AN ACT TO:

(1) establish a framework for public employer-employee labor relations;

(2) provide the method for designating an employee organization as the exclusive representative of public employees in the appropriate unit;

(3) provide procedures for collective bargaining of wages, hours, and other terms and conditions of employment;

(4) provide for the appointment of a labor relations administrator;

(5) define the rights of employees, employee organizations, and the public employer;

(6) prohibit certain conduct;

(7) provide procedures for resolving differences between the public employer and employees;

(8) generally assure uninterrupted operation of government services; and

(9) generally provide for the establishment of County employee collective bargaining.

By amending
Chapter 33, Personnel
Section 33-11(b) of the Montgomery County Code
By adding
Chapter 33, Personnel
Sections 33-63A and 33-74(d), and Article VII of the
Montgomery County Code

EXPLANATION: - Boldface indicates matter that is a heading or a
defined term.
- Underlining indicates matter added to existing law.
- [[Double Brackets]] indicate matter repealed from
existing law.
- CAPITALS indicate matter quoted from existing law which
is added to the bill by amendment.
- UNDERLINED CAPITALS indicate matter added to existing
law by amendment to the bill.
- Strikethrough indicate matter deleted from the bill by
amendment.
- * * * indicates existing law unaffected by the bill.

The County Council for Montgomery County, Maryland, approves the following act:
Sec. 1. Section 33-11(b) is amended to read as follows:

33-11. Classification; salary and wage plans.

(b) Uniform salary plan. There is hereby established for all classes of positions in the merit system a uniform salary plan entitled the "general salary schedule" which shall contain grades, salary rates and ranges for each grade. All classes of positions shall be assigned an appropriate grade under the general salary schedule by the chief administrative officer. All positions involving comparable duties, experience, responsibilities and authority shall be paid comparable salaries in accordance with the relative value of the services performed. In establishing salary rates, consideration shall be given to experience, prevailing salary rates for comparable services in both the public and private sectors, living costs, and fringe and other benefits received by the employee under the merit system. The chief administrative officer shall, subject to the approval of the county council, promulgate and from time to time amend the general salary schedule, compensation policies for overtime, pay differential and other appropriate salary and wage benefits.

(1) Subject to approval by the County Council, the Chief Administrative Officer must issue and periodically amend a uniform salary plan known as the "general salary schedule" for all classes of positions in the merit system.

(2) The general salary schedule must contain grades, salary rates, and salary ranges for each grade.

(3) The Chief Administrative Officer must assign an appropriate grade under the general salary schedule to all classes of positions.

(4) All positions involving comparable duties, experience,
In setting salary rates, the Chief Administrative Officer must consider experience, prevailing salary rates for comparable services in both the public and private sectors, living costs, and fringe and other benefits received by the employee under the merit system.

Subject to approval by the County Council, the Chief Administrative Officer must also issue and periodically amend compensation policies for overtime, pay differentials, and other appropriate salary and wage benefits.

Any plan, policy, or schedule issued by the Chief Administrative Officer under this subsection is subject to the limitations in Articles V and VII of this chapter regarding County police department and government employees who are represented by a certified employee organization.

Sec. 2. Sections 33-63A and 33-74(d) and Article VII of Chapter 33 are added as follows:

33-63A. Applicability.

Upon certification that the employees in the units are represented for collective bargaining, this article shall not apply to any person.


(d) This section is automatically repealed upon certification that the employees in the units are represented for the purpose of collective bargaining under Article VII of this chapter.
Article VII. County Collective Bargaining.


It is the public policy of Montgomery County to promote a harmonious, peaceful, and cooperative relationship between the County government and its employees and to protect the public by assuring, at all times, the responsive, orderly, and efficient operation of County government and services. Since unresolved disputes in public service are harmful to the public and to employees, adequate means should be available for preventing disputes and for resolving them when they occur. To that end, it is in the public interest that employees have the opportunity to bargain collectively over wages, hours, and other terms and conditions of employment, as authorized by Charter Section 511, through a representative of their choice, or to refrain from collective bargaining. It is also in the public interest that the County government and a representative of County employees bargain collectively in good faith without interference with the orderly process of government and that they implement any agreements reached through collective bargaining.

The County Council also recognizes that employee organizations and the County government each possess substantial means for initiating actions on wages, hours, and working conditions of employees. Therefore, in order to preserve an appropriate balance between labor and management in the public service, the County Council states that once the employees voluntarily select a representative, collective bargaining shall be used in place of, and not in addition to, existing means for initiating governmental action on subjects that are defined as appropriate for collective bargaining in this article.

33-102. Definitions.

The following terms have the meaning indicated when used in this article:

(1) "Agency shop" means a provision in a collective bargaining
agreement requiring, as a condition of continued employment, that
bargaining unit employees pay a service fee not greater than the
monthly membership dues uniformly and regularly required by the
employee organization of all of its members. An agency shop
agreement shall not require an employee to pay initiation fees,
assessments, fines, or any other collections or their equivalent as a
condition of continued employment. A collective bargaining agreement
shall not require payment of a service fee by any employee who
opposes joining or financially supporting an employee organization on
religious grounds. However, the agreement may require that employee
to pay an amount equal to the service fee to a nonreligious, nonunion
charity, or to any other charitable organization, agreed to by the
employee and the certified representative, and to give to the
employer and the certified representative written proof of this
payment.

(2) "Certified representative" means an employee organization chosen to
represent one or both units in accordance with the procedures of this
article.

(3) "Collective bargaining" means meeting at reasonable times and
places and negotiating in good faith on appropriate subjects as
declared under this article. This article shall not be interpreted to
compel either party to agree to a proposal or make a concession.

