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

Introduced and read first time: February 9, 2006

Assigned to: Appropriations

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A BILL ENTITLED

1 AN ACT concerning

2 **Maryland-National Capital Park and Planning Commission - Park Police**  
3 **Officers - Collective Bargaining**  
4 **PG/MC 123-06**

5 FOR the purpose of altering the time period within which collective bargaining shall  
6 conclude between the Maryland-National Capital Park and Planning  
7 Commission (MNCPPC) and the certified employee organization; requiring that  
8 on or before a certain date and under certain circumstances the parties shall  
9 jointly appoint an arbitrator; altering the circumstances by which each party  
10 shall notify the arbitrator regarding an impasse; altering the date by which the  
11 labor relations administrator shall name an arbitrator if the parties are unable  
12 to agree on an arbitrator; requiring that the certified employee organization and  
13 the MNCPPC submit a tentative agreement to certain persons for ratifications if  
14 an agreement is reached on or before a certain date; requiring that all terms of  
15 a tentative agreement be null and void if certain persons fail to ratify the  
16 tentative agreement; prohibiting negotiation during a certain time period if  
17 certain persons fail to ratify a tentative agreement; requiring the parties to  
18 negotiate in good faith to develop a new tentative agreement on a certain date if  
19 certain persons fail to ratify a tentative agreement; requiring the parties to  
20 notify a certain arbitrator that they have reached an impasse if the parties do  
21 not agree to a new tentative agreement on or before a certain date; requiring  
22 that the economic provisions of a final agreement shall be applied in a certain  
23 manner under certain circumstances; altering the time period within which  
24 commencement of arbitration is not required to take place; altering the time  
25 periods within which the arbitrator is required to direct the parties to submit  
26 certain memoranda, to hold a certain hearing, and to issue a certain report;  
27 making a technical change; and generally relating to collective bargaining  
28 between the Maryland-National Capital Park and Planning Commission and  
29 the exclusive representative for park police officers.

30 BY repealing and reenacting, with amendments,  
31 Article 28 - Maryland-National Capital Park and Planning Commission  
32 Section 5-114.1(e)

1 Annotated Code of Maryland  
2 (2003 Replacement Volume and 2005 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
4 MARYLAND, That the Laws of Maryland read as follows:

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

6 5-114.1.

7 (e) (1) The certified employee organization and the MNCPPC have the  
8 obligation to engage in collective bargaining. This obligation does not compel either  
9 party to agree to a proposal or to make a concession to the other.

10 (2) (i) 1. Collective bargaining shall begin not later than September  
11 1 before the beginning of an entire fiscal year for which an agreement has not been  
12 reached between the MNCPPC and the certified employee organization.

13 2. A. [Collective] EXCEPT AS PROVIDED IN  
14 SUBSUBSUBPARAGRAPH B OF THIS SUBSUBPARAGRAPH, COLLECTIVE bargaining  
15 shall conclude on or before the following [February] JANUARY 4, or any later date  
16 determined by mutual agreement of the parties.

17 B. IF THE PARTIES REACH A NEW TENTATIVE AGREEMENT  
18 UNDER PARAGRAPH (5)(II)2C OF THIS SUBSECTION, COLLECTIVE BARGAINING SHALL  
19 CONCLUDE ON OR BEFORE THE FOLLOWING APRIL 4, OR ANY LATER DATE  
20 DETERMINED BY MUTUAL AGREEMENT OF THE PARTIES.

21 (ii) During the period set in subparagraph [(i)1] (I) of this  
22 paragraph, the parties shall negotiate in good faith.

23 (3) (i) If a party considers a bargaining proposal to contravene the  
24 responsibilities of the MNCPPC under subsection (g) of this section, or the rights of  
25 employees of the MNCPPC under subsection (h) of this section, or otherwise to violate  
26 this section, the party shall petition the labor relations administrator to determine  
27 whether the bargaining proposal constitutes a negotiability dispute that contravenes  
28 this section.

