

AGENDA ITEM 8
July 13, 2004
Public Hearing/Action

Management and Fiscal Policy Committee members should also bring this packet to your July 12 worksession, where staff will answer any questions about this item.

MEMORANDUM

TO: County Council
FROM: MF Michael Faden, Senior Legislative Attorney
SUBJECT: **Public Hearing/Action:** Expedited Bill 19-04, Personnel – Collective Bargaining - Police

Expedited Bill 19-04, Personnel – Collective Bargaining – Police, sponsored by the Council President at the request of the County Executive, was introduced on June 22, 2004.

Bill 19-04 will amend the law regarding collective bargaining with County police officers as provided in the most recent collective bargaining agreement with Fraternal Order of Police Lodge 35. Specifically, as the parties agreed in that collective bargaining agreement, the bill sets up a process to bargain and resolve impasses, out of the normal bargaining cycle, on reopener issues and issues regarding the effects of the exercise of management rights. In Council staff's view, the bill is drafted correctly to accomplish its purposes.

<u>This packet contains:</u>	<u>Circle #</u>
Bill 19-04	1
Legislative Request Report	7
Memo from County Executive	8

Expedited Bill No. 19-04
Concerning: Collective Bargaining -
Police -
Revised: 6-18-04 Draft No. 1
Introduced: June 22, 2004
Expires: December 22, 2005
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

- (1) provide a process to resolve bargaining impasses over reopener issues and the employer's exercise of management rights that have an impact on bargaining unit employees;
- (2) make it a prohibited practice for the employer to refuse to participate in the impasse procedure after the employer implements a final offer on the effects of the exercise of an employer right; and
- (3) generally amend the law regarding collective bargaining with County police officers.

By amending

Montgomery County Code
Chapter 33, Personnel and Human Resources
Sections 33-81 and 33-82

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

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

26 than 10 days after impasse is declared.

27 (E) The impasse neutral must resolve the dispute under the
 28 impasse procedure in subsection (b), except that:

29 (i) the dates in that subsection do not apply;

30 (ii) each party must submit to the impasse neutral a
 31 final offer on only the reopener matter; and

32 (iii) the impasse neutral must select the most
 33 reasonable of the parties' final offers no later than
 34 10 days after the impasse neutral receives the final
 35 offers.

36 (F) This subsection applies only if the parties in their
 37 collective bargaining agreement have designated:

38 (i) the specific reopener matter to be bargained;

39 (ii) the date by which bargaining on the reopener
 40 matter must begin; and

41 (iii) the deadline by which bargaining on the reopener
 42 matter must be completed and after which the
 43 impasse procedure must be implemented.

44 (2) Bargaining over the effects of the exercise of an employer right.

45 (A) If the employer notifies the employee organization that it
 46 intends to exercise a right listed in Section 33-80(b), the
 47 exercise of which will have an effect on members of the
 48 bargaining unit, the parties must choose by agreement or
 49 through the processes of the American Arbitration

50 Association an impasse neutral who agrees to be
 51 available for impasse resolution within 30 days.

52 (B) The parties must engage in good faith bargaining on the
 53 effects of the exercise of the employer right. If the
 54 parties, after good faith bargaining, are unable to agree
 55 on the effect on bargaining unit employees of the
 56 employer's exercise of its right, either party may declare
 57 an impasse.

58 (C) If the parties bargain to impasse over the effects on
 59 employees of an exercise of an employer right that has a
 60 demonstrated, significant effect on the safety of the
 61 public, the employer may implement its last offer before
 62 engaging in the impasse procedure. A party must not
 63 exceed a time requirement of the impasse procedure. A
 64 party must not use the procedure in this paragraph for a
 65 matter that is a mandatory subject of bargaining other
 66 than the effects of the exercise of an employer right.

67 (D) The parties must submit the dispute to the impasse
 68 neutral no later than 10 days after either party declares an
 69 impasse under subparagraph (B).

