



PRINCE WILLIAM COUNTY

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MAY 24, 2022 BOARD MEETING ITEM 9A

9-A

May 18, 2022

TO: BOARD OF COUNTY SUPERVISORS

FROM: MICHELLE R. ROBL
County Attorney

ELIJAH T. JOHNSON
County Executive

RE: OVERVIEW OF FIRST DRAFT COLLECTIVE BARGAINING ORDINANCE

During the May 24, 2022, Board of County Supervisors ("Board") Meeting, we will review the first draft of the Collective Bargaining Ordinance for the Board's consideration. A full list of previous presentations given to the Board regarding collective bargaining is available at www.pwcva.gov/cbg.

In 2020, the General Assembly adopted Section 40.1-57.2, VA Code Ann., which allows Virginia counties, cities and towns to adopt a local ordinance authorizing collective bargaining with labor unions on behalf of identified public employees. Prior to this change in the law, collective bargaining for public sector employees was not authorized. The General Assembly provides very little guidance in the law, which does not establish a statewide labor board.

Because collective bargaining is new to the state, staff recommended during the February 8, 2022, Board meeting that the Board limit the conditions of employment over which it agrees to collectively bargain in its initial ordinance, with the understanding that the Board can expand the subjects of bargaining in the future once the impact of collective bargaining in Prince William County is known. The Board gave direction to staff to draft a Collective Bargaining Ordinance that identified three bargaining units, and authorized bargaining over wages and certain benefits. Based upon the Board's input and existing direction policy of the Board, staff has prepared the attached draft Collective Bargaining Ordinance for the Board's consideration.

A decision by this Board to authorize collective bargaining will fundamentally shift the relationship between the County and its employees, and may also significantly impact the provision of services to the public. A summary of the draft Collective Bargaining Ordinance is provided below and will serve as the primary discussion document on May 24.

Summary of Prince William County Collective Bargaining Ordinance

Background

The draft Prince William County Collective Bargaining Ordinance (“CBO”) was prepared with the goal of striking a balance between the right of employees to organize collectively and the right of the County to efficiently manage operations. Rather than adopting a “template” proposal, the draft CBO provides the County with the benefit of lessons learned from successful labor management relationships in other workplaces, both public and private, that have had collective bargaining in place for a number of years. For this reason, the draft CBO combines features of collective bargaining laws in a number of governmental jurisdictions outside of Virginia with “best practices” embedded in the federal National Labor Relations Act and the National Labor Relations Board operating procedures. Moreover, this draft CBO provides the Board with decades of experience and case law to assist in managing the collective bargaining process going forward.

Overview

Under the terms of the draft CBO, Prince William County employees seeking representation from a labor organization may present to the County evidence that at least 30% of the eligible employees in one of the three established Bargaining Units wish to be represented. The submission of this “showing of interest” triggers a process where the County and the labor organization jointly select a Dispute Resolution Neutral to administer a secret ballot election. If the majority of the employees in the bargaining unit vote in favor of union representation, the labor organization is certified as the exclusive representative of the employees for the purposes of collective bargaining (this is the same process that is used if employees want to change, or decertify, a labor organization).

Once the union is certified, the County and the labor organization meet to negotiate in good faith over wages and those benefits over which the County has exclusive control. The matters which are subjects of bargaining are specified in the CBO and have deliberately been kept relatively narrow in scope in an effort to allow the County and its employees to adjust to the collective bargaining process. Bargaining can begin on or after the April 1st of the year preceding the start of the fiscal year in which the collective bargaining agreement can take effect and must be completed by December 1st of that same year (for example, if the parties are negotiating an agreement for FY2025 (commencing July 1, 2024), negotiations can begin on or after April 1, 2023, and negotiations must be completed by December 1, 2023).

Once the parties reach agreement, it must be approved by both the Union membership and the Board. Prior to approval by the Board, the County Executive and the Office of Management and Budget must prepare a fiscal impact study on the impact of the collective bargaining agreement, which must be presented to the Board in a public meeting.

In the event the County and the Union are unable to reach agreement by September 15th, either party may declare an impasse. A declaration of impasse starts a process where the parties go to non-binding mediation in an effort to facilitate a resolution. If mediation is not successful, the parties then proceed to non-binding arbitration on both economic and non-economic issues. In non-binding arbitration, both sides submit final offers to an arbitrator, who chooses the offer they find most reasonable and makes a recommendation to the Board and the Union. The Board then has 60 days to accept or reject some or all of the arbitrator’s recommendation.

Bargaining Units

The CBO establishes three “Bargaining Units,” which are defined as a group of employees who share a community of interest and may reasonably be grouped together for purposes of collective bargaining. The three Bargaining Units are Police, Fire and Rescue, and General Service Employees. An employee can only be in one Bargaining Unit, and only one Labor Organization may represent each Bargaining Unit.

Exclusions

The CBO covers Full Time and Part Time benefitted County employees in the competitive service of the County, except for:

- Confidential employees;
- Managerial employees;
- Supervisory employees;
- Interns;
- Volunteers; and
- Certain persons employed in County-funded positions or agencies which are otherwise exempt from the competitive service.

