

HOUSE BILL 446

L6

7lr2135

By: **Charles County Delegation (By Request)**

Introduced and read first time: January 26, 2017

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Charles County – Collective Bargaining for Public Safety Officials**

3 FOR the purpose of authorizing certain fire, emergency medical service, paramedic, and
4 rescue employees of Charles County to collectively bargain with the County
5 Commissioners of Charles County with respect to certain matters; providing that
6 certain employees who are not a member of the exclusive representative's
7 organization may be required to pay a certain fee to the exclusive representative for
8 certain purposes; prohibiting the County Commissioners from recognizing an
9 exclusive representative except under certain circumstances; providing for the
10 selection and decertification of an exclusive representative; specifying the maximum
11 number of individuals that the County Commissioners and the exclusive
12 representative may designate to represent the County Commissioners and the
13 exclusive representative in collective bargaining; providing for meetings of parties to
14 a collective bargaining agreement; requiring negotiations for the collective
15 bargaining agreement to begin on or before a certain date; specifying the time period
16 during which an exclusive bargaining agreement may be valid; requiring an
17 agreement, or a modification of that agreement, to be signed and ratified by the
18 County Commissioners and a majority of the votes cast by the employees in the
19 bargaining unit in order to be effective or valid; providing that certain provisions of
20 this Act do not authorize an eligible employee to engage in a certain strike;
21 authorizing any party to collective bargaining to seek mediation under certain
22 circumstances; requiring the party seeking mediation to provide certain notice to
23 certain persons; authorizing any party to a collective bargaining agreement to
24 declare a bargaining impasse under certain circumstances; establishing procedures
25 and timelines for the mediation and arbitration of collective bargaining disputes;
26 providing that certain recommendations of the arbitrator are not binding;
27 authorizing the County Commissioners to adopt or reject certain recommendations
28 under certain circumstances; authorizing the parties to reach a voluntary settlement
29 on unresolved issues at any time; providing for the construction of certain provisions
30 of this Act; altering a certain definition; making a conforming change; providing for
31 the application of certain provisions of this Act; and generally relating to collective

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 bargaining between the County Commissioners of Charles County and fire,
2 emergency medical service, paramedic, and rescue employees.

3 BY repealing and reenacting, with amendments,
4 Article – Labor and Employment
5 Section 4–501, 4–504, and 4–505
6 Annotated Code of Maryland
7 (2016 Replacement Volume)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
9 That the Laws of Maryland read as follows:

10 **Article – Labor and Employment**

11 4–501.

12 (a) In this subtitle the following words have the meanings indicated.

13 (b) “Employee” means a fire, EMS, paramedic, or rescue employee hired or
14 compensated by the employer.

15 (c) “Employee organization” means any organization of employees that, as one of
16 its primary purposes, represents fire, EMS, paramedic, or rescue personnel.

17 (d) “Employer” means:

18 (1) a charter county;

19 (2) **CHARLES COUNTY**; or

20 (3) a municipal corporation.

21 (e) “EMS” means emergency medical services.

22 (f) “Exclusive representative” means an employee organization that has been
23 certified through an election of eligible employees to represent and bargain for those
24 employees over any terms and conditions of employment.

25 4–504.

26 (A) Subject to provisions concerning budgetary and fiscal procedures contained in
27 the employer’s charter, if ratified or approved by a legislative enactment of the employer,
28 and if signed by the chief executive officer of the employer, a memorandum of
29 understanding between the employer and an exclusive representative shall bind the
30 employer for the period of time which is provided in the agreement.

