

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 797

(Montgomery County Delegation and Prince George's
County Delegation)

Appropriations

Finance

**Maryland-National Capital Park and Planning Commission - Collective
Bargaining Agreement Implementation - Dispute Arbitration**
MC/PG 103-23

This bill authorizes the appointment of a mediator-arbitrator during the collective bargaining process of the Maryland-National Capital Park and Planning Commission (M-NCPPC) and establishes the powers and responsibilities of the mediator-arbitrator. Both M-NCPPC and the employee organization must equally share the costs of the mediator-arbitrator's services. The bill also clarifies that any terms or conditions of a final agreement that require an appropriation of funds or the adoption of regulations or that have a present or future fiscal impact are subject to approval by the Montgomery and Prince George's county councils.

Fiscal Summary

State Effect: None.

Local Effect: M-NCPPC 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.

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 mediator-arbitrator, the labor relations administrator must appoint the mediator-arbitrator within seven days after the services of a mediator-arbitrator were requested.

If at the mediator-arbitrator's sole 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 agreements 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 and Prince George's counties;
- the public interest and welfare;
- the ability of M-NCPPC to finance economic adjustments under the agreement and the effect of such economic adjustments on the standard of public services normally provided by M-NCPPC;
- the annual changes in consumer prices for all items as reflected in the most recent Consumer Price Index-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.

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 M-NCPPC and the exclusive representative without ratification by the parties. M-NCPPC must request funding in the commission's final budget from the Montgomery and Prince George's county councils for all economic provisions of the final agreement.

Current Law: Title 16, Subtitle 2 of the Land Use Article establishes statutory collective bargaining rights for M-NCPPC employees divided into four bargaining units:

- the office unit, which includes office classification titles in which employees are responsible for internal and external communications and all paperwork that is generally required in an office;
- the professional/technical unit, which includes professional, paraprofessional, and technical classification titles, as specified;
- the service/labor unit, which includes classification titles in which employees perform service and maintenance and other duties, as specified; and
- the trade unit, which includes classification titles in which employees are required to possess special manual skills and other skills as required by the role, as specified.

The services of a mediator in a collective bargaining process may be used when both parties agree to mediation or an impasse results, and either party requests mediation. The mediator must be selected jointly from a list provided by the American Arbitration Association or the Federal Mediation and Conciliation Service. If the parties are unable to agree on the selection of a mediator, the mediator will be selected by the labor relations administrator. The costs of mediation must be shared equally by both parties. The economic provisions of the final agreement between both parties are subject to funding by the Montgomery and Prince George's county councils.

Local Expenditures: The cost of the services of a mediator-arbitrator appointed under the bill must be shared equally between the parties. M-NCPPC 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.

Additional Information

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

Designated Cross File: None.

Information Source(s): Maryland-National Capital Park and Planning Commission; Montgomery and Prince George's counties; Department of Legislative Services

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