(4) "Employee" means any person who works under the County government
merit system on a continuous full-time, career or part-time, career
basis, except for the following:

(A) Confidential aides to elected officials.

(B) All persons who are not covered by the County government merit
(C) Heads of principal departments, offices, and agencies.

(D) Deputies and assistants to heads of principal departments, offices, and agencies.

(E) Persons who provide direct staff or administrative support to the head of a principal department, office, or agency, or to a deputy or assistant within the immediate office of a head of a principal department, office, or agency.

(F) Persons who report directly to or whose immediate supervisor is the County Executive or the Chief Administrative Officer or their principal aides.

(G) Persons who work for the office of the County Executive and the office of the Chief Administrative Officer.

(H) Persons who work for the County Council.

(I) Persons who work for the office of the County Attorney.

(J) Persons who work for the Office of Management and Budget.

(K) Persons who work for the Personnel Office.

(L) Persons who work for the Merit System Protection Board.

(M) Persons who work on a temporary, seasonal, or substitute basis.

(N) Newly hired persons on probationary status.

(O) Persons who work for the police department who are represented by a certified employee organization under Article V of this chapter.

(P) Officers in the uniformed services (corrections, fire and rescue, police, office of the sheriff) in the rank of sergeant and above. Subject to any limitations in State law, deputy sheriffs below the rank of sergeant are employees.
Persons who are members of the State merit system.

Supervisors, which means persons having authority to do any of the following:

(i) Hire, assign, transfer, lay off, recall, promote, evaluate, reward, discipline, suspend, or discharge employees, or effectively to recommend any one of these actions.

(ii) Direct the activity of three or more employees.

(iii) Adjust or recommend adjustment of grievances.

Persons in grade 27 or above, whether or not they are supervisors.

"Employee organization" means any organization that admits employees to membership and that has as a primary purpose the representation of employees in collective bargaining.

"Employer" means the County Executive and his or her designees.

"Lockout" means any action that the employer takes to interrupt or prevent the continuity of work properly and usually performed by the employees for the purpose and with the intent of either coercing the employees into relinquishing rights guaranteed by this article or of bringing economic pressure on employees for the purpose of securing the agreement of their certified representative to certain collective bargaining terms.

"Mediation" means an effort by the mediator/fact-finder chosen under this article to assist confidentially in resolving, through interpretation, suggestion, and advice, a dispute arising out of collective bargaining between the employer and the certified representative.
"Strike" means a concerted failure to report for duty, absence, stoppage of work, or abstinence in whole or in part from the full and faithful performance of the duties of employment with the employer, or deviation from normal or proper work duties or activities, where any of the preceding are done in a concerted manner for the purpose of inducing, influencing, or coercing the employer in the determination, implementation, interpretation, or administration of terms or conditions of employment or of the rights, privileges, or obligations of employment or of the status, recognition, or authority of the employee or an employee organization.

"Unit" means either of the units defined in section 33-105.

When either the female or the male pronoun appears herein, it is to be read to include both genders.

33-103. Labor Relations Administrator.

(a) There is established the position of Labor Relations Administrator, to provide for the effective implementation and administration of this article concerning selection, certification and decertification procedures, prohibited practices, and the choice of a mediator/fact-finder. The Labor Relations Administrator shall exercise the following powers and perform the following duties and functions:

(1) Periodically adopt, amend, and rescind, under method (1) of section 2A-15 of this Code, regulations and procedures for the implementation and administration of the duties of the Labor Relations Administrator under this article.

(2) Request from the employer or an employee organization, and the employer or such organization may at its discretion provide, any
relevant assistance, service, and a that will enable her
properly to carry out her duties under this article.

(3) Hold hearings and make inquiries, administer oaths and
affirmations, examine witnesses and documents, take testimony
and receive evidence, and compel by issuance of subpoenas the
attendance of witnesses and the production of relevant documents.

(4) Hold and conduct elections for certification or decertification
pursuant to the provisions of this article and issue the
certification or decertification.

(5) Investigate and attempt to resolve or settle, as provided in
this article, charges of engaging in prohibited practices.
However, if the employer and a certified representative have
negotiated a valid grievance procedure, the Labor Relations
Administrator shall defer to that procedure for the resolution
of disputes properly submissible to the procedure absent a
showing that the deferral results in the application of
principles repugnant to this article. Furthermore, the Labor
Relations Administrator shall defer to State procedures in those
matters which are governed by the Law-Enforcement Officers' Bill
of Rights, Article 27, Sections 727-734D, Annotated Code of
Maryland.

(6) Determine unresolved issues of a person's inclusion in or
exclusion from the units.

(7) Obtain any necessary support services and make necessary
expenditures in the performance of duties to the extent provided
for these purposes in the annual budget of Montgomery County.

(8) Exercise any other powers and perform any other duties and
functions as may be specified in this article.

(b) (1) The Labor Relations Administrator must be a person with experience as a neutral in the field of labor relations and must not be a person who, on account of vocation, employment, or affiliation, can be classed as a representative of the interest of the employer or any employee organization.

(2) The first Labor Relations Administrator is appointed by the County Executive, with the confirmation of the County Council, serves for a term of 4 years; and is eligible for reappointment.

(3) After the initial term of office of the Labor Relations Administrator provided in subsection (b)(2), the County Executive shall thereafter appoint the Labor Relations Administrator for a term of 5 years from a list of 5 nominees agreed upon by any certified employee representative(s) and the Chief Administrative Officer, which list may include the incumbent Labor Relations Administrator. Such appointment must be confirmed by the County Council. If the County Council does not confirm the appointment, the new appointment shall be from a new agreed list of 5 nominees. Should there be no certified representative, the Labor Relations Administrator shall be appointed under the procedure and for the term set forth in subsection (b)(2).

