

Chapter 600

(Senate Bill 726)

AN ACT concerning

Cecil County – Collective Bargaining – Representation of Deputy Sheriffs ~~– Arbitration – Referendum~~

FOR the purpose of authorizing the representatives of certain full-time sworn law enforcement deputy sheriffs in the Cecil County Sheriff's Office and the County Commissioners of Cecil County to bargain collectively with the Sheriff and the County Commissioners on certain issues; authorizing certain sworn law enforcement deputy sheriffs to take or refrain from taking certain actions in connection with certain labor organizations with regard to certain collective bargaining activities; providing for the procedures for certifying a labor organization as a certified labor organization for certain collective bargaining negotiations; requiring the certified labor organization, the Sheriff, and the County Commissioners to follow certain procedures for collective bargaining; providing for a certain ~~means~~ method to resolve a dispute if the certified labor organization and the Sheriff and the County Commissioners are unable to negotiate a certain agreement; requiring the governing body of Cecil County to enact a certain local ordinance; requiring a collective bargaining agreement to contain certain matters; providing for certain rights and responsibilities of the Sheriff that are not impaired by the provisions of this Act; requiring that any additional funding required as a result of a certain agreement be subject to approval by the County Commissioners; ~~providing a certain cost-sharing cap for certain costs associated with this Act~~; providing for the construction of this Act; ~~submitting this Act to a referendum of the legally qualified voters of Cecil County~~; and generally relating to collective bargaining of deputy sheriffs in Cecil County.

BY adding to

Article – Courts and Judicial Proceedings

Section 2-309(i)(4)

Annotated Code of Maryland

(2006 Replacement Volume and 2009 Supplement)

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

~~Article – Courts and Judicial Proceedings~~

~~2-309.~~

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

~~(ii) A FULL TIME SWORN LAW ENFORCEMENT DEPUTY SHERIFF AT THE RANK OF FIRST SERGEANT AND BELOW MAY:~~

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

~~2. SELECT A LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH;~~

~~3. ENGAGE IN COLLECTIVE BARGAINING WITH THE SHERIFF AND THE COUNTY COMMISSIONERS OF CECIL COUNTY, OR THE DESIGNEE OF THE SHERIFF AND THE COUNTY COMMISSIONERS, CONCERNING WAGES, BENEFITS, AND ANY WORKING CONDITIONS THAT ARE NOT INCLUDED IN SUBPARAGRAPH (v)4A OF THIS PARAGRAPH THROUGH A LABOR ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH;~~

~~4. SUBJECT TO ITEM 2 OF THIS SUBPARAGRAPH, ENTER INTO A COLLECTIVE BARGAINING AGREEMENT, THROUGH THE EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH, COVERING THE WAGES, BENEFITS, AND OTHER WORKING CONDITIONS OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH, TO THE EXTENT THAT THE AGREEMENT DOES NOT IMPAIR THE RIGHTS OF THE SHERIFF SET FORTH IN SUBPARAGRAPH (v)4 OF THIS PARAGRAPH; AND~~

~~5. DECERTIFY A LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH.~~

~~(iii) 1. A LABOR ORGANIZATION SEEKING CERTIFICATION AS AN EXCLUSIVE REPRESENTATIVE MUST SUBMIT A PETITION TO THE SHERIFF AND THE COUNTY COMMISSIONERS THAT IS SIGNED BY MORE THAN 50% OF THE SWORN LAW ENFORCEMENT DEPUTY SHERIFFS AT THE RANK OF FIRST SERGEANT AND BELOW INDICATING THE DESIRE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH TO BE REPRESENTED EXCLUSIVELY BY THE LABOR ORGANIZATION FOR THE PURPOSE OF COLLECTIVE BARGAINING.~~

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

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

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

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

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

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

~~3. A. IF THE CERTIFIED LABOR ORGANIZATION AND THE SHERIFF AND THE COUNTY COMMISSIONERS ARE UNABLE TO REACH AN AGREEMENT BEFORE THE DATE SET FORTH IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, EITHER THE CERTIFIED LABOR ORGANIZATION OR THE SHERIFF AND THE COUNTY COMMISSIONERS MAY SEEK NONBINDING MEDIATION THROUGH THE FEDERAL MEDIATION AND CONCILIATION SERVICE.~~

