

# HOUSE BILL 797

L2, L5

3lr0545

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

Introduced and read first time: February 8, 2023

Assigned to: Appropriations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2023

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland–National Capital Park and Planning Commission – Collective**  
3 **Bargaining Agreement Implementation – Dispute Arbitration**

4 **MC/PG 103–23**

5 FOR the purpose of altering the requirement that economic provisions of a certain final  
6 collective bargaining agreement for employees of the Maryland–National Capital  
7 Park and Planning Commission be subject to funding by the Montgomery County  
8 Council and the Prince George's County Council to instead require that certain terms  
9 and conditions of the final agreement be subject to approval by the Montgomery  
10 County Council and the Prince George's County Council; authorizing the parties to  
11 a collective bargaining agreement for employees of the Maryland–National Capital  
12 Park and Planning Commission to request the services of a mediator–arbitrator  
13 during the term of a certain collective bargaining agreement under certain  
14 circumstances; establishing the process for mediation–arbitration; requiring the  
15 parties to share equally the costs of the mediator–arbitrator's services; and generally  
16 relating to collective bargaining for employees of the Maryland–National Capital  
17 Park and Planning Commission.

18 BY repealing and reenacting, with amendments,

19 Article – Land Use

20 Section 16–209

21 Annotated Code of Maryland

22 (2012 Volume and 2022 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY adding to  
2 Article – Land Use  
3 Section 16–210.1  
4 Annotated Code of Maryland  
5 (2012 Volume and 2022 Supplement)

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

8 **Article – Land Use**

9 16–209.

10 (a) (1) If the parties have not reached an agreement on or before December 1  
11 on a collective bargaining agreement that would become effective the following July 1, the  
12 parties jointly shall appoint a mediator–arbitrator.

13 (2) If the parties are unable to agree on a mediator–arbitrator, the labor  
14 relations administrator shall appoint the mediator–arbitrator on or before December 7.

15 (3) Notwithstanding appointment of the mediator–arbitrator, this section  
16 does not require mediation–arbitration to begin before the date set forth in subsection (c)  
17 of this section.

18 (b) During the course of the collective bargaining:

19 (1) either party may declare an impasse and request the services of the  
20 mediator–arbitrator; or

21 (2) the parties jointly may request the services of a mediator–arbitrator  
22 before an impasse is declared.

23 (c) If the mediator–arbitrator finds in the mediator–arbitrator’s sole discretion  
24 that the parties are at a bona fide impasse or on February 1, whichever occurs earlier, the  
25 mediator–arbitrator shall direct the parties to submit:

26 (1) a joint memorandum listing all items to which the parties previously  
27 agreed; and

28 (2) a separate memorandum of each party’s last final offer presented in  
29 negotiations on all items to which the parties previously did not agree.

30 (d) (1) On or before February 10, the mediator–arbitrator shall hold a closed  
31 hearing on the parties’ proposals at a time, date, and place selected by the  
32 mediator–arbitrator.

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

3           (3) The mediator–arbitrator may not open the hearing to a person that is  
4 not a party to the mediation–arbitration.

5           (e) (1) On or before February 15, the mediator–arbitrator shall issue a report  
6 selecting the final offer submitted by the party that the mediator–arbitrator determines to  
7 be more reasonable when viewed as a whole.

8           (2) In determining which offer is more reasonable, the  
9 mediator–arbitrator:

10           (i) may consider only:

11                   1. past collective bargaining agreements between the  
12 parties, including the past bargaining history that led to the agreement or the precollective  
13 bargaining history of employee wages, hours, benefits, and other working conditions;

14                   2. a comparison of wages, hours, benefits, and conditions of  
15 employment of similar employees of other public employers in the Washington  
16 metropolitan area and the State;

17                   3. a comparison of wages, hours, benefits, and conditions of  
18 employment of similar employees of private employers in Montgomery County and Prince  
19 George's County;

20                   4. the public interest and welfare;

21                   5. the ability of the Commission to finance any economic  
22 adjustments required under the proposed agreement;

23                   6. the effects of any economic adjustments on the standard of  
24 public services normally provided by the Commission; and

25                   7. the annual increase or decrease in consumer prices for all  
26 items as reflected in the most recent Consumer Price Index – Urban Wage Earners and  
27 Clerical Workers (“CPI–W”) for the Washington Metropolitan Area; and

28           (ii) shall consider all items on which the parties agreed before the  
29 mediation–arbitration began to be integrated into each offer.

30           (3) (i) The mediator–arbitrator may not receive or consider the history  
31 of collective bargaining relating to the immediate dispute, including any offers of  
32 settlement not contained in the offer submitted to the mediator–arbitrator.