Generally speaking, confidential employees are persons whose duties require access to confidential information and those who are involved in the formulation and administration of labor relations policy. Supervisory employees are those who hold day-to-day supervisory authority over others, including the authority to hire, fire, discipline, direct work, or resolve employee complaints, or to effectively recommend such actions. Managerial employees may be, but are not necessarily, supervisors. Managerial employees may, among other duties, oversee a department, formulate policy, or make personnel decisions.

Matters Subject to Collective Bargaining

The CBO requires that the County and an Exclusive Representative engage in bargaining over wages and certain benefits. Benefits provided or administered by the Commonwealth of Virginia over which the County does not have sole control, including benefits provided through the Virginia Retirement System, are not subject to collective bargaining.

Employee and County Rights

The CBO expressly reserves certain rights to employees and the County. Employees are granted the right to engage in collective bargaining over wages and certain benefits, as well as the right to refrain from such activities. Employees are also granted the right to be free from any prohibition on their ability to serve as volunteers outside of their County employment.

The County and Board of Supervisors retain certain exclusive rights to manage the County, and these reserved powers may not be subjects of collective bargaining. The County Executive also has the right to temporarily suspend all or part of any collective bargaining agreement for up to 30 days due to an operational or declared emergency. If the suspension lasts longer than 30 days, the Board must meet and decide whether to extend or discontinue the suspension.

Use of a Dispute Resolution Neutral

The CBO uses a "Dispute Resolution Neutral" model to administer elections and resolve disputes arising under the CBO in place of a Labor Relations Administrator or Labor Relations Officer (who is either a County employee or a contractor engaged by the County). A Dispute Resolution Neutral is an experienced labor relations professional jointly selected from a panel of names provided by the Federal Mediation and Conciliation Service. The Neutral is utilized on an as needed basis, and the Neutral's fee is shared equally by all parties to the dispute or participants in the certification election. This model is common in other jurisdictions and is similar to the model the County uses for mediation in right of way acquisitions for transportation projects.

Certification and Decertification of a Labor Organization

The CBO provides that a Labor Organization may seek to represent a Bargaining Unit by presenting evidence (in the form of a signed petition or signed authorization cards) that 30% of the eligible employees in the Bargaining Unit wish to be represented by the Labor Organization. After this information is

submitted to the County's Director of Human Resources, the County and the Labor Organization jointly select a Dispute Resolution Neutral to administer an in-person, secret ballot election. The election will generally be held within 45 days of the date on which the Neutral certifies that there has been an adequate showing of interest. If a Labor Organization obtains the votes of at least 50% + 1 of the eligible employees in the Bargaining Unit, it becomes certified as the Exclusive Representative of the employees in the Bargaining Unit.

The process for decertifying an Exclusive Representative is similar to that for certification. A decertification petition must be supported by a 30% showing of interest, and a secret ballot election, administered by a Dispute Resolution Neutral, is held within 45 days of a determination that there is a sufficient showing of interest. If 50% + 1 of the eligible employees in the Bargaining Unit vote in favor of decertification, the Exclusive Representative is decertified immediately upon certification of the election results. If the Board elects to change some part of this, staff strongly recommends the same process be utilized for certification and decertification of a Labor Organization.

Collective Bargaining Process

Once an Exclusive Representative has been certified following an election, the County and the Exclusive Representative are required to bargain in good faith for the purpose of entering into a collective bargaining agreement. The County and the Exclusive Representative may have teams of up to five persons, and employee members of the teams will be paid for negotiations that take place during their normal work hours.

Collective bargaining may begin on or after April 1st of the year preceding the fiscal year in which the collective bargaining agreement will take effect. For example, if the parties are negotiating an agreement for FY2025 (commencing July 1, 2024), negotiations can begin on or after April 1, 2023. Negotiations must be completed by December 1st of that same year.

If the parties reach agreement on the terms of a collective bargaining agreement, it is reduced to writing and presented to the employee members of the Bargaining Unit and the Board of Supervisors for ratification. Prior to ratification by the Board, a fiscal impact study of the tentative agreement must be prepared by the County Executive and the Office of Management and Budget and presented to the Board at a properly scheduled public Board meeting.

Impasse Resolution

If an Exclusive Representative and the County are unable to reach agreement on the terms of a collective bargaining agreement by September 15th, either party may declare an impasse. The declaration of impasse then triggers a mediation process before a mediator appointed by the Federal Mediation and Conciliation Service. Any costs associated with the mediation are shared equally.

If the mediator is unable to facilitate agreement on the terms of a new collective bargaining agreement by October 15th, either party may declare an impasse and the parties then proceed to non-binding arbitration before a Dispute Resolution Neutral. Each party shares the fee of the Neutral. The parties are required to submit their final offers to the Neutral, who may hold a hearing and take evidence in support of the parties' respective offers. The Neutral is required to issue a report to the Board and the Exclusive Representative selecting the final offer which they determine to be more reasonable when viewed as a whole.

