

Expedited Bill No. 30-03  
Concerning: Collective Bargaining -  
Schedule and Process  
Revised: 9-22-03 Draft No. 1  
Introduced: September 9, 2003  
Enacted: September 30, 2003  
Executive: October 9, 2003  
Effective: October 9, 2003  
Sunset Date: None  
Ch. 22, Laws of Mont. Co. 2003

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Management and Fiscal Policy Committee

**AN EXPEDITED ACT to:**

- (1) modify the process and schedule for collective bargaining with County bargaining units;  
and
- (2) repeal obsolete provisions, update language, and generally amend the laws governing collective bargaining by County employees, including public safety employees.

By amending

Montgomery County Code  
Chapter 33, Personnel and Human Resources  
Sections 33-79, 33-80, 33-81, 33-106, 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>
<b>[Single boldface brackets]</b>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<b>[[Double boldface brackets]]</b>	<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:*

1           **Sec. 1. Sections 33-79, 33-80, 33-81, 33-106, 33-108, and 33-153 are amended as**  
 2 **follows:**

3 **33-79. Selection, certification and decertification procedures.**

4           (a) The certification or decertification of an employee organization as the unit's  
 5 representative for the purpose of collective bargaining shall be initiated in  
 6 accordance with the following procedures:

7   \*       \*       \*

8           (4) Petitions [may be filed between July 1, 1982, and July 31, 1982. Thereafter,  
 9 petitions] may be filed between September 1 and September 30 of any year,  
 10 but no sooner than [twenty-two (22)] 22 months following an election held  
 11 pursuant to this section.

12   \*       \*       \*

13           [(6) If, during the period of July 1 to July 31, 1982, a petition is filed by the  
 14 incumbent representative of unit employees certified under the employer-  
 15 employee relations article of this chapter, and no other employee  
 16 organization files a valid petition, that incumbent certified representative  
 17 shall be certified without an election, provided it produces evidence,  
 18 acceptable to the permanent umpire, of majority representation.]

19   \*       \*       \*

20 **33-80. Collective bargaining.**

21   \*       \*       \*

22           (g) *Submission to Council [review].* A ratified agreement shall be binding on the  
 23 employer and the certified representative, and shall be reduced to writing and  
 24 executed by both parties. In each proposed annual operating budget, the County  
 25 Executive shall describe any collective bargaining agreement or amendment to an  
 26 agreement that is scheduled to take effect in the next fiscal year and estimate the cost  
 27 of implementing that agreement. Any term or condition [thereof] of a collective  
 28 bargaining agreement which requires an appropriation of funds or enactment, repeal  
 29 or modification of a County law shall be timely submitted to the County Council by  
 30 the employer [and the] by April 1, unless extenuating circumstances require a later

31 date. If a later submission is necessary, the employer shall specify the submission  
 32 date and the reasons for delay to the Council President by April 1. The employer  
 33 shall make a good faith effort to have such term or condition implemented by  
 34 Council action. Each submission to the Council shall include:

35 (1) all proposed legislation and regulations necessary to implement the  
 36 collective bargaining agreement:

37 (2) all changes from the previous collective bargaining agreement, indicated by  
 38 brackets and underlines or a similar notation system; and

39 (3) all side letters or other extraneous documents that are binding on the parties.

40 (h) Council review. On or before May 1, the County Council shall indicate by  
 41 resolution its intention to appropriate funds for or otherwise implement the  
 42 agreement or its intention not to do so, and shall state its reasons for any intent to  
 43 reject any part of the agreement. The Council, by majority vote taken on or before  
 44 May 1, may defer the May 1 deadline to any date not later than May 15. If the  
 45 Council indicates its intention to reject any part, it shall designate a representative to  
 46 meet with the parties and present the Council's views in their further negotiations.  
 47 This representative shall also participate fully in stating the Council's position in any  
 48 ensuing impasse procedure. The parties shall thereafter meet as promptly as  
 49 possible and attempt to negotiate an agreement acceptable to the Council. Either of  
 50 the parties may initiate the impasse procedure set forth in Section 33-81. The results  
 51 of the negotiation or impasse procedure shall be submitted to the Council on or  
 52 before May 10. If the Council has deferred the May 1 deadline, that action  
 53 automatically postpones the May 10 deadline by the same number of days.

54 (i) Adjustments. Any agreement shall provide either for automatic reduction or  
 55 elimination of conditional wage [and/]or benefits adjustments if:

56 (1) the Council [fails to] does not take action necessary to implement the  
 57 agreement, or

58 (2) [if] sufficient funds are not appropriated for any fiscal year [in which] when  
 59 the agreement is in effect.

60 (j) Later years. The process and timetable in subsection (h) apply to Council review of  
 61 wage or benefits adjustments after the first year of any multi-year agreement.

