

HOUSE BILL 956

D2, L2

9lr2035

By: **Cecil County Delegation**

Introduced and read first time: February 13, 2009

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Cecil County - Collective Bargaining - Representation of Deputy Sheriffs**

3 FOR the purpose of authorizing the representatives of certain full-time sworn law
4 enforcement deputy sheriffs in the Cecil County Sheriff's Office and the County
5 Commissioners of Cecil County to bargain collectively with the Sheriff and the
6 County Commissioners on certain issues; authorizing certain sworn law
7 enforcement deputy sheriffs to take or refrain from taking certain actions in
8 connection with certain labor organizations with regard to certain collective
9 bargaining activities; providing for the procedures for certifying a labor
10 organization as a certified labor organization for certain collective bargaining
11 negotiations; requiring the certified labor organization, the Sheriff, and the
12 County Commissioners to follow certain procedures for collective bargaining;
13 providing for certain means to resolve a dispute if the certified labor
14 organization and the Sheriff and the County Commissioners are unable to
15 negotiate a certain agreement; requiring a collective bargaining agreement to
16 contain certain matters; providing for certain rights and responsibilities of the
17 Sheriff that are not impaired by the provisions of this Act; requiring that any
18 additional funding required as a result of a certain agreement be subject to
19 approval by the County Commissioners; providing a certain cost sharing cap for
20 certain costs associated with this Act; providing for the construction of this Act;
21 and generally relating to collective bargaining of deputy sheriffs in Cecil
22 County.

23 BY adding to

24 Article - Courts and Judicial Proceedings

25 Section 2-309(i)(4)

26 Annotated Code of Maryland

27 (2006 Replacement Volume and 2008 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Courts and Judicial Proceedings**

2 2–309.

3 (i) (4) (I) **THIS PARAGRAPH APPLIES ONLY TO ALL FULL–TIME**
4 **SWORN LAW ENFORCEMENT DEPUTY SHERIFFS IN THE OFFICE OF THE SHERIFF**
5 **OF CECIL COUNTY AT THE RANK OF FIRST SERGEANT AND BELOW.**

6 **(II) A FULL–TIME SWORN LAW ENFORCEMENT DEPUTY**
7 **SHERIFF AT THE RANK OF FIRST SERGEANT AND BELOW MAY:**

8 **1. TAKE PART IN OR REFRAIN FROM TAKING PART IN**
9 **FORMING, JOINING, SUPPORTING, OR PARTICIPATING IN A LABOR**
10 **ORGANIZATION OR ITS LAWFUL ACTIVITIES;**

11 **2. SELECT A LABOR ORGANIZATION AS THE**
12 **EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS**
13 **PARAGRAPH;**

14 **3. ENGAGE IN COLLECTIVE BARGAINING WITH THE**
15 **SHERIFF AND THE COUNTY COMMISSIONERS OF CECIL COUNTY, OR THE**
16 **DESIGNEE OF THE SHERIFF AND THE COUNTY COMMISSIONERS, CONCERNING**
17 **WAGES, BENEFITS, AND WORKING CONDITIONS THROUGH A LABOR**
18 **ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE OF THE**
19 **DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH;**

20 **4. SUBJECT TO ITEM 2 OF THIS SUBPARAGRAPH,**
21 **ENTER INTO A COLLECTIVE BARGAINING AGREEMENT, THROUGH THE**
22 **EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS**
23 **PARAGRAPH, COVERING THE WAGES, BENEFITS, AND OTHER WORKING**
24 **CONDITIONS OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH, TO THE**
25 **EXTENT THAT THE AGREEMENT DOES NOT IMPAIR THE RIGHTS OF THE SHERIFF**
26 **SET FORTH IN SUBPARAGRAPH (V)4 OF THIS PARAGRAPH; AND**

27 **5. DECERTIFY A LABOR ORGANIZATION AS THE**
28 **EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS**
29 **PARAGRAPH.**