(c) The Labor Relations Administrator will be paid a daily fee as set forth by contract with the County, and will be reimbursed for necessary expenses.

33-104. Employee rights.

(a) Employees have the right to:
(1) to join, support, contribute to, or participate in, or to refrain from forming, joining, supporting, contributing to, or participating in, any employee organization or its lawful activities; and

(2) be represented fairly by their certified representative, if any.

(b) The employer has the duty to extend to the certified representative the exclusive right to represent the employees for the purposes of collective bargaining, including the orderly processing and settlement of grievances as agreed by the parties in accordance with this article.

(c) A certified representative serves as the bargaining agent for all employees in the unit for which it is certified and has the duty to represent fairly and without discrimination all employees in the unit without regard to whether the employees are members of the employee organization, pay dues or other contributions to it, or participate in its affairs. However, it is not a violation of this duty for a certified representative to seek enforcement of an agency shop provision in a valid collective bargaining agreement.

(d) The right of a certified representative to receive voluntary dues or service fee deductions or agency shop provisions shall be determined through negotiations, unless the authority to negotiate these provisions has been suspended under this article. A collective bargaining agreement may not include a provision requiring membership in, participation in the affairs of, or contributions to an employee organization other than an agency shop provision.

33-105. Units for collective bargaining.

(a) There are two units for collective bargaining and for purposes of
certification and decertification. Persons in these units are all County government merit system employees working on a continuous full-time, career or part-time, career basis, excluding the categories listed as exceptions to the definition of employee in section 33-102(4) of this article. The employees are divided into 2 units in accordance with the following descriptions:

(1) Service, labor, and trades (SLT) unit. This unit is composed of all eligible classes that are associated with service/maintenance and skilled crafts. This means job classes in which workers perform duties that result in or contribute to the comfort and convenience of the general public or that contribute to the upkeep and care of buildings, facilities, or grounds of public property. Workers in this group may operate specialized machinery or heavy equipment. These job classes may also require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work that is acquired through on the job training and experience or through apprenticeship or other formal training programs.

(2) Office, professional, and technical (OPT) unit. This unit is composed of all eligible classes associated with office, professional, paraprofessional, and technical functions.

(A) Office. Job classes in which workers are responsible for internal and external communication, recording and retrieval of data and/or information, and other paperwork required in an office.

(B) Professional. Job classes that require special and theoretical knowledge that is usually acquired through
college training or through work experience and other training that provides comparable knowledge.

(C) **Paraprofessional.** Job classes in which workers perform, in a supportive role, some of the duties of a professional or technician. These duties usually require less formal training and/or experience than is normally required for professional or technical status.

(D) **Technical.** Job classes that require a combination of basic scientific or technical knowledge and manual skill that can be obtained through specialized post secondary school education or through equivalent on the job training.

(b) Specific job classes included in these units of representation, and not otherwise excluded under section 33-102(4), shall be based on the designations made by the Chief Administrative Officer under the prior meet and confer process. In the event a new classification is created by the County, or an existing classification's duties and responsibilities are substantially changed, the County Personnel Director must place the classification in one of the units or state that the classification falls within one of the exceptions to the definition of employee under this article within 60 days of the creation or substantial alteration of the class and must publish the decision in the Montgomery County Register. Any individual or certified representative disagreeing with the decision of the Personnel Director may, within 10 days of publication, file objections to the decision with the Labor Relations Administrator, with notice to the Personnel Director.

The Labor Relations Administrator shall promptly decide the
question on the basis of the duties and responsibilities of the job
classification, the unit definition, and the community of interests
between and among employees in the job classification and collective
bargaining unit.

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

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

(1) Any employee organization seeking certification as
representative of a unit shall file a petition with the Labor
Relations Administrator stating its name, address, and its
desire to be certified. The employee organization shall also
send a copy of the petition, not including the names of the
supporting employees, to the employer. The petition shall
contain the uncoerced signatures of 30 percent of the employees
within the unit signifying their desire to be represented by the
employee organization for purposes of collective bargaining.

(2) If an employee organization has been certified, an employee
within the unit may file a petition with the Labor Relations
Administrator for decertification of this certified
representative. The employee shall also send a copy of the
petition to the employer and the certified representative, not
including the names of the supporting employees. The petition
shall contain the uncoerced signatures of 30 percent of the
employees within the unit alleging that the employee
organization presently certified is no longer the choice of the
majority of the employees in the unit.
employees wish to be represented, as follows: 

All elections shall be conducted under the supervision of the Labor Relations Administrator and shall be conducted by secret ballot at the time and place that she directs. The Labor Relations Administrator may select and retain the services of an agency of the State of Maryland, or a similarly neutral body, to assist in conducting the election.

The election ballots shall contain, as choices to be made by the voter, the names of the petitioning or certified employee organization, the name or names of any other employee organization showing written proof at least 10 days before the election of at least 10 percent representation of the employees within the unit, and a choice that the employee does not desire collective bargaining agreement is not in effect, petitions may be filed between September 1 and September 30 of any year, but not sooner than 22 months after an election held under this section.

If a lawful collective bargaining agreement is in effect; a petition filed under this section shall not be entertained unless it is filed during September of the final year of the agreement.

If the Labor Relations Administrator determines that a petition is properly supported and timely filed, she shall cause an election of all eligible employees to be held within a reasonable time, but no later than October 20 of any year, to determine if and by whom the employees wish to be represented, as follows:

All elections shall be conducted under the supervision of the Labor Relations Administrator and shall be conducted by secret ballot at the time and place that she directs. The Labor Relations Administrator may select and retain the services of an agency of the State of Maryland, or a similarly neutral body, to assist in conducting the election.