62 (k) *Out-of-cycle amendments.* The process in subsection (h) applies to Council review  
 63 of any amendment to a collective bargaining agreement that the Council receives  
 64 after May 15 of any year, but the deadlines in subsection (h) do not apply. The  
 65 Council President shall set action deadlines which result, to the extent feasible, in a  
 66 similar timetable relative to the date the Council received the amendment.

67 **33-81. Impasse procedure.**

68 (a) [Prior to November] Before September 10 of any year in which the employer and a  
 69 certified representative bargain collectively, they shall choose an impasse neutral  
 70 either by agreement or through the processes of the American Arbitration  
 71 Association. The impasse neutral shall be required to be available during the period  
 72 from January 20 to February 1. Fees, costs and expenses of the impasse neutral shall  
 73 be shared equally by the employer and the certified representative.

74 \* \* \*

75 **33-106. Selection, certification, and decertification procedures.**

76 \* \* \*

77 [(e) If, during the thirty (30) days following the effective date of this article, a petition is  
 78 filed by the incumbent representative of unit employees certified under article IV of  
 79 this chapter, and no other employee organization files a valid petition, and no  
 80 petition calling for an election signed by twenty (20) percent of unit employees has  
 81 been filed with the labor relations administrator, the incumbent certified  
 82 representative shall be certified without an election, provided it produces evidence,  
 83 acceptable to the labor relations administrator and dated after the enactment of this  
 84 article, that a majority of the employees in the unit desire to be represented by the  
 85 incumbent representative for the purposes of collective bargaining under the  
 86 provisions of this article.]

87 **33-108. Bargaining, impasse, and legislative procedures.**

88 \* \* \*

89 (d) Before [November] September 10 of any year in which the employer and the  
 90 certified representative bargain collectively, the Labor Relations Administrator must  
 91 appoint a mediator/arbitrator, who may be a person recommended by both parties.  
 92 The mediator/arbitrator must be available from January 2 to June 30. Fees and

93 expenses of the mediator/arbitrator must be shared equally by the employer and the  
 94 certified representative.

95 \* \* \*

96 (g) In each proposed annual operating budget, the County Executive must describe any  
 97 collective bargaining agreement or amendment to an agreement that is scheduled to  
 98 take effect in the next fiscal year and estimate the cost of implementing that  
 99 agreement. The employer must submit to the Council by April 1, unless extenuating  
 100 circumstances require a later date, any term or condition of the collective bargaining  
 101 agreement that requires an appropriation of funds, or the enactment or adoption of  
 102 any County law or regulation, or which has or may have a present or future fiscal  
 103 impact. If a later submission is necessary, the employer must specify the submission  
 104 date and the reasons for delay to the Council President by April 1. The employer  
 105 must expressly identify to the Council and the certified representative any term or  
 106 condition that requires Council review. Each submission to the Council must  
 107 include:

108 (1) all proposed legislation and regulations necessary to implement the  
 109 collective bargaining agreement;

110 (2) all changes from the previous collective bargaining agreement indicated by  
 111 brackets and underlines or a similar notation system; and

112 (3) all side letters or other extraneous documents that are binding on the parties.

113 The employer must make a good faith effort to have the Council approve all terms of  
 114 the final agreement that require Council review.

115 (h) The Council may hold a public hearing to enable the parties and the public to testify  
 116 on the agreement.

117 (i) The Council may accept or reject all or part of any term or condition that requires  
 118 Council review under subsection (g). On or before May 1, the Council must indicate  
 119 by resolution its intention to appropriate funds for or otherwise implement the items  
 120 that require Council review or its intention not to do so, and must state its reasons for  
 121 any intent to reject any such item. The Council, by majority vote taken on or before  
 122 May 1, may defer the May 1 deadline to any date not later than May 15.

23 (j) If the Council indicates its intention to reject any item that requires Council review,

124 the Council must designate a representative to meet with the parties and present the  
 125 Council's views in the parties' further negotiation on items that the Council has  
 126 indicated its intention to reject. This representative must also participate fully in  
 127 stating the Council's position in any ensuing impasse procedure. The parties must  
 128 meet as promptly as possible and attempt to negotiate an agreement acceptable to the  
 129 Council. Either party may at this time initiate impasse procedures under this  
 130 Section. The parties must submit the results of the negotiation, whether a complete  
 131 or a partial agreement, to the Council on or before May 10. If the Council has  
 132 deferred the May 1 deadline, that action automatically postpones the May 10  
 133 deadline by the same number of days. The Council then must consider the  
 134 agreement as renegotiated by the parties and indicate by resolution its intention to  
 135 appropriate funds for or otherwise implement the agreement, or its intention not to  
 136 do so.

137 \* \* \*

138 (m) Later years. The process and timetable in subsections (i) and (j) apply to Council  
 139 review of wage or benefits adjustments after the first year of any multi-year  
 140 agreement.