30 **(III) 1. A LABOR ORGANIZATION SEEKING**
31 **CERTIFICATION AS AN EXCLUSIVE REPRESENTATIVE MUST SUBMIT A PETITION**
32 **TO THE SHERIFF AND THE COUNTY COMMISSIONERS THAT IS SIGNED BY MORE**
33 **THAN 50% OF THE SWORN LAW ENFORCEMENT DEPUTY SHERIFFS AT THE RANK**
34 **OF FIRST SERGEANT AND BELOW INDICATING THE DESIRE OF THE DEPUTY**

1 SHERIFFS SUBJECT TO THIS PARAGRAPH TO BE REPRESENTED EXCLUSIVELY BY
2 THE LABOR ORGANIZATION FOR THE PURPOSE OF COLLECTIVE BARGAINING.

3 2. IF THE SHERIFF AND THE COUNTY
4 COMMISSIONERS DO NOT CHALLENGE THE VALIDITY OF THE PETITION WITHIN
5 20 CALENDAR DAYS FOLLOWING THE RECEIPT OF THE PETITION, THE LABOR
6 ORGANIZATION SHALL BE DEEMED CERTIFIED AS THE EXCLUSIVE
7 REPRESENTATIVE.

8 3. IF THE SHERIFF OR THE COUNTY
9 COMMISSIONERS CHALLENGE THE VALIDITY OF THE PETITION, THE AMERICAN
10 ARBITRATION ASSOCIATION SHALL APPOINT A NEUTRAL THIRD PARTY TO
11 CONDUCT AN ELECTION AND TO CERTIFY WHETHER THE LABOR ORGANIZATION
12 HAS BEEN SELECTED AS THE EXCLUSIVE REPRESENTATIVE BY A MAJORITY OF
13 THE VOTES CAST IN THE ELECTION.

14 4. THE COSTS ASSOCIATED WITH THE APPOINTMENT
15 OF A NEUTRAL THIRD PARTY SHALL BE SHARED EQUALLY BY THE PARTIES.

16 5. A LABOR ORGANIZATION SHALL BE DEEMED
17 DECERTIFIED IF A PETITION IS SUBMITTED TO THE SHERIFF AND THE COUNTY
18 COMMISSIONERS THAT IS SIGNED BY MORE THAN 50% OF THE FULL-TIME
19 SWORN LAW ENFORCEMENT DEPUTY SHERIFFS AT THE RANK OF FIRST
20 SERGEANT AND BELOW INDICATING THE DESIRE OF THE DEPUTY SHERIFFS TO
21 DECERTIFY THE LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE
22 OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH.

23 (IV) 1. FOLLOWING CERTIFICATION OF AN EXCLUSIVE
24 REPRESENTATIVE AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH,
25 THE CERTIFIED LABOR ORGANIZATION AND THE SHERIFF AND THE COUNTY
26 COMMISSIONERS SHALL MEET AT REASONABLE TIMES AND ENGAGE IN
27 COLLECTIVE BARGAINING IN GOOD FAITH.

28 2. THE CERTIFIED LABOR ORGANIZATION, THE
29 SHERIFF, AND THE COUNTY COMMISSIONERS SHALL MAKE EVERY REASONABLE
30 EFFORT TO CONCLUDE NEGOTIATIONS ON OR BEFORE FEBRUARY 15 OF THE
31 YEAR IN WHICH A COLLECTIVE BARGAINING AGREEMENT IS TO TAKE EFFECT TO
32 ALLOW FOR INCLUSION BY THE SHERIFF OF MATTERS AGREED UPON IN ITS
33 BUDGET REQUEST TO THE COUNTY COMMISSIONERS.