The Board is required to accept or reject the Dispute Resolution Neutral's final report within 60 days of receipt. The Board has the discretion to accept some parts of the report and reject others. Ultimately, the Board retains the final authority, control, and flexibility to make decisions on both financial and non-financial terms.

Unfair Labor Practices

The CBO includes a series of County and Labor Organization unfair labor practices that closely follow the language of the National Labor Relation Act. If a party believes that the County or a Labor Organization has committed an unfair labor practice, it may serve a sworn complaint on the alleged offending party. The parties are then required to select a Dispute Resolution Neutral to hear the dispute and issue a written finding. The finding may be appealed to the Circuit Court for Prince William County in accordance with the provisions of the Uniform Arbitration Act.

Impact of CBO on Volunteers

The CBO expressly provides that neither the statute nor any collective bargaining agreement may limit the County's ability to use volunteers or an employee's ability to provide volunteer services outside of their County employment.

Union Dues Deduction Authorizations

The CBO provides that no employee can be compelled to join a Labor Organization or pay dues or service fees to a Labor Organization. Additionally, no Union dues may be deducted from an employee's pay without their written authorization, which is revocable with 30 days written notice.

Attachment: Draft Collective Bargaining Ordinance

PRINCE WILLIAM COUNTY DRAFT COLLECTIVE BARGAINING ORDINANCE 5/24/22

SHORT TITLE

This Chapter shall be known and cited as the “Prince William County Collective Bargaining Ordinance.”

DEFINITIONS

In this section, the following words have the meanings indicated.

“Board of County Supervisors” or “Board” means the Prince William Board of County Supervisors.

“Bargaining Unit” is a group of employees who share a community of interest and may reasonably be grouped together for purposes of collective bargaining.

“Collective Bargaining” means the performance by an Exclusive Representative and the County of their mutual obligations to meet at reasonable times and to negotiate in good faith with respect to wages and certain benefits, or the negotiation of an agreement with respect to wages and certain benefits, or any questions arising under an agreement, and the execution of agreements incorporating the terms agreed upon by both parties. In the performance of this obligation, neither party shall be compelled to agree to a proposal or be required to make a concession to the other. Any agreement reached by collective bargaining shall be subject to approval, budgeting, and annual appropriation of funds by the Board.

“Confidential Employee” means an employee whose job duties require access to confidential, budgetary or fiscal information, personnel data, management emails or strategy relevant to subjects of collective bargaining as set forth in this Chapter or an employee in any department who assists in a confidential capacity or persons who formulate, determine, or effectuate management policies in the field of labor relations. Confidential Employees include, but are not limited to, employees who work in or for:

- The Board of County Supervisors - including any staff assigned or budgeted to a Board member’s office;
- The Office of the County Executive;
- The Office of the County Attorney;
- The Office of Human Resources, the Department of Information Technology, or any other department, office, agency, or position in which an employee has authorized access to confidential County personnel information;
- The Office of Management and Budget; and
- The Payroll Office in the Department of Finance.

“County” means Prince William County acting through its County Executive or the County Executive’s designee.

“Dispute Resolution Neutral” or “Neutral” means an experienced labor relations professional selected in accordance with Section XX of this Chapter.

“Employee” means a full-time or part-time, benefitted employee in the competitive service of the County, as defined in Chapter 19 of the County Code, or any revisions thereto, except it does not include anyone who is:

1. A Confidential Employee, as defined in this section;
2. A Managerial Employee, as defined in this section;
3. A Supervisory Employee, as defined in this section;
4. An intern or volunteer; and/or
5. Any County-funded, full-time equivalent position embedded in a state, constitutional, or other department, agency, or office exempt from the competitive service as defined in Chapter 19 of the County Code, or any revisions thereto.

“Exclusive Representative” means a Labor Organization which has been selected by employees and recognized by the County as representing the employees in a Bargaining Unit as defined in Section XX of this Chapter.

“Impasse” means failure of the County and an Exclusive Representative to achieve agreement in the course of collective bargaining.

“Labor Organization” means any organization which has as one of its primary purposes representing employees in collective bargaining.

“Managerial Employee” means any County employee who:

1. has responsibility for a County division, department, office, or agency, or a unit or sub-unit of a County division, department, office, or agency;
2. participates in the formulation of management policy;
3. is significantly engaged in executive or management functions or charged with the responsibility of directing the implementation of management policies, procedures, or practices; or
4. is materially involved as a decision maker in personnel decisions, including, but not limited to, staffing, reductions-in-force/layoffs, reorganizations, hiring, discipline, evaluations, pay, assignments, transfers, promotions, or demotions.

“Mediation” means assistance by an impartial third party to reconcile a dispute arising out of collective bargaining through interpretation, suggestion, and advice.

“Strike” means an employee of the County who, in concert with two or more other County employees, for the purpose of obstructing, impeding, or suspending any activity or operation of their employing agency or any other governmental agency, willfully refuses to perform the duties of their employment.

“Supervisory Employee” means an employee having authority in the interest of the County to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees; or responsibility to direct them; or to adjust their grievances; or effectively to recommend such action, if the exercise of this authority is not merely of a routine or clerical nature, but requires the exercise of independent judgment.