29 (ii) The procedure for resolving a negotiability dispute shall follow  
30 the process for reviewing unfair labor practice charges, except that the labor relations  
31 administrator may shorten the time periods or order any expedited procedure  
32 appropriate under the circumstances.

33 (iii) The labor relations administrator may order a party to  
34 withdraw all or part of a bargaining proposal that contravenes this section.

35 (iv) Unless appealed on the basis of being arbitrary, capricious, or  
36 exceeding the authority of a party, any decision and order reached under this  
37 subsection is final.

1 (4) (i) A mediator may be utilized by the parties in collective  
2 bargaining whenever the parties mutually agree or if an impasse exists whenever one  
3 party requests mediation.

4 (ii) The mediator shall be selected by the parties from a list  
5 supplied by either the American Arbitration Association or the Federal Mediation and  
6 Conciliation Service.

7 (5) (i) 1. If the parties have not reached an agreement on or before  
8 [December] NOVEMBER 1, or any later date determined by mutual agreement of the  
9 parties on a collective bargaining agreement that would succeed the existing  
10 agreement, [either party may declare a bargaining impasse and] the parties jointly  
11 shall appoint an arbitrator.

12 [(ii)] 2. If the parties are unable to agree on an arbitrator, the  
13 labor relations administrator shall name the arbitrator on or before [December]  
14 NOVEMBER 7, or any later date determined by mutual agreement of the parties.

15 3. THE ARBITRATOR SHALL ADDRESS ANY IMPASSE  
16 BETWEEN THE PARTIES THAT ARISES DURING THE COURSE OF NEGOTIATIONS AND  
17 ANY DISPUTE BETWEEN THE PARTIES THAT ARISES OUT OF A FAILURE TO RATIFY A  
18 TENTATIVE AGREEMENT.

19 (II) 1. IF THE PARTIES REACH A TENTATIVE AGREEMENT ON OR  
20 BEFORE JANUARY 1, THE CERTIFIED EMPLOYEE ORGANIZATION SHALL SUBMIT THE  
21 TENTATIVE AGREEMENT TO ITS MEMBERSHIP FOR RATIFICATION AND THE MNCPPC  
22 SHALL SUBMIT THE TENTATIVE AGREEMENT TO ITS COMMISSIONERS FOR  
23 RATIFICATION.

24 2. IF THE MEMBERS OF THE CERTIFIED EMPLOYEE  
25 ORGANIZATION OR THE COMMISSIONERS FAIL TO RATIFY THE TENTATIVE  
26 AGREEMENT DESCRIBED IN SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH:

27 A. ALL TERMS OF THE TENTATIVE AGREEMENT SHALL BE  
28 NULL AND VOID;

29 B. THE PARTIES SHALL CEASE NEGOTIATIONS FOR THE  
30 COOLING-OFF PERIOD BEGINNING ON JANUARY 1 AND ENDING ON JANUARY 31; AND

31 C. ON FEBRUARY 1, THE PARTIES SHALL BEGIN  
32 NEGOTIATIONS IN GOOD FAITH TO DEVELOP A NEW TENTATIVE AGREEMENT.

33 3. IF THE PARTIES DO NOT AGREE TO A NEW TENTATIVE  
34 AGREEMENT AFTER RENEGOTIATING UNDER SUBSUBPARAGRAPH 2C OF THIS  
35 SUBPARAGRAPH ON OR BEFORE APRIL 1, OR ANY LATER DATE DETERMINED BY  
36 MUTUAL AGREEMENT OF THE PARTIES, THE PARTIES JOINTLY SHALL NOTIFY THE  
37 ARBITRATOR APPOINTED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH  
38 THAT THEY HAVE REACHED AN IMPASSE.

