



COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

APPROVED

Tuesday, October 16, 2018

The County Council for Montgomery County, Maryland convened in the Council Hearing Room, Stella B. Werner Council Office Building, Rockville, Maryland, at 9:46 A.M. on Tuesday, October 16, 2018.

PRESENT

Councilmember Hans Riemer, President
Councilmember Roger Berliner
Councilmember Nancy Floreen
Councilmember Sidney Katz

Councilmember Nancy Navarro, Vice President
Councilmember Marc Elrich
Councilmember Tom Hucker
Councilmember George Leventhal
Councilmember Craig Rice

The President in the Chair.

(1) **INTERVIEW** - [Housing Opportunities Commission](#)

Interviewed Ms. Frances Kelleher, the County Executive's appointment to the Housing Opportunities Commission.

The invocation was given by Mr. Lawrence Couch, Director, National Advocacy Center of the Sisters of the Good Shepard.

PRESENTATIONS

- B. The proclamation was presented by Mr. Leventhal recognizing the 10th Annual Bethesda Green Gala.
- A. The proclamation was presented by Ms. Floreen recognizing Breast Cancer Awareness Month.
- C. The proclamation was presented by Mr. Katz recognizing 40 Years of Smoke Detector and Fire Safety.

(2) **GENERAL BUSINESS**

A. **Announcements** - Agenda and Calendar Changes

There were no announcements.

B. **Acknowledgement** - Receipt of Petitions

There were no petitions received this week.

C. **Approved** the minutes of October 2, 2018, and the closed session minutes of October 2, 2018, without objection.

(3) **CONSENT CALENDAR**

Approved the following consent calendar items listed below.

Mr. Rice made the motion, which carried (Ms. Floreen voted in the negative on Item 3C).

A. **Introduced** a resolution to approve colocation of public facilities study.

Action is tentatively scheduled for October 23, 2018.

B. **Adopted Resolution 18-1263**, approving supplemental appropriation to the County Government's FY19 Operating Budget, Circuit Court - \$200,000 for Maryland Electronic Courts (MDEC) Data Migration and Testing.

C. **Adopted Resolution 18-1264**, approving FY20 Washington Suburban Sanitary Commission (WSSC) Spending Control Limits.

Ms. Floreen voted in the negative on this item.

D. **Action** - Resolution to approve Memorandum of Understanding with the City of Gaithersburg regarding transportation improvements eligible for funding with Development Impact Tax for Transportation Improvements revenue collected in Gaithersburg.

This item was deleted.

E. **Introduced** an amendment to the FY19-24 Capital Improvements Program (CIP) and Special Appropriation to the FY19 Capital Budget, Maryland-National Capital Park and Planning Commission (M-NCPPC), Department of Parks - \$1,000,000 for Small Grant/Donor-Assisted Capital Improvements. A public hearing is tentatively scheduled for October 30, 2018, at 1:30 P.M.

- F. **Introduced** an amendment to the FY19-24 CIP and Special Appropriation to the FY19 Capital Budget, M-NCPPC, Department of Parks - \$116,562 for Acquisition: Local Parks. A public hearing is tentatively scheduled for October 30, 2018, at 1:30 P.M.
- G. **Introduced** an amendment to the FY19-24 CIP and Special Appropriation to the FY19 Capital Budget, M-NCPPC, Department of Parks - \$99,500 for ADA Compliance: Non-Local Parks. A public hearing is tentatively scheduled for October 30, 2018, at 1:30 P.M.
- H. **Introduced** an amendment to the FY19-24 CIP Special Appropriation to the FY19 Capital Budget, M-NCPPC, Department of Parks - \$180,000 for Minor New Construction - Non-Local Parks. A public hearing is tentatively scheduled for October 30, 2018, at 1:30 P.M.
- I. **Introduced** a special appropriation to the County Government's FY19 Operating Budget - Nondepartmental Account - \$95,600 for Legislative Branch Communications Outreach. A public hearing is tentatively scheduled for October 30, 2018, at 1:30 P.M. A Government Operations and Fiscal Policy (GO) Committee worksession is tentatively scheduled for October 29, 2018.
- J. Adopted **Resolution 18-1265**, to request a biennial report by the Office of Agriculture on the status of Farm Alcohol Production in Montgomery County.
- K. **Introduced** a resolution to approve Rules of Procedure for Agency Referral and Accessory Apartment cases heard by the Office of Zoning and Administrative Hearings (OZAH). Worksession/action is tentatively scheduled for October 30, 2018.
- L. **Introduced** a special appropriation to the County Government's FY19 Operating Budget - \$200,000 for the Economic Development Fund, Small Business Assistance Program. Councilmembers Leventhal, Berliner, Hucker, Katz and Floreen requested to be added as co-sponsors of the special appropriation. A public hearing is tentatively scheduled for October 23, 2018, at 1:30 P.M.

