

MEMORANDUM

TO: County Council

FROM:  Michael Faden, Senior Legislative Attorney

SUBJECT: **Action:** Expedited Bill 30-03, Collective Bargaining – Schedule and Process

Management and Fiscal Policy Committee recommendation: enact as introduced.

Expedited Bill 30-03, Collective Bargaining – Schedule and Process, sponsored by the Management and Fiscal Policy Committee, was introduced on September 9, 2003.

Background The collective bargaining calendar is set in the County labor relations laws that govern each bargaining unit (police: County Code §§33-75 through 33-85; County employees: §§33-101 through 33-112; firefighters: §§33-147 through 33-157). In particular, see County Code §33-80; §33-108; §33-153. Under all three laws the County Council must review any term or condition of each final collective bargaining agreement requiring an appropriation of funds or enactment, repeal, or modification of a county law or regulation. On or before May 1, the Council must indicate by resolution its intention to appropriate funds for or otherwise implement the agreement or its intention not to do so, and state its reasons for any intent to reject any part of an agreement. If the Council indicates its intention to reject or opts not to fund any item, it must designate a representative to meet with the parties and present the Council's views in their further negotiations. The parties must submit the results of any further negotiations, or impasse procedures if the parties cannot agree on a revised contract, to the Council by May 10.

Summary Bill 30-03, which the Management and Fiscal Policy Committee recommended for introduction at its July 17 meeting, reflects a consensus of Committee member, union representative, and Office of Human Resources views. It does the following for each of the bargaining units:

- repeals obsolete certification provisions in the police and County employee bargaining unit laws;
- moves the date for selection of the impasse neutral/arbitrator from November 10 to September 10;
- directs the Executive to describe each new collective bargaining agreement and estimate its cost in the annual operating budget;

- directs the employer to submit each new contract to the Council by April 1, unless extenuating circumstances cause a delay;
- requires the employer's submission to the Council to attach any implementing bills or regulations, show the changes in the contract, and include any binding side letters;
- allows the Council by majority vote to defer its May 1 action deadline to any date up to May 15, with the parties' May 10 renegotiation deadline automatically deferred by the same number of days;
- clarifies that the same Council review process and deadlines apply to Council review of contract cost items in the second and third years of a contract; and
- clarifies that the same Council review process applies to out-of-cycle contract amendments, but with deadlines that reflect the date each amendment is submitted to the Council.

No speakers appeared at the public hearing on this bill, held on September 16.

At the Committee worksession on September 22, Jim Torgesen, Labor Relations Manager for the Office of Human Resources, and Bob Stewart of MCGEO noted their support for the bill, which the Committee recommended unanimously without further discussion.

This packet contains:

Bill 30-03

Legislative Request Report

Circle #

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Expedited Bill No. 30-03
Concerning: Collective Bargaining -
Schedule and Process
Revised: 9-22-03 Draft No. 1
Introduced: September 9, 2003
Expires: March 9, 2005
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

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

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

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

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.

123 (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.

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

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(1) require an appropriation of funds, or

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(2) are inconsistent with any County law or regulation, or

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(3) require the enactment or adoption of any County law or regulation, or

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(4) which have or may have a present or future fiscal impact.

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If a later submission is necessary, the employer must specify the submission date

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and the reasons for delay to the Council President by April 1. The employer must

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make a good faith effort to have the Council take action to implement all terms and

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conditions in the parties' final agreement.

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

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(1) all proposed legislation and regulations necessary to implement the agreement;

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

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

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[(m)] (n) * * *

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

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(1) requires an appropriation of funds, or

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(2) is inconsistent with any County law or regulation, or

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(3) requires the enactment or adoption of any County law or regulation, or

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(4) which has or may have a present or future fiscal impact.

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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.

LEGISLATIVE REQUEST REPORT

Expedited Bill 30-03

Collective Bargaining – Schedule and Process

DESCRIPTION:	Repeals obsolete certification provisions in the police and County employee bargaining unit laws; moves the date for selection of the impasse neutral/arbitrator from November 10 to September 10; directs the Executive to describe each new collective bargaining agreement and estimate its cost in the annual operating budget; directs the employer to submit each new contract to the Council by April 1, unless extenuating circumstances cause a delay; requires the submission to the Council to include any implementing bills or regulations, show the changes in the contract, and include any binding side letters; allows the Council by majority vote to defer its May 1 action deadline to any date up to May 15, with the parties' May 10 deadline automatically deferred by the same number of days; clarifies that the same Council review process and deadlines apply to Council review of contract cost items in the second and third years of a contract; clarifies that the same Council review process applies to out-of-cycle contract amendments, but with deadlines that reflect the date each amendment is submitted to the Council.
PROBLEM:	Experience has revealed the need to modify and clarify certain elements of the collective bargaining schedule and process in order to enhance the Council's ability to review approved collective bargaining agreements and receive more public input during the Council's review period.
GOALS AND OBJECTIVES:	To improve the flow of information to the Council and give the Council more flexibility in reviewing approved collective bargaining agreements in the context of the annual County operating budget.
COORDINATION:	Office of Human Resources, Office of Management and Budget, employee representatives
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Michael Faden, Senior Legislative Attorney, 240-777-7905
APPLICATION WITHIN MUNICIPALITIES:	Applies only to County employee bargaining units.
PENALTIES:	Not applicable