EMPLOYEE RIGHTS

A. Employees shall have the right to organize, form, join, or assist Labor Organizations, to bargain collectively through an Exclusive Representative of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining over wages and certain benefits (exclusive of those benefits set forth in subsection XXB), and shall also have the right to refrain from any or all such activities. However, refraining from any or all such activities does not include the right to be excluded from coverage by the terms and conditions of a collective bargaining agreement applicable to a Bargaining Unit.

B. The County shall not be required to engage in collective bargaining with an Exclusive Representative concerning any benefits provided or administered solely by the Commonwealth of Virginia through the Virginia Retirement System or any other benefits established and administered in accordance with the Code of Virginia over which the County does not have sole control.

C. Nothing in this section shall prohibit an employee from presenting, discussing, or resolving any personnel matter directly with the County and without the intervention of an Exclusive Representative, provided that any adjustment of the matter between an employee and the County without participation of the Exclusive Representative shall not be inconsistent with the terms of any applicable collective bargaining agreement.

COUNTY AND BOARD OF COUNTY SUPERVISOR RIGHTS

A. This Chapter shall not be deemed in any way to limit or diminish the authority of the Board of County Supervisors to fully manage and direct the operations and activities of the County as authorized and permitted by law. Thus, the Board retains exclusive rights, which shall be considered prohibited subjects of bargaining, including the below-enumerated rights:

1. to determine the organization of County government and the purpose and mission of its constituent departments, agencies, and offices, to set standards of service to be offered to the public, to provide for certain levels of service, and to add, delete, modify, reorganize, or suspend programs, functions, divisions, agencies, offices, and departments as the Board or County Executive determines to be necessary and/or appropriate;
2. to determine the job descriptions for each County employee position, the manner in which services are to be provided, and determine the number of positions or full-time-equivalents (“FTE”);
3. to introduce new or different services, methods, equipment, or facilities;

4. to determine the kind, type, location, and use of County-owned equipment or facilities, provided that the County does not require the use or operation of unsafe equipment or materials;
5. to set customer service standards for County operations;
6. to suspend, demote, terminate the employment of, or take disciplinary action against, employees;
7. to establish, implement, modify, and eliminate work schedules;
8. to determine, increase, or decrease staffing levels, including the right to abolish one or more departments, agencies, offices, and divisions, and to lay off employees;
9. to contract and/or subcontract County services;
10. to establish, maintain, modify, and eliminate the qualifications of employees for hiring, appointment, and promotions, including, but not limited to, the right to require background checks, mandatory drug tests, physical ability and/or agility tests; and fitness for duty evaluations;
11. to establish, maintain, modify, and eliminate standards of conduct;
12. to establish, maintain, modify, and eliminate work safety rules, in accordance with all federal, state, and County laws, ordinances, codes, requirements, policies, and regulations;
13. to approve or deny secondary employment requests;
14. to establish, maintain, modify, or eliminate written directives, including policies, work rules, regulations, and procedures; and
15. to provide a system of merit employment in accordance with Chapter 19 of the Prince William County Code and any revisions thereto.

B. In accordance with Virginia Code § 40.1-57.2 (B), nothing in this Chapter or any collective bargaining agreement shall be deemed to restrict the Board's authority to establish the budget or appropriate funds.

C. Nothing in this Chapter shall be deemed to limit the County's right to enlist volunteers to provide assistance to the County, nor may any collective bargaining agreement include a provision that limits the right of employees to provide volunteer services outside of their County employment.

D. Notwithstanding the provisions of any collective bargaining agreement, the County retains the right to temporarily suspend one or more provisions of such agreement for reasons including, but not limited to, a terrorist attack, pandemic, natural disaster, or other operational or declared

emergency, as determined by the County Executive. In the event that the suspension continues for a period in excess of 30 days, the County Executive must place the suspension on the agenda of a scheduled public Board meeting no later than 60 days after the suspension begins, for the Board to determine whether to extend or discontinue the suspension in full or in part.

EMPLOYEE BARGAINING UNITS

There shall be the following permissible Bargaining Units. No other Bargaining Unit or sub-unit may be recognized by the County. The County shall determine whether an employee or employee classification is to be included in a Bargaining Unit. A Labor Organization may appeal the County's determination to the Dispute Resolution Neutral for a final and binding decision.

A. Police. The police Bargaining Unit shall consist of uniformed, sworn law enforcement officers employed by the County, but excluding those eligible for the fire and rescue Bargaining Unit, civilian employees, public safety communication employees, and those excluded in Section XX.

B. Fire and Rescue. The fire and rescue Bargaining Unit shall consist of the uniformed, sworn fire and rescue employees employed by the County, but excluding those eligible for the police Bargaining Unit, civilian employees, public safety communication employees and those excluded in Section XX.

C. General Service Employees. The general service employees Bargaining Unit shall consist of those employees employed by the County, excluding employees eligible for the police and fire and rescue Bargaining Units and those employees excluded in Section XX.

APPOINTMENT OF DISPUTE RESOLUTION NEUTRAL

A. Whenever a situation or dispute arises for which this Chapter authorizes the appointment of a neutral person, the parties to the dispute shall promptly select an experienced labor relations professional to administer the proceeding. This person shall be referred to as the Dispute Resolution Neutral.

