

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 1123

(Senator Frosh)

Finance

Appropriations

Political Subdivisions - Collective Bargaining Agreements - Binding Arbitration

This emergency bill retroactively authorizes a county or municipal corporation to adopt a local law or ordinance that allows for binding arbitration to resolve collective bargaining disputes regarding negotiations for wages, benefits, or terms and conditions of employment for employees of the county or municipal corporation, if the county or municipality has adopted such a local law or ordinance prior to the bill's effective date.

The bill may not be applied or interpreted to have any effect on or application to any local law or ordinance that allows for binding arbitration enacted after the effective date of the bill.

Fiscal Summary

State Effect: None.

Local Effect: To the extent that the bill preserves local laws or ordinances allowing for specified binding arbitration that may otherwise be invalidated, local government collective bargaining expenditures may increase. Revenues are not affected.

Small Business Effect: None.

Analysis

Current Law: Numerous counties and municipal corporations in Maryland have enacted local laws regarding the use of binding arbitration in collective bargaining disputes.

Background: The Wicomico County Council enacted legislation in December 2007, following the passage in November of 2006 of a charter amendment requiring the council to adopt a law providing for collective bargaining with binding arbitration of disputes between the county and an authorized representative of the county sheriff's deputies. The Fraternal Order of Police, Lodge 111 filed in circuit court a petition for writ of mandamus and complaint for declaratory relief, alleging that in violation of the charter, the legislation passed by the county council (over the county executive's veto) placed restrictions on the arbiter and did not make the arbiter's decision binding on the county council. The council filed a counterclaim for declaratory relief, asserting that the charter amendment constituted an attempt to legislate by charter initiative, and requested declaratory judgment that the charter amendment was invalid and unconstitutional under Article XI-A of the Maryland Constitution.

After further legal dispute, the Court of Special Appeals upheld the circuit court decision that the Wicomico County charter amendment is unconstitutional, citing limits on the power of voters in a charter county that preclude a citizen initiative that is legislative in nature; the legislative power being properly vested in the county council.

The Court of Appeals reached a similar decision in 1984, in *Griffith v. Wakefield*. This involved a proposed amendment to Baltimore County's charter requiring resolution of labor disputes with firefighters through binding arbitration. The court found the proposal invalid under Article XI-A of the Maryland Constitution, citing that the charter itself would contain all of the law on the subject, depriving the county council of all decision-making authority on the subject.

Local Fiscal Effect: The bill may provide additional validity to existing local laws. It is unclear whether the bill will have an impact on potential future legal disputes regarding binding arbitration provisions in local charters and code; nor the costs related to such disputes. To the extent that the bill preserves local laws or ordinances allowing for binding arbitration to resolve collective bargaining disputes that may otherwise be invalidated, local government collective bargaining expenditures may increase. Often arbitration costs are divided between the particular employee organization representative and the particular local government.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Howard, Kent, Montgomery, Washington, Wicomico, and Worcester counties; Baltimore City; Maryland Association of Counties; Maryland Municipal League; Department of Legislative Services

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