141 (n) Out-of-cycle amendments. The process in subsections (i) and (j) applies to Council  
 142 review of any amendment to a collective bargaining agreement that the Council  
 143 receives after May 15 of any year, but the deadlines in those subsections do not  
 144 apply. The Council President must set action deadlines which result, to the extent  
 145 feasible, in a similar timetable relative to the date the Council received the  
 146 amendment.

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

148 \* \* \*

149 (d) Before [November] September 10 of any year in which the employer and the  
 150 certified representative bargain collectively, they must choose an impasse neutral,  
 151 either by agreement or through the processes of the American Arbitration  
 152 Association. The impasse neutral must be available from January 15 to February 1.  
 153 The impasse neutral's fees and expenses must be shared equally by the employer and  
 154 the certified representative.

155

\* \* \*

156 (l) In each proposed annual operating budget, the County Executive must describe any  
 157 collective bargaining agreement or amendment to an agreement that is scheduled to  
 158 take effect in the next fiscal year and estimate the cost of implementing that  
 159 agreement. The annual operating budget [which the employer submits to the County  
 160 Council] must include sufficient funds to pay for the items in the parties' final  
 161 agreement. The employer must expressly identify to the Council by April 1, unless  
 162 extenuating circumstances require a later date, all terms and conditions in the  
 163 agreement that:

- 164 (1) require an appropriation of funds, or  
 165 (2) are inconsistent with any County law or regulation, or  
 166 (3) require the enactment or adoption of any County law or regulation, or  
 167 (4) which have or may have a present or future fiscal impact.

168 If a later submission is necessary, the employer must specify the submission date  
 169 and the reasons for delay to the Council President by April 1. The employer must  
 170 make a good faith effort to have the Council take action to implement all terms and  
 171 conditions in the parties' final agreement.

172 (m) Each agreement submitted to the Council must include:

- 173 (1) all proposed legislation and regulations necessary to implement the  
 174 agreement;  
 175 (2) all changes from the previous collective bargaining agreement, indicated by  
 176 brackets and underlines or a similar notation system; and  
 177 (3) all side letters or other extraneous documents that are binding on the parties.

178 [(m)] (n) \* \* \*

179 [(n)] (o) The Council may accept or reject all or part of any term or condition in the  
 180 agreement which:

- 181 (1) requires an appropriation of funds, or  
 182 (2) is inconsistent with any County law or regulation, or  
 183 (3) requires the enactment or adoption of any County law or regulation, or  
 184 (4) which has or may have a present or future fiscal impact.

185 On or before May 1, the Council must indicate by resolution its intention to

186 appropriate funds for or otherwise implement the agreement or its intention not to do  
 187 so, and must state its reasons for any intention to reject any part of the parties' final  
 188 agreement. The Council, by majority vote taken on or before May 1, may defer the  
 189 May 1 deadline to any date not later than May 15.

190 [(o)] (p) If the Council indicates its intention to reject any part of the parties' final  
 191 agreement, it must select a representative to meet with the parties and present the  
 192 Council's views in the parties' further negotiation on matters that the Council has  
 193 indicated its intention to reject. This representative must also participate fully in  
 194 stating the Council's position in any ensuing impasse procedure. The parties must  
 195 meet as promptly as possible and attempt to negotiate an agreement acceptable to the  
 196 Council. Either party may at this time initiate impasse procedures under this section.  
 197 The parties must submit the results of the negotiation, whether a complete or a  
 198 partial agreement, to the Council on or before May 10. If the Council has deferred  
 199 the May 1 deadline, that action automatically postpones the May 10 deadline by the  
 200 same number of days. The Council then must consider the agreement as  
 201 renegotiated by the parties and indicate by resolution its intention to appropriate  
 202 funds for or otherwise implement the agreement or its intention not to do so.

203 [(p)] (q) \* \* \*

204 (r) Later years. The process and timetable in subsections (o) and (p) apply to Council  
 205 review of wage or benefits adjustments after the first year of any multi-year  
 206 agreement.


207 (s) Out-of-cycle amendments. The process in subsections (o) and (p) applies to Council  
 208 review of any amendment to a collective bargaining agreement that the Council  
 209 receives after May 15 of any year, but the deadlines in those subsections do not  
 210 apply. The Council President must set action deadlines which result, to the extent  
 211 feasible, in a similar timetable relative to the date the Council received the  
 212 amendment.

## 213 **Sec. 2. Expedited Effective Date.**

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




216 *Approved:*

217   
Michael L. Subin, President, County Council


10/1/03  
Date

218 *Approved:*

219   
Douglas M. Duncan, County Executive

10/1/03  
Date

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

221   
Mary A. Edgar, CMC, Clerk of the Council

10/20/03  
Date