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PRINCE WILLIAM
COUNTY

Collective Bargaining

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Effect of State Code Change



Prior to May 1, 2021

- Employees have had the right to join associations and address issues of concerns with their employer
- **Employers** could meet and confer with employees, but **could not create legally enforceable contracts**

As of May 1, 2021

- **Employees have the right to request** collective bargaining
- **Local governing body required to vote to adopt/not adopt** a collective bargaining ordinance within 120 days of receiving request
- An ordinance can include provisions for a formal meet and confer process or a formal collective bargaining agreement
- Employers can choose to continue to meet and confer informally with employees, as we do now

Other State Code Provisions



- Virginia explicitly prohibits employees from striking
- No collective bargaining ordinance that is adopted by the BOCS shall restrict BOCS authority to establish budgets or appropriate funds

Employee Groups Not Eligible for Collective Bargaining



- Local Constitutional Officers are prohibited from recognizing or participating in collective bargaining agreements for their employees
 - Clerk of Circuit Court, Commonwealth Attorney, Sheriff (including Adult Detention Center)
- State agencies are also prohibited from recognizing or participating in collective bargaining agreements for their employees
 - Courts, Juvenile Criminal Services Unit, Virginia Cooperative Extension, Prince William Health District, Elections
- This closely follows the distinction between “competitive” and “exempt” employees in the County service, as defined in Chapter 19 – Personnel, for employee grievance rights

Employees Are Our Most Important Resource



- The work that County employees perform directly affects the personal lives of every resident
- It is through their efforts that the most basic and necessary public services are provided: public safety, community development, human services, general government and all the mission critical services that constitute what we have come to view as core government services

Labor Relations Generally



- Good labor relations deliver results
 - Robust organizational performance, reduced absenteeism, increased efficiency, higher productivity
 - Creates an environment of innovation to motivate employees by generating employee loyalty and trust
- PWC's organizational culture is supported by
 - Vision, Values and Leadership Philosophy
 - BOCS Compensation Policy
 - Federal Labor Standards Act (FLSA)
 - Virginia Gap Pay Act for fire protection and law enforcement employees
 - Personnel policy, uniform pay plans and position classification plan
 - Federal and Virginia Occupational Safety & Health oversight (OSHA/VOSH)
 - Local Human Rights Commission and Human Resources Employee Relations
 - Professional and technical learning and development
 - Risk and Wellness programs, Employee Assistance programs

Informal Meet & Confer Results



- Comparable pay with Arlington, Alexandria, Fairfax and Loudoun
- Virginia Retirement System plans
 - Includes Public Safety multiplier
- Health insurance
 - 90% premium paid by County for individuals
 - 70% premium paid by County for family coverage
- Dental and vision
- Leave Benefits
 - Annual, sick, paid holidays, personal leave
- Life Insurance
- 401(a) Money Purchase Plan
- 457 Deferred Compensation Plan
- Supplemental Retirement for Public Safety
 - \$790 per month for 15 years
- Retiree Health Credit
- Flexible Spending Accounts
- Direct Deposit
- Credit Union Membership
- Employee Assistance Program
- Other Leave Programs
 - Civil, Military

No State Guidance: This Is A Local Policy Choice

- Virginia joins 4 other states that permit collective bargaining without the establishment of a statewide labor board
- If the Board chooses to enable collective bargaining, it has the discretion to determine what to include in an ordinance or resolution and thereby establish what collective bargaining would look like for the County



CB Actions in Other Jurisdictions



| Locality | Governing Body Action | Current Status | FY22 Budget Change |
|------------|--|--|---------------------------------|
| Alexandria | Council requested ordinance in May 2020 | Ordinance adopted April 2021 | \$850,000 HR, Legal |
| Arlington | Board to authorize development of CB structure with FY22 budget adoption | Expect to implement CB ordinance no later than July 2023 | \$325,000 HR, Legal |
| Fairfax | Board established joint workgroup with FCPS in Sept 2020 | Stakeholder outreach underway | \$650,000 HR, Legal |
| Loudoun | Board identified CB as strategic priority in 2020. Authorized \$300,000 new staffing for CB function in Dec 2020 | Reviewed options in April 2021; plan to vote on CB ordinance in May 2021 | \$967,000 HR, Legal, Payroll |

Decision Point: To Engage in Formal Collective Bargaining or Not?