Petitions may be filed within 30 days following the date on which this article becomes effective. Thereafter, if a lawful collective bargaining agreement is not in effect, petitions may be filed between September 1 and September 30 of any year, but not sooner than 22 months after an election held under this section.
to be represented by any of the named employee organizations.

(3) The employer and each party to the election may be represented
by observers selected in accordance with limitations and
conditions that the Labor Relations Administrator may prescribe.

(4) Observers may challenge for good cause the eligibility of any
person to vote in the election. Challenged ballots shall be
impounded pending either agreement of the parties as to the
validity of the challenge or the Labor Relations Administrator's
decision as to the validity of the challenge, unless the number
of challenges is not determinative, in which case the challenged
ballots shall be destroyed.

(5) After the polls have been closed, the valid ballots cast shall
be counted by the Labor Relations Administrator in the presence
of the observers.

(6) The Labor Relations Administrator shall immediately prepare and
serve upon the employer and each of the parties a report
certifying the results of the election. If an employee
organization receives the votes of a majority of the employees
who voted, the Labor Relations Administrator shall certify the
employee organization so elected as the exclusive agent.

(7) If no employee organization receives the votes of a majority of
the employees who voted, the Labor Relations Administrator shall
not certify a representative. Unless a majority of the
employees who vote choose "no representative", a runoff election
shall be conducted. The runoff election shall contain the 2
choices that received the largest and second largest number of
votes in the original election.
(c) The Labor Relations Administrator’s certification of results is final unless within 7 days after service of the report and the certification, any party serves on all other parties and files with the Labor Relations Administrator objections to the election. Objections shall be verified and shall contain a concise statement of facts constituting the grounds for the objections. The Labor Relations Administrator shall investigate the objections and, if substantial factual issues exist, shall hold a hearing. Otherwise, she may determine the matter without a hearing. The Labor Relations Administrator may invite, either by rule or by invitation, written or oral argument to assist her in determining the merits of the objections. If the Labor Relations Administrator finds that the election was conducted in substantial conformity with this article, she shall confirm the certification initially issued. If the Labor Relations Administrator finds that the election was not held in substantial conformity with this article, then she shall hold another election under this section.

(d) The cost of conducting an election shall be paid by the County.

(e) If, during the 30 days following the effective date of this article, a petition is filed by the incumbent representative of unit employees certified under Article IV of this chapter, and no other employee organization files a valid petition, and no petition calling for an election signed by 10 percent of unit employees has been filed with the Labor Relations Administrator, the incumbent certified representative shall be certified without an election, provided it produces evidence, acceptable to the Labor Relations Administrator and dated after the enactment of this article, that a majority of the
employees in the unit desire to be represented by the incumbent
representative for the purposes of collective bargaining under the
provisions of this article.

33-107: Collective bargaining.

(a) Duty to bargain; matters subject to bargaining.

Upon certification of an employee organization, the employer and the
certified representative have the duty to bargain collectively with respect to
the following subjects:

(1) Salary and wages, including the increase and/or decrease in the
salary and wages budget, and the percentage of any increase in
the salary and wages budget that will be devoted to merit
increments and cash awards, provided that salaries and wages
shall be uniform for all employees in the same classification.

(2) With respect to pension and retirement benefits, only defined-
contribution plans for new employees or current employees who
choose to transfer from a defined-benefit plan, provided that
bargaining rights regarding such plans will not accrue unless
and until the County has enacted a law establishing such plans.

(3) Employee benefits such as insurance, leave, holidays, and
vacations, but not including pension and retirement benefits
except to the extent stated in subsection (a)(2).

(4) Hours and working conditions.

(5) Provisions for the orderly processing and settlement of
grievances concerning the interpretation and implementation of a
collective bargaining agreement, which may include:

(A) binding third party arbitration, provided that the
arbitrator shall have no authority to amend, add to, or
subtract from the provisions of the collective bargaining
agreement; and
(B) provisions for exclusivity of forum.

(6) Matters affecting the health and safety of employees.

(7) Amelioration of the effect on employees when the exercise of employer rights listed in subsection (b) causes a loss of existing jobs in the unit.

(b) Employer rights.

This article and any agreement made under it shall not impair the right and responsibility of the employer to perform the following:

(1) Determine the overall budget and mission of the employer and any agency of County government.

(2) Maintain and improve the efficiency and effectiveness of operations.

(3) Determine the services to be rendered and the operations to be performed.

(4) Determine the overall organizational structure, methods, processes, means, job classifications, and personnel by which operations are to be conducted and the location of facilities.

(5) Direct and supervise employees.

(6) Hire, select, and establish the standards governing promotion of employees, and classify positions.

(7) Relieve employees from duties because of lack of work or funds, or under conditions when the employer determines continued work would be inefficient or nonproductive.

(8) Take actions to carry out the mission of government in situations of emergency.

(9) Transfer, assign, and schedule employees.
(10) Determine the size, grades, and composition of the work force.

(11) Set the standards of productivity and technology.

(12) Establish employee performance standards and evaluate employees, except that evaluation procedures shall be a subject for bargaining.

(13) Make and implement systems for awarding outstanding service increments, extraordinary performance awards, and other merit awards.

(14) Introduce new or improved technology, research, development, and services.

(15) Control and regulate the use of machinery, equipment, and other property and facilities of the employer, subject to subsection (a)(6) of this section.

(16) Maintain internal security standards.

(17) Create, alter, combine, contract out, or abolish any job classification, department, operation, unit, or other division or service, provided that no contracting of work which will displace employees may be undertaken by the employer unless 90 days prior to signing the contract written notice has been given to the certified representative.

