

Expedited Bill No. 57-10  
Concerning: Personnel – Collective Bargaining – Impasse Procedures  
Revised: December 14, 2010  
Draft No. 11  
Introduced: November 23, 2010  
Enacted: December 14, 2010  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Council Vice President Ervin, Council President Floreen, and Councilmembers Andrews, Berliner, Elrich, Knapp, Navarro, Trachtenberg, and Leventhal

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**AN EXPEDITED ACT to:**

- (1) modify the criteria for an impasse neutral and a mediator/arbitrator to evaluate before issuing an arbitration award; and
- (2) generally amend County collective bargaining laws.

By amending

Montgomery County Code  
Chapter 33, Personnel and Human Resources  
Sections 33-81, 33-108, and 33-153

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*



28 a final offer]] [[assuming no increase in revenue  
 29 from an ad valorem tax on real property above the  
 30 limit in County Charter Section 305]] the added  
 31 burden on County taxpayers, if any, resulting from  
 32 increases in revenues needed to fund a final offer;  
 33 and

34 (iii) [[considering]] the County's ability to continue to  
 35 provide the current [[standard]] [[level]] standard of  
 36 all public services.

37 (B) [[After evaluating the ability of the County to pay]] [[If the  
 38 impasse neutral finds]] After evaluating the ability of the  
 39 County to pay under subparagraph (A) [[that the County  
 40 can afford both final offers]], the impasse neutral [[may  
 41 only]] [[must]] may only consider:

42 (i) the interest and welfare of County taxpayers and  
 43 service recipients;

44 [a.] (ii) [Past] past collective bargaining contracts between  
 45 the parties, including the [past] bargaining history  
 46 that led to [such contracts, or the pre-collective  
 47 bargaining history of employee wages, hours,  
 48 benefits and working conditions] each contract;

49 [b.] (iii) [Comparison] a comparison of wages, hours,  
 50 benefits, and conditions of employment of similar  
 51 employees of other public employers in the  
 52 Washington Metropolitan Area and in Maryland;

53 [c.] (iv) [Comparison] a comparison of wages, hours,  
 54 benefits, and conditions of employment of other  
 55 Montgomery County [personnel] employees; and  
 56 [d.] (v) [Wages] wages, benefits, hours and other working  
 57 conditions of similar employees of private  
 58 employers in Montgomery County[;]

59 [e. The interest and welfare of the public;]  
 60 [f. The ability of the employer to finance economic  
 61 adjustments and the effect of the adjustments upon the  
 62 normal standard of public services by the employer].

63 (6) The impasse neutral [shall] must:

64 (A) not compromise or alter the final offer that he or she  
 65 selects; [. Selection of]

66 (B) select an offer [shall be] based on the contents of that offer;  
 67 [. No consideration shall be given to, nor]

68 (C) not consider or receive [shall] any evidence or argument  
 69 [be received] concerning the history of collective  
 70 bargaining in this immediate dispute, including offers of  
 71 settlement not contained in the offers submitted to the  
 72 impasse neutral; and [. However, the impasse neutral  
 73 shall]

74 (D) consider all previously agreed [upon] on items integrated  
 75 with the specific disputed items to determine the single  
 76 most reasonable offer.

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78 **33-108. Bargaining, impasse, and legislative procedures.**

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\* \* \*

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- (f) (1) If binding arbitration is invoked, the mediator/arbitrator must require each party to submit a final offer, which must consist either of a complete draft of a proposed collective bargaining agreement or a complete package proposal, as the mediator/arbitrator directs. If only complete package proposals are required, the mediator/arbitrator must require the parties to submit jointly a memorandum of all items previously agreed on.

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- (4) In making a determination under this subsection, the mediator/arbitrator [may consider only the following factors] must first [[evaluate and give the highest priority to]] [[determine]] evaluate and give the highest priority to the ability of the County to [[pay for additional]] [[afford any]] pay for additional short-term and long-term expenditures [[required by the final offers]] [[by considering]] by considering:

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- (A) [[the limits on the County's ability to raise taxes under State law and the County Charter]] [[assuming no increase in any existing tax rate or the adoption of any new tax]] the limits on the County's ability to raise taxes under State law and the County Charter;

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- (B) [[the added burden on County taxpayers, if any, resulting from increases in revenues needed to fund a final offer]] [[assuming no increase in revenue from an ad valorem tax on real property above the limit in County Charter Section

105 305]] the added burden on County taxpayers, if any,  
 106 resulting from increases in revenues needed to fund a final  
 107 offer; and

108 (C) [[considering]] the County's ability to continue to provide  
 109 the current [[standard]] [[level]] standard of all public  
 110 services.