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND
IN LEGISLATIVE SESSION - Day #24**

(4) **Call of Bills for Final Reading:**

A. **Expedited Bill 13-18, Taxicabs - Transportation Services
Improvement Fund - Use of Fund**

Participating in the discussion was Mr. Hamlin, Legislative Attorney.

Mr. Berliner, Chair of the Transportation, Infrastructure, Energy and Environment (T&E) Committee, provided background on the subject expedited bill and reviewed the Committee's recommendations, as contained in the analyst packet.

Enacted draft #2 of **Expedited Bill 13-18**, as contained at the end of these minutes.

The T&E Committee made the motion and the expedited bill was enacted by a roll call vote:

YEAS: Elrich, Hucker, Rice, Berliner, Leventhal, Floreen, Katz, Navarro, Riemer.

B. **Bill 6-18, Contracts - Labor Peace Agreements - Displaced Service
Workers - Amendments (continued)**

Participating in the discussion were Ms. Branson, Director, Office of Procurement; Mr. Wainer, Chief, Division of Solid Waste Services, Department of Environmental Protection (DEP); and Mr. Drummer, Senior Legislative Attorney.

Ms. Navarro, Chair of the GO Committee, summarized the Committee's recommendations.

Mr. Drummer reviewed the language in the bill as well as the two amendments proposed by Mr. Leventhal on Factors to Consider and Documentation of Wages Paid, and explained the Expansion of Price Increase Provision amendment. Agreed, without objection, to Mr. Leventhal's motion in support of all three amendments, as contained in the analyst packet.

After discussing the concerns that were raised by Ms. Branson and Ms. Bubar, Director, DEP, as contained in the addendum, concluded that the major concerns were addressed by the amendments that were just considered.

Ms. Floreen raised several objections to the bill regarding costs and competitiveness.

Enacted draft #9 of **Bill 6-18**, as amended and contained at the end of these minutes.

The GO Committee made the motion and the bill was enacted by a roll call vote:

YEAS: Elrich, Huckler, Rice, Berliner, Leventhal, Katz, Navarro, Riemer

NAYS: Floreen.

(5) **DISTRICT COUNCIL SESSION**

- A. **Introduction** - Resolution to approve amendments to the Office of Zoning and Administrative Hearings (OZAH) Rules of Procedure governing zoning, conditional uses and Board of Appeals referral cases

Introduced the subject resolution.

Council consideration is tentatively scheduled for October 30, 2018.

- B. **Worksession** - [Bicycle Master Plan](#)

Participating in the discussion were Mr. Anderson, Chair, Montgomery County Planning Board; Dr. Orlin, Deputy Director; Mr. Anspacher, Project Manager, MNCPPC; and Mr. Conklin, Department of Transportation (DOT).

Acknowledged the request from the Mayor of the Town of Kensington to withhold from the Plan the section of Knowles Avenue within the Town (Summit Avenue to Armory Avenue) until the Town Council has the opportunity to review the Plan at its November meeting.

Agreed without objection to include in Tier 1 of the proposed bikeway tiers the section of the PEPCO Power Line Trail from Tuckerman Lane to Westlake Drive.

