

Bill No.: \_\_\_\_\_  
Requested: \_\_\_\_\_  
Committee: \_\_\_\_\_

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By: **Montgomery County Delegation and Prince George’s County Delegation**

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland–National Capital Park and Planning Commission – Service**  
3 **Contracts**

4 **MC/PG 117–07**

5 FOR the purpose of prohibiting the Maryland–National Capital Park and Planning  
6 Commission from soliciting a certain service contract unless the Executive  
7 Director of the Commission provides certain certification, the Commission  
8 submits a certain plan, and bargains in good faith with a certain certified  
9 representative under certain circumstances; authorizing the certified  
10 representative of an adversely affected Commission employee to submit a  
11 proposal in response to a certain solicitation; specifying that noncompliance  
12 with the provisions of the Act may not invalidate certain contract awards or  
13 proposed contract awards; authorizing a certified representative to file an action  
14 in a certain court on behalf of a Commission employee if the Commission fails to  
15 comply with certain provisions of this Act; providing for the application of this  
16 Act; providing for a certain remedy; defining certain terms; and generally  
17 relating to Maryland–National Capital Park and Planning Commission service  
18 contracts.

19 BY adding to  
20 Article 28 – Maryland–National Capital Park and Planning Commission

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



21 Section 2-112.2  
22 Annotated Code of Maryland  
23 (2003 Replacement Volume and 2006 Supplement)

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

26 **Article 28 – Maryland–National Capital Park and Planning Commission**

27 **2-112.2.**

28 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
29 MEANINGS INDICATED.

30 (2) “ADVERSELY AFFECT” MEANS:

31 (I) A LOSS OF EXISTING COMMISSION EMPLOYMENT;

32 (II) A LOSS OF BARGAINING UNIT WORK;

33 (III) A REDUCTION IN PAY GRADE; OR

34 (IV) A REDUCTION IN PAY OR BENEFITS.

35 (3) “CERTIFIED REPRESENTATIVE” MEANS AN EMPLOYEE  
36 ORGANIZATION CERTIFIED AS THE COLLECTIVE BARGAINING REPRESENTATIVE  
37 OF COMMISSION EMPLOYEES IN ACCORDANCE WITH § 2-112.1(C) OF THIS  
38 SUBTITLE.

39 (4) “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR  
40 OF THE COMMISSION.

41 (5) “SERVICE CONTRACT” MEANS A PROCUREMENT CONTRACT  
42 FOR SERVICES THAT WILL BE PROVIDED TO THE COMMISSION.

43 (B) (1) THIS SECTION APPLIES TO A SERVICE CONTRACT THAT:

44 (I) WILL ADVERSELY AFFECT A COMMISSION EMPLOYEE;  
45 AND

46 (II) IN THE ESTIMATION OF THE COMMISSION  
47 PROCUREMENT OFFICER, WILL EXCEED AN ANNUAL COST OF \$50,000 AS  
48 CALCULATED UNDER PARAGRAPH (2) OF THIS SUBSECTION.

49 (2) THE COMMISSION SHALL ADJUST THE ANNUAL COST  
50 ESTIMATION DESCRIBED IN PARAGRAPH (1)(II) OF THIS SUBSECTION TO THE  
51 NEAREST \$100 EVERY 2 YEARS, BEGINNING ON OCTOBER 1, 2007, TO REFLECT  
52 ANY AGGREGATE INCREASE IN THE CONSUMER PRICE INDEX FOR ALL URBAN  
53 CONSUMERS, FOR THE WASHINGTON-BALTIMORE METROPOLITAN AREA, OR  
54 ANY SUCCESSOR INDEX, FOR THE PREVIOUS 2 YEARS.

