

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**  
**2016 Legislative Session**

Bill No. CB-8-2016

Chapter No. 2

Proposed and Presented by The Chairman (by request – County Executive)

Introduced by Council Members Davis, Toles, Lehman, Turner,  
Glaros, Harrison and Taveras

Date of Introduction March 15, 2016

**BILL**

1 AN ACT concerning

2 The Labor Code

3 For the purpose of amending provisions of the Labor Code to eliminate the Public Employees  
4 Board and provide for a new system of arbitration selection under the Labor Code.

5 BY repealing and reenacting with amendments:

6 SUBTITLE 13A. LABOR CODE.

7 Sections 13A-102, 13A-103, 13A-104, 13A-105, 13A-  
8 106, 13A-107, 13A-108, 13A-110, 13A-111, 13A-  
9 111.01, 13A-112, 13A-113, 13A-114, 13A-115, and  
10 13A-116

11 The Prince George's County Code  
12 (2015 Edition).

13 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,  
14 Maryland, that Sections 13A-102, 13A-103, 13A-104, 13A-105, 13A-106, 13A-107, 13A-108,  
15 13A-110, 13A-111, 13A-111.01, 13A-112, 13A-113, 13A-114, 13A-115, and 13A-116 of the  
16 Prince George's County Code be and the same are hereby repealed and reenacted with the  
17 following amendments:

18 **SUBTITLE 13A. LABOR CODE.**

19 **DIVISION 1. COLLECTIVE BARGAINING GENERALLY.**

1 **Sec. 13A-102. Definitions.**

2 In this Subtitle the following words shall have the meaning indicated.

3 (a) Arbitration means a procedure by which parties who are unable to agree on a solution to  
4 a problem, and whose subject matter is covered by Division 1 of this Subtitle, shall submit the  
5 dispute to a third party.

6 [a] (b) Appropriate unit means a group of employees for whom a labor organization may  
7 be certified as the exclusive bargaining representative pursuant to Section 13A-106.

8 [b] Board means the Prince George's County Public Employee Relations Board created by  
9 Section 13A-104 of this law or any of the three Panels acting as components of the Board  
10 pursuant to Section 13A-104. The term Panel shall always be co-joined by the words  
11 Representation Matters, Unfair Labor Practices or Impasse which on their face describe  
12 respectively the prime responsibility of each Panel of the Board. The duties of the Panel on  
13 Representation Matters are set forth in Sections 13A-105, 106, and 107, the duties of the Unfair  
14 Labor Practices Panel in Sections 13A-110, 113, 114, and 115 and the Impasse Panel in Sections  
15 13A-111 and 112.]

16 (c) Certification means official recognition by [the] Prince George's County, Maryland  
17 [Public Employee Relations Board] that a labor organization is, and shall remain, the exclusive  
18 representative for all of the employees in an appropriate bargaining unit for the purpose of  
19 collective bargaining, until it is replaced by another labor organization, decertified, or dissolves.

20 \* \* \* \* \*

21 (g) Director means the Director of the County Office of Human Resources Management, or  
22 the Director's designee.

23 [g] (h) Employee means any person whose salary and/or job description is determined in  
24 whole or in part by the County, but shall not include elected officials, management level  
25 employees, confidential employees, and officials appointed pursuant to law to a policy-making  
26 position. An individual shall continue to be an employee within the meaning of this law even if  
27 his work has ceased as a consequence of, or in connection with, any unfair labor practice. In  
28 addition, the term employee shall include also such individuals to whom the coverage of this law  
29 is extended pursuant to Section 13A-116 herein.

30 [h] (i) Employer means the County Executive and any individual who represents him or  
31 acts in his interests in dealing with employees, or any governmental body operating within the

1 County which elects to have the definition of employee contained in Section 13A-102[(g)](h)  
2 herein extended to include its employees pursuant to Section 13A-116 herein, or any person  
3 acting as an agent of said governmental body.

4 [i] (j) Impartial agency means any of the following or other similar organizations: The  
5 American Arbitration Association, The Federal Mediation and Conciliation Service, (FMCS)  
6 The [Maryland State Department of Labor and Industry] State of Maryland Department of Labor,  
7 Licensing and Regulation, Division of Labor and Industry, The National Center for Dispute  
8 Settlement, and The U.S. Department of Labor.

9 (k) Impasse means the failure of the employer and the exclusive representative to reach a  
10 collective bargaining agreement despite good faith efforts to do so.

11 (l) Intervener means a labor organization that has complied with the provisions of Division  
12 1 of this Subtitle that permit it to be included with the petitioning employee organization as one  
13 of the choices on the ballot in a representation election.

14 [(j)] (m) Labor organization means any labor union or other organization in which  
15 employees participate and which has as one of its purposes the representation of employees  
16 concerning wages, hours, or other terms and conditions of employment, but shall not include any  
17 organization which unlawfully engages in discrimination with regard to race, color, religion, sex,  
18 sexual orientation, age, disability, or national origin.

19 [k] (n) Management level employee means any individual who is involved directly in the  
20 determination of policy or who responsibly directs the implementation thereof.

21 (o) Mediation means the process by which the parties to an impasse seek to reconcile their  
22 differences through the services of a third party. The third party will act as an intermediary in  
23 bringing the parties together and will actively seek to assist the parties in reaching a settlement  
24 by making suggestions, providing background information, and noting avenues open to the  
25 parties for settlement.

26 [l] (p) Person means one or more individuals, labor organizations, employers, employees,  
27 partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or  
28 receivers.

29 [m] (q) Professional employee means any employee whose work:

30 \* \* \* \* \*

31 (r) State, in Division 1 of this Subtitle, shall mean the State of Maryland Department of

1 Labor, Licensing and Regulation, Division of Labor and Industry.

2 [(n)] (s) Strike means the failure by concerted action with others to report for duty, the  
3 willful absence from one's position, the stoppage of work, or the abstinence in whole or in part  
4 from the full, faithful, and proper performance of the duties of employment, or in any manner  
5 interfering with the operation of any public employer, for the purpose of inducing, influencing,  
6 or coercing a change in the conditions or compensation or the rights, privileges, or obligations of  
7 employment.

