COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Subin, Council President Ewing, and Councilmembers Leggett, Berlage, Denis, Silverman, and Andrews

AN ACT to:

(1) include certain County employees in a collective bargaining unit, subject to certain limits on the scope of bargaining; and

(2) generally amend the law governing collective bargaining with County employees.

By amending
Montgomery County Code
Chapter 33, Personnel and Human Resources
[[Section]] Sections 33-102, 33-105, and 33-107

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The County Council for Montgomery County, Maryland approves the following Act:
Sec. 1. [[Section is]] Sections 33-102, 33-105, and 33-107 are amended as follows:

33-102. Definitions.

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

* * *

(4) Employee means any person who works [[under]] for the County government [[merit system on a continuous full-time, career or part-time, career basis, or an a temporary, seasonal, or substitute basis]], except:

(A) [[Confidential aides]] a confidential aide to an elected

[[officials.] official;

(B) [[All persons who are not covered by the County government merit system.]] a person holding a position designated by law as a non-merit position;

(C) [[Heads]] a head of a principal [[departments, offices, and agencies.]] department, office, or agency;

(D) [[Deputies and assistants]] a deputy or assistant to

[[heads]] a head of a principal [[departments, offices, and agencies.]] department, office, or agency;

(E) [[Persons]] an employee who [[provide]] provides 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]] an employee who [[report]] reports directly to,

or whose immediate supervisor is;

(i) the County Executive [[or]];
(ii) the Chief Administrative Officer; or
(iii) [their principal aides.] a principal aide of the
County Executive or Chief Administrative Officer:

(G) [Persons] an employee who [[work]] works for:

(i) the Office of the County Executive [[and]];
(ii) the Office of the Chief Administrative Officer[[.]];

[(H)] (iii) [Persons who work for]] the County Council[[.]];

[(I)] (iv) [Persons who work for]] the Office of the County
Attorney[[.]];

[(J)] (v) [Persons who work for]] the Office of Management
and Budget[[.]];

(vi) the Office of Intergovernmental Relations:

[(K)] (vii) [Persons who work for]] the Office of Human
Resources[[.]]; or

[(L)] (viii) [Persons who work for]] the Merit System
Protection Board[[.]];

[(M)] (H) [Persons who work on a temporary, seasonal, or substitute
basis.] an employee in a temporary, seasonal, or substitute
position, unless the position is in a job class in which the
incumbents are predominantly career merit system
employees:

[(N)] (I) [Newly hired persons on probationary status.] a recently-
hired employee who has not completed the probationary
period;

[(O)] (J) [Persons who work for the Police Department and are
represented by a certified employee organization under
Article V.] an employee in the police bargaining unit:
[P] [(K)] [(Persons who work for the Department of Fire and Rescue Services and are represented by a certified employee organization under Article X.) an employee in the firefighter/rescuer bargaining unit.]

[(Q)] [(Officers in the uniformed services (Corrections, Fire and Rescue, Police, Office of the Sheriff) in the rank of sergeant and above.) a uniformed officer in the Department of Correction & Rehabilitation at the rank of sergeant or higher:]

[(M)] [(Subject)] subject to any limitations in State law,
[(deputy sheriffs below the rank of sergeant are employees.) a uniformed officer in the Office of the Sheriff at the rank of sergeant or higher:]

[(R)] [(Persons) an employee who [[are members]] is a member of the State merit system[];]

[(S)] [(Supervisors, which means persons having]] a supervisor meaning an employee who has the authority to:

(i) hire, assign, transfer, lay off, recall, promote, evaluate, reward, discipline, suspend, or discharge employees, or effectively recommend any of these actions;

(ii) direct the activity of 3 or more employees; or

(iii) adjust or recommend adjustment of grievances[];

[(T) Persons grade 27 or above, whether or not they are supervisors.]

[(P) an employee in a position classified at grade 27 or above unless the employee's position is reclassified or reallocated]
on or after July 1, 2002, to a non-supervisory position at
grade 27 or above; or

(a) an employee in a position classified in the Management
Leadership Service.