Mr. Rice commented that businesses should be encouraged to provide changing areas and shower facilities for employees who commute by bicycle.

Mr. Hucker requested staff look into bike path connections from Greenacres Drive to the Food and Drug Administration (FDA), and from the Cresthaven neighborhood through the Holly Hall site in Hillandale.

Ms. Navarro requested staff share information pertaining to bike path connectivity with the Intercounty Connector (ICC).

Agreed, without objection, to move from Tier 3 up to Tier 2 the proposed infrastructure on Connecticut Avenue from Kensington Parkway to Chevy Chase Lake Drive.

In a straw vote, unanimously approved the Bicycle Master Plan, as amended. Ms. Floreen was temporarily absent. Final action is tentatively scheduled for November 27, 2018.

(6) **COUNCIL SITTING AS BOARD OF HEALTH**

A. **Update from Dr. Travis Gayles, County Health Officer**

Received an update from Dr. Gayles on County health statistics, public health programs, including the Data Across Sectors for Health (DASH) initiative, and academic partnerships.

B. **Annual Meeting with Commission on Health**

Received an update on the Commission's activities and priorities from Senior Legislative Analyst McMillan, the Council's representative on the Commission.

The Council recessed at 1:05 P.M. and reconvened at 2:07 P.M.

(7) **BRIEFING: Colocation of Public Facilities Study**

Participating in the discussion were Ms. Bell-Pearson, Director, Office of Community Use of Public Facilities (formerly Assistant Chief Administrative Officer); Ms. Wright, Director, Ms. McCarthy and Mr. Holdzkom, Planning Department, MNCPPC.

Received a briefing on the findings and recommendations in the Montgomery County Colocation of Public Facilities Study.

Reviewed the resolution in Support of the Findings and Recommendations from the Montgomery County Colocation of Public Facilities Study and the Ongoing

Efforts of the Directors Oversight Committee. Action on the resolution is tentatively scheduled for October 23, 2018.

Ms. Floreen requested that a list of legal impediments to colocation be drawn up so that issues can be addressed and resolved at the state level if necessary.

(8) **SEMI-ANNUAL REPORT of the Montgomery County Planning Board**

Participating in the discussion were Commissioners Cichy and Patterson, and Chair Anderson, Planning Board; Ms. Wright, and Mr. Riley, Director, Department of Parks, MNCPPC.

Received an overview of the Semi-Annual Report highlighting the many accomplishments of the Planning and Parks Departments over the past several years.

The Council adjourned at 3:50 P.M.

This is a correct copy of Council action.

Approved/Signed by the Clerk

Megan Davey Limarzi, Esq.
Clerk of the Council

Expedited Bill No. 13-18
 Concerning: Taxicabs – Transportation Services Improvement Fund – Use of Fund
 Revised: 09/27/2018 Draft No. 2
 Introduced: April 3, 2018
 Enacted: October 16, 2018
 Executive: _____
 Effective: _____
 Sunset Date: None
 Ch. _____, Laws of Mont. Co. _____

**COUNTY COUNCIL
 FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

- (1) provide for disbursements from the Transportation Services Improvement Fund for ~~[[any transportation purpose]]~~ specific purposes;
- (2) require that the Fund be used to supplement, and not supplant, previously appropriated expenditures; and
- (3) generally amend the law governing the licensing and regulation of taxicabs.

By amending
 Montgomery County Code
 Chapter 53, Taxicabs
 Section 53-801

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

Sec. 1. Section 53-801 is amended as follows:

53-801. Transportation Services Improvement Fund.