8 [(o)] (t) Supervisor means any individual having authority, in the interest of the employer,  
9 to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other  
10 employees; or responsibly to direct them; or to adjust their grievances; or effectively recommend  
11 such action, if, in connection with the foregoing, the exercise of such authority is not of a merely  
12 routine or clerical nature, but requires the use of independent judgment; provided, however, that  
13 the exercise of any single function of authority enumerated above shall not necessarily require  
14 the conclusion that the individual so exercising that function is a supervisor within the meaning  
15 of this law.

16 **Sec. 13A-103. Employee Rights.**

17 \* \* \* \* \*

18 (e) Employees shall have the right to transfer up to one (1) day per year of annual leave to  
19 their respective union local for the purpose of union representation; provided, however, that the  
20 accumulation of annual leave of each union local shall not exceed the total number of hours  
21 normally worked by an employee in any one (1) year as prescribed in the salary plan outlining  
22 employee work week, leave, etc., and other conditions of work of each respective union local.  
23 The use of such leave shall be determined in accordance with procedures to be established by  
24 each union local and approved by the general membership of each respective union local at a  
25 general membership meeting. Said procedures shall not require any union member to transfer  
26 annual leave to the respective union local on terms not equal to that required to be transferred by  
27 other members of the union local. Upon the promulgation of procedures governing the use of  
28 leave for union purposes, each union local shall notify the [Personnel Officer] Director of  
29 adopted procedures for leave use. Before use of leave, each union representative shall give  
30 reasonable notice to his or her supervisor of the need to use leave for union purposes.

1 **Sec. 13A-104. [Prince George's County Public Employee Relations Board] Arbitration**  
 2 **Proceedings.**

3 [(a) There is hereby created the Prince George's County Public Employee Relations Board,  
 4 which shall consist of three Panels of three persons each, who shall be named for two year terms  
 5 by the County Executive and confirmed by the County Council, from lists of names submitted by  
 6 the American Arbitration Association and the Federal Mediation and Conciliation Service. In  
 7 case of the dissolution of both the American Arbitration Association and the Federal Mediation  
 8 and Conciliation Service a successor agency or agencies shall be selected by the County Council  
 9 after receipt of recommendations from the County Executive and union representatives.

10 Members of the Board shall be compensated at a rate to be determined by contract between the  
 11 members and the County. Members are eligible for reappointment and may serve concurrently  
 12 on more than one Panel. Separate Panels shall be established to be responsible, respectively, for  
 13 performing those powers and duties specifically provided for in this law with respect to:

- 14 (1) Representation matters (Sections 13A-105, 106 and 107);  
 15 (2) Unfair labor practices and negotiability disputes (Sections 13A-110, 113, 114, and  
 16 115); and  
 17 (3) Impasse disputes (Sections 13A-111 and 112).]

18 [(b) The three Panels shall not act as single bodies except for the purposes of electing their  
 19 respective chairmen and to make, amend and rescind such rules and regulations as may be  
 20 necessary to carry out the provisions of this law. The three chairmen shall elect from among  
 21 themselves a chairman of the Board. At all other times each Panel shall serve merely as the list  
 22 of third parties eligible to deal with the disputes. ]

23 [(c) The responsibility of the chairman shall be to direct such administrative tasks as may  
 24 be necessary to be carried out by the Board or by other employees employed for such purposes  
 25 and to designate the member of the Board to participate in the appropriate proceedings where the  
 26 parties have been unable to agree upon a member within a reasonable period of time, such period  
 27 to take into account the exigencies of the dispute. Board members shall be chosen by mutual  
 28 consent of the parties to the dispute.]

29 [(d) Any party may request the Board member, at any time following his designation and  
 30 before his filing of any decisions or recommendations, to withdraw on grounds of previously

1 demonstrated personal bias, conflict of interest or prejudice by filing with him promptly upon the  
 2 discovery of the alleged facts a timely affidavit setting forth in detail the matters alleged to  
 3 constitute grounds for disqualification. If such Board member does not so withdraw, the question  
 4 shall be subject to review pursuant to rules promulgated by the Board.]

5 [(e) A Board member who is authorized to act in a dispute may hold such hearings and  
 6 make such inquiries as he deems necessary to carry out properly his functions and powers. To  
 7 facilitate such hearings or inquiries he may administer oaths and affirmation, examine witnesses  
 8 and documents, take testimony and receive evidence, compel attendance of witnesses and the  
 9 production of documents by the issuance of subpoenas. However, the Board shall protect the  
 10 confidentiality of documents so produced. ]

11 [(f) Such administrative fees as may be necessary for the American Arbitration Association  
 12 to carry out functions on behalf of the Board shall be determined by contract between the  
 13 American Arbitration Association and the County. The American Arbitration Association shall  
 14 utilize, when it is appropriate to do so, the services of County employees to perform such duties  
 15 in order that costs may be minimized. The services of the Board shall be provided at no expense  
 16 to the parties except where fact finding or arbitration has been invoked.]

17 (a) Except as otherwise provided for in Division 1 of this Subtitle, the parties to a dispute  
 18 relating to:

19 (1) Representation matters (Sections 13A-105, 106 and 107);

20 (2) Unfair labor practices and negotiability disputes (Sections 13A-110, 113, 114,  
 21 and 115); and

22 (3) Impasse disputes (Sections 13A-111, 13A-111.01 and 112)

23 may submit the matter to arbitration.

24 (b) Powers and duties of arbitrator. Unless otherwise explicitly stated, the arbitrator  
 25 presiding over any matter covered by Division 1 of this Subtitle may:

26 (1) hold such hearings and make such inquiries as the arbitrator deems necessary to  
 27 properly carry out the arbitrator's functions and powers;

28 (2) administer oaths and affirmation;

29 (3) examine witnesses and documents;

30 (4) take testimony and receive evidence; and

31 (5) compel attendance of witnesses and the production of documents by the issuance

1 of subpoenas. However, the Arbitrator shall protect the confidentiality of documents so  
2 produced.