55 (3) THIS SECTION DOES NOT APPLY TO:

56 (I) A CONTRACT IN WHICH THE PRIMARY PURPOSE IS TO  
57 OBTAIN GOODS OR CONSTRUCTION SERVICES;

58 (II) A SERVICE THAT THE MONTGOMERY COUNTY OR  
59 PRINCE GEORGE'S COUNTY COUNCILS AUTHORIZE OR REQUIRE TO BE  
60 PROVIDED BY AN INDEPENDENT CONTRACTOR;

61 (III) A SERVICE PROVIDED BY A CONSULTANT; OR

62 (IV) A PROFESSIONAL SERVICE, UNLESS THE SERVICE IS  
63 PROVIDED BY BARGAINING UNIT EMPLOYEES WHEN THE CONTRACT IS  
64 SOLICITED.

65 (4) THIS SECTION DOES NOT APPLY TO OR LIMIT THE AUTHORITY  
66 OF THE COMMISSION TO ABOLISH A BARGAINING UNIT POSITION OR CONDUCT A  
67 REDUCTION IN FORCE.

68 (C) THE COMMISSION MAY NOT SOLICIT A SERVICE CONTRACT UNDER  
69 THIS SUBTITLE UNLESS THE EXECUTIVE DIRECTOR HAS CERTIFIED THAT THE  
70 SERVICE CONTRACT COMPLIES WITH SUBSECTIONS (D) AND (E) OF THIS  
71 SECTION.

72           **(D) (1) THE EXECUTIVE DIRECTOR MAY NOT CERTIFY THAT THE**  
73 **COMMISSION MAY SOLICIT A SERVICE CONTRACT UNLESS THE COMMISSION:**

74                   **(I) HAS TAKEN STEPS TO CONSIDER ALTERNATIVES TO THE**  
75 **SERVICE CONTRACT, INCLUDING REORGANIZATION, REEVALUATION OF**  
76 **SERVICE, AND REEVALUATION OF PERFORMANCE;**

77                   **(II) HAS CONSULTED WITH THE CERTIFIED**  
78 **REPRESENTATIVE OF ANY COMMISSION EMPLOYEES WHO WILL BE ADVERSELY**  
79 **AFFECTED IF THE COMMISSION ENTERS INTO THE SERVICE CONTRACT; AND**

80                   **(III) HAS DEMONSTRATED, BASED ON A COST COMPARISON**  
81 **ANALYSIS, THAT THE COMMISSION WILL SAVE, OVER THE TERM OF THE**  
82 **SERVICE CONTRACT, 25% OR MORE OF THE VALUE OF THE SERVICE CONTRACT.**

83           **(2) THE COMMISSION SHALL COMPARE THE FOLLOWING IN THE**  
84 **COST COMPARISON ANALYSIS:**

85                   **(I) DIRECT COSTS, INCLUDING FRINGE BENEFITS AND THE**  
86 **ASSUMPTION THAT THE CONTRACTOR WILL PAY EMPLOYEES WHO PERFORM**  
87 **WORK UNDER THE SERVICE CONTRACT AT RATES COMPARABLE TO RATES IN**  
88 **ANY EXISTING COLLECTIVE BARGAINING AGREEMENT;**

89                   **(II) INDIRECT OVERHEAD COSTS, INCLUDING THE**  
90 **PROPORTIONAL SHARE OF EXISTING ADMINISTRATIVE SALARIES AND**  
91 **BENEFITS, RENT, EQUIPMENT COSTS, UTILITIES, AND MATERIALS; AND**

92                   **(III) ANY CONTINUING OR TRANSITIONAL COSTS THAT**  
93 **WOULD BE DIRECTLY ASSOCIATED WITH CONTRACTING FOR THE SERVICES,**  
94 **INCLUDING UNEMPLOYMENT COMPENSATION AND THE COSTS OF**  
95 **TRANSITIONAL SERVICES.**

96           **(E) (1) THE COMMISSION SHALL:**

97                   **(I) DEVELOP AND SUBMIT A FORMAL PLAN OF ASSISTANCE**  
98 **FOR EACH COMMISSION EMPLOYEE WHO WILL BE ADVERSELY AFFECTED BY**  
99 **THE SERVICE CONTRACT; AND**

