

Chapter 600

(House Bill 756)

AN ACT concerning

Baltimore City – Binding Arbitration – Police Officers

FOR the purpose of requiring binding arbitration between certain employee organizations representing certain Baltimore City police officers and the City of Baltimore under certain circumstances; ~~applying certain procedures governing binding arbitration for firefighters and fire officers to certain police officers;~~ authorizing a certain party to request arbitration by a certain board of arbitration if a certain agreement is not reached by a certain date; ~~authorizing certain collective bargaining negotiations to continue until the first day of arbitration;~~ providing for the selection of a certain board of arbitration; requiring a certain board of arbitration to consider certain matters; authorizing a board of arbitration to exercise certain powers; requiring a board of arbitration to take certain actions within a certain period of time; requiring the Baltimore City Labor Commissioner or designated representative to provide each member of the board of arbitration with certain information; prohibiting a board of arbitration from providing for certain issues; authorizing the board of arbitration to order the implementation of a certain proposal or to modify certain final offers to develop a new agreement; providing that the decision of a certain board of arbitration is final and may not be appealed; requiring that certain city officials take certain action based on a certain decision of the board of arbitration; requiring the adoption of certain salary and wage scales for certain police officers under certain circumstances; making a technical change; establishing a certain cap on the cost of an arbitration proceeding to be paid by the City of Baltimore in a fiscal year establishing that the cost of an arbitration proceeding under this Act be paid equally by the parties involved; defining a certain term; providing for a delayed effective date; and generally relating to binding arbitration between certain police officers and the City of Baltimore.

~~BY repealing and reenacting, with amendments,
The Charter of Baltimore City
Article II – General Powers
Section (55)
(2007 Replacement Volume, as amended)~~

BY repealing and reenacting, with amendments,
The Public Local Laws of Baltimore City
Section 16-8A
Article 4 – Public Local Laws of Maryland
(1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)

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

~~The Charter of Baltimore City~~

~~Article II — General Powers~~

~~The Mayor and City Council of Baltimore shall have full power and authority to exercise all of the powers heretofore or hereafter granted to it by the Constitution of Maryland or by any Public General or Public Local Laws of the State of Maryland; and in particular, without limitation upon the foregoing, shall have power by ordinance, or such other method as may be provided for in its Charter, subject to the provisions of said Constitution and Public General Laws:~~

~~(55)~~

~~(a) To provide by ordinance an orderly procedure for participation by municipal employees and their representatives in the formulation of labor relations and personnel policies, recognizing the right of employees to organize and bargain collectively through representatives of their own choosing and generally authorizing the Mayor and City Council of Baltimore to provide for~~

~~(1) the manner of establishing units appropriate for collective bargaining and of designating or selecting exclusive bargaining representatives;~~

~~(2) the rights of the employer, employees and the employee organization designated as the exclusive representative in an appropriate unit;~~

~~(3) the procedure for the negotiation of a collective bargaining agreement with respect to the terms and conditions of employment and the manner for resolution of a negotiation impasse;~~

~~(4) the payment of a service fee, as a condition of continuing employment, for administration of the collective bargaining agreement and the right of the exclusive representative to the checkoff of dues or service fees;~~

~~(5) the designation of unfair labor practices and remedies for the same;~~

~~(6) the definition of a grievance and the procedure for resolution; and~~

~~(7) other related matters to effectuate the ordinance.~~

~~The Mayor and City Council of Baltimore are authorized, consistent with the provisions of the Charter of Baltimore City, to submit to binding arbitration any~~

~~dispute arising from the interpretation of, or the application of, any collective bargaining agreement with an exclusive representative. Binding arbitration for fire fighters [and], fire officers, AND POLICE OFFICERS shall be conducted as provided in subsection (b).~~

~~This section does not authorize a strike by any municipal employee or employees.~~

~~Until amended by ordinance, the presently existing municipal employee relations ordinance shall remain in force and effect.~~