1 **(B) (1) THIS SUBSECTION APPLIES ONLY TO ALL FULL-TIME MERIT**
2 **SYSTEM EMPLOYEES WHOSE PRIMARY DUTIES INCLUDE PROVIDING EMERGENCY**
3 **MEDICAL SERVICES, FIRE OPERATIONS, OR RESCUE OPERATIONS FOR THE**
4 **CHARLES COUNTY DEPARTMENT OF EMERGENCY SERVICES.**

5 **(2) THIS SUBSECTION DOES NOT APPLY TO AN EMPLOYEE OF THE**
6 **CHARLES COUNTY DEPARTMENT OF EMERGENCY SERVICES WHO IS:**

7 **(I) AN EMPLOYEE IN THE CHARLES COUNTY DEPARTMENT OF**
8 **EMERGENCY SERVICES AT THE RANK OF CAPTAIN OR ABOVE;**

9 **(II) AN EMPLOYEE IN AN APPOINTED POSITION;**

10 **(III) A PART-TIME EMPLOYEE;**

11 **(IV) A CONTRACTUAL EMPLOYEE;**

12 **(V) A TEMPORARY EMPLOYEE;**

13 **(VI) AN EMERGENCY EMPLOYEE; OR**

14 **(VII) AN EMPLOYEE WHOSE EMPLOYMENT IS ADMINISTRATIVE**
15 **UNDER THE CHARLES COUNTY POLICY AND PROCEDURE MANUAL.**

16 **(3) (I) AN EMPLOYEE SUBJECT TO THIS SUBSECTION HAS THE**
17 **RIGHT TO:**

18 **1. TAKE PART IN OR REFRAIN FROM TAKING PART IN**
19 **FORMING, JOINING, SUPPORTING, OR PARTICIPATING IN AN EMPLOYEE**
20 **ORGANIZATION OR THE ORGANIZATION’S LAWFUL ACTIVITIES;**

21 **2. BE REPRESENTED BY AN EXCLUSIVE**
22 **REPRESENTATIVE, IF ANY, IN COLLECTIVE BARGAINING; AND**

23 **3. ENGAGE IN OTHER CONCERTED ACTIVITIES FOR THE**
24 **PURPOSE OF COLLECTIVE BARGAINING.**

25 **(II) AN EMPLOYEE SUBJECT TO THIS SUBSECTION MAY SEEK**
26 **RECOGNITION IN ORDER TO ORGANIZE AND BARGAIN IN GOOD FAITH WITH THE**
27 **COUNTY COMMISSIONERS OF CHARLES COUNTY OR THE COMMISSIONERS’**
28 **DESIGNEE CONCERNING THE TERMS AND CONDITIONS OF EMPLOYMENT**
29 **DETERMINED, OFFERED, ADMINISTERED, CONTROLLED, OR MANAGED BY THE**
30 **COUNTY COMMISSIONERS OF CHARLES COUNTY.**

1 (III) AN EMPLOYEE SUBJECT TO THIS SUBSECTION WHO IS A
2 MEMBER OF A BARGAINING UNIT THAT IS REPRESENTED BY A RECOGNIZED
3 EXCLUSIVE REPRESENTATIVE BUT WHO IS NOT A MEMBER OF THE
4 REPRESENTATIVE'S ORGANIZATION MAY BE REQUIRED TO PAY A PROPORTIONAL
5 SERVICE FEE FOR THE COSTS ASSOCIATED WITH THE ADMINISTRATION AND
6 ENFORCEMENT OF ANY AGREEMENT THAT BENEFITS THE AFFECTED EMPLOYEES.

7 (4) (I) AN EXCLUSIVE REPRESENTATIVE MAY NOT BE RECOGNIZED
8 BY THE COUNTY COMMISSIONERS OF CHARLES COUNTY UNLESS THE
9 REPRESENTATIVE IS SELECTED AND CERTIFIED BY THE DEPARTMENT OF LABOR,
10 LICENSING, AND REGULATION.

11 (II) ANY PETITION TO BE RECOGNIZED THAT IS SUBMITTED ON
12 BEHALF OF THE ELIGIBLE EMPLOYEES SHALL BE ACCOMPANIED BY A SHOWING OF
13 INTEREST SUPPORTED BY AT LEAST 51% OF THE ELIGIBLE EMPLOYEES INDICATING
14 THE EMPLOYEES' DESIRE TO BE EXCLUSIVELY REPRESENTED BY THE PETITIONER
15 FOR THE PURPOSE OF COLLECTIVE BARGAINING.