(18) Suspend, discharge, or otherwise discipline employees for cause, except that, subject to Charter section 404, any such action may be subject to the grievance procedure set forth in the collective bargaining agreement.

(19) Issue and enforce rules, policies, and regulations necessary to carry out these and all other managerial functions which are not inconsistent with this law, Federal or State law, or the terms
(c) **Exemption.**

This article shall not be construed to limit the discretion of
the employer voluntarily to discuss with the representatives of its
employees any matter concerning the employer's exercise of any of the
rights set forth in this section. However, these matters shall not
be subject to bargaining.

(d) The public employer rights set forth in this section are to be
considered a part of every agreement reached between the employer and
an employee organization.

33-108. **Bargaining, impasse, fact-finding, and legislative procedures.**

(a) Collective bargaining shall begin no later than November 1 before the
beginning of a fiscal year for which there is no agreement between
the employer and the certified representative and shall be finished
on or before January 15. The resolution of a bargaining impasse or
fact-finding shall be finished by February 1.

(b) Any provision for automatic renewal or extension of a collective
bargaining agreement is void. An agreement is not valid if it
extends for less than one year or for more than 3 years. All
agreements become effective July 1 and end June 30.

(c) A collective bargaining agreement becomes effective only after
ratification by the employer and by the certified representative.
The certified representative may provide its own rules for
ratification procedures.

(d) Before November 10 of any year in which the employer and the
certified representative bargain collectively, the Labor Relations
Administrator shall appoint a mediator/fact-finder, who may be a
person recommended to her by both parties. The mediator/fact-finder shall be available during the period from January 2 to February 1.

Fees and expenses of the mediator/fact-finder shall be shared equally by the employer and the certified representative.

(e) (1) During the course of collective bargaining, either party may declare an impasse and request the services of the mediator/fact-finder, or the parties may jointly request his services before declaration of an impasse. If the parties do not reach an agreement by January 15, an impasse exists.

(2) The dispute shall be submitted to the mediator/fact-finder whenever an impasse has been reached, or before that as provided in subsection (e)(1). The mediator/fact-finder shall engage in mediation by bringing the parties together voluntarily under such favorable circumstances as will tend to bring about the settlement of the dispute.

(3) If and when the mediator/fact-finder finds in his sole discretion that the parties are at a bona fide impasse, he shall implement the following fact-finding process:

(A) He shall require the parties to submit jointly a memorandum of all items previously agreed upon, and separate memoranda of their proposals on all items not previously agreed upon.

(B) He may require the parties to submit evidence or make oral or written argument in support of their proposals. He may hold a hearing for this purpose at a time, date, and place selected by him. This hearing shall not be open to the public.
On or before February 1, the mediator/fact-finder shall issue a report of his findings of fact and recommendations on those matters still in dispute between the parties. The report shall be submitted to the parties but shall not be made public at this time.

In making findings of fact and recommendations, the mediator/fact-finder may take into account only the following factors:

(i) Past collective bargaining agreements between the parties, including the past bargaining history that led to the agreements, or the pre-collective bargaining history of employee wages, hours, benefits, and working conditions.

(ii) Comparison of wages, hours, benefits, and conditions of employment of similar employees of other public employers in the Washington Metropolitan Area and in Maryland.

(iii) Comparison of wages, hours, benefits, and conditions of employment of other Montgomery County personnel.

(iv) Wages, benefits, hours, and other working conditions of similar employees of private employers in Montgomery County.

(v) The interest and welfare of the public.

(vi) The ability of the employer to finance economic adjustments and the effect of the adjustments upon the normal standard of public services provided by
After receiving the report of the mediator/fact-finder, the parties shall meet again to bargain. If 10 days after the parties receive the report they have not reached full agreement, or if either party does not accept, in whole or in part, the recommendations of the mediator/fact-finder, the report of the mediator/fact-finder shall be made public by sending it to the Council. The mediator/fact-finder shall also send the Council the joint memorandum of items agreed upon, up-dated with any items later agreed upon. The parties shall also send to the Council separate memoranda stating their positions on matters still in dispute.

The budget that the employer submits to the Council shall include the items that have been agreed to, as well as the employer's position on matters still in dispute. Any agreed term or condition submitted to the Council that requires an appropriation of funds or the enactment, repeal, or modification of any County law or regulation shall be identified to the Council by the employer. The employer shall make a good faith effort to have any term or condition that has been agreed to implemented by Council action.

The Council may hold a public hearing to enable the parties and the public to testify on the agreement and the recommendations for resolving bargaining disputes.

On or before April 15, the Council shall indicate by a majority vote its intention to appropriate or otherwise implement the items that have been agreed to, or its intention not to do so, and shall state its reasons for any intent to reject any part of the items that have been agreed to. The Council shall also indicate by a majority vote
Then the Council shall designate a representative to meet with the parties and present the Council's views in the parties' further negotiations on disputed matters and/or agreed matters that the Council has indicated its intention to reject. The results of the negotiation, whether a complete or a partial agreement, shall be submitted to the Council on or before May 1. The Council may extend this deadline for no more than one week. Any agreement shall provide for automatic reduction or elimination of wage and/or benefits adjustments if:

(1) the Council does not take action necessary to implement the agreement, or a part of it;

(2) funds are not appropriated; or

(3) lesser amounts than those stated in the agreement are appropriated.

The Council shall take whatever actions it considers required by the public interest with respect to matters still in dispute between the parties. However, those actions shall not be part of the agreement between the parties unless the parties specifically incorporate them in the agreement.


