

**Department of Legislative Services**  
Maryland General Assembly  
2023 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

House Bill 764  
Appropriations

(Montgomery County Delegation)

Finance

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**Montgomery County Housing Opportunities Commission - Collective Bargaining Agreement Implementation - Impasse Arbitration**  
**MC 10-23**

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This bill authorizes the appointment of a mediator-arbitrator during the term of a collective bargaining agreement of the Montgomery County Housing Opportunities Commission (HOC), as specified, and establishes the powers and responsibilities of the mediator-arbitrator. Both HOC and the employee organization must equally share the costs of the mediator-arbitrator's services. The bill also requires the Executive Director of HOC to submit to the commission any term or condition of a final offer that requires (1) an appropriation of funds or that may result in a present or future impact on HOC or its customers or (2) action by HOC to implement the collective bargaining agreement, as specified.

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** HOC expenditures increase, likely minimally, beginning in FY 2024 to the extent a mediator-arbitrator is appointed under the bill. Local revenues are not affected.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** The bill specifies that either party during the term of a collective bargaining agreement may declare an impasse and request the services of a mediator-arbitrator. The parties may also jointly request the services of a

mediator-arbitrator without declaring an impasse and must jointly appoint a mediator-arbitrator. If the parties are unable to mutually agree on the selection of a jointly appointed mediator-arbitrator, as specified, the labor relations administrator must name the jointly appointed mediator-arbitrator within seven days after the services of a mediator-arbitrator were requested.

If at the mediator-arbitrator's discretion it is found that the parties are at a *bona fide* impasse, each party must submit a separate memorandum of each party's last final offer on items under dispute. Within 10 days after the submission of the memoranda, the mediator-arbitrator must hold a closed hearing on the parties' offers at a time, date, and place of the mediator-arbitrator's choice. Each party may submit in writing or oral testimony, all information or data supporting the party's final offer. The mediator-arbitrator may not open the hearing to a person who is not a party to the mediation-arbitration.

Within five days after the hearing, the mediator-arbitrator must issue a report selecting the final offer determined to be more reasonable when viewed as a whole. In determining the more reasonable offer, the mediator-arbitrator may only consider:

- past collective bargaining contracts between the parties, including the past bargaining history that led to such agreements or the precollective bargaining history of employee wages, hours, benefits, and other working conditions;
- a comparison of wages, hours, benefits, and conditions of employment of employees performing similar services in public employment in the Washington Metropolitan Area and the State;
- a comparison of wages, hours, benefits, and conditions of employment of employees performing similar services in private employment in Montgomery County;
- the public interest and welfare;
- the ability of HOC to finance economic adjustments under the proposed agreement and the effect of such economic adjustments on the standard of public services normally provided by HOC;
- the annual changes in consumer prices for all items as reflected in the most recent Consumer Price Index for Urban Wage Earners and Clerical Workers for the Washington Metropolitan Area; and
- all items on which the parties agreed before the mediation-arbitration began to be integrated into each offer.

However, in considering the terms and conditions of the final offer, the mediator-arbitrator must first consider and give the highest priority to HOC's ability to pay for additional short- and long-term expenses. Specifically, the mediator-arbitrator must consider (1) the limits on HOC's ability to raise revenue; (2) the added burden raising revenue would have

on HOC customers; and (3) the ability of HOC to continue providing the current level of service to its customers.

Under the bill, the mediator-arbitrator is prohibited from considering or receiving any history of collective bargaining relating to the immediate dispute, including any offers of settlement not contained in the offer submitted to the mediator-arbitrator. The mediator-arbitrator is prohibited from compromising or altering the final offer that the mediator-arbitrator selects.

The offer selected by the mediator-arbitrator, as integrated with the collective bargaining agreement at the time of the dispute, must be the final agreement between HOC and the exclusive representative without ratification by the parties. The economic provisions of the final agreement are subject to funding by HOC, and HOC must appropriate funds in its final budget for all economic provisions of the final agreement.

Within 45 days after the execution of an agreement, or a later date determined by mutual agreement of the parties due to extenuating circumstances, the executive director of HOC must submit to the commission any term or condition of the final offer that requires (1) an appropriation of funds or that may result in a present or future fiscal impact on HOC or its customers or (2) action by HOC to implement the collective bargaining agreement. HOC may subsequently accept or reject all or part of any of those terms or conditions.

**Current Law:** Title 16, Subtitle 3 of the Housing and Community Development Article establishes statutory collective bargaining rights for HOC employees.

HOC and a certified employee organization must meet by September 1 each year and engage in collective bargaining about specified issues, including salaries and wages, for the following fiscal year for which an agreement has not been reached, and must complete the collective bargaining on or before February 1 of the following year. A mediator panel may be used in collective bargaining when (1) HOC and the employee organization agree to mediation or (2) an impasse results, and HOC or the employee organization requests mediation.

HOC and the employee organization must each choose one mediator from a list supplied by the American Arbitration Association, or the Federal Mediation and Conciliation Service and together choose a third mediator that must be selected jointly from the list.

If the parties are unable to agree on the selection of a jointly appointed mediator, the mediator must be selected by the labor relations administrator. The costs of mediation must be shared equally by both parties and the arbitrator does not have authority to amend, add to, or subtract from the collective bargaining agreement.

### *Requirement of Executive Director*

By April 1 or a later date determined by mutual agreement of the parties due to extenuating circumstances, the executive director of HOC must submit to the commission any term or condition of the final offer regarding wages that requires (1) an appropriation of funds or (2) the adoption of a regulation that may result in a present or future fiscal impact on HOC or its customers.

**Local Expenditures:** The cost of the services of a mediator-arbitrator appointed under the bill must be shared equally between the parties. HOC, a component unit of Montgomery County, will be responsible for half of any mediator-arbitrator costs incurred under the bill, beginning in fiscal 2024. Actual expenditures cannot be reliably estimated but are assumed to be minimal.

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### **Additional Information**

**Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Montgomery County; Department of Housing and Community Development; Department of Legislative Services

**Fiscal Note History:** First Reader - March 5, 2023  
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