- (a) *Definitions.* In this section:
 - (1) *Fund* means the Transportation Services Improvement Fund established in this Section.
 - (2) *Transportation Network Services* means “Transportation Network Services” as defined in §10-101 of the Public Utilities Article of the Maryland Code.
- (b) *Fund established.*
 - (1) There is a Transportation Services Improvement Fund [created to improve the delivery of:
 - (A) accessible transportation services in the County;
 - (B) transportation for eligible senior citizens; and
 - (C) transportation for persons of limited income] [[to be used for transportation purposes in the County]] created to improve the delivery of:
 - (A) accessible transportation services in the County;
 - (B) transportation for eligible senior citizens; and
 - (C) transportation for persons of limited income.
 - (2) The Fund consists of:
 - (A) all revenue from the surcharge imposed on transportation network services under this Section;
 - (B) all funds appropriated to it by the County Council; and
 - (C) all funds received by the Fund from any other public or private entity.
 - (c) *Per-ride surcharge.* There is a \$0.25 surcharge on Transportation Network Services for each trip originating in the County. The surcharge must be collected as provided in §10-406 of the Public Utilities Article of the Maryland Code.
 - (d) *[Uses] Use of the Fund.* Disbursements from the Fund must only be used [to] [[for transportation purposes in the County.]] to supplement, and must not supplant, Fiscal Year 2019 expenditures appropriated in the annual operating budget resolution to: [:
 - (1) offset the higher operational costs of accessible taxicab services for owners and operators including, but not limited to:
 - (A) vehicle costs associated with purchasing and retrofitting an accessible vehicle;
 - (B) costs associated with receiving training in providing accessible transportation services; and
 - (C) additional time involved in providing accessible taxicab services;
 or
 - (2) provide incentives for improving or expanding transportation options for:
 - (A) eligible senior citizens; or
 - (B) persons of limited income.
 - (e) *Disbursements from the Fund.* The Executive must by regulation establish the procedure for determining when and how to make distributions from the Fund to taxicab owners and operators, including setting eligibility standards, imposing

conditions of reimbursement, imposing a maximum amount of reimbursement, and considering timely distribution of reimbursement to taxicab owners and operators.]

(1) offset the higher operational costs of accessible taxicab services for owners and operators including, but not limited to:

(A) vehicle costs associated with purchasing and retrofitting an accessible vehicle;

(B) costs associated with receiving training in providing accessible transportation services; and

(C) additional time involved in providing accessible taxicab services; or

(2) provide incentives or program enhancements to improve or expand transportation options for:

(A) persons with disabilities;

(B) eligible senior citizens; or

(C) persons of limited income.

(e) Disbursements from the Fund. The Executive must by regulation establish the procedure for determining when and how to make distributions from the Fund to taxicab owners and operators, including setting eligibility standards, imposing conditions of reimbursement, imposing a maximum amount of reimbursement, and considering timely distribution of reimbursement to taxicab owners and operators.

Sec. 2. Expedited Effective Date.

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72

Bill No. 6-18
 Concerning: Contracts – Labor Peace
Agreements – Displaced Service
Workers - Amendments
 Revised: September 17, 2018 Draft No.10
 Introduced: March 6, 2018
 Enacted: October 16, 2018
 Executive: _____
 Effective: _____
 Sunset Date: None
 Ch. _____, Laws of Mont. Co. _____

**COUNTY COUNCIL
 FOR MONTGOMERY COUNTY, MARYLAND**

Lead Sponsors: Councilmembers Elrich and Hucker
 Co-Sponsors: Councilmember Rice and Council Vice President Navarro

AN ACT to:

- (1) require certain County contractors to enter in to a labor peace agreement with a labor organization;
- (2) establish minimum requirements for a labor peace agreement;
- (3) require certain County multi-term contracts to include a minimum price increase provision;
- (4) add certain workers performing services under a County residential solid waste collection contract to the County Displaced Service Workers Protection Act; and
- (5) generally amend the laws governing County service contracts.