~~(b) (1) (I) If the certified employee organization or organizations representing fire fighters and fire officers within the Fire Department and the employer have not reached a written agreement concerning terms and conditions of employment by March 1 of any year, either party may request arbitration by a board of arbitration, as herein provided, which request must be honored.~~

~~(II) 1. IF THE CERTIFIED EMPLOYEE ORGANIZATION OR ORGANIZATIONS REPRESENTING POLICE OFFICERS WITHIN THE POLICE DEPARTMENT AND THE EMPLOYER HAVE NOT REACHED A WRITTEN AGREEMENT CONCERNING TERMS AND CONDITIONS OF EMPLOYMENT BY APRIL 1 OF ANY YEAR, EITHER PARTY MAY REQUEST ARBITRATION BY A BOARD OF ARBITRATION.~~

~~2. COLLECTIVE BARGAINING NEGOTIATIONS BETWEEN A CERTIFIED EMPLOYEE ORGANIZATION OR ORGANIZATIONS REPRESENTING POLICE OFFICERS WITHIN THE POLICE DEPARTMENT MAY CONTINUE UNTIL THE FIRST DAY OF ARBITRATION.~~

~~(2) The board of arbitration shall be composed of 3 members, 1 appointed by the Mayor, and 1 appointed jointly by the certified employee organizations representing the fire fighters and fire officers OR POLICE OFFICERS involved. These members shall be selected within 4 days of the request for arbitration. The third member shall be selected within 4 additional days by the 2 arbitrators previously chosen and in accordance with the procedures of the American Arbitration Association from a list furnished by the Association. Such member selected shall act as chairman of the board of arbitration.~~

~~The board of arbitration thus established shall commence the arbitration proceedings within 7 days after the chairman is selected and shall make its decision, by a majority vote, within 15 days after the commencement of the arbitration proceedings. For good cause the chairman may extend the time requirement set forth herein.~~

~~(3) Within 3 days after the selection of the chairman of the board of arbitration, the Labor Commissioner or his designated representative shall provide to each member of the board of arbitration and to all parties, a detailed itemization of the last proposal made by the respective parties during the negotiations.~~

~~(4) The board of arbitration shall identify the major issues in the dispute, review the positions of all parties and shall take into consideration wages, benefits, hours, and other working conditions of other fire OR POLICE department and public safety employees in Maryland as well as in comparable metropolitan political subdivisions in other states, and shall also consider the value of other benefits available to or received by other employees of the Mayor and City Council of Baltimore as compared with private sector employees in the metropolitan Baltimore City area and as compared with employees of other fire OR POLICE departments and other public safety employees. The board of arbitration shall further consider consumer prices for goods and services and other related items, cost of living data, and such other factors, not confined to the foregoing, which are normally utilized in the determination of wages and other benefits in the collective bargaining process, and shall also take into account the financial condition of the City.~~

~~(5) The board of arbitration shall have the power to administer oaths, compel the attendance of witnesses, and require the production of evidence by subpoena.~~

~~(6) (I) 1. THIS SUBPARAGRAPH APPLIES ONLY TO BINDING ARBITRATION FOR FIREFIGHTERS AND FIRE OFFICERS.~~

~~2. The board of arbitration after hearing witnesses and considering and receiving such written evidence as may be submitted shall, by written decision, order the implementation, in its entirety, of the last proposal of one of the respective parties previously submitted in accordance with [subparagraph (c) of this section] PARAGRAPH (3) OF THIS SUBSECTION.~~

~~(II) 1. THIS SUBPARAGRAPH APPLIES ONLY TO BINDING ARBITRATION FOR POLICE OFFICERS.~~

~~2. THE BOARD OF ARBITRATION, AFTER HEARING WITNESSES AND CONSIDERING AND RECEIVING ANY WRITTEN EVIDENCE SUBMITTED, SHALL ORDER THE IMPLEMENTATION OF A FINAL AGREEMENT BY WRITTEN DECISION.~~