16 (5) (I) A LABOR ORGANIZATION SHALL BE DEEMED DECERTIFIED
17 IF A PETITION IS SUBMITTED TO THE COUNTY COMMISSIONERS OF CHARLES
18 COUNTY THAT IS SIGNED BY AT LEAST 51% OF THE ELIGIBLE EMPLOYEES
19 INDICATING THE DESIRE TO DECERTIFY THE LABOR ORGANIZATION AS THE
20 EXCLUSIVE REPRESENTATIVE.

21 (II) IF THE EXCLUSIVE REPRESENTATIVE WISHES TO
22 CHALLENGE THE VALIDITY OF THE DECERTIFICATION PETITION SUBMITTED UNDER
23 SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE EXCLUSIVE REPRESENTATIVE MAY,
24 WITHIN 20 DAYS AFTER RECEIVING THE PETITION, REQUEST THAT A SECRET
25 BALLOT ELECTION BE HELD.

26 (III) THE SECRET BALLOT ELECTION REQUESTED UNDER
27 SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL BE CONDUCTED BY AN IMPARTIAL
28 UMPIRE SELECTED JOINTLY BY THE PARTICIPATING PARTIES FROM A LIST OF
29 UMPIRES PROVIDED BY THE AMERICAN ARBITRATION ASSOCIATION.

30 (IV) IN ORDER TO BE DECERTIFIED, AT LEAST 51% OF THE
31 EMPLOYEES IN THE BARGAINING UNIT MUST VOTE IN FAVOR OF DECERTIFICATION.

32 (V) THE COSTS ASSOCIATED WITH THE APPOINTMENT OF AN
33 IMPARTIAL UMPIRE IN ACCORDANCE WITH SUBPARAGRAPH (III) OF THIS
34 PARAGRAPH SHALL BE EQUALLY SHARED BY THE EXCLUSIVE REPRESENTATIVE AND
35 CHARLES COUNTY.

1 **(6) (I) 1. THE COUNTY COMMISSIONERS OF CHARLES COUNTY**
2 **MAY DESIGNATE AT LEAST ONE, BUT NOT MORE THAN FOUR, INDIVIDUALS TO**
3 **REPRESENT THE COUNTY IN COLLECTIVE BARGAINING WITH THE EXCLUSIVE**
4 **REPRESENTATIVE.**

5 **2. THE EXCLUSIVE REPRESENTATIVE MAY DESIGNATE**
6 **AT LEAST ONE, BUT NOT MORE THAN FOUR, INDIVIDUALS TO REPRESENT THE**
7 **EXCLUSIVE REPRESENTATIVE IN COLLECTIVE BARGAINING WITH THE COUNTY.**

8 **(II) THE PARTIES SHALL MEET AT REASONABLE TIMES AND**
9 **ENGAGE IN COLLECTIVE BARGAINING IN GOOD FAITH.**

10 **(III) NEGOTIATIONS OR MATTERS RELATING TO NEGOTIATIONS**
11 **SHALL BE CONSIDERED CLOSED SESSIONS UNDER § 3-805 OF THE GENERAL**
12 **PROVISIONS ARTICLE.**

13 **(IV) NEGOTIATIONS FOR AN AGREEMENT SHALL BEGIN ON OR**
14 **BEFORE SEPTEMBER 1 OF THE YEAR BEFORE THE EXPIRATION OF ANY EXISTING**
15 **AGREEMENT.**

16 **(7) AN AGREEMENT IS NOT VALID IF THE AGREEMENT EXTENDS FOR**
17 **LESS THAN 1 YEAR OR MORE THAN 3 YEARS.**

18 **(8) (I) AN AGREEMENT SHALL CONTAIN ALL MATTERS OF**
19 **AGREEMENT REACHED IN THE COLLECTIVE BARGAINING PROCESS.**

20 **(II) AN AGREEMENT MAY CONTAIN A GRIEVANCE PROCEDURE**
21 **FOR BINDING ARBITRATION FOR THE INTERPRETATION OF CONTRACT TERMS AND**
22 **CLAUSES.**