By amending

Montgomery County Code
 Chapter 11B, Contracts and Procurement
 Section 11B-23
 Montgomery County Code
 Chapter 27, Human Rights and Civil Liberties
~~[[Section]]~~ Sections 27-64 and 27-65

By adding

Montgomery County Code
 Chapter 11B, Contracts and Procurement
 Article XX, Sections 11B-89, 11B-90, and 11B-91

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Sections 11B-23, [[and]] 27-64, and 27-65 are [[is]] amended and Sections 11B-89,**
2 **11B-90, and 11B-91 are added as follows:**

3 **11B-23. Multi-term contracts.**

4 (a) *Specified period.* Unless otherwise provided by law or regulation, a contract for
5 goods, services, or construction may be entered into for any period of time
6 deemed to be in the best interest of the County. The term of the contract and
7 conditions of extension should be included in the solicitation, if any. At a
8 minimum, appropriated funds must be available for the first fiscal period at the
9 time of entering the contract sufficient to defray the cost to which the County
10 would become obligated under the contract. Payment and performance
11 obligations for succeeding fiscal periods must be subject to the availability and
12 appropriation of funds.

13 (b) *Determination prior to use.* Before using a multi-term contract, the Director must
14 determine that:
15 (1) estimated requirements over the period of the contract are reasonably firm
16 and continuing; and
17 (2) the contract will serve the best interests of the County by encouraging
18 effective competition or otherwise promoting economies in County
19 procurement.

20 (c) *Termination due to unavailability of funds in succeeding fiscal periods.* When
21 funds are not appropriated or otherwise made available to support continuation of
22 performance in a subsequent fiscal period, the contract must be terminated
23 without further cost to the County.

24 (d) Contract price increase provision. A multi-term contract [[with a labor peace
25 provision required by Section 11B-89]] for residential solid waste, recycling, or
26 yard waste collection and disposal must include a price increase provision for
27 each year of the contract beginning after the end of the first year of the contract.
28 A price increase provision must require the County to increase the contract price
29 by [[at least the annual average increase, if any, in the Consumer Price Index for
30 All Urban Consumers for the Washington-Arlington-Alexandria Core Based
31 Statistical Area (CBSA), as published by the United States Department of Labor,
32 Bureau of Labor Statistics, or a successor index, for the previous calendar year]]
33 an amount sufficient to compensate the contractor for an increase in wages [[for]]
34 paid to the employees performing work on a covered contract to the extent the
35 increase in wages does not exceed the last general wage increase approved by the
36 County for members of the service, labor, and trades bargaining unit established
37 in Section 33-105(a)(1). A price increase provision must:

- 38 (1) require the contractor to document that the increase in wages supporting
39 the requested contract price increase are paid to the employees working on
40 the contract during the year; and
41 (2) permit the Director to audit the contractor’s payroll records to validate the
42 increase in wages.

43 This subsection does not prohibit a contract provision that would permit an
44 increase in the contract price due to an increase in costs incurred by the contractor
45 other than an increase in wages paid to the contractor’s employees performing
46 work on the contract.

47 **Article XX. Labor Peace Agreements.**

48 **11B-89. Purpose.**

49 This Article is intended to prevent the interruption of services to County residents
50 provided by private contractors due to concerted economic action or a lock-out during a labor
51 dispute.

52 **11B-90. Definitions.**

53 In this Section, the following words have the meanings indicated:

54 Concerted economic action means an attempt to resolve a labor dispute using economic
55 pressure against an employer initiated or conducted by a labor organization, or a group of
56 employees acting in concert with a labor organization, including striking, picketing, or
57 boycotting.

58 Covered Contract means a County contract to provide residential solid waste, recycling,
59 or yard waste collection and disposal services directly to County residents with a value
60 equal to or greater than \$250,000.

61 Director means the Director of the Office of Procurement or the Director’s designee.

62 Labor dispute means any dispute between an employer and its employees concerning
63 wages, hours, and conditions of employment, or concerning the representation of
64 employees for bargaining over wages, hours and conditions of employment.

65 Labor organization means an employee organization established for the principle purpose
66 of engaging in collective bargaining with employers concerning wages, hours, and
67 conditions of employment.

68 Labor peace agreement means a written contract between an employer and a labor
69 organization that represents or is seeking to organize that employer’s employees that
70 includes a provision:

- 71 (a) prohibiting the labor organization and all employees [[covered by the agreement]]
72 performing services under a covered contract from engaging in any concerted
73 economic action with the employer for the duration of the County contract;
- 74 (b) prohibiting the employer from engaging in a lock-out of the employees
75 performing services under a [[County]] covered contract for the duration of the
76 County contract; and
- 77 (c) requiring that all labor disputes between the employer and the employees
78 performing services under a covered contract be resolved through final and
79 binding arbitration.

