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Anna P. Spatts
SECRETARY OF THE COUNTY COUNCIL FOR
MONTGOMERY COUNTY, MARYLAND

Bill No. 23-76

Introduced: June 15, 1976

Enacted:

COUNTY COUNCIL FOR
MONTGOMERY COUNTY, MARYLAND

Legislative Session 1975

BY: Council President at the request of the Employees Organization

1 AN ACT to add a new Chapter 36A, title "Public Employee Relations"
2 to the Montgomery County Code 1972, as amended, to follow
3 immediately after Chapter 36 thereof, to provide for the
4 election and certification of employee organizations for
5 purposes of meeting with County officials concerning conditions
6 of employment, the resolution of grievances, and other matters
7 involving relations between the County and its employees; to
8 provide for the designation of employee units from which such
9 employee organizations are elected and which such organizations
10 represent; to provide for the recognition of such employee
11 organizations by the County; to provide for the preparation of
12 memoranda of understanding by the County and such employee
13 organizations; to provide for procedures for the decertifica-
14 tion of employee organizations; to define certain terms; to
15 provide for the Chief Administrative Officer to resolve dis-
16 putes arising under this Article; subject to review by the
17 Personnel Board; to specify responsibilities of the County
18 and the employee organizations; to provide for the protection
19 of those County employees who choose not to become members of
20 an employee organization; and to provide for the retention of
21 existing personnel laws and regulations and the option of
22 any employee to pursue a grievance through procedures set
23 forth therein.

1 Be It Enacted by the County Council for Montgomery County, Maryland

2 that -

1 Sec. 1. Chapter 36A, title "Public Employee Relations"
2 is hereby added to the Montgomery County Code, 1972, as amended,
3 to follow immediately after Chapter 36A thereof, and to read
4 as follows:

5 PUBLIC EMPLOYEE RELATIONS
6 ARTICLE IV
7 EMPLOYER-EMPLOYEE RELATIONS

8 36A-1. Statement of legislative intent.

9 The County Council hereby finds and declares that the
10 citizens of Montgomery County have a fundamental interest in the
11 development of harmonious and cooperative relationships between
12 the county government and its employees. The paramount concern
13 of both public employees and the county is how to best serve
14 the public interest and achieve excellence in public service.
15 The continued effectiveness of such public service requires
16 recognition by the county of the employment conditions under
17 which its employees carry out their responsibilities. The
18 council believes that government should take the initiative
19 in providing a vehicle whereby government employee representations
20 can emerge and evolve in a fashion consistent with both the
21 needs of the employee and that of the government.

22 The County Council, therefor, declares that it is the
23 public policy of this county to promote harmonious and co-
24 operative relations between government and its employees and
25 to protect the public by assuring effective and orderly
26 operations of government. The Council believes that this can
27 best be accomplished by enacting local legislation which provides
28 for the voluntary representation of government employees by
29 their duly designated and elected employee organizations. The

30 Council also believes that the efficient administration of
31 the county government is enhanced by providing employee an
32 opportunity to participate in the formulation and implementation
33 of policies and practices affecting the conditions of their
34 employment.

35 36A-2 Definitions.

36 As used herein, the following words and phrases shall be
37 defined as follows:

38 a. "Certification" - the procedure whereby employee organization:
39 are elected and recognized to represent employee units.

40 b. "Decertification" - the procedure by which the Chief
41 Administrative Officer withdraws County recognition of an em-
42 ployee organization, with or without an election by the em-
43 ployees of an employee unit.

44 c. "Employee" - Any person working full or part time whose
45 classification and/or job description is determined in whole
46 or in part by the chief administrative officer under the general
47 classification plan of the personnel board, but shall not
48 include elected officials nor management level employees as
49 defined herein.

