

HOUSE BILL 1554

D2, L2

0lr2651

By: **Delegates Attar, Anderson, T. Branch, Conaway, Haynes, and Rosenberg**

Introduced and read first time: February 7, 2020

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City – Police Department – Collective Bargaining and Arbitration**

3 FOR the purpose of altering the matters for which certain employee organizations
4 representing certain Baltimore City police officers or the City of Baltimore may
5 request arbitration; altering the content of certain information that the Baltimore
6 City Labor Commissioner or a certain designee is required to provide to certain
7 individuals; repealing certain provisions limiting the matters that may be arbitrated
8 and prohibiting the board of arbitration from providing for certain issues; requiring
9 the adoption of certain financial terms of employment, rather than only salary and
10 wage scales, for certain police officers under certain circumstances; submitting this
11 Act to a referendum of the qualified voters of Baltimore City; defining a certain term;
12 altering certain definitions; making conforming and stylistic changes; and generally
13 relating to collective bargaining and arbitration between certain police officers and
14 the City of Baltimore.

15 BY repealing and reenacting, with amendments,
16 The Public Local Laws of Baltimore City
17 Section 16–8A
18 Article 4 – Public Local Laws of Maryland
19 (1979 Edition and 1997 Supplement, and 2000 Supplement, as amended)
20 (As enacted by Chapter 600 of the Acts of the General Assembly of 2011)

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

23 **Article 4 – Baltimore City**

24 16–8A.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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]~~ **ADMITS** to membership rank and file employees in addition to supervisory and/or professional employees; or

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

~~[(3)] (C)~~ (1) (i) [1.] In this [paragraph] **SUBSECTION** and for purposes of arbitration~~["direct compensation"]~~ **THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(II) **"FINANCIAL TERMS OF EMPLOYMENT"** means wages, salaries, longevity, shift differential, bonuses if applicable, ~~[and]~~ leave with monetary value, **SPECIALTY PAY, ACTING OUT OF TITLE PAY, EDUCATIONAL INCENTIVES, OR ANY OTHER ITEM HAVING MONETARY VALUE.**

[2. "Direct compensation" does not include:]

(III) **"OTHER TERMS OF EMPLOYMENT" MEANS:**

[A.] 1. Pensions or any benefit that is to be paid on or after an employee's retirement or termination of employment; or

[B.] 2. [Issues that do not relate to direct compensation] **ALL OTHER TERMS AND CONDITIONS OF EMPLOYMENT**, 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.

(IV) **"TERMS OF EMPLOYMENT" MEANS:**

1. **THE FINANCIAL TERMS OF EMPLOYMENT; AND**

2. **THE OTHER TERMS OF EMPLOYMENT, INCLUDING**

**WORKING CONDITIONS LISTED IN A MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY AND POLICE OFFICERS OF BALTIMORE CITY.**

[(ii)] (2) 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] TERMS OF EMPLOYMENT** 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] SUBSECTION**, which request must be honored.

[(iii) 1.] (3) (I) 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.

(II) The two members appointed by the Mayor and the employee organizations shall be selected within 4 days of the request for arbitration.

(III) 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.

(IV) All of the arbitrators on the list furnished by the American Arbitration Association must be members of the National Academy of Arbitrators.

(V) Unless the parties mutually agree on the third arbitrator, the parties alternately shall strike names from the list until one name remains.

(VI) The party requesting arbitration shall strike the first name.

(VII) The third member selected is the chairman of the board of arbitration.

[2.] (4) (I) [The] SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, 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.

(II) For good cause the chairman may extend any of the time requirements **[set forth herein] SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH.**

[(iv)] (5) 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

1 detailed itemization of the last proposal made by each of the respective parties during the
2 negotiations with respect to issues of [direct compensation] **TERMS OF EMPLOYMENT**.

3 [(v) The provisions of this paragraph governing interest arbitration
4 for police officers shall apply only to the terms of collective bargaining agreements directly
5 relating to direct compensation. The provisions of this paragraph may not be construed as
6 being contradictory to the provisions of the General Orders. If there is a dispute over
7 whether an issue is an issue of direct compensation, the board of arbitration shall decide
8 the issue and the decision by the board of arbitration is final and binding on both parties.]

9 [(vi) 1.] **(6) (I)** The board of arbitration shall identify the
10 major issues in the dispute, review the positions of all parties, and base the award on the
11 following factors:

12 [A.] 1. The lawful authority of the City;

13 [B.] 2. The financial conditions of the City;

14 [C.] 3. The stipulations of the parties;

15 [D.] 4. The terms of the existing collective bargaining
16 agreement negotiated between the parties in the past providing for [direct compensation]
17 **TERMS OF EMPLOYMENT** for employees involved in the arbitration proceeding;

18 [E.] 5. The overall compensation and benefits paid to the
19 employees involved in the arbitration proceeding, whether reached by a collective
20 bargaining agreement or otherwise, including any increased cost to the City for providing
21 the benefits;

22 [F.] 6. The terms and conditions of other employees of the
23 Mayor and City Council of Baltimore, including both employees represented in other
24 bargaining units and the City's unrepresented employees, and including any changes in
25 the terms and conditions for the period to be covered by the arbitration award;

26 [G.] 7. The overall compensation and benefits of other
27 police departments and public safety employees in the State, as well as of comparable
28 metropolitan political subdivisions in other states, and the consideration of the value of
29 other benefits available to or received by other employees of the Mayor and City Council of
30 Baltimore as compared with private sector employees in the metropolitan Baltimore City
31 area and as compared with employees of other police departments and other public safety
32 employees;

33 [H.] 8. The consumer prices for goods and services and
34 other related items, cost-of-living data, and other factors that are normally utilized in the
35 determination of wages and other benefits in the collective bargaining process;

[I.] 9. 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.] 10. 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.]

(II) 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)] (7) 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)] (8) 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] **PARAGRAPH (5) OF THIS SUBSECTION.**

[(ix) 1.] (9) (I) 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.

(II) No appeal of the decision shall be allowed.

(III) 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.] (IV) 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.] (V) With respect to [salaries and wage scales] **FINANCIAL TERMS OF EMPLOYMENT**, 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] FINANCIAL TERMS OF EMPLOYMENT** for employees of the Police Department in accordance with Article VI, § 9 of the Baltimore City Charter.

[(x)] (10) The cost of the arbitration proceedings, including the cost for a court reporter, provided under this **[paragraph] SUBSECTION** shall be paid equally by the parties involved.

[(c)] (D) 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 before this Act becomes effective, it first shall be submitted to a referendum of the qualified voters of Baltimore City at the general election to be held in November 2020. The governing body of Baltimore City and the Baltimore City Board of Elections shall do those things necessary and proper to provide for and hold the referendum required by this section. If a majority of the votes cast on the question are “For the referred law” this Act shall become effective on December 1, 2020, but if a majority of the votes cast on the question are “Against the referred law” this Act, with no further action required by the General Assembly, shall be null and void.

SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 2 of this Act and for the sole purpose of providing for the referendum required by Section 2 of this Act, this Act shall take effect July 1, 2020.