3 (c) Arbitrator selection.

4 (1) An arbitrator, who is a member of the National Academy of Arbitrators, may be  
5 selected by agreement of the parties. If the parties have agreed to an arbitrator but the arbitrator  
6 is unable to serve and there is not mutual agreement to an alternate arbitrator, then the process in  
7 subparagraph (2) below shall apply.

8 (2) If the parties are unable to agree to an arbitrator, then the party requesting  
9 arbitration shall file with the American Arbitration Association or the Federal Mediation and  
10 Conciliation Service a written request for a panel of nine arbitrators who are members of the  
11 National Academy of Arbitrators. If the parties are unable to agree to an arbitrator from the  
12 panel submitted, the parties, beginning with the party requesting arbitration, will alternately  
13 strike panel members until there is only one member remaining. The sole remaining panel  
14 member shall arbitrate the dispute.

15 (d) Hearings. Arbitration hearings shall be conducted in Prince George’s County,  
16 Maryland unless otherwise agreed in writing by the parties. The arbitrator shall designate a time  
17 and place for the hearing and notify the parties not less than 20 days before the hearing.

18 (e) Rights at hearing. At the arbitration hearing, each party has the right to be heard, to  
19 present evidence material to the controversy, and to examine and cross-examine witnesses.  
20 Arbitrators are not bound by the technical rules of evidence.

21 (f) Written decision. The arbitrator shall issue a written decision on the dispute within 30  
22 days after declaring the record closed unless the parties otherwise agree in writing.

23 (g) Costs shared. Each party shall bear its own expenses in connection with the arbitration  
24 proceedings. Except for cases involving representation matters, the parties shall share equally the  
25 cost of obtaining the panel as provided in subparagraph (c) of this Section and the fee and  
26 expenses of the arbitrator.

27 **Sec. 13A-105. Selection of exclusive representatives.**

28 \* \* \* \* \*

29 (b) Where, in accordance with [such regulations as may be prescribed by the Panel] the  
30 provisions set forth in paragraph (c) of this section, a petition has been filed:

31 \* \* \* \* \*

1           (2) [By the employer alleging that one or more labor organization claims to represent a  
 2 majority of employees and seeks to become the exclusive representative in an appropriate unit;  
 3 the Panel shall investigate such petition, and if it has reasonable cause to believe that a question  
 4 of representation exists, it shall provide for an appropriate hearing upon due notice. If the Panel  
 5 finds upon the record of such hearing that such a question of representation exists, it shall direct  
 6 an election by secret ballot and shall certify the results thereof.] Any labor organization shall be  
 7 allowed to intervene upon the filing of a petition, which meets all of the requirements of Division  
 8 1 of this Subtitle, with the employer supported by evidence of at least 10% representation in said  
 9 unit. If such [intervenor] intervener contends that the unit is inappropriate, it must present a 30%  
 10 showing of interest with respect to the unit it alleges is appropriate.

11           (c) Petition for certification. A labor organization that seeks certification for purposes of  
 12 collective negotiations as an exclusive representative shall file a petition for certification with the  
 13 Director containing the following information and documentation:

14           (1) a statement that the employee organization has as a primary purpose the  
 15 representation of employees in their employment relations with the County;

16           (2) a statement that the employee organization has no terms or conditions of  
 17 membership which discriminate with regard to race, color, creed, sex, sexual orientation, age,  
 18 political affiliation, disability, ancestry, or national origin;

19           (3) a request that the County recognize the employee organization as the exclusive  
 20 representative of the employees that the organization proposes for an appropriate representation  
 21 unit;

22           (4) a list containing each job class title to be included in the proposed appropriate  
 23 representation unit; and

24           (5) a statement that the labor organization has in its possession written proof dated  
 25 within six months of the date on which the petition is filed that establishes that at least 30% of  
 26 the employees in the proposed appropriate representation unit have designated the employee  
 27 organization to represent them in their employment relations with the County. An electronic  
 28 alphabetical list of authorizations shall be submitted. The written proof shall meet the following  
 29 criteria:

30           (A) The written proof must be signed and dated in the employee's own  
 31 handwriting certifying that the employee has designated the labor organization to represent them



1 in their employment relations with the County.

2 (B) Written proof that meets the criteria set forth above must be submitted to the  
3 Director within five days of filing the petition.

4 (d) Filing of petition for certification; notice.

5 (1) The petition shall be filed with and must be received by the Director only during  
6 the month of October.

7 (2) On receipt of the petition, the Director shall give adequate and timely notice of  
8 the filing to the employees in the proposed appropriate representation.

9 (3) Within ten days after the posting of the notice of the petition, any labor  
10 organization desiring to intervene must submit a petition meeting all applicable requirements of  
11 subparagraph (b)(2) and subparagraph (c) of this section.

12 (4) Within 30 days of the filing date of the petition, the Director shall determine either  
13 that the proposed unit is an appropriate representation unit, that an alternative unit is the  
14 appropriate representation unit, or state that the petitioning appropriate unit is not eligible for  
15 certification pursuant to the provisions of Division 1 of this subtitle.

16 (e) Filing of petition for decertification; election.

17 (1) A petition may be filed with and shall be received by the Director only  
18 during the month of October following the first full year of exclusive representation. A  
19 decertification petition for the same appropriate representation unit may not be received more  
20 frequently than every other year.

21 (2) On receipt of a petition that meets all of the requirements of Division 1 of  
22 this Subtitle, the Director shall, no later than ten days after receipt of the completed petition,  
23 give notice of the filing of the petition to the employees in the effected representation unit.

24 (3) A decertification petition alleging that an exclusive representative is no  
25 longer the majority representative of employees in an appropriate representation unit may be  
26 filed with the Director by an employee, a group of employees or their representative, or a labor  
27 organization. The petition shall be accompanied by written proof, dated within six months of  
28 the date on which the petition is filed of employee approval of the decertification equal to at  
29 least 30% of the employees in the representation unit. Said written proof must, upon  
30 submission, meet the requirements of subparagraph (c)(5) of this section.