- What public need are we trying to address?
- What is the intended outcome?

- The County has strong incentives to find ways to ensure the smoothest route to attracting and retaining a quality workforce on mutually agreeable terms and conditions
- Does enabling collective bargaining provide a means by which this goal may be obtained?

No “One Size Fits All” Approach to Formal Collective Bargaining



- Public governing bodies create collective bargaining structures to meet the needs of their community and workforce
- These can differ greatly based on the structure of the government and the variety of services provided
- Must determine whether an ordinance enabling collective bargaining would contribute to any unmet needs of the community and/or the workforce

Decision Point: What Type of Formal Collective Bargaining?



- Meet and Confer
- Collective Bargaining Agreement

Formal Collective Bargaining

Option 1: Meet and Confer



- Provides a process and forum for labor representatives to regularly meet with senior County leadership and management within their departments
- The purpose of such meetings is to discuss and resolve workplace concerns and provide feedback on an array of topics related to their employment
 - Can take several forms, both formal and informal
- May include a governing Board policy, and/or regular reports to the Board, to include labor recommendations on various workplace issues
- May include a formal Labor-Management committee(s) and/or guaranteed seats for labor representatives on staff committees such as EAC, Policy, or Safety & Health Council
- Usually documented in a Memorandum of Understanding

Formal Collective Bargaining

Option 2: Traditional



- In traditional Collective Bargaining, management and labor union meet to negotiate a formal, legally binding Collective Bargaining Agreement (CBA)
- CBAs govern the terms and conditions of employment for bargaining unit employees and may replace general County policies and procedures on a bargaining unit by bargaining unit basis
- Requires creation and funding of administrative structure within County government to administer and facilitate collective bargaining process, including certification and decertification of exclusive bargaining representatives, contract negotiations and dispute resolution, among others

Recognizing Formal Bargaining Units



- Decide how many groups will be included as bargaining units
- Create a process for certification and decertification of exclusive bargaining representatives by:
 - (1) specified election procedures; or
 - (2) "administratively acceptable" evidence of the wishes of a majority of the bargaining unit
- Decide how to address supervisors

Certifying Exclusive Bargaining Representatives



- Certification typically occurs through a “representation election” to determine whether a majority of workers in a bargaining unit want to be represented by a specific union or no union at all
 - The new law does not require certification via a representation election
- The only guidance under the law is that the locality’s procedures for the certification and decertification of exclusive bargaining representatives must include:
 - Reasonable public notice, and
 - An opportunity for labor organizations to intervene in the process for designating an exclusive representative of a bargaining unit
- There are three required steps to certify bargaining representatives
 1. Identify recognized bargaining units
 2. Each bargaining unit votes as to whether they want to be represented
 3. Each bargaining unit votes to determine who will be their exclusive bargaining representative who can bargain on their behalf

Certifying Exclusive Bargaining Representatives (cont'd)



- No guidance is provided in the VA Code to define what constitutes “reasonable public notice” or an “opportunity to intervene”
 - In the labor relations profession, the term “intervenor” typically refers to a union which seeks to be on the ballot when another union has already petitioned for an election
 - The resolution or ordinance should outline procedures for such unions to intervene
- While the Code does not address the following, typically bargaining unit certification procedures would include:
 - Procedures for a “Showing of Interest”- the threshold a labor union must meet in order to trigger a Representation Election (e.g., a minimum of 10% of employees in the unit)
 - Election Procedures for a Representation Election

Work Conditions That Could Be Subject to Formal Collective Bargaining

- Wages
- Benefits
- Employee discipline and grievances
- Hours of work
- Staffing levels
- Working conditions
- Health and safety policies



Establishing Formal Bargaining Parameters



- Responsibility on both sides to "negotiate in good faith"
 - Meet at reasonable times
 - Due regard for budget development and adoption timetable
 - With intent to reach contract governing certain terms and conditions of the employment of members of the bargaining unit
- Specific bargaining representative duties and responsibilities
- Specific management duties and responsibilities
- Specified "prohibited conduct" for employers and bargaining representatives
 - Commonly referred to as "unfair labor practices"
- Management's commitments remain subject to BOCS appropriation

Questions?