B. If, within 15 days of the date on which a party is notified in writing by another party of the existence of a dispute, the parties to the proceeding are unable to reach an agreement on the appointment of the Dispute Resolution Neutral, they shall secure a list of the names of at least seven, but not more than 11, individuals from the Federal Mediation and Conciliation Service.

C. The parties to the dispute shall attempt to reach an agreement on the appointment of one of the persons named on the list. If they are unable to reach an agreement, each party to the dispute, in order determined by a coin flip, shall alternately strike names from the list until one name remains, who shall be the Dispute Resolution Neutral.

D. The Dispute Resolution Neutral shall be compensated at a daily rate to be determined by the parties to the dispute at the time of their appointment. The Neutral person's fee shall be shared equally by all parties to the dispute.

CERTIFICATION AND DECERTIFICATION OF EXCLUSIVE BARGAINING REPRESENTATIVE

A. There can be only one Exclusive Representative for each recognized Bargaining Unit.

B. The Request for Certification/Decertification process is as follows:

1. A Labor Organization seeking certification as the Exclusive Representative of a Bargaining Unit must submit to the County's Director of Human Resources a request for certification that includes a showing of interest (by presenting signed authorization cards or a petition with employee signatures) supported by at least 30% of the Bargaining Unit employees indicating their desire to be represented by the Labor Organization for purposes of Collective Bargaining. No request for certification may be filed prior to January 1, 2023.
2. Any eligible employee in a Bargaining Unit may submit to the County's Director of Human Resources a request for decertification of the Exclusive Representative that includes a showing of interest (by presenting signed authorization cards or a petition with employee signatures) supported by at least 30% of the Bargaining Unit employees indicating their desire to decertify the Exclusive Representative.
3. No authorization card or employee signature may be accepted as evidence of a desire to certify or decertify a Labor Organization if it was signed more than 12 months prior to the date on which the request is submitted to the County's Director of Human Resources.
4. Upon receipt of a request for certification or decertification, the County and the party requesting certification or decertification shall meet for the purpose of selecting a Dispute Resolution Neutral in accordance with Section XX of this Chapter. Such meeting shall occur within 15 days of the County's receipt of the request for certification or decertification, unless the parties agree to extend the timeframe for meeting. The Dispute Resolution Neutral selected by the parties shall be responsible for determining the adequacy of the showing of interest and, if appropriate, administering a certification or decertification election.
5. Upon determination by the Dispute Resolution Neutral of adequate support for a request for certification or decertification, the County's Director of Human Resources will provide public notification of the request. Any additional interested Labor Organization must submit a petition of intervention to the County's Director of Human Resources and the Dispute Resolution Neutral, which must be accompanied by authorization cards or a showing of interest petition signed by not less than 30% of the employees in a recognized Bargaining Unit within 10 days of the publication of the notice of pending election.
6. The Dispute Resolution Neutral will establish procedures for a secret ballot, in-person election in consultation with the County and a Labor Organization that has presented a sufficient showing of interest. The election may take place by mail ballot only if agreed to by the parties or ordered by the Dispute Resolution Neutral. The election will begin no later than 45 days after the Dispute Resolution Neutral finds an adequate showing of interest, unless a longer period is agreed to by the parties or ordered by the Dispute Resolution Neutral.

7. The Dispute Resolution Neutral shall preside over the election. The election may include observers as approved by the Dispute Resolution Neutral.
8. Eligible voters must be employed in the Bargaining Unit as of the date of the election.
9. The question(s) on the ballot will read: "Do you wish to be represented for purposes of collective bargaining by [Name of Labor Organization]?" followed by "yes" or "no" for each participating Labor Organization (with an accompanying instruction to vote "yes" for no more than one).
10. If a Labor Organization receives the votes of at least 50%+1 of the eligible employees in the Bargaining Unit, it shall be certified by the Dispute Resolution Neutral and recognized by the County as the Exclusive Representative of all employees in the Bargaining Unit for purposes of collective bargaining. No Exclusive Representative may be certified unless it receives the votes of at least 50%+1 of the eligible employees in the Bargaining Unit.
11. Recognition of the Exclusive Representative is valid from initial certification by the Dispute Resolution Neutral until the certification of the results of a decertification election in which the majority of employees in the Bargaining Unit have voted in favor of decertification.
12. An Exclusive Representative shall be deemed decertified only after a secret ballot election held in accordance with the procedures set forth in this Section XX. No Exclusive Representative may be decertified unless at least 50%+1 of the eligible employees in the Bargaining Unit vote in favor of decertification. If the result of the vote is in favor of decertification, it shall take effect immediately upon the certification of the election results by the Dispute Resolution Neutral.
13. No election under this section may be conducted within 12 months of the certification of the results of a previous election.
15. Any Labor Organization which has or seeks certification as an Exclusive Representative shall file with the County's Director of Human Resources a copy of the organization's current constitution and bylaws within 15 days of submitting a request for certification to the County Human Resources Office. All changes and amendments to the Exclusive Representative's constitution and bylaws shall be filed with the County's Director of Human Resources no later than 15 days after the effective date of such amendment. Any Labor Organization that fails to comply with the requirements of this subsection XX may not be or remain certified as an Exclusive Representative.