1                                   4.     A.     IF THE PARTIES RENEGOTIATE A NEW TENTATIVE  
2 AGREEMENT UNDER SUBSUBPARAGRAPH 2C OF THIS SUBPARAGRAPH DUE TO A  
3 FAILURE OF THE MEMBERS OF THE CERTIFIED EMPLOYEE ORGANIZATION TO  
4 RATIFY THE ORIGINAL TENTATIVE AGREEMENT, THE ECONOMIC PROVISIONS OF  
5 THE FINAL AGREEMENT MAY NOT BE APPLIED RETROACTIVELY.

6                                   B.     THE ECONOMIC PROVISIONS OF THE FINAL AGREEMENT  
7 SHALL BECOME EFFECTIVE ON THE EARLIER OF THE DATE THE MEMBERS OF THE  
8 CERTIFIED EMPLOYEE ORGANIZATION RATIFY THE RENEGOTIATED TENTATIVE  
9 AGREEMENT OR, IF THE PARTIES SUBMIT THE RENEGOTIATED TENTATIVE  
10 AGREEMENT TO ARBITRATION, THE DATE THE ARBITRATOR ISSUES A REPORT  
11 UNDER SUBPARAGRAPH (VI)1B OF THIS PARAGRAPH.

12                                  5.     A.     IF THE PARTIES RENEGOTIATE A NEW TENTATIVE  
13 AGREEMENT UNDER SUBSUBPARAGRAPH 2C OF THIS SUBPARAGRAPH DUE TO A  
14 FAILURE OF THE COMMISSIONERS TO RATIFY THE ORIGINAL TENTATIVE  
15 AGREEMENT, THE ECONOMIC PROVISIONS OF THE FINAL AGREEMENT SHALL BE  
16 APPLIED RETROACTIVELY.

17                                  B.     THE ECONOMIC PROVISIONS OF THE FINAL AGREEMENT  
18 SHALL BECOME EFFECTIVE ON THE DATE THE ORIGINAL TENTATIVE AGREEMENT  
19 WAS REACHED.

20                                  (iii)    Notwithstanding appointment of the arbitrator, nothing in this  
21 section shall require commencement of arbitration prior to [February] JANUARY 1, or  
22 any later date determined by mutual agreement of the parties.

23                                  (iv)    1.     [On or before February 1,] EXCEPT AS PROVIDED IN  
24 SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, ON OR BEFORE JANUARY 1, or any  
25 later date determined by mutual agreement of the parties, the arbitrator shall direct  
26 the parties to submit:

27   [1.]    A.     A joint memorandum listing all items to which the  
28 parties previously agreed; and

29   [2.]    B.     A separate memorandum of the party's last final  
30 offer presented in negotiations on all items to which the parties did not previously  
31 agree.

32   2.     IF THE PARTIES REACH A NEW TENTATIVE AGREEMENT  
33 UNDER SUBPARAGRAPH (II)2C OF THIS PARAGRAPH, ON OR BEFORE APRIL 1, OR ANY  
34 LATER DATE DETERMINED BY MUTUAL AGREEMENT OF THE PARTIES, THE  
35 ARBITRATOR SHALL DIRECT THE PARTIES TO SUBMIT:

36   A.     A JOINT MEMORANDUM LISTING ALL ITEMS TO WHICH  
37 THE PARTIES PREVIOUSLY AGREED; AND

38   B.     A SEPARATE MEMORANDUM OF THE PARTY'S LAST FINAL  
39 OFFER PRESENTED IN NEGOTIATIONS ON ALL ITEMS TO WHICH THE PARTIES DID  
40 NOT PREVIOUSLY AGREE.

1 (v) 1. A. [On or before February 10,] EXCEPT AS PROVIDED  
2 IN SUBSUBSUBPARAGRAPH B OF THIS SUBSUBPARAGRAPH, ON OR BEFORE JANUARY  
3 10, or any later date determined by mutual agreement of the parties, the arbitrator  
4 shall hold a nonpublic hearing on the parties' proposals at a time, date, and place  
5 selected by the arbitrator.