23 **(III) AN AGREEMENT REACHED IN ACCORDANCE WITH THIS**
24 **SUBSECTION SHALL BE IN WRITING AND SIGNED BY THE COUNTY COMMISSIONERS**
25 **OF CHARLES COUNTY AND THE EXCLUSIVE REPRESENTATIVE INVOLVED IN THE**
26 **COLLECTIVE BARGAINING NEGOTIATIONS.**

27 **(IV) AN AGREEMENT IS NOT EFFECTIVE UNTIL THE AGREEMENT**
28 **IS RATIFIED BY:**

29 **1. THE COUNTY COMMISSIONERS OF CHARLES**
30 **COUNTY; AND**

1 **2. A MAJORITY OF THE VOTES CAST BY THE EMPLOYEES**
2 **IN THE BARGAINING UNIT.**

3 **(V) A MODIFICATION OF AN EXISTING AGREEMENT IS NOT**
4 **VALID UNLESS THE MODIFICATION IS IN WRITING AND RATIFIED BY:**

5 **1. THE COUNTY COMMISSIONERS OF CHARLES**
6 **COUNTY; AND**

7 **2. A MAJORITY OF THE VOTES CAST BY THE EMPLOYEES**
8 **IN THE BARGAINING UNIT.**

9 **(9) THIS SUBSECTION DOES NOT AUTHORIZE AN ELIGIBLE EMPLOYEE**
10 **TO ENGAGE IN A STRIKE AS DEFINED IN § 3-303 OF THE STATE PERSONNEL AND**
11 **PENSIONS ARTICLE.**

12 **(10) (I) IF THE EXCLUSIVE REPRESENTATIVE AND THE COUNTY**
13 **COMMISSIONERS OF CHARLES COUNTY ARE UNABLE TO REACH AN AGREEMENT**
14 **BEFORE JANUARY 15, EITHER THE EXCLUSIVE REPRESENTATIVE OR THE COUNTY**
15 **COMMISSIONERS OF CHARLES COUNTY MAY SEEK MEDIATION THROUGH THE**
16 **FEDERAL MEDIATION AND CONCILIATION SERVICE.**

17 **(II) A PARTY SEEKING MEDIATION UNDER SUBPARAGRAPH (I)**
18 **OF THIS PARAGRAPH SHALL GIVE WRITTEN NOTICE TO THE OTHER PARTIES AND TO**
19 **THE FEDERAL MEDIATION AND CONCILIATION SERVICE AT LEAST 15 DAYS BEFORE**
20 **THE ANTICIPATED FIRST MEDIATION MEETING.**

21 **(III) THE COSTS ASSOCIATED WITH THE MEDIATOR OR**
22 **MEDIATION PROCESS SHALL BE SHARED EQUALLY BY THE PARTIES.**

23 **(IV) COSTS INCURRED BY A PARTY TO PREPARE, APPEAR, OR**
24 **SECURE REPRESENTATION, EXPERT WITNESSES, OR EVIDENCE OF ANY KIND SHALL**
25 **BE BORNE EXCLUSIVELY BY THAT PARTY.**

26 **(V) THE PARTIES SHALL ENGAGE IN MEDIATION FOR AT LEAST**
27 **30 DAYS UNLESS THE PARTIES MUTUALLY AGREE IN WRITING TO THE TERMINATION**
28 **OR EXTENSION OF THE MEDIATION OR REACH AN AGREEMENT.**

29 **(VI) THE CONTENTS OF A MEDIATION PROCEEDING UNDER THIS**
30 **SUBPARAGRAPH MAY NOT BE DISCLOSED BY THE PARTIES OR THE MEDIATOR.**

31 **(11) (I) IF THE EXCLUSIVE REPRESENTATIVE AND THE COUNTY**
32 **COMMISSIONERS OF CHARLES COUNTY HAVE NOT REACHED AN AGREEMENT ON OR**

1 BEFORE MARCH 1, OR A LATER DATE DETERMINED BY MUTUAL AGREEMENT OF THE
2 PARTIES, ON A COLLECTIVE BARGAINING AGREEMENT THAT WOULD SUCCEED THE
3 EXISTING AGREEMENT:

4 1. EITHER PARTY MAY DECLARE A BARGAINING
5 IMPASSE;