~~3. THE DECISION OF THE BOARD OF ARBITRATION MAY:~~

~~A. ORDER THE IMPLEMENTATION IN ITS ENTIRETY OF THE LAST PROPOSAL OF ONE OF THE RESPECTIVE PARTIES PREVIOUSLY SUBMITTED IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION; OR~~

~~B. MODIFY THE FINAL OFFERS OF THE PARTIES IN ORDER TO DEVELOP A NEW FINAL AGREEMENT.~~

~~(7) The decision of the majority of the board of arbitration thus established shall be final and binding upon the Mayor and City Council of Baltimore and upon the certified employee organizations involved in the proceedings. No appeal therefrom shall be allowed. Such decision shall constitute a mandate to the Mayor of Baltimore City in respect to such matters which can be remedied administratively by him, and as a mandate to the Board of Estimates and the City Council with respect to matter(s) which require legislative action necessary to implement the decision of the board of arbitration.~~

~~With respect to matters which require legislative action for implementation, such legislation shall be enacted within 45 days following the date of the arbitration decision.~~

~~With respect to salaries and wage scales, the amounts determined by the final decision of the board of arbitration shall be included in the proposed Ordinance of Estimates in accordance with Section 2(e)(1) of Article VI, shall not be reduced by the City Council in accordance with Section 2(g) of Article VI, and shall be adopted by the Board of Estimates as the salary and wage scales for employees of the Fire Department OR POLICE DEPARTMENT in accordance with Section 5 of Article VI.~~

~~(8) (i) [The] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE cost of the arbitration proceedings provided for herein shall be borne equally by the parties involved.~~

~~(ii) 1. THIS SUBPARAGRAPH APPLIES ONLY TO BINDING ARBITRATION FOR POLICE OFFICERS.~~

~~2. THE COST OF AN ARBITRATION PROCEEDING TO BE PAID BY THE CITY OF BALTIMORE MAY NOT EXCEED \$15,000 IN A FISCAL YEAR.~~

Article 4 – Baltimore City

16-8A.

(a) Except as otherwise provided in this section, the provisions of Sections 119 through 136 of Article 1 of the Baltimore City Code (1976 Edition) as amended

from time to time, and any rules and regulations adopted pursuant thereto, governing or relating to labor relations or collective bargaining with general municipal employees of Baltimore City shall apply to labor relations and collective bargaining between the City and uniformed and civilian employees of the Baltimore City Police Department.

(b) (1) Negotiations with a certified exclusive representative of police officers shall be conducted jointly by the Police Commissioner of Baltimore City and the Labor Commissioner, or their designees, on behalf of the employer.

(2) An employee organization may not be denied certification as the exclusive representative of any police officers solely for the reason that it:

(i) admits to membership rank and file employees in addition to supervisory and/or professional employees; or

(ii) affiliates with another employee organization which admits to membership rank and file, supervisory, or professional employees.

(3) (I) 1. IN THIS PARAGRAPH AND FOR PURPOSES OF ARBITRATION, "DIRECT COMPENSATION" MEANS WAGES, SALARIES, LONGEVITY, SHIFT DIFFERENTIAL, BONUSES IF APPLICABLE, AND LEAVE WITH MONETARY VALUE.

2. "DIRECT COMPENSATION" DOES NOT INCLUDE:

A. PENSIONS OR ANY BENEFIT THAT IS TO BE PAID ON OR AFTER AN EMPLOYEE'S RETIREMENT OR TERMINATION OF EMPLOYMENT; OR

B. ISSUES THAT DO NOT RELATE TO DIRECT COMPENSATION, SUCH AS, BUT NOT LIMITED TO, JOB SECURITY, DISCIPLINARY PROCEDURES, INVESTIGATIONS AND ACTIONS, PROMOTIONS, DEPLOYMENT OR SCHEDULING, INCLUDING ELIGIBILITY AND ASSIGNMENT TO DETAILS AND POSITIONS, LOSS OF LEAVE AS PROVIDED IN THE GENERAL ORDERS, OR ISSUES RELATING TO ELIGIBILITY FOR OVERTIME COMPENSATION.