1                   (ii) The mediator–arbitrator may not compromise or alter the final  
2 offer that the mediator–arbitrator selects.

3           (f)   (1)   (i)   Subject to subparagraph (ii) of this paragraph, the offer selected  
4 by the mediator–arbitrator, as integrated with the items on which the parties previously  
5 agreed, shall be the final agreement between the Commission and the exclusive  
6 representative without ratification by the parties.

7                   (ii)   [The economic provisions] ANY TERMS OR CONDITIONS of the  
8 final agreement THAT REQUIRE AN APPROPRIATION OF FUNDS OR THE ADOPTION OF  
9 REGULATIONS OR THAT HAVE A PRESENT OR FUTURE FISCAL IMPACT are subject to  
10 [funding] APPROVAL by the Montgomery County Council and Prince George’s County  
11 Council.

12                   (iii) The Commission shall request funds in the Commission’s final  
13 budget from the county councils for all economic provisions of the final agreement.

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

16           (g)   The Commission and the employee organization shall share equally the costs  
17 of the mediator–arbitrator’s services.

18 **16–210.1.**

19           **(A) DURING THE TERM OF A COLLECTIVE BARGAINING AGREEMENT:**

20                   **(1) EITHER PARTY MAY DECLARE AN IMPASSE AND REQUEST THE**  
21 **SERVICES OF A MEDIATOR–ARBITRATOR; AND**

22                   **(2) THE PARTIES JOINTLY MAY REQUEST THE SERVICES OF A**  
23 **MEDIATOR–ARBITRATOR AT ANY TIME WITHOUT DECLARING AN IMPASSE.**

24           **(B) (1) IF THE SERVICES OF A MEDIATOR–ARBITRATOR HAVE BEEN**  
25 **REQUESTED, THE PARTIES JOINTLY SHALL APPOINT A MEDIATOR–ARBITRATOR.**

26                   **(2) IF THE PARTIES ARE UNABLE TO AGREE ON A**  
27 **MEDIATOR–ARBITRATOR, THE LABOR RELATIONS ADMINISTRATOR SHALL APPOINT**  
28 **THE MEDIATOR–ARBITRATOR WITHIN 7 DAYS AFTER THE SERVICES OF A**  
29 **MEDIATOR–ARBITRATOR WERE REQUESTED.**

30           **(C) IF THE MEDIATOR–ARBITRATOR FINDS IN THE**  
31 **MEDIATOR–ARBITRATOR’S SOLE DISCRETION THAT THE PARTIES ARE AT A BONA**  
32 **FIDE IMPASSE, THE MEDIATOR–ARBITRATOR SHALL DIRECT EACH PARTY TO**

1 SUBMIT A SEPARATE MEMORANDUM OF EACH PARTY'S LAST FINAL OFFER ON ITEMS  
2 WITH REGARD TO WHICH THE PARTIES ARE IN DISPUTE.

3 (D) (1) WITHIN 10 DAYS AFTER THE SUBMISSION OF THE MEMORANDA  
4 UNDER SUBSECTION (C) OF THIS SECTION, THE MEDIATOR-ARBITRATOR SHALL  
5 HOLD A CLOSED HEARING ON THE PARTIES' OFFERS AT A TIME, DATE, AND PLACE  
6 SELECTED BY THE MEDIATOR-ARBITRATOR.

7 (2) EACH PARTY SHALL SUBMIT EVIDENCE OR MAKE ORAL AND  
8 WRITTEN ARGUMENTS IN SUPPORT OF THE PARTY'S FINAL OFFER.

9 (3) THE MEDIATOR-ARBITRATOR MAY NOT OPEN THE HEARING TO A  
10 PERSON THAT IS NOT A PARTY TO THE MEDIATION-ARBITRATION.

11 (E) (1) WITHIN 5 DAYS AFTER THE HEARING REQUIRED UNDER  
12 SUBSECTION (D)(1) OF THIS SECTION, THE MEDIATOR-ARBITRATOR SHALL ISSUE A  
13 REPORT SELECTING THE FINAL OFFER THAT THE MEDIATOR-ARBITRATOR  
14 DETERMINES TO BE MORE REASONABLE WHEN VIEWED AS A WHOLE.