31 (4) Except as otherwise provided, the Director shall arrange for a secret ballot

1 election to be conducted in accordance with Section 13A-107 of this subtitle. In the election,  
2 the employees in the unit shall be offered a choice between exclusive representation by the  
3 exclusive representative and no exclusive representation. If an intervener employee  
4 organization complies with all the provisions of this Section, the ballot shall offer a choice  
5 among the exclusive representative, an intervener employee organization, and no exclusive  
6 representation.

7 (5) Determination of election results. The determination of election results shall  
8 be made in accordance with Section 13A-107 of this Subtitle.

9 (6) Effect on collective bargaining agreements. Whenever a valid collective  
10 bargaining agreement is in effect on the effective date of decertification of an exclusive  
11 representative that is a party to the agreement, the County, covered employees and any new  
12 exclusive representative, are bound by that collective bargaining agreement during the  
13 remainder of the term of the agreement

14 **Sec. 13A-106. Appropriate unit.**

15 (a) In order to assure employees the fullest freedom in exercising the rights guaranteed by  
16 this law consistent with the joint responsibilities of both the employer and the employees to serve  
17 the public, the [Panel] Director shall decide an appropriate unit for the purposes of collective  
18 bargaining in each case where certification is sought.

19 (b) In determining an appropriate unit, the [Panel] Director shall take into consideration, but  
20 shall not be limited to, the following:

21 \* \* \* \* \*

22 (c) The [Panel] Director shall not decide any unit is appropriate if such unit includes both  
23 supervisors and [nonsupervisors] non-supervisors, or such unit includes both professional and  
24 nonprofessional employees, unless a majority of such professional employees vote for inclusion  
25 therein. Supervisors or professionals may be permitted to form their own separate homogenous  
26 units.

27 \* \* \* \* \*

28 (e) Arbitration regarding appropriate representation units.

29 (1) Whenever the Director and the petitioning labor organization are in disagreement  
30 as to the determination of the appropriate representation unit, the issue shall be submitted to  
31 arbitration at the request of either party.

1           (2) If the parties are unable to agree on an arbitrator within five days of the initial  
2 request, they shall make their selection from a list of five neutrals submitted by the American  
3 Arbitration Association. If the parties are unable to agree on the selection of one of the  
4 arbitrators within three workdays after receipt of the list, the County and the labor organization  
5 shall strike one name from the list alternately until one name remains. The remaining person  
6 shall be the arbitrator.

7           (3) If the selected arbitrator is unable to serve, the arbitrator shall be appointed  
8 directly by the American Arbitration Association from the panel list originally submitted.

9           (4) An arbitrator shall render a decision within 30 days after appointment unless the  
10 parties mutually agree otherwise. The arbitrator's decision shall not be subject to court review,  
11 except with respect to unit determinations that are alleged to be contrary to law.

12           (5) The cost of obtaining the panel and the fees and expenses of arbitration shall be  
13 borne by the County.

14 **Sec. 13A-107. Elections.**

15           (a) When an appropriate representation unit has been determined, the Director shall give  
16 adequate and timely notice of the determination to each employee in the newly established  
17 representation unit and shall arrange for a secret ballot certification election.

18           (b) [a] Representation elections shall be conducted by the [Maryland State Department of  
19 Labor and Industry] State or, if the State is unable to conduct the elections, [or any other] an  
20 impartial agency selected by the mutual agreement of the parties. If an agreement cannot be  
21 reached, the impartial agency shall be designated by the Director. The entity conducting the  
22 election shall be subject to the provisions of this law[, such rules and regulations as may be  
23 established by the Panel,] and the terms and conditions of such election agreement as may be  
24 reached by the parties. Except as otherwise provided, such entity shall resolve all legal issues or  
25 controversies relating to the conduct of the election.

26           (c) [b] Representation elections conducted pursuant to this Section shall be by secret ballot  
27 and shall be subject to the following:

28 \*           \*           \*           \*           \*           \*           \*           \*           \*

29           (2) [The ballots in all representation elections shall include a choice of "no  
30 representative." ] In the election, the employees in the unit shall be offered a choice between  
31 exclusive representation by the petitioning employee organization and no exclusive

1 representation. If an intervener labor organization has met all of the requirements of Division 1  
 2 of this subtitle, then the ballot shall offer a choice among the petitioning employee organization,  
 3 the intervener employee organization and no exclusive representation.

4 \* \* \* \* \*

5 (d)[c] The [Panel] State, or other entity conducting the election, shall certify the results of  
 6 said election within five working days after the final tally of votes if no objection to the election  
 7 is filed by any person that there has been conduct which has affected the outcome of the election,  
 8 [within the meaning of such rules and regulations as the Panel shall issue.] If [the Panel has  
 9 reason to believe that such allegations are valid,] there is a prima facie showing that an objection  
 10 may be valid, the State, or other entity conducting the election,[it] shall order the Director to set a  
 11 time for hearing on the matter after due notice, such hearing to be conducted within two weeks of  
 12 the date of receipt of such charge. If the [Panel] State, or other entity conducting the election,  
 13 determines that the outcome of the election was affected, even if by third party interference, [it]  
 14 the State, or other entity conducting the election, shall require corrective action and order a new  
 15 election. If the [Panel] State, or other entity conducting the election, determines that the conduct  
 16 alleged did not affect the outcome of the election, [it] the State, or other entity conducting the  
 17 election, shall immediately certify the election results.

18 (e)[(d)] No election shall be conducted pursuant to this Section in any appropriate  
 19 bargaining unit within which [in] the preceding 12-month period an election shall have been  
 20 held, nor during the term of any lawful collective bargaining agreement between the employer  
 21 and a labor organization, except that this restriction shall not apply to that period of time covered  
 22 by any collective bargaining agreement which exceeds three years. For the purposes of this  
 23 Section, extensions of agreement shall not affect the expiration date of the original agreement.  
 24 Where a valid collective bargaining agreement is in existence, a petition [for election] regarding  
 25 representation may be filed only during the period beginning [November] October 1 and ending  
 26 on [November 30] October 31 of the fiscal year in which said agreement will terminate.