80 Lock-out means the temporary closing of a business or the refusal by an employer to
81 allow employees to work until a labor dispute is settled.

82 [[Neutrality agreement means an agreement between an employer and a labor union
83 where the employer promises to remain neutral to union organizing, grants union
84 representatives access to the employer’s property in exchange for the union’s promise to
85 forgo its right to picket, boycott, or otherwise pressure the employer’s business.]]

86 **11B-91. Labor Peace Agreement.**

87 (a) Determination. Before issuing a solicitation for a covered contract, the Director
88 must determine if a labor peace agreement would be in the best interest of the
89 County after considering:

- 90 (1) the duration of the contract;
- 91 (2) the adverse financial or economic impact of any disruption in services;
- 92 (3) the cost associated with finding replacement services;
- 93 (4) the risk of disruption of services;
- 94 (5) the history of strikes or lockouts disrupting County services provided by
95 the contract;

- 96 (6) the potential adverse effect of a labor peace provision on competition for
- 97 the contract; and
- 98 ~~[(5)] [(6)]~~ (7) any other factors affecting the public interest.
- 99 (b) Approval. If the Director finds that a labor peace provision is in the best interest
- 100 of the County for this covered contract, the Director must recommend the
- 101 inclusion of a labor peace provision to the Chief Administrative Officer in
- 102 writing. If the Chief Administrative Officer approves a recommendation to
- 103 include a labor peace provision in the contract, the Director must include a labor
- 104 peace provision in the solicitation for bids or proposals.
- 105 (c) Implementation.
- 106 (1) If the covered contract documents require a labor peace agreement, the
- 107 contractor awarded the contract must execute a labor peace agreement
- 108 with a labor organization within sixty (60) days after the later of:
- 109 (A) receiving the notice of award from the County; or
- 110 (B) receiving a request for a labor peace agreement from a labor
- 111 organization that already represents ~~[[its employees]]~~ or seeks to
- 112 represent the employees performing ~~[[the work]]~~ services under the
- 113 ~~[[County]]~~ covered contract.
- 114 (2) The contractor may satisfy this requirement by executing a:
- 115 (A) preliminary Labor Peace Agreement covering labor disputes over
- 116 the representation of employees performing services under a
- 117 covered contract by a labor organization ~~[[, such as a neutrality~~
- 118 agreement,]] that is designed to be supplanted by a comprehensive
- 119 collective bargaining agreement;
- 120 (B) comprehensive collective bargaining agreement; or
- 121 (C) documenting that no labor organization requested a labor peace
- 122 agreement or that a labor organization refused to negotiate a labor
- 123 peace agreement in good faith.
- 124 (d) Enforcement. The Director may impose appropriate sanctions and remedies
- 125 against a contractor for a violation of this Article as provided in applicable
- 126 regulations or by contract, including termination for default.

27-64. Definitions.

- 128 (a) As used in this Article:
- 129 Awarding authority means any person that awards or enters into a service contract
- 130 or subcontract with a contractor to be performed in the County. Awarding
- 131 authority includes the County, but does not include a Federal, State, or municipal
- 132 government, or a common ownership community, as defined in Section 10B-2(b).
- 133 Contractor means any person, including a subcontractor, which enters into a
- 134 service contract to be performed in the County and employs more than 20 service
- 135 employees in the entire company.
- 136 Director means the Executive Director of the Office of Human Rights and
- 137 includes the Executive Director’s designee.
- 138 Person means any individual, proprietorship, partnership, joint venture,
- 139 corporation, limited liability company, trust, association, or other entity that may
- 140 employ persons or enter into a service contract.
- 141 Service contract means a contract between an awarding authority and a contractor
- 142 to provide security, janitorial, building maintenance, food preparation, or non-

143 professional health care services in a facility located in the County which is used
144 as a:

- 145 (1) private school;
- 146 (2) hospital, nursing care facility, or other health care provider;
- 147 (3) institution, such as a museum, convention center, arena, airport, or music
148 hall;
- 149 (4) multi-family residential building or complex with more than 30 units; or
- 150 (5) commercial building or office building occupying more than 75,000
151 square feet.