(a) The employer or its agents or representatives are prohibited from any of the following:

(1) Interfering with, restraining, or coercing employees in the exercise of any rights granted to them under this article.

(2) Dominating or interfering with the formation or administration of any employee organization or contributing financial or other
support to it, under an agreement or otherwise. However, the employer and a certified representative may agree to and apply an agency shop provision under this article and a voluntary dues or service fee deduction provision, and may agree to reasonable use of County facilities for communicating with employees.

(3) Encouraging or discouraging membership in any employee organization by discriminating in hiring, tenure, wages, hours, or conditions of employment. However, nothing in this article precludes an agreement from containing a provision for an agency shop.

(4) Discharging or discriminating against a public employee because she or he files charges, gives testimony, or otherwise lawfully aids in the administration of this article.

(5) Refusing to bargain collectively with the certified representative.

(6) Refusing to reduce to writing or refusing to sign a bargaining agreement that has been agreed to in all respects.

(7) Refusing to process or arbitrate a grievance if required under a grievance procedure contained in a collective bargaining agreement.

(8) Directly or indirectly opposing the appropriation of funds or the enactment of legislation by the County Council to implement an agreement reached between the employer and the certified representative under this article.

(9) Engaging in a lockout of employees.

(b) Employee organizations, their agents, representatives, and persons who work for them are prohibited from any of the following:
(1) Interfering with, restraining, or coercing the employer or
employees in the exercise of any rights granted under this
article.

(2) Restraining, coercing, or interfering with the employer in the
selection of its representative for the purposes of collective
bargaining or the adjustment of grievances.

(3) Refusing to bargain collectively with the employer if the
employee organization is the certified representative.

(4) Refusing to reduce to writing or refusing to sign a bargaining
agreement which has been agreed to in all respects.

(5) Hindering or preventing, by threats of violence, intimidation,
force, or coercion of any kind, the pursuit of any lawful work
or employment by any person, public or private, or obstructing
or otherwise unlawfully interfering with the entrance to or exit
from any place of employment, or obstructing or unlawfully
interfering with the free and uninterrupted use of public roads,
streets, highways, railways, airports, or other ways of travel
or conveyance by any person, public or private.

(6) Hindering or preventing by threats, intimidation, force,
coercion or sabotage, the obtaining, use, or disposition of
materials, supplies, equipment, or services by the employer.

(7) Taking or retaining unauthorized possession of property of the
employer, or refusing to do work or use certain goods or
materials as lawfully required by the employer.

(8) Causing or attempting to cause the employer to pay or deliver or
agree to pay or deliver any money or other thing of value, in
the nature of an exaction, for services which are neither.
performed nor to be performed.

(c) A charge of prohibited practice may be filed by the employer, an employee organization, or any individual employee. The charge or charges shall be filed with the Labor Relations Administrator, and copies shall be sent to the party alleged to have committed a prohibited practice. All charges shall contain a statement of facts sufficient to enable the Labor Relations Administrator to investigate the charge. The Labor Relations Administrator may request withdrawal of and, if necessary, summarily dismiss charges if they are insufficiently supported in fact or in law to warrant a hearing. The Labor Relations Administrator has the authority to maintain whatever independent investigation she determines is necessary and to develop regulations for an independent investigation. If, upon investigation, the Labor Relations Administrator finds that a charge is sufficiently supported to raise an issue of fact or law, she shall, if she is unable to achieve settlement or resolution of the matter, hold a hearing on the charge after notification to the parties. In any hearing, charging parties shall present evidence in support of the charges, and the party or parties charged shall have the right to file an answer to the charges, to appear in person or otherwise and to present evidence in defense against the charges.

(d) If the Labor Relations Administrator determines that the person charged has committed a prohibited practice, she shall make findings of fact and conclusions of law and may issue an order requiring the person charged to cease and desist from the prohibited practice, and may take affirmative actions that will remedy the violation of this article. Remedies of the Labor Relations Administrator include
reinstating employees with or without back pay, making employees whole for any loss relating to County employment suffered as a result of any prohibited practices, or withdrawing or suspending the employee organization's authority to negotiate or continue an agency shop provision or a voluntary dues or service fee deduction provision. If the Labor Relations Administrator finds that the party charged has not committed any prohibited practices, she shall make findings of fact and conclusions of law and issue an order dismissing the charges.

(e) The Labor Relations Administrator shall not receive or entertain charges based upon an alleged prohibited practice occurring more than 6 months before the filing of the charge.

33-110. Expression of views.

(a) The expression or dissemination of any views, argument, or opinion; whether orally, in writing, or otherwise, does not constitute and is not evidence of a prohibited practice under any of the provisions of this law, nor is it grounds for invalidating any election conducted under this law if the expression or dissemination does not contain a threat of reprisal or promise of benefit.

(b) Recognizing an employee organization does not preclude the County from dealing with religious, social, fraternal, professional, or other lawful associations with respect to matters or policies that involve individual members of the associations or are of particular applicability to it or its members.

33-111. Strikes and lockouts.

(a) An employee or employee organization shall not either directly or indirectly cause, instigate, encourage, condone, or engage in any
strike, or the employer in any lockout. An employee or employee organization shall not obstruct, impede, or restrict, either directly or indirectly, any attempt to terminate a strike. 

(b) The employer shall not pay, reimburse, make whole, or otherwise compensate any employee for or during the period when that employee is directly or indirectly engaged in a strike, nor shall the employer thereafter compensate an employee who struck for wages or benefits lost during the strike.

(c) If an employee or employee organization violates the provisions of this section, the employer, after adequate notice and a fair hearing before the Labor Relations Administrator who finds that the violations have occurred and finds that any or all of the following actions are necessary in the public interest, may impose any of the following sanctions, subject to the Law-Enforcement Officers' Bill of Rights, Article 27, Sections 727-734D, Annotated Code of Maryland:

(1) Impose disciplinary action, including dismissal from employment, on employees engaged in the conduct.