100                   **(II) BARGAIN IN GOOD FAITH WITH THE CERTIFIED**  
101 **REPRESENTATIVE BEFORE ADOPTING A FINAL PLAN OF ASSISTANCE,**  
102 **INCLUDING, IF NECESSARY, SUBMISSION OF THE MATTER TO**  
103 **MEDIATION-ARBITRATION UNDER § 2-112.1(L) OF THIS SUBTITLE.**

104                   **(2) THE PLAN DESCRIBED IN PARAGRAPH (1)(I) OF THIS**  
105 **SUBSECTION SHALL INCLUDE:**

106                   **(I) EFFORTS TO PLACE EACH ADVERSELY AFFECTED**  
107 **COMMISSION EMPLOYEE IN A VACANT COMMISSION POSITION;**

108                   **(II) INCLUSION IN THE SERVICE CONTRACT OF A**  
109 **REQUIREMENT THAT THE CONTRACTOR SHALL:**

110                               **1. NOTIFY THE COMMISSION OF ANY VACANT**  
111 **POSITION FOR WHICH DISPLACED COMMISSION EMPLOYEES MAY APPLY; AND**

112                               **2. CONSIDER AND GIVE FIRST PREFERENCE TO**  
113 **DISPLACED COMMISSION EMPLOYEES; AND**

114                   **(III) WRITTEN NOTIFICATION OF THE ANTICIPATED**  
115 **ADVERSE EFFECT TO EACH AFFECTED COMMISSION EMPLOYEE AND THE**  
116 **CERTIFIED REPRESENTATIVE AT LEAST 120 DAYS BEFORE THE ANTICIPATED**  
117 **ADVERSE EFFECT WILL OCCUR.**

118                   **(F) THE CERTIFIED REPRESENTATIVE OF AN ADVERSELY AFFECTED**  
119 **COMMISSION EMPLOYEE MAY SUBMIT A PROPOSAL IN RESPONSE TO A**  
120 **SOLICITATION, UNDER APPLICABLE PROCUREMENT REGULATIONS, TO HAVE**  
121 **COMMISSION EMPLOYEES PERFORM THE SERVICES DESCRIBED IN THE**  
122 **SOLICITATION WHILE SUBSTANTIALLY ACHIEVING THE TARGETED SAVINGS.**

123                   **(G) (1) (I) IF THE COMMISSION FAILS TO COMPLY WITH ANY**  
124 **PROVISION OF THIS SUBTITLE AND A COMMISSION EMPLOYEE IS ADVERSELY**  
125 **AFFECTED, THE CERTIFIED REPRESENTATIVE OF THE EMPLOYEE MAY FILE AN**  
126 **ACTION ON BEHALF OF THE EMPLOYEE IN THE CIRCUIT COURT FOR**  
127 **MONTGOMERY COUNTY, THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY,**  
128 **OR THE DISTRICT COURT OF MARYLAND, DEPENDING ON THE AMOUNT IN**  
129 **CONTROVERSY.**

130                   **(II) IF A COURT ENTERS A JUDGMENT IN FAVOR OF A**  
131 **COMMISSION EMPLOYEE, THE COMMISSION SHALL REIMBURSE THE EMPLOYEE**  
132 **FOR ANY LOSSES INCURRED BY THE EMPLOYEE AND REIMBURSE THE**  
133 **CERTIFIED REPRESENTATIVE FOR ALL COSTS AND ATTORNEYS' FEES.**

134                   **(2) NONCOMPLIANCE WITH THIS SECTION MAY NOT INVALIDATE**  
135 **A CONTRACT AWARD OR PROPOSED CONTRACT AWARD THAT THE COMMISSION**  
136 **HAS OTHERWISE VALIDLY AWARDED OR ISSUED.**

137                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
138                   October 1, 2007.