27 **Sec. 13A-108. Rights accompanying exclusive recognition.**

28 (a) The labor organization which has been certified [by the Panel] pursuant to Division 1 of  
 29 this Subtitle shall be the exclusive representative of all employees in the unit and as such shall  
 30 have the right to act for and negotiate agreements covering all employees in the unit and shall be  
 31 responsible for representing the interest of all such employees without discrimination and

1 without regard to membership in the labor organization.

2 \* \* \* \* \*

3 **Sec. 13A-110. - Negotiability disputes.**

4 \* \* \* \* \*

5 (c) Procedure.

6 (1) [The services of the Unfair Labor Practices Panel shall be invoked in the manner  
7 prescribed in Section 13A-104(c), provided however, that the parties submit a sworn statement  
8 verifying that tentative agreement has been reached on all items of negotiations except those  
9 presented to the Panel, or, if this is not the case, a statement indicating why agreement has not  
10 been reached on such other matters and why the Panel nevertheless should assert jurisdiction.] If  
11 a negotiability dispute arises during collective bargaining, the issue shall be submitted to  
12 arbitration at the request of either party. However, the parties shall submit a sworn statement  
13 verifying that a tentative agreement has been reached on all items of negotiations except those  
14 presented to the arbitrator, or, if this is not the case, a statement indicating why an agreement has  
15 not been reached on such other matters and why the Arbitrator nevertheless should assert  
16 jurisdiction.

17 (2) [The Impasse Panel] An Arbitrator, while dealing with an impasse, may invoke  
18 the provisions of this Section, pursuant to Section 13A-111(c)[(2)](1), without the consent of the  
19 parties.

20 (3) The parties, upon request of the [Panel] Arbitrator, or in petitioning the [Panel]  
21 Arbitrator to settle the dispute, shall stipulate the precise issue to be resolved. Each party shall  
22 file within 5 days after the submission of such stipulation, a brief supporting its position along  
23 with proof of service of a copy of such brief to all parties.

24 (d) Powers of the [Panel] Arbitrator. In addition to the powers set forth in Section 13A-  
25 104(b), [T]he [Panel] Arbitrator, at [its] his or her discretion, may:

26 \* \* \* \* \*

27 (4) Call upon mediation or fact-finding to be used by the parties prior to the [Panel]  
28 Arbitrator's acceptance of the case;

29 (5) Compel the parties to continue bargaining while the [Panel] Arbitrator is trying to resolve the  
30 issue; or

31 \* \* \* \* \*

1 (e) [Panel] Arbitration Procedures upon acceptance of the issue.

2 (1) The [Panel] Arbitrator may decide the issue on the record or, after having notified  
 3 the parties its phrasing of the issue to be resolved, may hear oral argument. Before, during, or  
 4 after formal proceedings, the [Panel] Arbitrator may request evidence of added briefs on  
 5 specified items.

6 (2) The [Panel] Arbitrator may invite as participants, experts, witnesses and others  
 7 who may have an interest, direct or indirect, in the disputed issue or whose participation may  
 8 assist the [Board]Arbitrator in reaching a determination. The [Panel] Arbitrator may also grant  
 9 requests for the appearance of witnesses and the production of documents or records. The  
 10 [Panel] Arbitrator may also take or cause to be taken depositions. Failure to comply with such  
 11 requests shall be subject to the [Panel] sanctions applicable to unfair labor practices.

12 (3) An issue once submitted to the [Panel] Arbitrator may be withdrawn only upon  
 13 consent of the [Panel] Arbitrator and subject to whatever conditions the [Panel] Arbitrator may  
 14 prescribe.

15 (f) The [Panel] Arbitrator 's Decision.

16 (1) The [Panel] Arbitrator may issue a statement, accompanied by reasons therefor,  
 17 indicating whether an item in dispute is negotiable. The statement may be accompanied also,  
 18 when the [Panel] Arbitrator deems necessary, by an order directing the parties to take or pursue  
 19 the actions specified in the order. The [Panel] Arbitrator by means of such order may compel  
 20 the parties to bargain on such matter. The [Panel] Arbitrator may also determine, subject to the  
 21 procedures set forth in Sections 13A-113 and 114, that an unfair labor practice has been  
 22 committed and may also provide remedies therefor.

23 (2) To minimize the potential recurrence of similar disputes, the [Panel] Arbitrator  
 24 shall publish periodically such decisions and shall distribute copies to all employers within the  
 25 meaning of this law and to all labor organizations that have attained exclusive recognition.

26 **Sec. 13A-111. - Procedures pertaining to collective bargaining impasses other than those**  
 27 **involving protective service employees.**

28 (a) General.

29 (1) ["Impasse" means the failure of the employer and the exclusive representative to  
 30 reach a collective bargaining agreement despite good faith efforts to do so. However, the  
 31 Impasse Panel shall be empowered to provide such dispute resolution services as deemed

1 needed either by the parties or as found by the Panel to be essential to the public interest and  
2 welfare, even if impasse has not been reached.] If after a reasonable period of negotiation over  
3 the terms of an agreement, a dispute exists between the employer and an exclusive  
4 representative with whom it is negotiating, the parties may mutually agree that an impasse has  
5 been reached. If a dispute exists as of March 1, an impasse shall automatically be considered to  
6 have been reached provided that the employer and the exclusive representative may, by written  
7 agreement, extend the period for collective bargaining beyond the last day of February, in which  
8 event an impasse shall exist if, by the first calendar day after the end of any period of extension,  
9 the parties have failed to reach agreement.

10 (2) Whenever an impasse has been reached, the dispute shall be submitted to  
11 mediation. If the parties are unable to agree on the mediator, the Federal Mediation and  
12 Conciliation Service shall be requested to provide a mediator.

13 (3) If an impasse is not resolved within 30 days after the matter has been submitted to  
14 mediation, either party may initiate arbitration.

