

M E M O R A N D U M

June 17, 1986

TO: County Council

FROM: Arthur W. Spengler, Council Staff Director

SUBJECT: Collective Bargaining Legislation



Staff has one issue for the Council to discuss before the final draft of the collective bargaining bill can be completed -- i.e., should retiree benefits, in addition to pension benefits, be bargainable for active employees?

Council staff's recollection is that the Council's debate on retiree benefits was confined to pension benefits (i.e., defined benefit versus defined contribution plans); we do not recall any discussion regarding other retiree benefits (e.g., medical and dental benefits; cost sharings).

With regard to these non-pension retirement benefits, I would make the following points:

- ° unlike pensions, these benefits are not established in law;
- ° since they are not established by law, it would be possible for a bargaining agreement to reduce these benefits and there would be no opportunity for the Council to veto such changes.
- ° employees who might be adversely impacted would not have their voices heard in a public proceeding; this becomes more critical when the average age and length of service of unit members declines.
- ° these benefits are not bargainable for MCPS or College employees.

There are two alternative amendments for consideration:

County Executive and MCGEO

"With respect to pension and retirement benefits, pension benefits derived from County law and additional retirement benefits, including but not limited to those not specifically derived from law, shall be negotiable one year after the effective date of the statute."

Also amend Section 33-107(a)(3) by striking the words:

". . . but not including pension and retirement benefits except to the extent stated in subsection (a)(2)."

Council Staff

"With respect to pension and retirement benefits, pension benefits only shall be negotiable, for active employees only, one year after the effective date of this statute."

AWS/jm
B727/14-15

01 employees in the unit desire to be represented by the incumbent
02 representative for the purposes of collective bargaining under the
03 provisions of this article.

04 33-107. Collective bargaining.

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

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

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

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

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

22 (4) Hours and working conditions.

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

26 (A) binding third party arbitration, provided that the
27 arbitrator shall have no authority to amend, add to, or
28 subtract from the provisions of the collective bargaining

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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.



AWS
CC

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Montgomery County Government

MEMORANDUM

002195

June 13, 1986

TO: William E. Hanna, Jr., President
Montgomery County Council

FROM: Sean J. Rogers, Chief, Labor/Employee Relations and Training *Sean J. Rogers*

SUBJECT: Amendments to Bill No. 19-86, County Employee Collective Bargaining, Section 33-107(a)(2) and (3) concerning negotiability of pension and retirement benefits.

At the last Council work session concerning the above-captioned bill, the Council determined to amend section 33-107(a)(2) to provide for the negotiability of pensions and retirement benefits one year after the effective date of the statute. The Staff Director, Counselor Willcox, Counselor Thompson and I met to draft legislative language representing the will of the Council as stated on May 29, 1986. The parties found that they were unable to agree on the appropriate language for Section 33-107(a)(2). Therefore, I have suggested that we each draft language on the section and present it to the Council for approval. This memorandum represents the position of the Executive and of MCGEO/Local 400 on the appropriate language which we inferred from the Council's last work session .

Mr. Spengler and Mr. Willcox inferred that it was the sense of the Council to limit negotiations to pension benefits covered by legislative enactment, excluding any additional retirement benefits, such as, insurance benefits related to retirement. Neither the Executive nor MCGEO/Local 400 agrees with this inference.

The Executive proposed an amendment to the bill in this section at the May twenty-ninth work session to broaden negotiations in this area. The Council was not opposed to the amendment, but sought a one year delay in negotiations to allow the legislative body the opportunity to revise existing pension and retirement systems. The Executive sought, in his amendment to the section, to permit both pension benefits prescribed by law and other retirement benefits to be immediately and fully negotiable. As a compromise and to accomodate the Council, the Executive and MCGEO/Local 400 proposed a one year delay in the negotiability of pension and retirement

benefits. This position was adopted by the Council with little discussion or debate. In order to clarify the scope of bargaining regarding the retirement issue the Executive proposes and the union concurs with the following language:

Section 33-107(a)(2):

With respect to pension and retirement benefits, pension benefits derived from County law and additional retirement benefits, including but not limited to those not specifically derived from law, shall be negotiable one year after the effective date of the statute.

In addition, to ensure legislative consistency, the provisions of 33-107(a)(3) need to be amended by striking the words:

...,but not including pension and retirement benefits except to the extent stated in subsection (a)(2).

These proposed amendments in no way imply a right to bargain pension and retirement benefits on behalf of current retirees as they are not defined as "employees" under the statute. Therefore, the Executive, joined by MCGEO/Local 400, requests that the Council amend the provisions of Bill No. 19-86 with the language presented above.

cc: David Scull, Councilmember
Rose Crenca, Councilmember
Esther Gelman, Councilmember
Michael Gudis, Councilmember
Neal Potter, Councilmember
Scott Fosler, Councilmember
William Willcox, Esq.
Arthur Spengler, Staff Director