33-105. Units for collective bargaining.

(a) There are 2 units for collective bargaining and for purposes of
certification and decertification. [[Persons in]] Members of these units
are all County government [[merit system]] employees [[working on a
continuous full-time, career or part-time, career basis]], [[except any
person who is not]] as defined [[as an employee]] in Section 33-102(4),
and those employees who are limited-scope members of a bargaining
unit under subsection (c)(2). The employees are divided into 2 units:

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[[a.] (A) * * *

[[b.] (B) * * *

[[c.] (C) * * *

[[d.] (D) * * *

(c) Temporary seasonal and substitute employees.

(1) A temporary, seasonal, or substitute employee in an occupational
class in which the incumbents are predominantly career merit
system employees becomes a member of the applicable
bargaining unit when the employee has worked 6 months in a
position in that occupational class. However, the employee may
be terminated for any cause or without cause and without any
right of grievance until the employee has completed 1,040 hours of service in that position in any 12-month period.

(2) A temporary, seasonal, or substitute employee who is excluded from the definition of "employee" under Section 33-102(4)(H) because the employee is not in an occupational class in which the incumbents are predominantly career merit system employees becomes a limited-scope member of the applicable bargaining unit immediately after the employee begins employment if:

(A) the employee works at least 25 hours per pay period; and

(B) the employee organization which represents that bargaining unit has adopted a reduced scale of dues and service fees for employees in the limited-scope membership group that is generally proportional to the organization's representational responsibilities for employees in that group relative to the organization's representational responsibilities for other bargaining unit members, as determined by the employee organization.

Membership in a bargaining unit on a limited-scope basis must not carry any right to continued employment or access to any grievance procedure or other benefit that is extended to other bargaining unit members.


(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 for employees other than limited-scope members of the bargaining unit under Section 33-105(c)(2):
(2) Pension and other retirement benefits [[shall be negotiable,]] for active employees only, [[one (1) year after the effective date of this article]] but the parties must not bargain over the participation by any employee who is a member of the bargaining unit under Section 33-105(c)(1) in either the Integrated Retirement Plan or the Retirement Savings Plan.

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

[[a.]] (A) Binding third party arbitration for employees other than members of the bargaining unit under Section 33-105(c)(1), [[provided that]] but the arbitrator [[shall have no authority to]] must not amend, add to, or subtract from the provisions of the collective bargaining agreement; and

[[b.]] (B) Provisions for exclusivity of forum.

The duty to bargain under this subsection, and any agreement reached as a result of bargaining, must not limit the employer's authority to require a newly-hired employee to remain in probationary status, during which the employee may be terminated for any cause or without cause and without any right of grievance, for a period that does not exceed 6 months. Unless a specific probationary period is required by law, the parties may agree on any probationary period that is not less than 6 months.

(b) Duty to bargain for limited-scope employees. The employer and the certified representative have the duty to bargain collectively on only the
following subjects with respect to employees who are limited-scope
members of the bargaining unit under Section 33-105(c)(2):

(1) wage scales and general wage adjustments; and
(2) dues or service fee deductions.

[[b]] (c) * * *
[[c]] (d) * * *
[[d]] (e) Agreement * * *

Sec. 2. Transition.
The certified representative and the employer must bargain under Section 33-
107 with respect to temporary, seasonal, and substitute employees who are members
of a bargaining unit, including limited-scope employees, immediately after this Act
becomes law. The procedures for impasse resolution under Section 33-108 apply to
this bargaining process, but the specific action deadlines in that section do not apply.
An initial agreement between the certified representative and the employer with
respect to temporary, seasonal, and substitute employees must expire on the same
date as the existing agreements for the SLT and OPT bargaining units.

Approved:

Steven A. Silverman, President, County Council
5/9/02

Douglas M. Duncan, County Executive
5/9/02

Mary A. Edgar, CMC, Clerk of the Council
5/23/02

This is a correct copy of Council action.