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

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

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

~~E. THE CONTENTS OF THE MEDIATION PROCEEDINGS MAY NOT BE DISCLOSED BY ANY OF THE PARTIES OR THE MEDIATOR.~~

~~4. A. IF THE CERTIFIED LABOR ORGANIZATION, THE SHERIFF, AND THE COUNTY COMMISSIONERS ARE UNABLE TO REACH AN AGREEMENT THROUGH MEDIATION UNDER SUBSUBPARAGRAPH 3 OF THIS SUBPARAGRAPH, ANY OF THE PARTIES MAY DEMAND AN ARBITRATOR.~~

~~B. THE ARBITRATOR SHALL BE SELECTED FROM A PANEL OF SEVEN ARBITRATORS WHO ARE MEMBERS OF THE NATIONAL ACADEMY OF ARBITRATORS.~~

~~C. THE PARTIES SHALL SELECT AN ARBITRATOR BY ALTERNATIVE STRIKES FROM THE PANEL.~~

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

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

~~F. THE ARBITRATOR MAY RECEIVE AND CONSIDER EVIDENCE REGARDING HOURS, WAGES, AND BENEFITS OF SIMILAR SWORN LAW~~

~~ENFORCEMENT EMPLOYEES IN COMPARABLE SURROUNDING JURISDICTIONS, THE COST OF LIVING IN CECIL COUNTY, THE CONDITION OF CECIL COUNTY'S GENERAL OPERATING FUND AND CECIL COUNTY'S ABILITY TO FUND THE FINAL PROPOSED OFFERS, THE NATURE OF THE WORK PERFORMED BY EMPLOYEES REPRESENTED BY THE CERTIFIED LABOR ORGANIZATION, AND OTHER INFORMATION THAT THE ARBITRATOR CONSIDERS NECESSARY TO WEIGH FULLY THE FINAL PROPOSED OFFERS OF THE CERTIFIED LABOR ORGANIZATION AND THE SHERIFF AND THE COUNTY COMMISSIONERS.~~

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

~~H. THE WRITTEN DECISION OF THE ARBITRATOR IS BINDING ON THE SHERIFF AND THE COUNTY COMMISSIONERS.~~

~~I. THE COSTS OF ARBITRATION SHALL BE SHARED EQUALLY BY THE PARTIES.~~

~~(v) 1. A COLLECTIVE BARGAINING AGREEMENT SHALL CONTAIN ALL MATTERS OF AGREEMENT REACHED IN THE COLLECTIVE BARGAINING PROCESS.~~

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

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

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

~~A. DETERMINE THE MISSION, BUDGET, ORGANIZATION, NUMBERS, TYPES, CLASSES, GRADES, AND RANKS OF DEPUTY SHERIFFS ASSIGNED, THE SERVICES TO BE RENDERED, OPERATIONS TO BE PERFORMED, AND THE TECHNOLOGY TO BE USED;~~

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

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

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

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

~~F. MAINTAIN AND IMPROVE THE EFFICIENCY AND EFFECTIVENESS OF OPERATIONS;~~

~~G. HIRE, DIRECT, SUPERVISE, PROMOTE, DEMOTE, DISCIPLINE, ASSIGN, AND WITH REASONABLE CAUSE DISCHARGE FULL TIME SWORN LAW ENFORCEMENT DEPUTY SHERIFFS, WITH THE EXCEPTION THAT THE PROMOTIONAL PROCESS FOR DEPUTY SHERIFFS UP TO THE RANK OF FIRST SERGEANT AND THE NUMBER AND COMPOSITION OF TRIAL BOARDS FOR THE DISCIPLINE PROCESS FOR DEPUTY SHERIFFS AT THE RANK OF FIRST SERGEANT AND BELOW ARE SUBJECT TO COLLECTIVE BARGAINING;~~

~~H. DETERMINE AND SET THE QUALIFICATIONS OF DEPUTY SHERIFFS FOR APPOINTMENT AND PROMOTIONS; AND~~

~~I. DETERMINE AND SET THE STANDARDS OF CONDUCT, AND WITH CONSULTATION AND INPUT FROM THE CERTIFIED LABOR ORGANIZATION, ADOPT RULES, ORDERS, POLICIES, REGULATIONS, AND PROCEDURES ON MUTUALLY AGREED ON SUBJECTS.~~

~~5. A COLLECTIVE BARGAINING AGREEMENT IS NOT EFFECTIVE UNTIL IT IS RATIFIED BY THE MAJORITY OF VOTES CAST BY THE DEPUTY SHERIFFS IN THE BARGAINING UNIT AND APPROVED BY THE SHERIFF AND THE COUNTY COMMISSIONERS.~~