(II) IF THE CERTIFIED EMPLOYEE ORGANIZATION OR ORGANIZATIONS REPRESENTING POLICE OFFICERS WITHIN THE POLICE DEPARTMENT AND THE EMPLOYER HAVE NOT REACHED A WRITTEN AGREEMENT CONCERNING ALL ISSUES OF DIRECT COMPENSATION BY MARCH 1 OF ANY YEAR, EITHER PARTY MAY AT ANY TIME THEREAFTER REQUEST ARBITRATION BY A BOARD OF ARBITRATION, AS PROVIDED IN THIS PARAGRAPH, WHICH REQUEST MUST BE HONORED.

(iii) 1. THE BOARD OF ARBITRATION SHALL BE COMPOSED OF THREE MEMBERS, OF WHICH ONE IS APPOINTED BY THE MAYOR AND ONE IS APPOINTED JOINTLY BY THE CERTIFIED EMPLOYEE ORGANIZATIONS REPRESENTING THE POLICE OFFICERS INVOLVED. THE TWO MEMBERS APPOINTED BY THE MAYOR AND THE EMPLOYEE ORGANIZATIONS SHALL BE SELECTED WITHIN 4 DAYS OF THE REQUEST FOR ARBITRATION. THE THIRD MEMBER SHALL BE SELECTED WITHIN 4 ADDITIONAL DAYS BY THE TWO ARBITRATORS PREVIOUSLY CHOSEN AND, IN ACCORDANCE WITH THE PROCEDURES OF THE AMERICAN ARBITRATION ASSOCIATION, MUST BE SELECTED FROM A LIST OF SEVEN ARBITRATORS FURNISHED BY THE AMERICAN ARBITRATION ASSOCIATION. ALL OF THE ARBITRATORS ON THE LIST FURNISHED BY THE AMERICAN ARBITRATION ASSOCIATION MUST BE MEMBERS OF THE NATIONAL ACADEMY OF ARBITRATORS. UNLESS THE PARTIES MUTUALLY AGREE ON THE THIRD ARBITRATOR, THE PARTIES ALTERNATELY SHALL STRIKE NAMES FROM THE LIST UNTIL ONE NAME REMAINS. THE PARTY REQUESTING ARBITRATION SHALL STRIKE THE FIRST NAME. THE THIRD MEMBER SELECTED IS THE CHAIRMAN OF THE BOARD OF ARBITRATION.

2. THE BOARD OF ARBITRATION SHALL BEGIN THE ARBITRATION PROCEEDINGS WITHIN 7 DAYS AFTER THE CHAIRMAN IS SELECTED AND MAKE ITS DECISION, BY A MAJORITY VOTE, WITHIN 30 DAYS AFTER BEGINNING THE PROCEEDINGS. FOR GOOD CAUSE THE CHAIRMAN MAY EXTEND ANY OF THE TIME REQUIREMENTS SET FORTH HEREIN.

(iv) WITHIN 3 DAYS AFTER THE SELECTION OF THE CHAIRMAN OF THE BOARD OF ARBITRATION, THE LABOR COMMISSIONER OR THE DESIGNATED REPRESENTATIVE OF THE LABOR COMMISSIONER SHALL PROVIDE EACH MEMBER OF THE BOARD OF ARBITRATION AND ALL PARTIES WITH A DETAILED ITEMIZATION OF THE LAST PROPOSAL MADE BY EACH OF THE RESPECTIVE PARTIES DURING THE NEGOTIATIONS WITH RESPECT TO ISSUES OF DIRECT COMPENSATION.

(v) THE PROVISIONS OF THIS PARAGRAPH GOVERNING INTEREST ARBITRATION FOR POLICE OFFICERS SHALL APPLY ONLY TO THE TERMS OF COLLECTIVE BARGAINING AGREEMENTS DIRECTLY RELATING TO DIRECT COMPENSATION. THE PROVISIONS OF THIS PARAGRAPH MAY NOT BE CONSTRUED AS BEING CONTRADICTORY TO THE PROVISIONS OF THE GENERAL ORDERS. IF THERE IS A DISPUTE OVER WHETHER AN ISSUE IS AN ISSUE OF DIRECT COMPENSATION, THE BOARD OF ARBITRATION SHALL DECIDE THE ISSUE AND THE DECISION BY THE BOARD OF ARBITRATION IS FINAL AND BINDING ON BOTH PARTIES.