70 (E) The impasse neutral must resolve the dispute under the
 71 impasse procedures in subsection (b), except that:

72 (i) the dates in that subsection do not apply;

- 73 (ii) each party must submit to the impasse neutral a
 74 final offer only on the effect on employees of the
 75 employer's exercise of its right; and
- 76 (iii) the impasse neutral must select the most
 77 reasonable of the parties' final offers no later than
 78 10 days after the impasse neutral receives the final
 79 offers and, if appropriate, must provide retroactive
 80 relief.
- 81 (E) If the impasse neutral has not issued a decision within 20
 82 days after the impasse neutral receives the parties' final
 83 offers, the employer may implement its final offer until
 84 the impasse neutral issues a final decision.

85 **33-82. Prohibited practices.**

86 (a) The employer or its agents or representatives are prohibited from:

87 * * *

88 (9) Engaging in a lockout of employees[.];

89 (10) delaying or refusing to participate in the impasse procedure in
 90 Section 33-81(c)(2) after the employer implements a final offer
 91 under Section 33-81(c)(2)(C).

92 * * *

93 **Sec. 2. Expedited Effective Date.**

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

97 *Approved:*

98

99

100

Steven A. Silverman, President, County Council

Date

101 *Approved:*

102

103

104

Douglas M. Duncan, County Executive

Date

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

106

107

108

Mary A. Edgar, CMC, Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Expedited Bill ~~19~~-04, *Collective Bargaining - Police*

- DESCRIPTION:** The requested legislation amends the Police Labor Relations Law by adding an impasse procedure for resolving impasses over: 1) reopener matters; and 2) the employer's exercise of an employer right that has an impact on bargaining unit employees. The bill also makes it a prohibited practice for the employer to refuse to participate in the impasse procedure after the employer implements a final offer on the effects of the exercise of an employer right.
- PROBLEM:** The impasse procedure in Section 33-81 the Police Labor Relations Law provides a mechanism for resolving impasses that arise during negotiations for a new term agreement. The Fraternal Order of Police, Lodge #35 (FOP) and the County Executive agreed during bargaining that the parties would submit legislation to the Council to revise Sections 33-81 to include an impasse procedure for resolving impasses over reopener matters and the employer's exercise of an employer right that has an impact on bargaining unit employees and to revise Section 33-82 to make it a prohibited practice for the employer to refuse to participate in the impasse procedure after the employer implements a final offer on the effects of the exercise of an employer right.
- GOALS AND OBJECTIVES:** To implement Article 68, *Proposed Legislation Relating to Impasse Procedure*, of the July 1, 2004, through June 30, 2007, agreement with the FOP.
- COORDINATION:** Office of Human Resources
- FISCAL IMPACT:** Office of Management and Budget
- ECONOMIC IMPACT:** n/a
- EVALUATION:** n/a
- EXPERIENCE ELSEWHERE:** n/a
- SOURCE OF INFORMATION:** James Torgesen (240-777-5050) and Eric Wallmark, (241-777-5020), Office of Human Resources
- APPLICATION WITHIN MUNICIPALITIES:** n/a
- PENALTIES:** n/a

DBILL
2) BILL



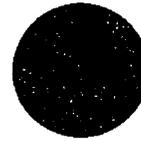
MF
CC
SBF
LL
LAM

OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Douglas M. Duncan
County Executive

MEMORANDUM

May 26, 2004



009757

TO: Stephen A. Silverman, President, County Council
FROM: Douglas M. Duncan, County Executive
SUBJECT: Proposed Legislation to Implement the Police Collective Bargaining Agreement

I am submitting for the Council's consideration and approval two bills which contain amendments to the Employee's Retirement System and the Police Labor Relations law. These amendments are the product of collective bargaining and were recently presented to the Council in draft form as a part of the collective bargaining changes. The Retirement Law amendments provide the opportunity for bargaining unit employees to be included in the existing trial retirement option and to also be eligible to voluntarily elect transfer to the Retirement Savings Plan. The Police Labor Relations Law amendments provide a process for resolving bargaining impasses over reopener issues and when there is an exercise of a management right that results in "effects" bargaining.

It is requested that the bill providing amendments to the Police Labor Relations Law be expedited, as there currently does not exist a mechanism whereby bargaining impasses resulting from a reopener or the effects on employees of an exercise of a management right can be initiated.

Cc: Walter Bader, President, Fraternal Order of Police, Lodge 35 Inc.

DMD: jet

Attachments



2004 JUN -2 PM 12: 10

RECEIVED
MONTGOMERY COUNTY
COUNCIL

8