15 (2) IN DETERMINING WHICH OFFER IS MORE REASONABLE, THE  
16 MEDIATOR-ARBITRATOR:

17 (I) MAY CONSIDER ONLY:

18 1. PAST COLLECTIVE BARGAINING AGREEMENTS  
19 BETWEEN THE PARTIES, INCLUDING THE PAST BARGAINING HISTORY THAT LED TO  
20 THE AGREEMENT OR THE PRECOLLECTIVE BARGAINING HISTORY OF EMPLOYEE  
21 WAGES, HOURS, BENEFITS, AND OTHER WORKING CONDITIONS;

22 2. A COMPARISON OF WAGES, HOURS, BENEFITS, AND  
23 CONDITIONS OF EMPLOYMENT OF SIMILAR EMPLOYEES OF OTHER PUBLIC  
24 EMPLOYERS IN THE WASHINGTON METROPOLITAN AREA AND THE STATE;

25 3. A COMPARISON OF WAGES, HOURS, BENEFITS, AND  
26 CONDITIONS OF EMPLOYMENT OF SIMILAR EMPLOYEES OF PRIVATE EMPLOYERS IN  
27 MONTGOMERY COUNTY AND PRINCE GEORGE'S COUNTY;

28 4. THE PUBLIC INTEREST AND WELFARE;

29 5. THE ABILITY OF THE COMMISSION TO FINANCE ANY  
30 ECONOMIC ADJUSTMENTS REQUIRED UNDER THE PROPOSED AGREEMENT;

1                   **6. THE EFFECTS OF ANY ECONOMIC ADJUSTMENTS ON**  
2 **THE STANDARD OF PUBLIC SERVICES NORMALLY PROVIDED BY THE COMMISSION;**  
3 **AND**

4                   **7. THE ANNUAL INCREASE OR DECREASE IN CONSUMER**  
5 **PRICES FOR ALL ITEMS AS REFLECTED IN THE MOST RECENT CONSUMER PRICE**  
6 **INDEX – URBAN WAGE EARNERS AND CLERICAL WORKERS (“CPI-W”) FOR THE**  
7 **WASHINGTON METROPOLITAN AREA; AND**

8                   **(II) SHALL CONSIDER ALL ITEMS ON WHICH THE PARTIES**  
9 **AGREED BEFORE THE MEDIATION–ARBITRATION BEGAN TO BE INTEGRATED INTO**  
10 **EACH OFFER.**

11                   **(3) (I) THE MEDIATOR–ARBITRATOR MAY NOT RECEIVE OR**  
12 **CONSIDER THE HISTORY OF COLLECTIVE BARGAINING RELATING TO THE**  
13 **IMMEDIATE DISPUTE, INCLUDING ANY OFFERS OF SETTLEMENT NOT CONTAINED IN**  
14 **THE OFFER SUBMITTED TO THE MEDIATOR–ARBITRATOR.**

15                   **(II) THE MEDIATOR–ARBITRATOR MAY NOT COMPROMISE OR**  
16 **ALTER THE FINAL OFFER THAT THE MEDIATOR–ARBITRATOR SELECTS.**

17                   **(F) (1) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE**  
18 **OFFER SELECTED BY THE MEDIATOR–ARBITRATOR, AS INTEGRATED WITH THE**  
19 **GOVERNING COLLECTIVE BARGAINING AGREEMENT AT THE TIME OF THE DISPUTE,**  
20 **SHALL BE THE FINAL AGREEMENT BETWEEN THE COMMISSION AND THE EXCLUSIVE**  
21 **REPRESENTATIVE WITHOUT RATIFICATION BY THE PARTIES.**

22                   **(II) ~~THE ECONOMIC PROVISIONS~~ ANY TERMS OR CONDITIONS**  
23 **OF THE FINAL AGREEMENT THAT REQUIRE AN APPROPRIATION OF FUNDS OR THE**  
24 **ADOPTION OF REGULATIONS OR THAT HAVE A PRESENT OR FUTURE FISCAL IMPACT**  
25 **ARE SUBJECT TO ~~FUNDING~~ APPROVAL BY THE MONTGOMERY COUNTY COUNCIL**  
26 **AND THE PRINCE GEORGE’S COUNTY COUNCIL.**

27                   **(III) THE COMMISSION SHALL REQUEST FUNDS IN THE**  
28 **COMMISSION’S FINAL BUDGET FROM THE MONTGOMERY COUNTY COUNCIL AND**  
29 **THE PRINCE GEORGE’S COUNTY COUNCIL FOR ALL ECONOMIC PROVISIONS OF THE**  
30 **FINAL AGREEMENT.**

31                   **(2) THE PARTIES SHALL EXECUTE AN AGREEMENT INCORPORATING**  
32 **THE FINAL AGREEMENT, INCLUDING ARBITRATION AWARDS AND ALL ISSUES**  
33 **AGREED TO UNDER THIS SECTION.**

34                   **(G) THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL SHARE**  
35 **EQUALLY THE COSTS OF THE MEDIATOR–ARBITRATOR’S SERVICES.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 October 1, 2023.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.