15 (4) [2] An Impasse [Panel member] Arbitrator shall have power to mediate, hold  
16 hearings, compel the attendance of witnesses and the production of documents, review data,  
17 make public any recommendations or findings after notice to the parties and take whatever  
18 action [he] the Arbitrator considers necessary to resolve the impasse, provided that such action  
19 does not impose a final and binding settlement on the parties except as mutually authorized by  
20 the parties, or except where the Impasse [Panel] Arbitrator has denied a labor organization the  
21 right to strike and has in its discretion required compulsory binding arbitration. In such cases,  
22 the decision of the Impasse [Panel] Arbitrator shall be submitted to the Council for approval.  
23 [Unless the parties otherwise provide, a single Panel member rather than multiple members  
24 shall provide the services herein described, provided further that a member] An arbitrator acting  
25 as a mediator shall not act as a fact finder or arbitrator in the same matter without the consent of  
26 the parties.

27 (5) [3] Confidential information disclosed by the parties to a mediator in the  
28 performance of [his mediation] the mediator's functions shall not be divulged voluntarily or by  
29 compulsion. All files, records, reports, documents or other papers received or prepared by a  
30 mediator while serving in such capacity shall be classified as confidential. The mediator shall  
31 not produce any confidential records of, or testify in regard to, any mediation conducted [by

1 him] on behalf of any party to any case pending in any type of proceeding. A party shall have  
2 the right to bar an arbitrator [Panel member] who becomes privy to confidential information  
3 about that party gained through mediation techniques, from serving in any fact finding or  
4 arbitration role relevant to that dispute.

5 (b) Action by the Parties.

6 (1) The employer shall have the power to enter into a written agreement with the  
7 exclusive representative setting forth an impasse procedure to resolve disputes over the terms or  
8 conditions of an initial or renewed collective bargaining agreement. [The parties are not  
9 precluded from using third party neutrals other than on the impasse panel described in Section  
10 13A-111(c)(4).]

11 \* \* \* \* \*

12 (3) Any final and binding settlement imposed upon the parties shall be subject to the  
13 same conditions for approval as set forth in Section [13A-110 (f)] 13A-(109).

14 (c) Procedures.

15 [(1) At least 30 days prior to the expiration date of any collective bargaining  
16 agreement but not later than March 1, or when 90 days have passed after the commencement of  
17 negotiations of an initial agreement, the parties shall notify the Panel of the status of  
18 negotiations. The Panel may on its own motion invoke mediation, except if the parties have  
19 provided otherwise pursuant to Section 13A-111(b)(1).]

20 (1)[(2)] The [Panel] Impasse Arbitrator, except as otherwise provided by mutual  
21 agreement of the parties, may return the parties to collective bargaining for any or all items in  
22 dispute or may refer such items as deemed necessary to the procedure [outlines] outlined in  
23 Section [13A-111] 13A-110 with respect to deciding the negotiability of a matter within the  
24 meaning of this law, other applicable laws and the County Charter.

25 (2)[(3)] Nothing shall preclude a third party neutral from returning to mediation even  
26 after the institution of fact-finding or arbitration, or from utilizing such mediation techniques as  
27 may be appropriate while engaged in fact finding or arbitration.

28 (3)[4] The Impasse [Panel] Arbitrator may not make recommendations or findings  
29 upon any matter which requires implementation by a body, agency or official which is not a  
30 party to the negotiations and who have not agreed to be a party to such impasse resolution.

31 (4)[(5)] From the date on which a collective bargaining notice is filed and ending on



1 the date on which a collective bargaining agreement is concluded or, if impasse procedures have  
2 been invoked, until such time as the [Panel] Arbitrator has certified that it or other authorized  
3 parties have terminated efforts to resolve the dispute, the labor organization party to the  
4 negotiations and the public employees it represents, shall not induce or engage in any strikes,  
5 and the employer shall refrain from unilateral changes in wages, hours or working conditions.

6 \* \* \* \* \*

7 (e) Costs. The costs for mediation shall be borne by the County. All other costs shall be  
8 borne equally by the parties involved in the dispute, except in the unusual event [that the  
9 National Center or an arbitrator appointed by it shall find pursuant to such rules as it shall  
10 issue,] the Impasse Arbitrator shall find that the impasse has been caused or prolonged by  
11 flagrant conduct of one of the parties.

12 **Sec. 13A-111.01. - Procedures pertaining to collective bargaining impasses involving**  
13 **protective service employees.**

14 \* \* \* \* \*

15 (b) An arbitrator, who is a member of the National Academy of Arbitrators, may be  
16 selected by agreement of the parties. Within three (3) calendar days after there is an impasse in  
17 collective bargaining, and if there is not mutual agreement of the parties for an arbitrator  
18 selection, the County Executive shall send a written notice to the American Arbitration  
19 Association (hereinafter "AAA"), with a copy to the exclusive representative, informing them of  
20 the impasse and requesting that the disputed matters be submitted to an arbitrator who shall make  
21 findings of fact and propose terms of settlement which shall be binding upon the parties. This  
22 notice shall also request a panel of arbitrators as set forth in Section 13A-104 (c). If the County  
23 Executive fails to send the aforesaid notice within the time allowed, the exclusive representative  
24 may send such a notice to the AAA and, for purposes of this Section, the notice shall have the  
25 same effect as if it had been sent by the County Executive.