(2) Terminate or suspend the employee organization's dues deduction privilege, if any.

(3) Revoke the certification of and disqualify the employee organization from participation in representation elections for a period up to a maximum of 2 years.

(d) This article does not prohibit an employer or a certified employee organization from seeking any remedy available in a court of competent jurisdiction.

33-112. Effect of prior enactments.

Any laws, executive orders, or regulations adopted by the County and any
department or agency of the County that are or may be considered inconsistent
with the provisions of this article shall not be held to be repealed or
modified until they are specifically repealed or modified by the County or any
department or agency of the County.

Sec. 3. Severability.

If a court holds that part of this act is invalid, the invalidity does not
affect other parts.

Sec. 4. Effective Date.

This act takes effect 91 days after it becomes law.

Approved:

William E. Hanna, Jr., President, County Council

Approved:

Charles W. Gilchrist, County Executive

This is a correct copy of Council action.

Kathleen A. Freedman, Secretary, County Council
LEGISLATIVE REQUEST REPORT

Bill 19-86
County Employee Collective Bargaining

DESCRIPTION: This bill:

(1) establishes a framework for public employer-employee labor relations;
(2) provides the method for designating an employee organization as the exclusive representative of public employees in the appropriate unit;
(3) provides procedures for collective bargaining of wages, hours, and other terms and conditions of employment;
(4) provides for the appointment of a labor relations administrator;
(5) defines the rights of employees, employee organizations, and the public employer;
(6) prohibits certain conduct;
(7) provides procedures for resolving differences between the public employer and employees; and
(8) generally assures uninterrupted operation of government services.

PROBLEM: Under Article IV of Chapter 33 (Personnel) eligible employees presently "meet and confer" with the County through their representative. However, County law does not implement the authority for collective bargaining found in the 1984 Charter amendments in §511.

GOALS AND OBJECTIVES: It is the public policy of Montgomery County to promote a harmonious, peaceful, and cooperative relationship between the County government and its employees and to protect the public by assuring, at all times, the responsive, orderly, and efficient operation of County government and services.

COORDINATION:

FISCAL IMPACT: Not available.

ECONOMIC IMPACT: Not available.

EVALUATION: Not available.

EXPERIENCE ELSEWHERE: Not available.
SOURCE OF INFORMATION: Arthur W. Spengler
Council Staff Director (251-7900)

William Willcox, Esq.
Special Counsel (457-6100)

APPLICATION WITHIN MUNICIPALITIES: Not applicable.

PENALTIES: Not applicable.
Amendments to Bill 19-86
County Employee Collective Bargaining

Subject: One Unit Instead of Two Units

1. On page 4, strike lines 21 and 22, and substitute:

"UPON CERTIFICATION OF AN EMPLOYEE ORGANIZATION AS THE UNIT'S
REPRESENTATIVE FOR COLLECTIVE BARGAINING, THIS ARTICLE SHALL NOT APPLY TO
ANY PERSON."

2. On page 6, in line 17, strike "one or both units" and substitute "THE
UNIT".

3. On page 9, in line 11, strike "either of the units defined in section
33-105" and substitute "ALL EMPLOYEES AS DEFINED IN THIS SECTION".

4. On page 10, in line 23, strike "units" and substitute "UNIT".

5. On page 12, in line 12, strike "for which it is certified".

6. On page 12, in line 19, strike "a" and substitute "THE".

7. On page 12, in line 26, strike "Units" and substitute "UNIT".

8. On page 12, in line 27, strike "are two units" and substitute "IS ONE
UNIT".

9. On page 13, in line 1, strike "Persons in these units are" and substitute
"THIS UNIT IS DEFINED AS".
10. On page 13, in line 5, strike "The employees are divided into 2" and lines 6 through 27.

11. On page 14, strike lines 1 through 11.

12. On page 14, in line 12, strike "these units of representation" and substitute "THE UNIT".

13. On page 14, in line 18, strike "in one of the units" and substitute "THE UNIT".

14. On page 15, in line 7, strike "a" and substitute "THE".

15. On page 15, in line 10, after "representative of" strike "a" and substitute "THE".

16. On page 27, in line 2, strike "a" and substitute "THE".
Amendments to Bill 19-86
County Employee Collective Bargaining

Subject: Majority of Unit Must Participate in Certification Election

1. On page 17, in line 20, after "agent" insert "PROVIDED THAT A MAJORITY OF THE ELIGIBLE EMPLOYEES VOTED IN THE ELECTION".
Amendments to Bill 19-86
County Employee Collective Bargaining

Subject: No Certification without an Election

1. On page 9, in line 17, strike "selection" and substitute "ELECTION".

2. On page 15, in line 5, strike "Selection" and substitute "ELECTION".

3. On page 18, strike lines 19 through 27.

4. On page 19, strike lines 1 through 3.
Amendments to Bill 19-86
County Employee Collective Bargaining

Subject: No Agency Shop

1. On page 5, strike line 27.

2. On page 6, strike lines 1 through 15.

3. On pages 6 through 9, renumber "(2)" , "(3)" , "(4)" , "(5)" , "(6)" , "(7)" , "(8)" , "(9)" , "(10)" , and "(11)" to be "(1)" , "(2)" , "(3)" , "(4)" , "(5)" , "(6)" , "(7)" , "(8)" , "(9)" , and "(10)".