34 3. A. IF THE CERTIFIED LABOR ORGANIZATION
35 AND THE SHERIFF AND THE COUNTY COMMISSIONERS ARE UNABLE TO REACH
36 AN AGREEMENT BEFORE THE DATE SET FORTH IN SUBSUBPARAGRAPH 2 OF
37 THIS SUBPARAGRAPH, EITHER THE CERTIFIED LABOR ORGANIZATION OR THE

1 **SHERIFF AND THE COUNTY COMMISSIONERS MAY SEEK NONBINDING**
2 **MEDIATION THROUGH THE FEDERAL MEDIATION AND CONCILIATION SERVICE.**

3 **B. A PARTY SEEKING NONBINDING MEDIATION**
4 **UNDER SUBSUBSUBPARAGRAPH A OF THIS SUBSUBPARAGRAPH SHALL GIVE**
5 **WRITTEN NOTICE TO THE OTHER PARTY AND TO THE FEDERAL MEDIATION AND**
6 **CONCILIATION SERVICE AT LEAST 15 DAYS PRIOR TO THE START OF THE FIRST**
7 **MEDIATION MEETING.**

8 **C. THE COSTS ASSOCIATED WITH THE MEDIATOR OR**
9 **MEDIATION PROCESS SHALL BE SHARED EQUALLY BY THE PARTIES.**

10 **D. THE CERTIFIED LABOR ORGANIZATION, THE**
11 **SHERIFF, AND THE COUNTY COMMISSIONERS SHALL ENGAGE IN NONBINDING**
12 **MEDIATION FOR AT LEAST 30 DAYS UNLESS THEY MUTUALLY AGREE IN WRITING**
13 **TO TERMINATION OR EXTENSION OF THE MEDIATION OR REACH AN**
14 **AGREEMENT.**

15 **E. THE CONTENTS OF THE MEDIATION**
16 **PROCEEDINGS MAY NOT BE DISCLOSED BY ANY OF THE PARTIES OR THE**
17 **MEDIATOR.**

18 **4. A. IF THE CERTIFIED LABOR ORGANIZATION,**
19 **THE SHERIFF, AND THE COUNTY COMMISSIONERS ARE UNABLE TO REACH AN**
20 **AGREEMENT THROUGH MEDIATION UNDER SUBSUBPARAGRAPH 3, ANY OF THE**
21 **PARTIES MAY DEMAND AN ARBITRATOR.**

22 **B. THE ARBITRATOR SHALL BE SELECTED FROM A**
23 **PANEL OF SEVEN ARBITRATORS WHO ARE MEMBERS OF THE NATIONAL**
24 **ACADEMY OF ARBITRATORS.**

25 **C. THE PARTIES SHALL SELECT AN ARBITRATOR BY**
26 **ALTERNATIVE STRIKES FROM THE PANEL.**

27 **D. THE ARBITRATOR SELECTED MAY SCHEDULE A**
28 **HEARING, ISSUE SUBPOENAS TO COMPEL THE TESTIMONY OF WITNESSES AND**
29 **THE PRODUCTION OF DOCUMENTS, ADMINISTER OATHS, AND DECLARE THE**
30 **RECORD CLOSED.**

31 **E. THE ARBITRATOR SELECTED SHALL RECEIVE AND**
32 **ENTER INTO THE RECORD THE FINAL OFFERS OF THE CERTIFIED LABOR**
33 **ORGANIZATION AND THE SHERIFF AND THE COUNTY COMMISSIONERS.**

1 **F. THE ARBITRATOR MAY RECEIVE AND CONSIDER**
2 **EVIDENCE REGARDING HOURS, WAGES, AND BENEFITS OF SIMILAR SWORN LAW**
3 **ENFORCEMENT EMPLOYEES IN COMPARABLE SURROUNDING JURISDICTIONS,**
4 **THE COST OF LIVING IN CECIL COUNTY, THE CONDITION OF CECIL COUNTY'S**
5 **GENERAL OPERATING FUND AND CECIL COUNTY'S ABILITY TO FUND THE FINAL**
6 **PROPOSED OFFERS, THE NATURE OF THE WORK PERFORMED BY EMPLOYEES**
7 **REPRESENTED BY THE CERTIFIED LABOR ORGANIZATION, AND OTHER**
8 **INFORMATION THAT THE ARBITRATOR CONSIDERS NECESSARY TO WEIGH**
9 **FULLY THE FINAL PROPOSED OFFERS OF THE CERTIFIED LABOR ORGANIZATION**
10 **AND THE SHERIFF AND THE COUNTY COMMISSIONERS.**