26 (c) Within five (5) calendar days after receipt of the written notice provided for in  
27 Subsection (b), above, the AAA shall provide the parties with a list of nine neutral arbitrators  
28 who are members of the National Academy of Arbitrators and who are familiar with impasse  
29 disputes and interest arbitration [designate an arbitrator. Said designation shall be made in  
30 accordance with the general rules of the AAA for the designation of arbitrators, provided that the  
31 person designated shall be a member of a special panel of three (3) arbitrators that the AAA shall

1 maintain to perform the functions provided for in this Section. The members of this panel shall  
 2 be designated by the County Executive, from among persons recommended to him by the AAA,  
 3 and shall be subject to approval by a majority vote of the full County Council. Said designation  
 4 shall stand approved if not acted upon by the County Council within thirty (30) working days.  
 5 The County Council shall consider the views of the County Executive and all exclusive  
 6 representatives in deciding whether to approve a panel nominee. Panel members shall be selected  
 7 to serve for a period of three (3) years and shall be eligible for reappointment. A member of the  
 8 panel may be removed upon recommendation of the County Executive and approval by a  
 9 majority vote of the full County Council for just cause. A vacancy on the panel, whether created  
 10 by removal, resignation or otherwise, shall be filled by the County Executive with the approval  
 11 of the County Council promptly in accordance with the procedure set forth herein, and the person  
 12 appointed to fill a vacancy shall serve pursuant to such appointment only for the unexpired  
 13 period of the member whom he or she succeeds. Arbitrators shall be compensated for actual  
 14 services performed on a case by case basis in accordance with the prevailing rates for such  
 15 service in the Washington Metropolitan Area. The prevailing rate shall be established in the  
 16 annual budget based upon information supplied to the County from AAA not later than March 1  
 17 of each year].

18 (1) Alternative arbitrator lists. If the American Arbitration Association is unable to  
 19 satisfy the requirements of subsection (c), the parties shall:

20 (A) agree to accept a list of fewer than nine arbitrators; or

21 (B) request from the Federal Mediation and Conciliation Service a supplementary  
 22 or alternative list of neutral labor arbitrators who are members of the National Academy of  
 23 Arbitrators, familiar with impasse disputes and within the time frames set forth in this  
 24 Subsection.

25 (2) Selection of an Arbitrator. The parties shall select the neutral arbitrator by:

26 (A) tossing a coin to determine which party shall strike the first arbitrator from the  
 27 list or lists provided under subsection (1) of this Section; and

28 (B) after the first strike, alternately striking names from the list or lists provided  
 29 under subsections (1) until one arbitrator remains.

30 (3) Alternative neutral arbitrator. If the neutral arbitrator selected under  
 31 subsection (2) above is unwilling or unable to serve as the arbitrator, then the parties shall select

1 the arbitrator whose name was the last stricken under subsection (2) above.

2 (d) [Following notice of an impasse the AAA, within] Within two (2) calendar days after an  
3 arbitrator has been [designated] selected, [shall send a written notice to] the County Executive  
4 [and the exclusive representative informing them, among other things, of the name and address  
5 of the arbitrator] shall send written notice to AAA, or if applicable the Federal Mediation and  
6 Conciliation Service (“FMCS”), of the selection. Within five (5) calendar days [after receipt] of  
7 said notice, the County Executive and the exclusive representative each shall submit to the  
8 arbitrator and the other party, a list which sets forth:

9 \* \* \* \* \*

10 (f) If the impasse is not resolved prior to the conclusion of the prehearing conference, the  
11 arbitrator shall schedule a hearing in Prince George's County to begin as soon thereafter as  
12 possible, but in no event more than twenty (20) calendar days after the conclusion of the  
13 prehearing conference. Said hearing shall be open to the public and shall be conducted in  
14 accordance with rules and regulations adopted by the AAA for such purpose, provided that the  
15 arbitrator shall have the powers[, at the request of either party or at his or her own initiative, to  
16 request the County Council to issue subpoenas pursuant to rules established by the Council for  
17 the issuance of subpoenas, requesting the attendance and testimony of witnesses and the  
18 production of any records, papers or other information relating to any matter in issue before the  
19 arbitrator. The arbitrator shall have the power to request that testimony be under oath and may  
20 administer the oath or affirmation of the witness] set forth in Section 13A-104(b).

21 \* \* \* \* \*

22 (o) The AAA, or if applicable FMCS, is authorized to adopt, amend, and rescind such rules  
23 and regulations as may be necessary for it to carry out its functions under this Section, and such  
24 rules and regulations shall be controlling to the extent that they do not conflict with the  
25 provisions of this Section.

26 (p) All hearings referred to herein shall be held within the territorial jurisdiction of the  
27 County. The records incidental to such hearing and decisions shall be maintained within the  
28 County under the supervision and control of the AAA. Upon termination of a case, all records  
29 shall become property of the County and shall be maintained [in the Public Documents Library]  
30 by the Director.

31 **Sec. 13A-112. - Strikes.**

1 (a) It shall be lawful for an employee, who is in the appropriate bargaining unit involved in  
2 an impasse, to strike if:

3 \* \* \* \* \*

4 (2) The Impasse [Panel] Arbitrator has certified that [it] he or she or other authorized  
5 parties have terminated efforts to resolve the impasse and that all appropriate impasse  
6 procedures have been exhausted;

7 (3) Thirty (30) days have elapsed since the County Council has tried to resolve the  
8 dispute and to reach an agreement; or if 60 days have elapsed since the [Panel] Arbitrator's  
9 certification required in Section 13A-112(a)(2);

10 (4) The exclusive representative has given to the [Panel] Arbitrator and to the  
11 employer, after the time specified in Section 13A-112(a)(3), a 10-day notice of intent to strike.

12 (b) Where the strike threatened or when the strike occurring reaches the point where the  
13 public health or safety is alleged to be endangered, the employer may petition the [Panel]  
14 Arbitrator to make an investigation to verify the dangers alleged. The [Panel] Arbitrator shall set  
15 requirements that must be complied with to avoid or remove any such imminent or present  
16 danger or may require that all employees cease striking. In establishing such requirements, the  
17 [Panel] Arbitrator shall give strong weight to any agreement reached by the parties designating  
18 which employees shall be considered essential in the event of a strike.

19 (c) No labor organization shall declare or authorize a strike of employees, which is or  
20 would be in violation of this Section. The employer may apply to the [Panel] Arbitrator for a  
21 declaration that the strike is or would be unlawful and the [Panel] Arbitrator after affording the  
22 labor organization a reasonable opportunity to be heard on the application, may make such a  
23 declaration. No labor organization may engage in a strike to assist another labor organization,  
24 even if the latter organization is engaged in a lawful strike.

25 (d) The [Panel] Arbitrator may order the parties involved to engage in such impasse  
26 procedures as it may deem appropriate during the course of a strike, regardless of the legality of  
27 the strike.