50 d. "Employee organization" - any lawful organization which
51 represents employees in their employment relations with the
52 County. The term "employee organization" does not include any
53 organization which:

- 54 (1) discriminates with regard to terms and conditions
55 of membership with regard to race, color, religion,
56 creed, sex, age, national origin, ancestry, or
57 marital status;

58 (2) does not adhere to democratic procedures and practice
59 with regard to election of officers, individual
60 participation in organizational affairs, equal treat-
61 ment under its by-laws, and disciplinary procedures;
62 or

63 (3) does not maintain fiscal integrity in the conduct
64 of the affairs of the organization, including
65 accounting controls and regular financial reports
66 to members.

67 e. "Employee unit" - groupings of employees for purposes of
68 representation in County/employee relations.

69 f. "Management-level employee" - Those employees not in the
70 merit system of Montgomery County under SECTION 401 of the
71 charter; department, office and agency heads who are appointed
72 by the county executive and are subject to confirmation by the
73 county council; and those merit systems employees at a policy
74 making level who report directly to or whose immediate super-
75 visor is the county executive, the county council or the chief
76 administrative officer.

77 g. "Supervisor"- A management level employee as before defined
78 with the authority to appoint or remove employees or to demote,
79 layoff, promote or discipline employees as provided for under
80 the charter and personnel regulations.

81 36A-3. Employee rights.

82 a. An employee shall have the right to form, join or assist and
83 be represented by an employee organization free from interference
84 restraint, coercion and without fear of reprisal, an employee
85 shall also have the right to refrain from any and all such
86 activity.

87 b. Each employee shall have the right to be represented by

88 employee organizations, including the right to meet with
89 representatives of the County concerning conditions of em-
90 ployment and the resolution of grievances.

91 c. Nothing in this Article shall preclude the rights of an
92 employee to pursue an individual grievance through established
93 administrative procedures or through appeal to the Personnel
94 Board. Nothing in this Article shall circumvent or shall be
95 deemed to supersede or annul the provisions of the Laws of the
96 State of Maryland, the Montgomery County Charter, and the Laws
97 and Ordinances of Montgomery County including the Personnel
98 Regulations.

99 d. No employee, who is not a member of an employee organization
100 shall ever be required to become a member of such an organization
101 or to pay money to such an organization, except on a purely
102 voluntary basis, or as otherwise provided by law.

103 36A-4. Determination of employee units.

104 a. The Chief Administrative Officer shall make an initial
105 determination as to the composition of employee units. In
106 undisputed cases, the determination of appropriate units shall
107 be made by the Chief Administrative Officer within thirty (30)
108 calendar days after receipt of a request for certification under
109 Section 36A-5 of this Article.

110 b. Employee units may be established on the basis of groupings
111 of employees who share a clear and identifiable community of
112 interest. Such factors as those employees sharing common
113 skills, working conditions, physical locations, organizational
114 structures, and integrated work processes shall be considered.
115 The following factors shall also be considered: community of

116 interest, the history of collective bargaining, the desires of
117 the employees, the effectiveness and efficiency of labor
118 management relations affected by the unit, the effects of
119 over-fragmentation and the effects on the efficiency of the
120 government. A unit shall not be established solely on the basis
121 of the extent to which employees in a proposed unit have organiz-
122 ed. However, this Section shall not be deemed to preclude
123 multi-unit bargaining.

124 c. Determination of units shall be made so as to include the
125 largest possible numbers of employees consistent with main-
126 taining a community of interest of employees to avoid pro-
127 liferation and fragmentation of representative units. No unit
128 may include employees whose duties are management-level or
129 supervisory in nature.

130 d. In cases where the matters of unit determination are
131 questioned the decision of the Chief Administrative Officer
132 shall be subject to review by the Montgomery County Personnel
133 Board.

134 36A-5. Procedures for certification of employee organizations.

135 a. Initially or where there is no official representative
136 employee organization, the Chief Administrative Officer, upon
137 the petition of an employee organization showing written evidence
138 of interest by at least thirty percent (30%) of the employees
139 of the employee unit, shall arrange for the prompt conducting
140 of a secret ballot election to determine whether the employees
141 of such unit desire such organization to act as their repre-

142 tentative. Following such petition, the Chief Administrative
143 Officer shall give an appropriate notice of the time and place
144 of said election to the employees involved at least 10 days
145 prior thereto.

