

Bill No. 9-01
Concerning: County Employees-
Collective Bargaining Units
Revised: 5-2-02 Draft No. 3
Introduced: February 27, 2001
Enacted: May 7, 2002
Executive: May 20, 2002
Effective: August 19, 2002
Sunset Date: None
Ch. 8, Laws of Mont. Co. 2002

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

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:

1 **Sec. 1. [[Section is]] Sections 33-102, 33-105, and 33-107 are amended as**
 2 **follows:**

3 **33-102. Definitions.**

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

5 * * *

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

10 (A) ~~[[Confidential aides]]~~ a confidential aide to an elected
 11 ~~[[officials.]]~~ official;

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

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

17 (D) ~~[[Deputies and assistants]]~~ a deputy or assistant to
 18 ~~[[heads]]~~ a head of a principal ~~[[departments, offices, and~~
 19 agencies.]] department, office, or agency;

20 (E) ~~[[Persons]]~~ an employee who ~~[[provide]]~~ provides direct
 21 staff or administrative support to the head of a principal
 22 department, office, or agency, or to a deputy or assistant
 23 within the immediate office of a head of a principal
 24 department, office, or agency~~[[.]]~~;

25 (F) ~~[[Persons]]~~ an employee who ~~[[report]]~~ reports directly to,
 26 or whose immediate supervisor is;

27 (i) the County Executive ~~[[or]]~~;

- 28 (ii) the Chief Administrative Officer; or
- 29 (iii) [[their principal aides.]] a principal aide of the
- 30 County Executive or Chief Administrative Officer:
- 31 (G) [[Persons]] an employee who [[work]] works for:
 - 32 (i) the Office of the County Executive [[and]];
 - 33 (ii) the Office of the Chief Administrative Officer[[.]];
 - 34 [(H)] (iii) [[Persons who work for]] the County Council[[.]];
 - 35 [(I)] (iv) [[Persons who work for]] the Office of the County
 - 36 Attorney[[.]];
 - 37 [(J)] (v) [[Persons who work for]] the Office of Management
 - 38 and Budget[[.]];
 - 39 (vi) the Office of Intergovernmental Relations:
 - 40 [(K)] (vii) [[Persons who work for]] the Office of Human
 - 41 Resources[[.]]; or
 - 42 [(L)] (viii) [[Persons who work for]] the Merit System
 - 43 Protection Board[[.]];
 - 44 [(M)] (H) [Persons who work on a temporary, seasonal, or substitute
 - 45 basis.] an employee in a temporary, seasonal, or substitute
 - 46 position, unless the position is in a job class in which the
 - 47 incumbents are predominantly career merit system
 - 48 employees:
 - 49 [(N)] (I) [[Newly hired persons on probationary status.]] a recently-
 - 50 hired employee who has not completed the probationary
 - 51 period:
 - 52 [(O)] (J) [[Persons who work for the Police Department and are
 - 53 represented by a certified employee organization under
 - 54 Article V.]] an employee in the police bargaining unit:

55 [(P)] ~~(K)~~ [[Persons who work for the Department of Fire and
56 Rescue Services and are represented by a certified
57 employee organization under Article X.]] an employee in
58 the firefighter/rescuer bargaining unit;

59 [(Q)] ~~(L)~~ [[Officers in the uniformed services (Corrections, Fire
60 and Rescue, Police, Office of the Sheriff) in the rank of
61 sergeant and above.]] a uniformed officer in the
62 Department of Correction & Rehabilitation at the rank of
63 sergeant or higher;

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

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

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

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

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

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

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

80 (P) an employee in a position classified at grade 27 or above
81 unless the employee's position is reclassified or reallocated

82 on or after July 1, 2002, to a non-supervisory position at
83 grade 27 or above: or

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

86 * * *

87 **33-105. Units for collective bargaining.**

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

95 * * *

- 96 (2) * * *
- 97 ~~[[a.]]~~ (A) * * *
- 98 ~~[[b.]]~~ (B) * * *
- 99 ~~[[c.]]~~ (C) * * *
- 100 ~~[[d.]]~~ (D) * * *

101 * * *

102 (c) Temporary seasonal and substitute employees.

103 (1) A temporary seasonal or substitute employee in an occupational
104 class in which the incumbents are predominantly career merit
105 system employees becomes a member of the applicable
106 bargaining unit when the employee has worked 6 months in a
107 position in that occupational class. However, the employee may
108 be terminated for any cause or without cause and without any

109 right of grievance until the employee has completed 1040 hours
 110 of service in that position in any 12-month period.

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

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

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

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

130 **33-107. Collective bargaining.**

131 (a) *Duty to bargain; matters subject to bargaining.* Upon certification of
 132 an employee organization, the employer and the certified representative
 133 have the duty to bargain collectively with respect to the following
 134 subjects for employees other than limited-scope members of the
 135 bargaining unit under Section 33-105(c)(2):

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* * *

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(2) Pension and other retirement benefits [[shall be negotiable,]] for

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active employees only, [[one (1) year after the effective date of

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this article]] but the parties must not bargain over the

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participation by any employee who is a member of the bargaining

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unit under Section 33-105(c)(1) in either the Integrated

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Retirement Plan or the Retirement Savings Plan.

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* * *

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(5) Provisions for the orderly processing and settlement of

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grievances concerning the interpretation and implementation of a

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collective bargaining agreement, which may include:

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[[a.]] (A) Binding third party arbitration for employees other

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than members of the bargaining unit under Section 33-

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105(c)(1), [[provided that]] but the arbitrator [[shall have

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no authority to]] must not amend, add to, or subtract from

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the provisions of the collective bargaining agreement; and

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

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The duty to bargain under this subsection and any agreement reached as

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a result of bargaining must not limit the employer's authority to require

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a newly-hired employee to remain in probationary status during which

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the employee may be terminated for any cause or without cause and

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without any right of grievance for a period that does not exceed 6

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months. Unless a specific probationary period is required by law, the

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parties may agree on any probationary period that is not less than 6

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months.

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(b) Duty to bargain for limited-scope employees. The employer and the

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certified representative have the duty to bargain collectively on only the

163 following subjects with respect to employees who are limited-scope
164 members of the bargaining unit under Section 33-105(c)(2):

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

167 ~~[[b)]~~ (c) * * *

168 ~~[[c)]~~ (d) * * *

169 ~~[[d)]~~ (e) Agreement * * *

170 **Sec. 2. Transition.**

171 The certified representative and the employer must bargain under Section 33-
172 107 with respect to temporary, seasonal, and substitute employees who are members
173 of a bargaining unit, including limited-scope employees, immediately after this Act
174 becomes law. The procedures for impasse resolution under Section 33-108 apply to
175 this bargaining process, but the specific action deadlines in that section do not apply.
176 An initial agreement between the certified representative and the employer with
177 respect to temporary, seasonal, and substitute employees must expire on the same
178 date as the existing agreements for the SLT and OPT bargaining units.

179 *Approved:*

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Steven A. Silverman, President, County Council

5/9/02

Date

181 *Approved:*

182 

Douglas M. Duncan, County Executive

5/20/02

Date

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

184 

Mary A. Edgar, CMC Clerk of the Council

5/27/02

Date