



POSITION STATEMENT

Bill: MC/PG 103–23 Maryland–National Capital Park and Planning Commission – Collective Bargaining Agreement Implementation – Dispute Arbitration

Position: OPPOSE

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What the Bill Does: Authorizes the parties to a collective bargaining agreement for employees of The Maryland-National Capital Park and Planning Commission (the “Commission”) to request the services of a mediator–arbitrator during the term of a certain collective bargaining agreement under certain circumstances.

The Commission appreciates the opportunity to respond to the Montgomery County Council’s request for its views on MC/PG 103-23. The Commission is concerned that these changes are not needed, will interfere with the good faith negotiation process, and will take critical policy decisions away from Commissioners appointed by elected officials, transferring those decisions to third-party arbitrators who have not been elected or appointed by duly elected officials from the counties we serve.

No Change is Needed.

The Commission is a bi-county agency accountable to both the Montgomery and Prince George’s County Councils. Since 1996, the Commission has had a productive bargaining relationship with United Food and Commercial Workers, Local 1994, Municipal and County Government Employees Organization (“MCGEO” or “Union”). MCGEO represents Commission employees within its Service/Labor, Trades, and Office bargaining units.

In more than twenty-five years of working together, the parties have successfully reached agreement on eighteen (18) collective bargaining agreements and wage reopeners, as well as myriad memoranda of understanding, related to wages, retirement benefits, health insurance, and many other terms and conditions of employment. Of the eighteen (18) negotiated collective bargaining agreements and reopeners, seventeen (17) were achieved without any need for the use of interest arbitration. Since its introduction, interest arbitration has only been used once, in 2004, and then only to address a single issue of disagreement. This history of successful

negotiations speaks both to the Commission's good faith approach to the bargaining process and the fact that the process works as intended.

Prince George's County utilizes interest arbitration; however, their interest arbitration process for comparable employees is non-binding. This means that the Prince George's County Council retains the authority to accept or reject interest arbitration recommendations. The proposed changes in MC/PG 103-23 further expand the gap between the Counties by stripping the Montgomery County Council of its authority to accept or reject interest arbitration recommendations. As an entity chartered by the State of Maryland, it is notable that no other state agency is mandated to utilize interest arbitration in their union negotiations.

These Changes Will Interfere With Good Faith Negotiations and Promote Undesirable Gamesmanship.

With its long track record of honoring the principles of collective bargaining, the Commission opposes the proposed interest arbitration changes because those changes will actually interfere with the collective bargaining process. On multiple occasions since interest arbitration was added to the labor law, MCGEO has prematurely declared impasse. Frustrated in the moment by the challenges of negotiating certain difficult issues, the Union has prematurely walked away from the bargaining table, calculating that it could achieve a better result in mediation.

MC/PG 103-23 will increase the frequency with which premature impasse declarations will be used as a tactic to avoid true good faith negotiation. Although an interest arbitrator can send the parties back to the table, such premature declarations will delay negotiations and incentivize the use of such gamesmanship to avoid the obligation to bargain in good faith.

Negotiation is difficult work. Changes which encourage gamesmanship over good faith bargaining are both unnecessary and counterproductive.

MC/PG 103-23 Improperly Delegates Critical Policy Making to Third Parties that have not been elected or appointed.

The proposed bill specifically applies to situations caused by new and unforeseen events. In the near term, some agencies may need to grapple with questions like employees returning from telework to the workplace due to a pandemic or the workplace impact of the legalization of marijuana. Both the Montgomery and Prince George's County Councils appoint Commissioners to the Commission and other agencies to respond to these types of issues. These appointees are specifically charged to defend, create and uphold the policy that advances the mission of the Commission. Their authority should not be delegated to a third party who is not accountable to the County Councils, County Executives or to the voters who elect their county officials. Further, not only would this legislation allow the decisions of the arbitrator to be binding, the decisions of an arbitrator are based on the experiences of that individual and there is no obligation for the arbitrator to adhere to the values or mission of the Commission.

Hidden within MC/PG 103-23 is a fundamental flaw which removes critical policy decisions from Commissioners appointed by elected officials in the counties we serve and transfers those decisions to un-elected, un-appointed third-party arbitrators without any final approval of the outcome by elected officials or their appointees. This should not occur.

It places the Commission in a far worse position compared to Montgomery County, Prince George's County or the State of Maryland. This alone warrants rejection of the bill.

The changes contained in MC/PG 103-23 are not needed and will interfere with the good faith negotiation process. They will remove critical policy decisions from appointed Commissioners and transfer those decisions to un-elected, un-appointed third-party arbitrators without any final approval by elected officials or their appointees. In addition, arbitration decisions are exceedingly difficult to challenge in court, such that for all intents and purposes, these arbitrators will determine major policies with little or no oversight or accountability. For these reasons, we urge the County Council to decline to support MC/PG 103-23.