146 b. An employee organization seeking to represent an employee
147 unit shall submit to the Personnel Office a roster of its
148 officers and representatives, a copy of its constitution and
149 by-laws, and a schedule of dues for its members.

150 c. Eligibility to vote in any election for choice of an
151 official representative shall be limited to employees of the
152 employee unit who are filling County positions as of the
153 beginning of the pay period preceding the election date.

154 d. Representation elections shall be conducted by the Per-
155 sonnel Board which may ask the assistance of the Maryland State
156 Department of Labor and Industry or any other impartial agency.

157 e. The ballot shall contain the name of any additional employee
158 organization showing timely written evidence of interest by at
159 least ten percent (10%) of the employees within the appropriate
160 employee unit. In every instance, the ballot shall contain a
161 provision for a marking of "no representation." Where more
162 than one employee organization is on the ballot and no one of
163 the organizations receives a majority vote of the employees
164 voting, a runoff election shall be held. The runoff election
165 shall contain the two choices which received the largest and
166 second largest number of votes in the original election.

167 f. When an organization receives a majority of valid votes
168 cast in the election and when at least fifty percent (50%)

169 of the employees eligible to participate in the election
170 cast valid ballots, the Chief Administrative Officer shall
171 certify it as the official employee organization for the
172 employee unit.

173 g. The County shall recognize as the official employee
174 relations representative an employee organization which has
175 been selected in accordance with procedures outlined in this
176 Section 36A-5.

177 h. Recognizing an employee organization does not preclude
178 the County from dealing with religious, social, fraternal,
179 professional or other lawful associations with respect to
180 matters or policies which involve individual members of the
181 associations or are of particular applicability to it or its
182 members.

183 i. No question concerning certification may be raised by an
184 employee or an employee organization within one (1) year of
185 the date of certification of an employee organization or
186 the date that no representative was selected by the majority
187 of employees.

188 j. The county shall, on receipt of written authorization
189 of an employee, deduct from the pay of such employee money
190 in payment of membership dues in an employee organization
191 and shall remit such money to said employee organization.
192 36A-6. Procedure for decertification of employee organizations.

193 a. An employee organization shall be subject to decertification

194 when thirty percent (30%) of the employees in the employee
195 unit petition for the employee organization to be de-
196 certified. The procedures for determining whether, in fact,
197 an employee organization shall be decertified shall be the
198 same as those prescribed in Section 36A-5 for the certification
199 of an employee organization, except as provided in subsection
200 b of this Section 36A-6.

201 b. If an employee organization fails to adhere to any of the
202 provisions of Section 36A-12 dealing with employee organization
203 responsibilities, then:

- 204 (1) its certification may be revoked by the Chief
205 Administrative Officer after notice and an
206 opportunity to be heard, and
207 (2) it may be disqualified by the Chief Administrative
208 Officer from participating in representation
209 elections for a period of up to two (2) years after
210 notice and an opportunity to be heard.

211 36A-7. Costs of conducting elections.

212 Any cost of conducting a secret ballot election under
213 this Article shall be born by the County.

214 36A-8. County-employee organization meetings and discussions.

215 a. An employee organization which has been recognized by the
216 County pursuant to Section 36A-5 shall be entitled to meet at
217 least quarterly in March, June, September and December of
218 each year with County representatives including the County

219 Executive and County Council to discuss with such repre-
220 sentatives personnel policies, practices and matters affect-
221 ing working conditions of the employee unit it represents, so
222 far as such discussions may be appropriate under existing laws
223 or regulations.

224 b. Such meetings and discussions may also include matters with
225 respect to the mission of the County Government, its budget,
226 its organization, the number of employees and the classifications
227 and grades of positions of employees assigned to an employee
228 unit, work projects or tour of duty, its employees' retirement
229 system and the Uniform pay schedule, the technology of performing
230 County work, or other provisions that are inherent in the manager-
231 ial process of determining the necessary steps to carry out the
232 public service missions of the County.