(VI) 1. THE BOARD OF ARBITRATION SHALL IDENTIFY THE MAJOR ISSUES IN THE DISPUTE, REVIEW THE POSITIONS OF ALL PARTIES, AND BASE THE AWARD ON THE FOLLOWING FACTORS:

A. THE LAWFUL AUTHORITY OF THE CITY;

B. THE FINANCIAL CONDITIONS OF THE CITY;

C. THE STIPULATIONS OF THE PARTIES;

D. THE TERMS OF THE EXISTING COLLECTIVE BARGAINING AGREEMENT NEGOTIATED BETWEEN THE PARTIES IN THE PAST PROVIDING FOR DIRECT COMPENSATION FOR EMPLOYEES INVOLVED IN THE ARBITRATION PROCEEDING;

E. THE OVERALL COMPENSATION AND BENEFITS PAID TO THE EMPLOYEES INVOLVED IN THE ARBITRATION PROCEEDING, WHETHER REACHED BY A COLLECTIVE BARGAINING AGREEMENT OR OTHERWISE, INCLUDING ANY INCREASED COST TO THE CITY FOR PROVIDING THE BENEFITS;

F. THE TERMS AND CONDITIONS OF OTHER EMPLOYEES OF THE MAYOR AND CITY COUNCIL OF BALTIMORE, INCLUDING BOTH EMPLOYEES REPRESENTED IN OTHER BARGAINING UNITS AND THE CITY'S UNREPRESENTED EMPLOYEES, AND INCLUDING ANY CHANGES IN THE TERMS AND CONDITIONS FOR THE PERIOD TO BE COVERED BY THE ARBITRATION AWARD;

G. THE OVERALL COMPENSATION AND BENEFITS OF OTHER POLICE DEPARTMENTS AND PUBLIC SAFETY EMPLOYEES IN THE STATE, AS WELL AS OF COMPARABLE METROPOLITAN POLITICAL SUBDIVISIONS IN OTHER STATES, AND THE CONSIDERATION OF THE VALUE OF OTHER BENEFITS AVAILABLE TO OR RECEIVED BY OTHER EMPLOYEES OF THE MAYOR AND CITY COUNCIL OF BALTIMORE AS COMPARED WITH PRIVATE SECTOR EMPLOYEES IN THE METROPOLITAN BALTIMORE CITY AREA AND AS COMPARED WITH EMPLOYEES OF OTHER POLICE DEPARTMENTS AND OTHER PUBLIC SAFETY EMPLOYEES;

H. THE CONSUMER PRICES FOR GOODS AND SERVICES AND OTHER RELATED ITEMS, COST-OF-LIVING DATA, AND OTHER FACTORS THAT ARE NORMALLY UTILIZED IN THE DETERMINATION OF WAGES AND OTHER BENEFITS IN THE COLLECTIVE BARGAINING PROCESS;

I. THE INCREASES AND DECREASES IN THE CONSUMER PRICE INDEX PUBLISHED BY THE BUREAU OF LABOR STATISTICS IN THE UNITED STATES DEPARTMENT OF LABOR; AND

J. THE PUBLIC WELFARE, INCLUDING THE IMPACT OF THE AWARD ON THE CITY'S ABILITY TO CONTINUE PROVIDING SERVICES GENERALLY TO THE RESIDENTS OF THE CITY.