11 **G. UNLESS THE PARTIES MUTUALLY AGREE TO AN**
12 **EXTENSION, THE ARBITRATOR SHALL ISSUE A FINAL REPORT TO THE SHERIFF**
13 **AND THE COUNTY COMMISSIONERS WITHIN 30 DAYS AFTER THE RECORD IS**
14 **CLOSED.**

15 **H. THE WRITTEN DECISION OF THE ARBITRATOR IS**
16 **NONBINDING ON THE SHERIFF AND THE COUNTY COMMISSIONERS.**

17 **I. THE COSTS OF ARBITRATION SHALL BE SHARED**
18 **EQUALLY BY THE PARTIES.**

19 **(v) 1. A COLLECTIVE BARGAINING AGREEMENT SHALL**
20 **CONTAIN ALL MATTERS OF AGREEMENT REACHED IN THE COLLECTIVE**
21 **BARGAINING PROCESS.**

22 **2. A COLLECTIVE BARGAINING AGREEMENT MAY**
23 **CONTAIN A GRIEVANCE PROCEDURE PROVIDING FOR BINDING ARBITRATION OF**
24 **GRIEVANCES IN REFERENCE TO A LABOR CONTRACT, INCLUDING GRIEVANCES**
25 **RELATED TO INTERPRETATION OR BREACH OF CONTRACT.**

26 **3. A COLLECTIVE BARGAINING AGREEMENT**
27 **REACHED IN ACCORDANCE WITH THIS PARAGRAPH SHALL BE IN WRITING AND**
28 **SIGNED BY THE CERTIFIED REPRESENTATIVES OF THE PARTIES INVOLVED IN**
29 **THE COLLECTIVE BARGAINING NEGOTIATIONS.**

30 **4. EXCEPT AS PROVIDED IN THE CODE AND**
31 **REGULATIONS OF CECIL COUNTY, THE PROVISIONS OF THIS SUBPARAGRAPH**
32 **AND ANY AGREEMENT MADE UNDER IT MAY NOT IMPAIR THE RIGHT AND THE**
33 **RESPONSIBILITY OF THE SHERIFF TO:**

34 **A. DETERMINE THE MISSION, BUDGET,**
35 **ORGANIZATION, NUMBERS, TYPES, CLASSES, GRADES, AND RANKS OF DEPUTY**

1 SHERIFFS ASSIGNED, THE SERVICES TO BE RENDERED, OPERATIONS TO BE
2 PERFORMED, AND THE TECHNOLOGY TO BE USED;

3 B. SET THE STANDARDS OF SERVICE AND EXERCISE
4 CONTROL OVER OPERATIONS, INCLUDING THE RIGHTS TO DETERMINE WORK
5 SHIFTS AND THE NUMBER OF DEPUTY SHERIFFS ON EACH SHIFT;

6 C. ASSIGN AND RETAIN DEPUTY SHERIFFS IN
7 POSITIONS WITHIN THE OFFICE;

8 D. DETERMINE AND SET WORK PROJECTS, TOURS OF
9 DUTY, SCHEDULES, ASSIGNMENTS, AND METHODS, MEANS, AND PERSONNEL BY
10 WHICH OPERATIONS ARE CONDUCTED;