111 (5) [[After evaluating the ability of the County to pay]] [[If the  
 112 mediator/arbitrator finds that]] After evaluating the ability of the  
 113 County to pay under paragraph (4) [[the County can afford both  
 114 final offers]], the mediator/arbitrator [[may only]] [[must]] may  
 115 only consider:

116 (A) the interest and welfare of County taxpayers and service  
 117 recipients;

118 [(A)] (B) [Past] past collective bargaining agreements between  
 119 the parties, including the past bargaining history that led  
 120 to [the agreements, or the pre-collective bargaining  
 121 history of employee wages, hours, benefits, and working  
 122 conditions] each agreement[.];

123 [(B)] (C) [Comparison] a comparison of wages, hours, benefits,  
 124 and conditions of employment of similar employees of  
 125 other public employers in the Washington Metropolitan  
 126 Area and in Maryland[.];

127 [(C)] (D) [Comparison] a comparison of wages, hours, benefits,  
 128 and conditions of employment of other Montgomery  
 129 County [personnel] employees[.] ; and

130 [(D)] ~~(E)~~ [Wages] wages, benefits, hours, and other working  
131 conditions of similar employees of private employers in  
132 Montgomery County.

133 [(E) The interest and welfare of the public.

134 (F) The ability of the employer to finance economic  
135 adjustments, and the effect of the adjustments upon the  
136 normal standard of public services provided by the  
137 employer.]

138 (6) The offer selected by the mediator/arbitrator, integrated with all  
139 previously agreed on items, is the final agreement between the  
140 employer and the certified representative, need not be ratified  
141 by any party, and has the effect of a contract ratified by the  
142 parties under subsection (c). The parties must execute the  
143 agreement, and any provision which requires action in the  
144 County budget must be included in the budget which the  
145 employer submits to the County Council.

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147 **33-153. Bargaining, impasse, and legislative procedures.**

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149 (i) On or before February 1, unless that date is extended by written  
150 agreement of the parties, the impasse neutral must select the final  
151 offer that, as a whole, the impasse neutral judges to be the more  
152 reasonable.

153 (1) In determining which final offer is the more reasonable, the  
154 impasse neutral [may consider only the following factors] must  
155 first [[evaluate and give the highest priority to]] [[determine]]  
156 evaluate and give the highest priority to the ability of the County

157 to [[pay for additional]] [[afford any]] pay for additional short-  
 158 term and long-term expenditures [[required by the final offers]]  
 159 [[by considering]] by considering:

160 (A) [[the limits on the County's ability to raise taxes under  
 161 State law and the County Charter]] [[assuming no increase  
 162 in any existing tax rate or the adoption of any new tax]] the  
 163 limits on the County's ability to raise taxes under State law  
 164 and the County Charter;

165 (B) [[the added burden on County taxpayers, if any, resulting  
 166 from increases in revenues needed to fund a final offer]]  
 167 [[assuming no increase in revenue from an ad valorem tax  
 168 on real property above the limit in County Charter Section  
 169 305]] the added burden on County taxpayers, if any,  
 170 resulting from increases in revenues needed to fund a final  
 171 offer; and

172 (C) [[considering]] the County's ability to continue to provide  
 173 the current [[standard]] [[level]] standard of all public  
 174 services.

175 (2) [[After evaluating the ability of the County to pay]] [[If the  
 176 impasse neutral finds]] After evaluating the ability of the County  
 177 to pay under paragraph (1) [[that the County can afford both final  
 178 offers]], the impasse neutral [[may only]] [[must]] may only  
 179 consider:

180 (A) the interest and welfare of County taxpayers and service  
 181 recipients;

182 [(1)] (B) past collective bargaining agreements between the  
 183 parties, including the past bargaining history that led to



184 [the agreements, or the pre-collective bargaining history  
185 of employee wages, hours, benefits, and working  
186 conditions] each agreement;

187 [(2)] (C) wages, hours, benefits and conditions of employment  
188 of similar employees of other public employers in the  
189 Washington Metropolitan Area and in Maryland;

190 [(3)] (D) wages, hours, benefits, and conditions of employment  
191 of other Montgomery County employees; and

192 [(4)] (E) wages, benefits, hours, and other working conditions  
193 of similar employees of private employers in  
194 Montgomery County[;

195 (5) the interest and welfare of the public; and

196 (6) the ability of the employer to finance economic adjustments, and  
197 the effect of those adjustments upon the normal standard of  
198 public services provided by the employer].

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200 **Sec. 2. Effective Date.**

201 The Council declares that this legislation is necessary for the immediate  
202 protection of the public interest. This Act takes effect on the date on which it  
203 becomes law.

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206 *Approved:*

207 Valerie Ervin 12/17/2010  
Valerie Ervin, President, County Council Date

208 *Approved:*

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\_\_\_\_\_  
Isiah Leggett, County Executive Date

210 *This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council Date