4. On page 12, in line 16, strike "However, it is not a violation of this duty for a" and strike lines 17 and 18.

5. On page 12, in line 20, strike "or agency shop provisions".

6. On page 12, in line 25, strike "other than an agency shop provision".

7. On page 27, in line 8, strike "However, nothing in this article" and strike lines 9 and 10.

8. On page 30, in lines 4 and 5, strike "an agency shop provision or".
Amendments to Bill 19-86
County Employee Collective Bargaining

Subject: Agency Shop for Employees with
Less than 10 Years' Service

1. On page 6, in line 2, after "employees" add "WITH LESS THAN 10 YEARS'
SERVICE IN THE COUNTY GOVERNMENT MERIT SYSTEM".
Amendments to Bill 19-86
County Employee Collective Bargaining
Subject: All Pensions Non-Bargainable

1. On page 19, strike lines 14 through 18 and line 21.

2. On page 19, in line 20, after "benefits" insert a period.

3. On pages 19 and 20, renumber "(3)", "(4)", "(5)", "(6)", and "(7)" to be "(2)", "(3)", "(4)", "(5)", and "(6)".
Amendments to Bill 19-86
County Employee Collective Bargaining

Subject: Advisory Grievance Arbitration in all Cases Except Discipline and Discharge Cases

1. On page 19, in line 26, strike "provided that the"; strike lines 27 through 28, and substitute:

"OF DISCHARGE AND DISCIPLINE CASES;

(B) ADVISORY THIRD PARTY ARBITRATION OF OTHER CASES UNLESS THE PARTIES AGREE AT THE TIME A PARTICULAR CASE IS TO BE ARBITRATED THAT THE ARBITRATION WILL BE BINDING; AND".

2. On page 20, strike line 1.

3. On page 20, in line 2, strike "(B)" and substitute "(C)".
Amendments to Bill 19-86
County Employee Collective Bargaining

Subject: Broader "Effects" Bargaining

1. On page 20, strike lines 4 through 6 and substitute:

"(7) THE EFFECT ON EMPLOYEES OF THE EMPLOYER'S EXERCISE OF THE RIGHTS ENUMERATED IN SUBSECTION (B) HEREOF."
Amendments to Bill 19-86
County Employee Collective Bargaining
Subject: Short First-Year Bargaining

1. On page 22, after line 11 insert:

(A) (1) THE EMPLOYER AND THE CERTIFIED REPRESENTATIVE SHALL
UNDERTAKE BARGAINING IMMEDIATELY UPON THE CERTIFICATION OF THE
REPRESENTATIVE PURSUANT TO THIS ACT. SUCH BARGAINING SHALL CONTINUE
FOR NOT MORE THAN 60 DAYS. EITHER PARTY MAY REQUEST THE ASSISTANCE
OF A MEDIATOR IF NO AGREEMENT HAS BEEN REACHED WITHIN 45 DAYS AFTER
BARGAINING HAS BEGUN. THE TERMS OF THE COLLECTIVE BARGAINING
AGREEMENT SHALL COMMENCE IMMEDIATELY UPON THE CONCLUSION OF
BARGAINING, AND SHALL TERMINATE AT THE END OF THE FISCAL YEAR.

(2) THE COLLECTIVE BARGAINING AGREEMENT ENTERED INTO PURSUANT
TO THIS SUBSECTION WILL INCLUDE NO PROVISIONS WHICH CONCERN SALARIES
OR WAGES, RETIREMENT AND PENSION BENEFITS, OR WHICH REQUIRE THAT THE
COUNTY COUNCIL APPROPRIATE ADDITIONAL FUNDS, OR ENACT, REPEAL, OR
MODIFY ANY COUNTY LAW.

(3) THIS SUBSECTION SHALL BE IMPLEMENTED ONLY DURING AND FOR
THE FISCAL YEAR IN WHICH THIS ACT BECOMES EFFECTIVE. COLLECTIVE
BARGAINING FOR FUTURE FISCAL YEARS SHALL BE GOVERNED BY THE
SUBSECTIONS SET FORTH HEREAFTER.

2. On pages 22 through 26, reletter "(a)", "(b)", "(c)", "(d)", "(e)", "(f)",
"(g)", "(h)", "(i)", "(j)", and "(k)" to be "(B)", "(C)", "(D)", "(E)",
"(F)", "(G)", "(H)", "(I)", "(J)", "(K)", and "(L)".
Amendments to Bill 19-86
County Employee Collective Bargaining

Subject: Right of Union to Veto Reappointment of Labor Relations Administrator, but not to Formally Nominate Appointees

1. On page 11, in line 7, strike "first".

2. On page 11, in line 9, strike "4" and substitute "5".

2. On page 11, after line 9, insert:

"HOWEVER, SHE WILL NOT BE REAPPOINTED IF, DURING THE PERIOD BETWEEN 60 AND 30 DAYS BEFORE THE EXPIRATION OF THE TERM, THE CERTIFIED REPRESENTATIVE FILES A WRITTEN OBJECTION TO THE REAPPOINTMENT WITH THE COUNTY EXECUTIVE."

3. On page 11, strike lines 10 through 22.
Amendments to Bill 19-86  
County Employee Collective Bargaining  

Subject: Council Participation in  
Nomination of Appointees  

1. On page 11, in line 14, strike "and" and substitute a comma.  

2. On page 11, in line 15, after "Officer," insert "AND THE COUNTY COUNCIL,"
Amendments to Bill 19-86
County Employee Collective Bargaining

Subject: Continuation of State Merit System Employees in Meet & Confer

1. On page 4, in line 22, strike the period and insert "EXCEPT STATE MERIT SYSTEM EMPLOYEES WHO WERE COVERED BY IT PRIOR TO THE ENACTMENT OF ARTICLE VII.".