11 E. DETERMINE AND SET TECHNOLOGY NEEDS,
12 INTERNAL SECURITY PRACTICES, EQUIPMENT, AND THE LOCATION OF
13 FACILITIES;

14 F. HIRE, DIRECT, SUPERVISE, PROMOTE, DEMOTE,
15 DISCIPLINE, ASSIGN, AND WITH REASONABLE CAUSE DISCHARGE, FULL-TIME
16 SWORN LAW ENFORCEMENT DEPUTY SHERIFFS, WITH THE EXCEPTION THAT
17 THE PROMOTIONAL PROCESS FOR DEPUTY SHERIFFS UP TO THE RANK OF FIRST
18 SERGEANT AND THE NUMBER AND COMPOSITION OF TRIAL BOARDS FOR THE
19 DISCIPLINE PROCESS FOR DEPUTY SHERIFFS AT THE RANK OF FIRST
20 SERGEANT AND BELOW IS SUBJECT TO COLLECTIVE BARGAINING;

21 G. DETERMINE AND SET THE QUALIFICATIONS OF
22 DEPUTY SHERIFFS FOR APPOINTMENT AND PROMOTIONS; AND

23 H. DETERMINE AND SET THE STANDARDS OF
24 CONDUCT, AND WITH CONSULTATION AND INPUT FROM THE CERTIFIED LABOR
25 ORGANIZATION, ADOPT RULES, ORDERS, POLICIES, REGULATIONS, AND
26 PROCEDURES ON MUTUALLY AGREED UPON SUBJECTS.

27 5. A. SUBJECT TO SUBSUBSUBPARAGRAPH B OF
28 THIS SUBSUBPARAGRAPH, A COLLECTIVE BARGAINING AGREEMENT IS NOT
29 EFFECTIVE UNTIL IT IS RATIFIED BY THE MAJORITY OF VOTES CAST BY THE
30 DEPUTY SHERIFFS IN THE BARGAINING UNIT AND APPROVED BY THE SHERIFF
31 AND THE COUNTY COMMISSIONERS.

32 B. ADDITIONAL FUNDING, IF ANY, REQUIRED AS A
33 RESULT OF A COLLECTIVE BARGAINING AGREEMENT SHALL BE SUBJECT TO THE
34 APPROVAL OF THE COUNTY COMMISSIONERS.

1 **(VI) 1. THE COSTS PAID BY THE COUNTY**
2 **COMMISSIONERS UNDER SUBPARAGRAPHS (III)4, (IV)3C, AND (IV)4I MAY NOT**
3 **EXCEED \$15,000 IN TOTAL FOR FISCAL YEAR 2010.**

4 **2. A. THE COUNTY COMMISSIONERS AND**
5 **CERTIFIED LABOR ORGANIZATION SHALL NEGOTIATE A COST SHARING CAP FOR**
6 **FISCAL YEAR 2011 AND EACH SUBSEQUENT FISCAL YEAR.**

7 **B. IF THE COUNTY COMMISSIONERS AND CERTIFIED**
8 **LABOR ORGANIZATION ARE UNABLE TO REACH AN AGREEMENT BY DECEMBER 1**
9 **OF THE PRIOR FISCAL YEAR, THE COST SHARING CAP SHALL INCREASE BY A**
10 **PERCENTAGE EQUAL TO THE ANNUAL PERCENTAGE INCREASE IN**
11 **COMPENSATION COSTS FOR CIVILIAN WORKERS FOR THE PRIOR CALENDAR**
12 **YEAR, AS MEASURED BY THE EMPLOYMENT COST INDEX AS PUBLISHED BY THE**
13 **BUREAU OF LABOR STATISTICS OF THE U.S. DEPARTMENT OF LABOR.**

14 **(VII) NOTHING IN THIS PARAGRAPH MAY BE CONSTRUED TO**
15 **AUTHORIZE OR OTHERWISE ALLOW A DEPUTY SHERIFF TO ENGAGE IN A STRIKE**
16 **AS DEFINED IN § 3-303 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.**

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 July 1, 2009.