6 B. IF THE PARTIES REACH A NEW TENTATIVE AGREEMENT  
7 UNDER SUBPARAGRAPH (II)2C OF THIS PARAGRAPH, ON OR BEFORE APRIL 10, OR ANY  
8 LATER DATE DETERMINED BY MUTUAL AGREEMENT OF THE PARTIES, THE  
9 ARBITRATOR SHALL HOLD A NONPUBLIC HEARING ON THE PARTIES' PROPOSALS AT  
10 A TIME, DATE, AND PLACE SELECTED BY THE ARBITRATOR.

11 2. Each party shall submit evidence or make oral and  
12 written arguments in support of the party's last final offer.

13 3. The arbitrator may not open the hearing to a person who  
14 is not a party to the arbitration.

15 (vi) 1. A. [On or before February 15,] EXCEPT AS PROVIDED  
16 IN SUBSUBSUBPARAGRAPH B OF THIS SUBSUBPARAGRAPH, ON OR BEFORE JANUARY  
17 15, or any later date determined by mutual agreement of the parties, the arbitrator  
18 shall issue a report selecting between the final offers submitted by the parties that  
19 the arbitrator determines to be more reasonable, viewed as a whole.

20 B. IF THE PARTIES REACH A NEW TENTATIVE AGREEMENT  
21 UNDER SUBPARAGRAPH (II)2C OF THIS PARAGRAPH, ON OR BEFORE APRIL 15, OR ANY  
22 LATER DATE DETERMINED BY MUTUAL AGREEMENT OF THE PARTIES, THE  
23 ARBITRATOR SHALL ISSUE A REPORT SELECTING BETWEEN THE FINAL OFFERS  
24 SUBMITTED BY THE PARTIES THAT THE ARBITRATOR DETERMINES TO BE MORE  
25 REASONABLE, VIEWED AS A WHOLE.

26 2. In determining the more reasonable offer, the arbitrator  
27 may consider only the following factors:

28 A. Past collective bargaining contracts between the parties,  
29 including the past bargaining history that led to the agreement or the precollective  
30 bargaining history of employee wages, hours, benefits, and other working conditions;

31 B. A comparison of wages, hours, benefits, and other  
32 conditions of employment of police officers in Montgomery County and Prince  
33 George's County;

34 C. The public interest and welfare;

35 D. The ability of the employer to finance any economic  
36 adjustments required under the proposed agreement; and

37 E. The effects of any economic adjustments on the standard  
38 of public services normally provided by the employer.

1    3.        In determining the most reasonable offer, the arbitrator  
 2 shall consider to be integrated with each offer all items on which the parties agreed  
 3 prior to the arbitration.

4    4.        The arbitrator may not receive or consider the history of  
 5 collective bargaining relating to the immediate dispute, including any offers of  
 6 settlement not contained in the offer submitted to the arbitrator.

7    (vii)    The arbitrator may not compromise or alter the final offer that  
 8 the arbitrator selects.

9    (viii)   Subject to subsection (f)(5) of this section, without ratification  
 10 by the parties, the offer selected by the arbitrator, integrated with the items to which  
 11 the parties previously agreed, shall be the final agreement between the MNCPPC and  
 12 the exclusive representative.

13     (ix)     The parties shall execute an agreement incorporating the final  
 14 agreement, including arbitration awards and all issues agreed to under this  
 15 paragraph.

16     (x)     The MNCPPC and the employee organization shall share  
 17 equally in paying the costs of the arbitrator's services.

18     (6)     Employees may not engage in a strike.

19     (7)     If a strike of employees occurs, a court of competent jurisdiction may,  
 20 upon request of the MNCPPC, enjoin the strike.

21     (8)     An employee may not receive pay or compensation from the  
 22 MNCPPC for any period during which the employee is engaged in a strike.

23     (9)     If an employee organization certified as an exclusive representative  
 24 engages in a strike, its certification as exclusive representative shall be revoked by  
 25 the Commissioner, and that employee organization or any other employee  
 26 organization which engages in a strike shall be ineligible to be certified as an  
 27 exclusive representative for a period of 1 year following the end of the strike.

28        SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 29 October 1, 2006.