152 Service contract also includes a contract awarded by the County for residential
153 solid waste, recycling, or yard waste collection and disposal.

154 *Service employee* means an individual employed on a full or part-time basis by a
155 contractor as a:

- 156 (1) building service employee, including a janitor, security officer,
157 groundskeeper, door staff, maintenance technician, handyman,
158 superintendent, elevator operator, window cleaner, or building engineer;
- 159 (2) food service worker, including a cafeteria attendant, line attendant, cook,
160 butcher, baker, server, cashier, catering worker, dining attendant,
161 dishwasher, or merchandise vendor;
- 162 (3) non-professional employee performing health care or related service; or
- 163 (4) a driver, helper, or mechanic performing services on a County contract for
164 residential solid waste, recycling, or yard waste collection and disposal.

165 *Service employee* does not include:

- 166 (1) a managerial or confidential employee;
- 167 (2) an employee who works in an executive, administrative, or professional
168 capacity;
- 169 (3) an employee who earns more than \$30 per hour; or
- 170 (4) an employee who is regularly scheduled to work less than 10 hours per
171 week.

172 *Successor contractor* means a contractor that:

- 173 (1) is awarded a service contract to provide, in whole or in part, services that
174 are substantially similar to those provided at any time during the previous
175 90 days;
- 176 (2) has purchased or acquired control of a property located in the County
177 where service employees were employed at any time during the previous
178 90 days; or
- 179 (3) terminates a service contract and hires service employees as its direct
180 employees to perform services that are substantially similar, within 90
181 days after a service contract is terminated or cancelled.

182 (b) This Article does not limit the ability of an awarding authority to terminate a
183 service contract or replace a contractor with another contractor.

184 **27-65. Transition employment period.**

185 * * *

186 (b) *Successor contractor.*

- 187 (1) Subject to ~~[[paragraph]]~~ paragraphs (3) and (4), each successor contractor
188 must offer to retain each affected service employee at an affected site for
189 90 days or until the successor contract is terminated, whichever is earlier.

- 190 (2) Each successor contractor must give each affected service employee a
191 written offer of employment for the 90 day transition period and send a
192 copy to the employee's collective bargaining representative, if any. Each
193 offer must:
 - 194 (A) state the date by which the service employee must accept the offer;
 - 195 and
 - 196 (B) allow the employee at least 10 days after receiving the notice to
 - 197 accept the offer.
- 198 (3) Each successor contractor may:
 - 199 (A) offer employment to less than all of the affected service employees
 - 200 during the 90 day transition period if the successor contractor:
 - 201 (i) finds that fewer service employees are required to perform
 - 202 the work than the terminated contractor had employed;
 - 203 (ii) maintains a preferential hiring list of those employees not
 - 204 retained; and
 - 205 (iii) hires any additional service employees from the list until all
 - 206 affected service employees have been offered employment;
 - 207 and
 - 208 (B) refuse to retain a service employee who fails a pre-employment
 - 209 ineligibility test administered by the successor contractor if the
 - 210 successor contractor:
 - 211 (i) routinely requires all service employees to undergo the
 - 212 ineligibility test as a condition of employment; and
 - 213 (ii) adopted the ineligibility test as part of a written
 - 214 employment policy prior to bidding on the successor
 - 215 contract.
- 216 (4) Notwithstanding any other provision in this Subsection, a successor
217 contractor awarded a County contract for residential solid waste,
218 recycling, or yard waste collection and disposal must offer employment to
219 the affected service employees during the 90 day transition period only to
220 the extent the successor contractor needs to hire new employees to
221 perform work on the contract.
- 222 (5) Each successor contractor must not discharge a service employee retained
223 under this Section without just cause during the transition period.