COLLECTIVE BARGAINING

A. The County and an Exclusive Representative shall have a duty to bargain in good faith for the purpose of entering into a collective bargaining agreement. All collective bargaining shall occur only between the parties' respective designated representatives.

B. The County shall designate at least one, but not more than five, individuals to represent the County in collective bargaining.

C. The Exclusive Representative shall designate at least one, but not more than five, individuals to represent the Exclusive Representative in collective bargaining.

D. The County or the Exclusive Representative may initiate a request to engage in collective bargaining by submitting a written request to the other party.

E. The parties shall meet at reasonable times.

F. Employee members of an Exclusive Representative's team in collective bargaining negotiations will be compensated only if the negotiations take place during hours that the employee is scheduled to work. Employee members planning to participate directly as members of an Exclusive Representative's collective bargaining team during scheduled work hours must obtain pre-approval for the hours not worked in accordance with the applicable County leave policy. An employee member of an Exclusive Representative's team will not be compensated for hours bargaining when those hours do not overlap with hours that the employee is regularly scheduled to work.

G. Negotiations for a collective bargaining agreement may not begin until on or after April 1st of any year when an agreement is sought to be effective at the beginning of the next fiscal year. Any tentative collective bargaining agreement that affects the County's budget process and is intended to begin at the start of the upcoming fiscal year must be received by the Board of County Supervisors by December 1st of the year preceding the commencement of the upcoming fiscal year.

H. The County and the Exclusive Representative shall be required to engage in collective bargaining over wages and certain benefits, except for those benefits set forth in Section XX. The benefits set forth in Section XX of Employee Rights, as well as those subjects set forth in Section XX, County and Board of County Supervisor Rights, shall be considered prohibited subjects of Collective Bargaining.

I. A collective bargaining agreement is not valid if it extends for less than one year or for more than four years, but agreement extensions may be shorter while the parties continue to negotiate.

J. A collective bargaining agreement may include a grievance and arbitration procedure for the interpretation of contract terms and the resolution of disputes arising under the agreement. If a collective bargaining agreement includes such a procedure, it shall be the exclusive method for resolution of disputes arising out of an alleged violation or interpretation of a provision(s) of the

agreement. A Dispute Resolution Neutral required by procedures included in an agreement as set forth in this section must be selected pursuant to Section XX.

UNION DUES AND CHECKOFF

A. No agreement between the County and an Exclusive Representative shall compel an employee to become or remain a member of the Exclusive Representative's Labor Organization, or to pay union dues or membership fees.

B. Any agreement between the County and an Exclusive Representative that an employee's union dues may be deducted from the employee's pay shall not be valid and enforceable unless an employee signs and dates a written authorization permitting such deductions to be made from their paycheck. All such authorizations shall be revocable by the employee by providing the Exclusive Representative and the County Payroll Office written notice not more than 30 days in advance of the effective date of the revocation.

IMPASSE RESOLUTION

A. Mediation

1. If the Exclusive Representative and the County are unable to reach an agreement on or before September 15th of the year preceding the commencement of the upcoming fiscal year, either party may seek mediation through the Federal Mediation and Conciliation Service.
2. A party seeking Mediation shall provide written notice to the other parties and the Federal Mediation and Conciliation Service at least 15 days before the anticipated first mediation meeting.
3. The parties shall share the costs of the services of the mediator equally.
4. Costs incurred by a party to prepare, appear, or secure representation, expert witnesses, or evidence of any kind shall be borne exclusively by that party.
5. The parties shall engage in Mediation for period of at least 15 days unless the parties mutually agree in writing to the termination or extension of the Mediation or reach an agreement.
6. The contents of a Mediation proceeding under this subsection XX may not be disclosed by the parties or the mediator, unless otherwise required by law.

B. Arbitration

1. If the Exclusive Representative and the County have not reached an agreement on or before October 15th of the year preceding the commencement of the upcoming fiscal year, or any later date determined by mutual agreement of the parties:

- a. Any party may declare an Impasse;
 - b. Within three days of the declaration of Impasse, the parties shall select a Dispute Resolution Neutral in accordance with the requirements of Section XX of this Chapter. The costs associated with the Neutral shall be shared equally by the County and the Exclusive Representative.
2. On or before November 1st of the year preceding the commencement of the upcoming fiscal year, or any later date determined by mutual agreement of the parties, the parties shall submit to the Dispute Resolution Neutral:
 - a. A joint memorandum listing all items to which the parties previously agreed; and
 - b. A memorandum setting forth each party's final offer presented in negotiations on all items to which the parties previously did not agree.
3. Closed Hearing
 - a. On or before November 15th of the year preceding the commencement of the upcoming fiscal year, or any later date determined by mutual agreement of the parties, the Dispute Resolution Neutral shall hold a closed hearing on the parties' proposals at a time, date, and place within Prince William County selected by the Dispute Resolution Neutral.
 - b. At a hearing, each party may submit evidence and make oral and written arguments in support of the party's last final offer. The parties must exchange copies of all exhibits no later than three days before the hearing.
4. Once the parties have submitted their positions into the record, each party shall have an opportunity to revise its final offer before the record is closed and the matter is submitted to the Dispute Resolution Neutral for a determination.
5. On or before December 1st of the year preceding the commencement of the upcoming fiscal year, or any later date determined by mutual agreement of the parties, the Dispute Resolution Neutral shall issue a final report:
 - a. Selecting the final offer submitted by the party that the Dispute Resolution Neutral determines to be more reasonable when viewed as a whole; and
 - b. Stating the reasons that the Dispute Resolution Neutral found the final offer to be more reasonable.
6. In determining which final offer is more reasonable, the Dispute Resolution Neutral shall only consider:

- a. Past collective bargaining agreements between the parties, including the bargaining history that led to the collective bargaining agreement and the pre-collective bargaining history;
- b. A comparison of wages and certain benefits of Bargaining Unit employees in other jurisdictions in the Commonwealth of Virginia;
- c. A comparison of wages and certain benefits of employees working for Prince William County;
- d. The costs of the respective proposals of the parties;
- e. The condition of the County's General Operating Fund, the County's ability to finance any economic adjustments required under the proposed collective bargaining agreement consistent with the Board's Principals of Sound Financial Management, and the potential impact of the parties' final offers on the County's bond rating;
- f. The annual increase or decrease in consumer prices for goods and services as reflected in the most recent Consumer Price Index for the Washington-Arlington-Alexandria, DC-VA-MD-WV Metropolitan Statistical Area published by the Federal Bureau of Labor Statistics;
- g. The annual increase or decrease in the cost of living in Prince William County;
- h. Recruitment and retention data for Bargaining Unit employees;
- i. The special nature of the work performed by the employees in the Bargaining Unit, including hazards of employment, physical requirements, educational qualifications, job training and skills, shift assignments, and the demands placed on those employees as compared to other County employees;
- j. The interest and welfare of the public and the employees in the Bargaining Unit; and
- k. Joint stipulations of the parties regarding any of the items under this subsection XX.

7. The Dispute Resolution Neutral may not:

- a. Receive or consider the history of collective bargaining related to the immediate dispute, including any offers of settlement not contained in the final offer submitted to the Dispute Resolution Neutral, unless the parties mutually agree otherwise in writing; or

- b. Combine final offers or alter the final offer that the Dispute Resolution Neutral selects, unless the parties mutually agree otherwise in writing.
- 8. Final Report of Dispute Resolution Neutral:
 - a. The Dispute Resolution Neutral shall submit the final report issued under subparagraph XX of this subparagraph to the Board and the Exclusive Representative.
 - b. The recommendations of the Dispute Resolution Neutral are not binding on the Board or the Exclusive Representative.
 - c. The Board of Supervisors shall accept or reject the Dispute Resolution Neutral's recommendations within 60 days after the submission of the report to the parties under subsection XX.
- 9. Costs incurred by a party to prepare, appear, or secure representation, expert witnesses, or evidence of any kind shall be borne exclusively by that party.
- 10. Nothing in this subsection XX shall be construed to prohibit the parties from reaching a voluntary settlement on any unresolved issues at any time before or after the issuance of the recommendations by the Dispute Resolution Neutral.

C. Effect of Impasse on Existing Collective Bargaining Agreement

- 1. If a collective bargaining agreement expires after the Exclusive Representative has given notice of its desire to enter into collective bargaining for a successor collective bargaining agreement, the terms and conditions of the prior collective bargaining agreement shall remain in effect until the earlier of:
 - a. The parties reaching a new agreement; or
 - b. 90 days from the date the County or Exclusive Representative reject the Dispute Resolution Neutral's recommendations.
- 2. If the parties fail to reach a new agreement within the 90-day time period under subsection XX, the terms and conditions of the prior collective bargaining agreement shall cease to be effective.
- 3. Any provision in a collective bargaining agreement providing for an adjustment in pay/wages during the term of the agreement shall not remain in effect after the expiration of the collective bargaining agreement.

APPROVAL OF TENTATIVE AGREEMENT

A. When an Exclusive Representative and the County reach a tentative agreement, they shall reduce it to a written collective bargaining agreement.

B. A collective bargaining agreement is not effective until it is ratified by:

1. The Board; and
2. A majority of the votes cast by the members of the Bargaining Unit in a ratification vote conducted by the Exclusive Representative.

C. A modification to an existing collective bargaining agreement is not effective until it is ratified by:

1. The Board; and
2. A majority of the votes cast by the members of the Bargaining Unit in a ratification vote conducted by the Exclusive Representative.

D. No collective bargaining agreement or modification to a collective bargaining agreement shall be effective or enforceable unless, prior to ratification by the Board, a fiscal impact study of the tentative collective bargaining agreement has been prepared by the County Office of Management and Budget and presented to the Board at a public Board meeting.