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

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

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

~~(VII) NOTHING IN THIS PARAGRAPH MAY BE CONSTRUED TO:~~

~~1. AUTHORIZE OR OTHERWISE ALLOW A DEPUTY SHERIFF TO ENGAGE IN A STRIKE AS DEFINED IN § 3-303 OF THE STATE PERSONNEL AND PENSIONS ARTICLE; AND~~

~~2. AUTHORIZE THE COLLECTION OF MANDATORY MEMBERSHIP FEES FROM NONMEMBERS OF THE EMPLOYEE ORGANIZATION.~~

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

Article – Courts and Judicial Proceedings

2-309.

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

(II) A FULL-TIME SWORN LAW ENFORCEMENT DEPUTY SHERIFF AT THE RANK OF ~~FIRST~~ SERGEANT AND BELOW MAY:

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

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

3. ENGAGE IN COLLECTIVE BARGAINING WITH THE SHERIFF AND THE COUNTY COMMISSIONERS OF CECIL COUNTY, OR THE DESIGNEE OF THE SHERIFF AND THE COUNTY COMMISSIONERS, CONCERNING WAGES, BENEFITS, AND ANY WORKING CONDITIONS THAT ARE NOT INCLUDED IN SUBPARAGRAPH (V)4A OF THIS PARAGRAPH THROUGH A LABOR ORGANIZATION CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH;

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

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

(III) 1. A LABOR ORGANIZATION SEEKING CERTIFICATION AS AN EXCLUSIVE REPRESENTATIVE MUST SUBMIT A PETITION TO THE SHERIFF AND THE COUNTY COMMISSIONERS THAT IS SIGNED BY MORE THAN 50% OF THE SWORN LAW ENFORCEMENT DEPUTY SHERIFFS AT THE RANK OF ~~FIRST~~ SERGEANT AND BELOW INDICATING THE DESIRE OF THE DEPUTY SHERIFFS SUBJECT TO THIS PARAGRAPH TO BE REPRESENTED EXCLUSIVELY BY THE LABOR ORGANIZATION FOR THE PURPOSE OF COLLECTIVE BARGAINING.

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

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

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

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

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

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

3. A. IF THE CERTIFIED LABOR ORGANIZATION AND THE SHERIFF AND THE COUNTY COMMISSIONERS ARE UNABLE TO REACH AN AGREEMENT BEFORE THE DATE SET FORTH IN SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, EITHER THE CERTIFIED LABOR ORGANIZATION OR THE SHERIFF AND THE COUNTY COMMISSIONERS MAY SEEK NONBINDING MEDIATION THROUGH THE FEDERAL MEDIATION AND CONCILIATION SERVICE.

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

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

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

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

4. ~~A. IF THE GOVERNING BODY OF CECIL COUNTY SHALL ENACT A LOCAL ORDINANCE THAT ALLOWS FOR NONBINDING ARBITRATION IF THE CERTIFIED LABOR ORGANIZATION, THE SHERIFF, AND THE COUNTY COMMISSIONERS ARE UNABLE TO REACH AN AGREEMENT THROUGH MEDIATION UNDER SUBSUBPARAGRAPH 3 OF THIS SUBPARAGRAPH, ANY OF THE PARTIES MAY DEMAND AN ARBITRATOR.~~

~~B. THE ARBITRATOR SHALL BE SELECTED FROM A PANEL OF SEVEN ARBITRATORS WHO ARE MEMBERS OF THE NATIONAL ACADEMY OF ARBITRATORS.~~

~~C. THE PARTIES SHALL SELECT AN ARBITRATOR BY ALTERNATIVE STRIKES FROM THE PANEL.~~

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

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

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

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

~~H. THE WRITTEN DECISION OF THE ARBITRATOR IS NONBINDING ON THE SHERIFF AND THE COUNTY COMMISSIONERS.~~

~~I. THE COSTS OF ARBITRATION SHALL BE SHARED EQUALLY BY THE PARTIES.~~

(V) 1. A COLLECTIVE BARGAINING AGREEMENT SHALL CONTAIN ALL MATTERS OF AGREEMENT REACHED IN THE COLLECTIVE BARGAINING PROCESS.