2. NOTWITHSTANDING SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE BOARD OF ARBITRATION IN RENDERING AN AWARD MAY NOT PROVIDE FOR ISSUES RELATING TO DIRECT COMPENSATION THAT ADVERSELY AFFECT THE CITY'S ABILITY TO CONTINUE TO FUND OTHER PUBLIC SERVICES GENERALLY. THE BOARD OF ARBITRATION SHALL ISSUE A WRITTEN DECISION THAT DEMONSTRATES THAT ALL THE FACTORS SET FORTH ABOVE HAVE BEEN CONSIDERED AND APPLIED AND INCLUDES THE EVIDENCE ON RECORD RELIED ON IN MAKING THE AWARD.

(VII) THE BOARD OF ARBITRATION SHALL HAVE THE POWER TO ADMINISTER OATHS, COMPEL THE ATTENDANCE OF WITNESSES, AND REQUIRE THE PRODUCTION OF EVIDENCE BY SUBPOENA.

(VIII) THE BOARD OF ARBITRATION AFTER HEARING WITNESSES AND RECEIVING AND CONSIDERING THE WRITTEN EVIDENCE THAT IS SUBMITTED SHALL ISSUE ITS WRITTEN DECISION THAT ORDERS THE IMPLEMENTATION, IN ITS ENTIRETY, OF THE LAST PROPOSAL OF ONE OF THE RESPECTIVE PARTIES SUBMITTED IN ACCORDANCE WITH SUBPARAGRAPH (IV) OF THIS PARAGRAPH.

(IX) 1. THE DECISION OF A MAJORITY OF THE MEMBERS OF THE BOARD OF ARBITRATION SHALL BE FINAL AND BINDING ON THE MAYOR AND CITY COUNCIL OF BALTIMORE AND ON THE CERTIFIED EMPLOYEE ORGANIZATIONS INVOLVED IN THE PROCEEDINGS. NO APPEAL OF THE DECISION SHALL BE ALLOWED. THE DECISION CONSTITUTES A MANDATE TO THE MAYOR OF BALTIMORE CITY WITH RESPECT TO THE MATTERS THAT CAN BE REMEDIED ADMINISTRATIVELY BY THE MAYOR AND A MANDATE TO THE BOARD OF ESTIMATES AND THE CITY COUNCIL WITH RESPECT TO THE MATTERS WHICH REQUIRE LEGISLATIVE ACTION NECESSARY TO IMPLEMENT THE DECISION OF THE BOARD OF ARBITRATION.

2. WITH RESPECT TO MATTERS THAT REQUIRE LEGISLATIVE ACTION FOR IMPLEMENTATION, THE LEGISLATION SHALL BE ENACTED WITHIN 45 DAYS FOLLOWING THE DATE OF THE ARBITRATION DECISION.

3. WITH RESPECT TO SALARIES AND WAGE SCALES, THE AMOUNTS DETERMINED BY THE FINAL DECISION OF THE BOARD OF ARBITRATION SHALL BE INCLUDED IN THE PROPOSED ORDINANCE OF ESTIMATES IN ACCORDANCE WITH ARTICLE VI, § 5 OF THE BALTIMORE CITY CHARTER, MAY NOT BE REDUCED BY THE CITY COUNCIL IN ACCORDANCE WITH ARTICLE VI, § 7 OF THE BALTIMORE CITY CHARTER, AND SHALL BE ADOPTED BY THE BOARD OF ESTIMATES AS THE SALARY AND WAGE SCALES FOR EMPLOYEES OF THE POLICE DEPARTMENT IN ACCORDANCE WITH ARTICLE VI, § 9 OF THE BALTIMORE CITY CHARTER.

(X) THE COST OF THE ARBITRATION PROCEEDINGS, INCLUDING THE COST FOR A COURT REPORTER, PROVIDED UNDER THIS PARAGRAPH SHALL BE PAID EQUALLY BY THE PARTIES INVOLVED.

(c) This section shall be construed to be consistent with and not to supersede other provisions of this subtitle, including, by way of illustration and not as a limitation:

- (1) The provisions of this subtitle regarding the departmental budget;
and
- (2) The procedures or authority of the Board of Estimates, or the City Council.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2013.

Approved by the Governor, May 19, 2011.