

ENROLLED

COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND
LEGISLATIVE SESSION, 2014
BILL NO. 2014-03

Introduced: February 4, 2014

BY: The Council President on behalf of the County Council

AN ACT to amend Chapter 59, titled "Personnel Rules," Article II, titled "Collective Bargaining," Section S9-10, titled "Negotiations" paragraph A and Section 59-11, titled "Arbitrator Selection and Impasse Procedures" paragraph J, to provide that an arbitration decision shall be binding upon the County Council.

PREAMBLE

In accordance with Wicomico County Charter section 601.1, titled "Collective Bargaining" added November 1, 2006, the County Council adopted Legislative Bill No. 2007-3 establishing Article II, titled "Labor Code," in Chapter 59 of the County Code. Bill No. 2007-3 set forth various provisions concerning collective bargaining, and was incorporated and published as part of the Wicomico County Code.

Following the initiation of litigation concerning the legislation by the Fraternal Order of Police, the Charter Amendment adding Section 601. 1 to the Wicomico County Charter was ultimately found to be unconstitutional by the Maryland Court of Special Appeals in the matter of Wicomico County Fraternal Order of Police, Lodge 111, et al. v Wicomico County, Maryland. As noted in the Court's Opinion filed February 1, 2010, since Legislative Bill No. 2007-3 was mandated by the Charter amendment, it is invalid.

Subsequently, the "Labor Code" was re-enacted pursuant to the authority of State Legislation by Legislative Bill 2010-11, in form identical to the original form in Legislative Bill 2007-03.

Finally, the Court of Appeals of Maryland in the case of Atkinson v. Anne Arundel County, issued September 28, 2012 disapproved of the decision of the Court of Special Appeals above effectively mandating that collective bargaining arbitration be binding upon the County Council.

Therefore, it appears advisable to amend Chapter S9 of the Wicomico County Code, to comply with the decision of the Court of Appeals providing that arbitration is binding on the County Council.

SECTION 1: BE IT ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND, IN LEGISLATIVE SESSION, that Chapter S9, titled "Personnel Rules," Article II, titled "Collective Bargaining," Section 59-11, titled "Arbitrator selection and impasse procedures." be and the same is hereby amended to read as follows:

Chapter S9
PERSONNEL RULES

* * *

ARTICLE II
Collective Bargaining

* * *

SECTION S9-10. Negotiations.

- A. The county and the exclusive representative shall meet at reasonable times, including meetings in advance of the county's budget-making process, and shall negotiate in good faith with respect to wages, hours and other terms and conditions of employment which are subject to negotiation under this article and which are to be embodied in a written agreement, or any question arising thereunder; but such obligation shall not compel either the county or the exclusive representative to agree to a proposal or require the making of a concession. The county executive, or his designated authorized representative(s), shall represent the ~~county~~ EMPLOYER in collective bargaining.

* * *

- E. A budgetary request for funds necessary to implement such written agreement and a legislative request for approval of any provision of the agreement which is in conflict with any county law, ordinance, rule or regulation, including those adopted by its agents such as the Personnel Board, or other action adopted by the county with the force of law, shall be submitted to the County Council by the County Executive within the time specified in section S9-11 I. The County Council may approve or reject such request as a whole or in part. IF ANY PART OF THE SUBMISSION IS REJECTED, THE COUNTY COUNCIL SHALL PROCEED IN ACCORDANCE WITH SECTION S9-11 J.

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Section 59-11. Arbitrator Selection and Impasse Procedures.

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J. Council Action.

1. On or before May 1, the County Council shall indicate by resolution its intention to appropriate funds for or otherwise implement the agreement or its intention not to do so, and shall state its reasons for any intent to reject any part of the agreement. The Council, by majority vote taken on or before May 1, may defer the May 1 deadline to any date not later than May 15. IF THE COUNCIL INTENDS TO REJECT ANY PART OF THE AGREEMENT, IT SHALL DESIGNATE A REPRESENTATIVE TO MEET WITH THE PARTIES AND PRESENT THE COUNCIL'S VIEWS IN THEIR FURTHER NEGOTIATIONS. THIS REPRESENTATIVE SHALL ALSO PARTICIPATE FULLY IN STATING THE COUNCIL'S POSITION IN ANY ENSUING IMPASSE PROCEDURE. THE PARTIES SHALL THEREAFTER MEET AS PROMPTLY AS POSSIBLE AND ATTEMPT TO NEGOTIATE AN AGREEMENT ACCEPTABLE TO THE COUNCIL. EITHER OF THE PARTIES MAY INITIATE THE IMPASSE PROCEDURE SET FORTH IN SECTION 59-11. THE RESULTS OF THE NEGOTIATION OR IMPASSE PROCEDURE SHALL BE SUBMITTED TO THE COUNCIL ON OR BEFORE MAY 10. IF THE COUNCIL HAS DEFERRED THE MAY 1 DEADLINE, THAT ACTION AUTOMATICALLY POSTPONES THE MAY 10 DEADLINE BY THE SAME NUMBER OF DAYS.

COUNTY COUNCIL
OF
WICOMICO COUNTY, MARYLAND

BILL NO. 2014-03

Legislative Day No. 03

INTRODUCED BY: President of the Council upon recommendation of the County Executive


Date: February 4, 2014

Introduced, read first time, ordered posted and public hearing scheduled on: March 5, 2014

Time: 6:30 p.m.

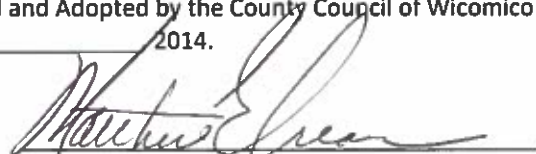
AN ACT to amend Chapter 59, titled "Personnel Rules," Article II, titled "Collective Bargaining," Section 59-10, titled "Negotiations" paragraph A and Section 59-11, titled "Arbitrator Selection and Impasse Procedures" paragraph J, to provide that an arbitration decision shall be binding upon the County Council.

PUBLIC HEARING: Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on March 5, 2014 and concluded on March 5, 2014.

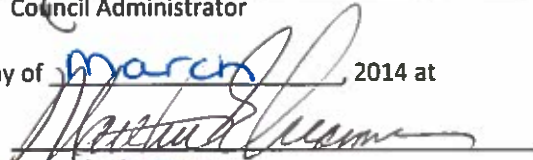

Council Administrator

CERTIFICATION

The undersigned hereby certifies that this Bill was Approved and Adopted by the County Council of Wicomico County, Maryland, on the 5th day of March 2014.


Council Administrator

Presented to the County Executive for approval this 11th day of March 2014 at 2:25 a.m./p.m. (5 days §411)


Council Administrator

BY THE EXECUTIVE:


County Executive

APPROVED
Date: March 12, 2014
(21 days §411)

VETOED
Date: _____

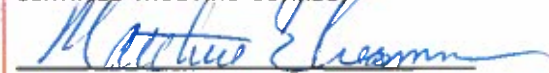
EFFECTIVE DATE:

This Bill having been approved by the County Executive and returned to the Council, becomes law on March 12, 2014 and effective on: May 11, 2014. (60 days §311)

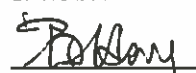
ENROLLMENT:

Legislative Bill No. 2014-03 is herewith submitted to the County Council of Wicomico County for enrollment as being the text as finally passed.

CERTIFIED TRUE AND CORRECT


Council Administrator
Date: _____

ENROLLED


Council President
Date: v.c.c John Hall
for Matt
Holloway