28 \* \* \* \* \*

29 (f) No employee shall be entitled to pay or compensation from the employer for the period  
30 engaged in any strike, except when such pay or compensation is directed by the [Panel]  
31 Arbitrator for good cause shown.

1 **Sec. 13A-113. - Unfair labor practices.**

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

3 \* \* \* \* \*

4 (7) Refusing or failing to comply with any provision of this law [or any of the rules and  
5 regulations established by the Board or its component Panels.]

6 (b) Employees, labor organizations, their agents or representatives are prohibited from:

7 \* \* \* \* \*

8 (5) Refusing or failing to comply with any provision of this law [or any of the rules and  
9 regulations established by the Board or its component Panels];

10 \* \* \* \* \*

11 (8) Engaging in, or inducing or encouraging any individual employed by any person to  
12 engage in a strike or refusal to handle goods or perform services, or threatening, coercing, or  
13 restraining any person where an object thereof is to force or require any employer to cease  
14 delaying or doing business with any other person or to force or to require an employer to  
15 recognize for recognition purposes a labor organization not certified [by the Panel] pursuant to  
16 Division 1 of this Subtitle.

17 (c) The expressing of any views, arguments, or opinions, or the dissemination thereof,  
18 whether in written, printed, graphics, or visual form, shall not constitute or be evidence of an  
19 unfair labor practice under any of the provisions of Division 1 of this Subtitle, if such expression  
20 contains no threat of reprisal or force or promise of benefit, or misrepresentation of fact.

21 **Sec. 13A-114. - Procedure concerning unfair labor practices.**

22 (a) Any allegation[s] that a person has engaged in an unfair labor practice shall be  
23 submitted to [the Unfair Labor Practice Panel, subject to such rules and regulations as the Board  
24 may issue] arbitration pursuant to the procedures set forth in Section 13A-104. The allegation  
25 shall be filed with the Director within forty-five (45) days after the person became or reasonably  
26 should have become aware of the alleged violation. The complaint shall include a detailed  
27 description of the facts and issues involved and the relief sought. [The Panel's power in this  
28 regard shall be exclusive and shall not be diminished by any other means of adjustment or  
29 prevention that may have been or may be established by agreement, law or otherwise, except as  
30 the rules and regulations of the Panel otherwise provide. The Panel's rules and regulations shall  
31 provide that compliance with the technical rules or evidence shall not be required.]

\* \* \* \* \*

(c) If upon the preponderance of the testimony taken the [Panel] Arbitrator shall be of the opinion that any person named in the complaint has engaged in or is engaging in an unfair labor practice, then the [Panel] Arbitrator shall state [its] his or her findings of fact and shall issue and cause to be served on such person an order requiring that he or she cease and desist from such unfair labor practices and to take such affirmative action, including reinstatement with or without back pay, as will effectuate the policies of this law. Such order may further require such person to make reports from time to time showing the extent to which he has complied with the order. The [Panel] Arbitrator may require, in situations where employer conduct has destroyed a reasonable opportunity for a fair and free election, recognition to be granted to the labor organization so deprived. The [Panel] Arbitrator's remedial powers shall not be limited to the effects of the immediate case and may be designed to prevent future unfair labor practices, notwithstanding the penal nature of such requirement.

(d) If the preponderance of evidence has not shown that the person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the [Panel] Arbitrator shall state its findings of facts and shall issue an order dismissing the said complaint.

(e) Findings of the [Panel] Arbitrator shall be conclusive and binding upon the parties unless a petition for relief, in whole or in part, from the [Panel] Arbitrator's order is filed properly with the Clerk of the Circuit Court for Prince George's County within 30 days after the issuance of such order and unless said Court finds that the [Panel] Arbitrator's decision or order was not supported by substantial evidence. No objection that has not been urged before the [Panel] Arbitrator [or any of its agents] shall be considered by the Court unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. [Decisions of the Panel or Representation Matters shall not be subject to court review, except with respect to unit determinations that are alleged to be contrary to law]. Except as otherwise provided by law, the Arbitrator's decision shall not be subject to court review.

(f) The complaining party shall have the power to petition the Circuit Court for Prince George's County for enforcement of the [Panel] Arbitrator's order and for appropriate temporary relief or restraining order. However, such a petition shall not reopen the propriety of the [Panel] Arbitrator's decision and order if appeal for judicial reviews was not timely filed.

**Sec. 13A-115. - Financial reports to employees.**

1 Each labor organization, which has members who are employees within the meaning of this law,  
 2 shall keep an adequate record of its financial transactions, including all payments and receipts,  
 3 and shall, within 60 days after the end of its fiscal year, make available annually to such  
 4 employees a detailed written financial report thereof in the form of a balance sheet and an  
 5 operating statement, certified as to accuracy by a certified public accountant. The records of each  
 6 labor organization shall be made available upon request for examination by any member of said  
 7 organization during regular business hours. In the event of failure of compliance with this  
 8 Section, any employee within the organization may petition, in accordance with the procedures  
 9 set forth in Section 13A-104, [the Unfair Labor Practices Panel] for an order compelling such  
 10 compliance. An order of the [Panel] Arbitrator on such petition shall be enforceable in the same  
 11 manner as other orders of the [Panel] Arbitrator under this law.

12 **Sec. 13A-116. – [Service of Panels] Adoption by another entity.**

13 \* \* \* \* \*

14 SECTION 2. BE IT FURTHER ENACTED that the provisions of this Act are hereby  
 15 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,  
 16 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of  
 17 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining  
 18 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this  
 19 Act, since the same would have been enacted without the incorporation in this Act of any such  
 20 invalid or unconstitutional word, phrase, clause, sentence, paragraph, subparagraph, subsection,  
 21 or section.

1 SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)  
2 calendar days after it becomes law.

Adopted this 5<sup>th</sup> day of April , 2016.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND

BY: \_\_\_\_\_  
Derrick Leon Davis  
Chairman

ATTEST:

\_\_\_\_\_  
Redis C. Floyd  
Clerk of the Council

APPROVED:

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Rushern L. Baker, III  
County Executive