E. After an agreement or modification to an existing agreement has been ratified in accordance with subsections XX or XX, it shall be signed by the County Executive and an authorized representative(s) of the Exclusive Representative.

STRIKES

A. Pursuant to Virginia Code § 40.1-55, any employee of the County who, in concert with two or more other such employees, strikes or willfully refuses to perform the duties of their employment shall be deemed by that action to have terminated their employment and shall be ineligible for employment by the County in any position or capacity during the next 12 months after the conclusion of the strike.

B. Any Labor Organization determined to have violated this section XX shall cease to be accorded recognition under this Chapter and shall cease to receive from the County any dues or fees collected by paycheck withholding for one year.

UNFAIR LABOR PRACTICES

A. County Unfair Labor Practices. It shall be an unfair labor practice for the County to engage in the following conduct:

1. Interfere with, restrain, or coerce employees in the exercise of their rights guaranteed under this Chapter;
2. Dominate or interfere with any Labor Organization or contribute financial support to it;
3. Discriminate in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any Labor Organization;
4. Discharge or otherwise discriminate against an employee because of their exercise of rights under this Chapter, including for giving information or testimony in related processes; or
5. Fail or refuse to negotiate in good faith with an Exclusive Representative.

B. Labor Organization Unfair Labor Practices. It shall be an unfair labor practice for a Labor Organization or its representative or agent to engage in the following conduct:

1. Interfere with, restrain, or coerce employees in the exercise of their rights guaranteed by this Chapter;
2. Deny membership in a Labor Organization or fail to represent an employee because of their participation in volunteer activities or their race, color, religion, sex, national origin, age, disability, political affiliation, sexual orientation, gender identity, genetic information, status as a service-disabled veteran, or any other basis prohibited by federal, state, or County law, ordinance, code, or regulation;
3. Fail to fairly represent an employee in a Bargaining Unit for which the Labor Organization is the Exclusive Representative concerning matters within the scope of Collective Bargaining and without regard to membership in the Labor Organization or dues-paying status;
4. Fail or refuse to negotiate in good faith with the County;
5. Retaliate against any employee for exercising their rights set forth in this Chapter, including filing charges against the Labor Organization or refusing to participate in Labor Organization activities; or
6. Violate Virginia Code § 40.1-55 and/or the provisions of Section XX of this Chapter.

C. Procedure

1. In the event that a claim is made that an unfair labor practice has been committed by either the County or a Labor Organization, the complaining party shall serve the other party with a verified complaint setting forth a detailed written statement of the alleged unfair labor practice no later than 30 days after the occurrence of the alleged unfair labor practice. The responding party shall have the right to serve a written answer to the complaint within ten days after service of the complaint. The complaint and answer shall be served by email and regular mail.
2. The parties shall submit the unfair labor practice to a Dispute Resolution Neutral selected in accordance with the requirements of Section XX of this Chapter. The costs associated with the Neutral shall be shared equally by the parties.
3. The Dispute Resolution Neutral shall have the following authority with respect to the investigation and adjudication of unfair labor practice charges and determination of remedies for unfair labor practices:
 - a. After reviewing the complaint and any answer thereto, the Dispute Resolution Neutral may issue an order dismissing the complaint or schedule an evidentiary hearing at a designated time and place within Prince William County.
 - b. If a hearing is ordered, the Dispute Resolution Neutral may issue subpoenas, administer oaths, and take testimony and other evidence.
4. The Dispute Resolution Neutral shall issue written findings and conclusions. If the Dispute Resolution Neutral finds that a party has violated one or more of the provisions of this Section, they may issue an order directing the party to cease and desist engaging in the violation and may order such other reasonable affirmative relief as is necessary to remedy the violation.
5. Any party aggrieved by a decision of a Dispute Resolution Neutral issued pursuant to this section XX may, within 21 days from the date such decision is issued, appeal to the Circuit Court for Prince William County to obtain judicial review pursuant to the Uniform Arbitration Act, Virginia Code §§ 8.01-581.01 *et. seq.*

CONFLICTS; GOVERNING LAW

- A. In the event of conflict with other County ordinances, the provisions of this Chapter shall govern. In the event of a conflict with any state or federal law or regulation applicable to the County and the subject matter of this Chapter, state or federal law or regulation shall prevail unless such law or regulation provides otherwise.
- B. The policies and procedures, administrative directives, and workplace practices of the County and its departments, agencies, offices, and divisions shall govern employee relations

unless there is a direct conflict with a collective bargaining agreement approved by the Board. Where a direct conflict exists, the collective bargaining agreement shall govern.

- C. Any collective bargaining agreement approved by the Board pursuant to this Chapter shall be governed and interpreted in accordance with the Constitution and laws of the Commonwealth of Virginia and this Chapter.
- D. In the event of a conflict between a collective bargaining agreement and this Chapter, this Chapter, as may be amended, shall govern.

COMPUTATION OF TIME

A. In general. In computing a period of time described in this Chapter, the day of the event or action after which the designated period of time begins to run shall not be included.

B. Last day. The last day of the period of time computed under subsection A of this section shall be included unless it is a Saturday, Sunday, or County holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, or County holiday.