2002 and shall apply to all bargaining cycles that begin after the effective date of this Act.