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

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

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

A. DETERMINE THE MISSION, BUDGET, ORGANIZATION, NUMBERS, TYPES, CLASSES, GRADES, AND RANKS OF DEPUTY SHERIFFS ASSIGNED, THE SERVICES TO BE RENDERED, OPERATIONS TO BE PERFORMED, AND THE TECHNOLOGY TO BE USED;

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

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

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

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

F. MAINTAIN AND IMPROVE THE EFFICIENCY AND EFFECTIVENESS OF OPERATIONS;

G. HIRE, DIRECT, SUPERVISE, PROMOTE, DEMOTE, DISCIPLINE, ASSIGN, AND WITH REASONABLE CAUSE DISCHARGE FULL-TIME SWORN LAW ENFORCEMENT DEPUTY SHERIFFS, WITH THE EXCEPTION THAT THE PROMOTIONAL PROCESS FOR DEPUTY SHERIFFS UP TO THE RANK OF ~~FIRST~~ SERGEANT AND THE NUMBER AND COMPOSITION OF TRIAL BOARDS FOR THE DISCIPLINE PROCESS FOR DEPUTY SHERIFFS AT THE RANK OF ~~FIRST~~ SERGEANT AND BELOW ARE SUBJECT TO COLLECTIVE BARGAINING;

H. DETERMINE AND SET THE QUALIFICATIONS OF DEPUTY SHERIFFS FOR APPOINTMENT AND PROMOTIONS; AND

I. DETERMINE AND SET THE STANDARDS OF CONDUCT, AND WITH CONSULTATION AND INPUT FROM THE CERTIFIED LABOR ORGANIZATION, ADOPT RULES, ORDERS, POLICIES, REGULATIONS, AND PROCEDURES ON MUTUALLY AGREED ON SUBJECTS.

5. A COLLECTIVE BARGAINING AGREEMENT IS NOT EFFECTIVE UNTIL IT IS RATIFIED BY THE MAJORITY OF VOTES CAST BY THE DEPUTY SHERIFFS IN THE BARGAINING UNIT AND APPROVED BY THE SHERIFF AND THE COUNTY COMMISSIONERS.

~~(VI) 1. THE COSTS PAID BY THE COUNTY COMMISSIONERS UNDER SUBPARAGRAPHS (III)4, (IV)3C, AND (IV)4I OF THIS PARAGRAPH MAY NOT EXCEED \$15,000 IN TOTAL FOR FISCAL YEAR 2010 2011.~~

~~2. A. THE COUNTY COMMISSIONERS AND CERTIFIED LABOR ORGANIZATION SHALL NEGOTIATE A COST SHARING CAP FOR FISCAL YEAR 2011 2012 AND EACH SUBSEQUENT FISCAL YEAR.~~

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

~~(VII)~~ (VI) NOTHING IN THIS PARAGRAPH MAY BE CONSTRUED TO:

1. AUTHORIZE OR OTHERWISE ALLOW A DEPUTY SHERIFF TO ENGAGE IN A STRIKE AS DEFINED IN § 3-303 OF THE STATE PERSONNEL AND PENSIONS ARTICLE; AND

2. AUTHORIZE THE COLLECTION OF MANDATORY MEMBERSHIP FEES FROM NONMEMBERS OF THE EMPLOYEE ORGANIZATION.

~~SECTION 3. AND BE IT FURTHER ENACTED, That before this Act becomes effective it shall first be submitted to a referendum of the legally qualified voters of Cecil County at the general election to be held in November of 2010. The County governing body and the Cecil County Board of Elections shall do those things necessary and proper to provide for and hold the referendum required by this section. There shall be printed on the ballot to be used at this election the title of this Act and underneath the title, on separate lines, a square or box opposite the words "For collective bargaining with binding arbitration" and a corresponding square or box opposite the words "For collective bargaining with nonbinding arbitration". A voter may choose only one of the methods of arbitration. If a majority of the votes cast on the question are "For collective bargaining with binding arbitration" the provisions of Section 1 of this Act shall become effective on the 30th day following the official canvass of votes for the referendum and the provisions of Section 2 of this Act are of no effect and null and void. If a majority of the votes cast on the question are "For collective bargaining with nonbinding arbitration" the provisions of Section 2 of this Act become effective on the 30th day following the official canvass of votes for the referendum and the provisions of Section 1 of this Act are of no effect and null and void.~~

~~SECTION 4. 2. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 3 of this Act and for the sole purpose of providing for the referendum required by Section 3 of this Act, this Act shall take effect July 1, 2010.~~

Approved by the Governor, May 20, 2010.