6 2. THE PARTY DECLARING A BARGAINING IMPASSE
7 UNDER ITEM 1 OF THIS SUBPARAGRAPH SHALL REQUEST A LIST OF ARBITRATORS
8 TO BE PROVIDED TO THE PARTIES BY THE FEDERAL MEDIATION AND CONCILIATION
9 SERVICE OR UNDER THE LABOR ARBITRATION RULES OF THE AMERICAN
10 ARBITRATION ASSOCIATION; AND

11 3. WITHIN 3 DAYS AFTER THE PARTIES' RECEIPT OF THE
12 LIST PROVIDED UNDER ITEM 2 OF THIS SUBPARAGRAPH, THE PARTIES SHALL
13 SELECT AN ARBITRATOR BY ALTERNATE STRIKING OF NAMES FROM THE LIST.

14 (II) ON OR BEFORE MARCH 15, OR ANY LATER DATE
15 DETERMINED BY MUTUAL AGREEMENT OF THE PARTIES, THE PARTIES SHALL
16 SUBMIT TO THE ARBITRATOR:

17 1. A JOINT MEMORANDUM LISTING ALL ITEMS TO WHICH
18 THE PARTIES PREVIOUSLY AGREED; AND

19 2. A SEPARATE PROPOSED MEMORANDUM OF EACH
20 PARTY'S FINAL OFFER PRESENTED IN NEGOTIATIONS ON ALL ITEMS TO WHICH THE
21 PARTIES PREVIOUSLY DID NOT AGREE.

22 (III) 1. ON OR BEFORE MARCH 30, OR ANY LATER DATE
23 DETERMINED BY MUTUAL AGREEMENT OF THE PARTIES, THE ARBITRATOR SHALL
24 HOLD A CLOSED HEARING ON THE PARTIES' PROPOSALS AT A TIME, DATE, AND
25 PLACE WITHIN CHARLES COUNTY SELECTED BY THE ARBITRATOR AND CONSENTED
26 TO BY THE PARTIES IN GOOD FAITH.

27 2. AT THE HEARING, EACH PARTY MAY SUBMIT
28 EVIDENCE AND MAKE ORAL AND WRITTEN ARGUMENTS IN SUPPORT OF THE PARTY'S
29 LAST FINAL OFFER.

30 (IV) THE ARBITRATOR MAY:

31 1. GIVE NOTICE AND HOLD HEARINGS IN ACCORDANCE
32 WITH THE MARYLAND ADMINISTRATIVE PROCEDURE ACT;

1 BARGAINING AGREEMENT, AND THE POTENTIAL IMPACT OF THE PARTIES' FINAL
2 OFFERS ON THE BOND RATING OF CHARLES COUNTY;

3 7. THE ANNUAL INCREASE OR DECREASE IN CONSUMER
4 PRICES FOR GOODS AND SERVICES AS REFLECTED IN THE MOST RECENT CONSUMER
5 PRICE INDEX FOR THE WASHINGTON-ARLINGTON-ALEXANDRIA, DC-VA-MD-WV
6 METROPOLITAN STATISTICAL AREA PUBLISHED BY THE FEDERAL BUREAU OF
7 LABOR STATISTICS;

8 8. THE ANNUAL INCREASE OR DECREASE IN THE COST
9 OF LIVING IN THE STATISTICAL AREAS DESCRIBED IN ITEM 7 OF THIS
10 SUBPARAGRAPH AS COMPARED TO THE NATIONAL AVERAGE AND TO OTHER
11 COMPARABLE METROPOLITAN AREAS;

12 9. THE ANNUAL INCREASE OR DECREASE IN THE COST
13 OF LIVING IN CHARLES COUNTY;

14 10. RECRUITMENT AND RETENTION DATA;

15 11. THE SPECIAL NATURE OF THE WORK PERFORMED BY
16 THE EMPLOYEES IN THE BARGAINING UNIT, INCLUDING HAZARDS OF EMPLOYMENT,
17 PHYSICAL REQUIREMENTS, EDUCATIONAL QUALIFICATIONS, JOB TRAINING AND
18 SKILLS, SHIFT ASSIGNMENTS, AND THE DEMANDS PLACED ON THOSE EMPLOYEES AS
19 COMPARED TO OTHER EMPLOYEES OF CHARLES COUNTY;

20 12. THE INTEREST AND WELFARE OF THE PUBLIC AND
21 THE EMPLOYEES IN THE BARGAINING UNIT; AND

22 13. STIPULATIONS OF THE PARTIES REGARDING ANY OF
23 THE ITEMS UNDER THIS SUBPARAGRAPH.