233 c. The requirement to meet shall not obligate either the County
234 or an employee organization to agree to any proposal or to make
235 any concession with respect to any matter discussed by the
236 parties at such a meeting. Any decision made at any such
237 meeting is in no way binding upon the parties.

238 d. The county and an employee organization shall prepare
239 written memoranda of understanding which reflects for future
240 reference the respective positions of the parties on the issues
241 discussed at such meetings. Such memoranda of understanding
242 shall in no way legally bind any party to the matters expressed
243 therein.

244 36A-9. Employee organization representation of employee
245 members.

246 a. An employee who is a member of an employee organization
247 may request and shall be granted the right for a member of
248 such organization to be present in any discussions or counsel-
249 ing with County representatives concerning an individual
250 grievance.

251 b. An employee organization may submit a grievance concerning
252 any dispute involving a claim of violation, misinterpretation
253 or misapplication of the Personnel Regulations or work practices
254 of the County on the same basis as provided for individual
255 grievances.

256 36A-10. Disputes.

257 All decisions of the Chief Administrative Officer under
258 the provisions of this Article shall be final, subject to
259 appeal to the Montgomery County Personnel Board which shall hold
260 a hearing.

261 36A-11. County responsibilities.

262 It shall be the responsibility of the County not to:

- 263 a. interfere with, restrain, or coerce an employee in the
264 exercise of the rights assured by this Article;
- 265 b. encourage or discourage membership in an employee organi-
266 zation by discrimination in regard to hiring, tenure,
267 promotion or other conditions of employment;
- 268 c. sponsor, control or otherwise assist an employee organization,
269 except that the County may furnish customary and routine
270 services and facilities when consistent with the best
271 interests of the County, its employees, and the organization

272 and when the services and facilities are furnished, if re-
273 requested, on an impartial basis to organizations having
274 equivalent status;

275 d. refuse to accord appropriate recognition to an employee
276 organization qualified for such recognition; or

277 e. refuse to consult, confer, or meet with an employee
278 organization certified pursuant to this Article.

279 36A-12. Employee organization responsibilities.

280 It shall be the responsibility of every employee organizatio
281 not to:

282 a. interfere with, restrain, or coerce an employee in the
283 exercise of the rights assured by this Article;

284 b. attempt to induce the county to coerce an employee in the
285 exercise of the rights under this Article;

286 c. coerce, attempt to coerce, or discipline, fine, or take
287 other economic sanction against an employee member of an
288 employee organization as punishment or reprisal, or for
289 the purpose of hindering or impeding work performance or
290 the discharge of duties owed as an employee of the County;

291 d. call or engage in a strike, work stoppage, or slowdown,
292 in a County-employee dispute;

293 e. discriminate against an employee with regard to the terms
294 or conditions of membership because of race, color, religion,
295 creed, sex, age, national origin, ancestry, or marital status;

296 f. refuse to consult or meet with the County as provided by
297 this Article.

1 Sec. 2. Severability.

2 The provisions to this Act are severable if any provision,
3 sentence, clause, section or part thereof is held illegal,
4 invalid, or unconstitutional or inapplicable to any person or
5 circumstance, such illegality, invalidity, unconstitutionality,
6 or inapplicability shall not affect or impair any of the
7 remaining provisions, sentences, clauses, sections or parts
8 of the Act or their application to other persons and circumstances.
9 It is hereby declared to be the legislative intent that this Act
10 would have been adopted if such illegal, invalid or uncon-
11 stitutional provision, sentence, clause, section or part had
12 not been included therein, and if the person or circumstances
13 to which the Act or any part thereof is inapplicable had been
14 specifically exempted therefrom.

1 Sec. 3. Effective date.

2 The Council hereby declares that an emergency exists
3 and that this legislation is necessary for the immediate
4 protection of public health and safety. Therefore, this
5 act shall take effect on the day on which it becomes law.