24 (VII) THE ARBITRATOR MAY NOT:

25 1. RECEIVE OR CONSIDER THE HISTORY OF COLLECTIVE
26 BARGAINING RELATED TO THE IMMEDIATE DISPUTE, INCLUDING ANY OFFERS OF
27 SETTLEMENT NOT CONTAINED IN THE FINAL OFFER SUBMITTED TO THE
28 ARBITRATOR, UNLESS THE PARTIES MUTUALLY AGREE OTHERWISE;

29 2. COMBINE FINAL OFFERS OR ALTER THE FINAL OFFER
30 THAT THE ARBITRATOR SELECTS, UNLESS THE PARTIES MUTUALLY AGREE
31 OTHERWISE; OR

1 **3. SELECT AN OFFER IN WHICH THE CONDITIONS OF**
2 **EMPLOYMENT OR THE COMPENSATION, SALARIES, FEES, OR WAGES TO BE PAID ARE**
3 **UNREASONABLE.**

4 **(VIII) 1. THE ARBITRATOR SHALL SUBMIT THE REPORT**
5 **ISSUED UNDER SUBPARAGRAPH (V) OF THIS PARAGRAPH TO THE COUNTY**
6 **COMMISSIONERS OF CHARLES COUNTY AND THE EXCLUSIVE REPRESENTATIVE.**

7 **2. THE RECOMMENDATIONS OF THE ARBITRATOR ARE**
8 **NOT BINDING ON THE COUNTY COMMISSIONERS OF CHARLES COUNTY OR THE**
9 **EXCLUSIVE REPRESENTATIVE.**

10 **3. THE COUNTY COMMISSIONERS OF CHARLES COUNTY**
11 **MAY ADOPT OR REJECT A RECOMMENDATION OF THE ARBITRATOR.**

12 **(IX) 1. THE COSTS ASSOCIATED WITH THE SERVICES OF THE**
13 **ARBITRATOR SHALL BE SHARED EQUALLY BY THE PARTIES.**

14 **2. COSTS INCURRED BY A PARTY TO PREPARE, APPEAR,**
15 **OR SECURE REPRESENTATION, EXPERT WITNESSES, OR EVIDENCE OF ANY KIND**
16 **SHALL BE BORNE EXCLUSIVELY BY THAT PARTY.**

17 **(X) NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO**
18 **PROHIBIT THE PARTIES FROM REACHING A VOLUNTARY SETTLEMENT ON ANY**
19 **UNRESOLVED ISSUES AT ANY TIME BEFORE OR AFTER THE ISSUANCE OF THE**
20 **RECOMMENDATIONS BY THE ARBITRATOR.**

21 4-505.

22 (a) Subject to subsection (b) of this section, this subtitle only applies to:

23 (1) each charter county that engaged in collective bargaining with an
24 employee organization prior to October 1, 1994; [and]

25 (2) **CHARLES COUNTY ON OR AFTER OCTOBER 1, 2017; AND**

26 (3) each municipal corporation that engages in collective bargaining with
27 an employee organization prior to October 1, 1995.

28 (b) This subtitle may not be construed to repeal or limit any local charter
29 provision that extends collective bargaining rights to employees of employers and, if a local
30 charter authorizes or grants collective bargaining rights to any employees, the provisions
31 of this subtitle do not apply.

1 (c) This subtitle may not be construed to:

2 (1) require any form of collective bargaining;

3 (2) require any method, means, or scope of bargaining between an
4 employer and an exclusive representative; or

5 (3) authorize binding interest arbitration.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2017.