

FINAL

AMENDED

February 22, 2011

March 7, 2011

Amendment No. 2

COUNTY COUNCIL OF ANNE ARUNDEL COUNTY, MARYLAND

Legislative Session 2011, Legislative Day No. 2

Bill No. 4-11

Introduced by Mr. Ladd, Chairman
(by request of the County Executive)

By the County Council, January 18, 2011

VETOED

Jacob A. Kopyov
3.9.11

Amendment No. 3

VETOED

Jacob A. Kopyov
3.9.11

Amendment No. 4

VETOED

Jacob A. Kopyov
3.9.11

Introduced and first read on January 18, 2011
Public Hearing set for and held on February 22, 2011
Public Hearing on AMENDED BILL set for and held on March 7, 2011
Bill AMENDED and VOTED on March 7, 2011
Bill Expires April 23, 2011

By Order: Judy C. Holmes, Administrative Officer

A BILL ENTITLED

1 AN EMERGENCY ORDINANCE concerning: Personnel – Employee Relations - Binding
2 Arbitration

3
4 FOR the purpose of changing the date for issuance of a final written award and revision of a
5 final written award; modifying the extent to which binding arbitration with Uniformed
6 Public Safety Exclusive Representatives is final and binding; requiring the County
7 Executive to take certain actions to implement the award of an arbitrator; providing for
8 certain actions on the budget by the County Executive and County Council; restricting
9 the effect of binding arbitration on the budgetary and legislative powers of the County
10 Council; providing for the final terms and conditions of employment for certain
11 employees; ~~making certain provisions of this Ordinance and the County Code~~
12 ~~nonseverable; providing for the repeal of binding arbitration in the event certain~~
13 ~~provisions of this Ordinance are held invalid and for impasse procedures in the event of~~
14 ~~such repeal~~; providing for the applicability and effective date of this Ordinance; making
15 this Ordinance an emergency measure; and generally relating to binding arbitration.

16
17 BY repealing and reenacting, with amendments: §§ ~~6-4-110(a) and 6-4-111(m)~~
18 § 6-4-111(e)(2), (f)(2), (j)(5), (k) and (m) (as amended by Bill No. 88-10)
19 Anne Arundel County Code (2005, as amended)

EXPLANATION: CAPITALS indicate new matter added to existing law.
[Brackets] indicate matter stricken from existing law.
Underlining indicates amendments to bill.
Strikeover indicates matter stricken from bill by amendment.

1 BY adding: § 6-4-111(s), (t); and (u), and (v)
2 Anne Arundel County Code (2005, as amended)

3
4 WHEREAS, the Constitution of Maryland and the Anne Arundel County Charter
5 confer upon the Anne Arundel County Council final authority over the expenditure of
6 County funds and the rates of County taxes necessary to fund those expenditures,
7 including expenditures for the compensation of County employees; and

8
9 WHEREAS, arbitration between County officials and public employee unions
10 regarding the compensation of County employees does not abrogate the duty of the
11 County Council to make the final decisions regarding the purposes for which revenue
12 from County taxes will be appropriated; and

13
14 WHEREAS, the County Council, by adoption of this Ordinance, restores to the
15 County Council the power to make final decisions over the appropriation of public
16 funds and the enactment of public local laws in order to give full effect to the duty of
17 the County Council to control the rates of County taxes; now, therefore,

18
19 SECTION 1. *Be it enacted by the County Council of Anne Arundel County, Maryland,*
20 That Section(s) of the Anne Arundel County Code (2005, as amended) (as amended by Bill
21 No. 88-10) read as follows:

22
23 ~~ARTICLE 6 PERSONNEL~~

24
25 ~~TITLE 4. EMPLOYEE RELATIONS~~

26
27 ~~6-4-110. Impasse procedures in general.~~

28
29 ~~(a) Applicability. Except as provided in OR IN THE EVENT OF A REPEAL OF § 6-4-111,~~
30 ~~the procedure for resolving an impasse between the Administration and an exclusive~~
31 ~~representative is governed by this section.~~

32
33 ~~SECTION 2. *And be it further enacted,* That Section(s) of the Anne Arundel County~~
34 ~~Code (2005, as amended) (as amended by Bill No. 88-10) read as follows:~~

35
36 ~~ARTICLE 6 PERSONNEL~~

37
38 ~~TITLE 4. EMPLOYEE RELATIONS~~

39
40 ~~6-4-111. Impasse procedures for Uniformed Public Safety Exclusive Representatives.~~

41
42 ~~(e) Arbitration. If the Administration and a Uniformed Public Safety Exclusive~~
43 ~~Representative are at impasse on February 28, the Administration and the Uniformed Public~~
44 ~~Safety Exclusive Representative shall:~~

45
46 ~~(2) pursuant to an application made under subsection (e)(1), instruct the American~~
47 ~~Arbitration Association to provide a list of neutral arbitrators by March 18 and ensure that all~~

amendment No. 2

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1 of the arbitrators on the list provided are available to conduct hearings and to issue a final
2 written award by April [20] 8;

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3
4 (f) **Alternative arbitrator lists.** If the American Arbitration Association is unable to
5 satisfy the requirements of subsection (e), the Administration and the Uniformed Public
6 Safety Exclusive Representative shall:

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7
8 (2) request from the Federal Mediation and Conciliation Service a supplementary or
9 alternative list of neutral labor arbitrators who are members of the National Academy of
10 Arbitrators; familiar with impasse disputes and interest arbitration; and available to conduct
11 hearings and issue a final written award by April [20] 8.

amendment No. 3

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12
13 (j) **Determinations of neutral arbitrator.** The neutral arbitrator selected under this
14 section shall:

amendment No. 4

15
16 (5) have copies of a final written award delivered to the Administration and the
17 Uniformed Public Safety Exclusive Representative on or before the earlier of April [20] 8 or
18 within [10] FIVE days after the hearing is adjourned.

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19
20 (k) **Revision of final written award by neutral arbitrator.** Upon a motion, notice, and
21 after offering the Administration and the Uniformed Public Safety Exclusive Representative
22 an appropriate opportunity to be heard, the neutral arbitrator may revise the final written
23 award, if necessary, to correct clerical or other ministerial errors at any time within 10 days
24 after issuing the award, but in no event later than April [30] 15.

25
26 (m) **Final written award final and binding.** EXCEPT FOR THOSE PROVISIONS THAT
27 REQUIRE AN APPROPRIATION OF FUNDS OR THE ENACTMENT OF LEGISLATION TO
28 IMPLEMENT, [The] THE final written award issued by the neutral arbitrator, or the final
29 written award as modified in accordance with subsections (k), (l), or (p), and the
30 memorandum of agreed issues shall be final and binding upon the County and the Uniformed
31 Public Safety Exclusive Representative [and shall be implemented as part of the budget
32 process for the appropriate fiscal years].

33
34 (s) **Action by the County Executive.** THE COUNTY EXECUTIVE IS NOT REQUIRED TO
35 SHALL INCLUDE IN THE BUDGET SUBMITTED TO THE COUNTY COUNCIL FUNDING
36 SUFFICIENT FOR THE FINAL WRITTEN AWARD OF THE NEUTRAL ABITRATOR. IF THE
37 NEUTRAL ARBITRATOR DOES NOT PROVIDE AN AWARD BY THE APRIL 8 DEADLINE, THE
38 COUNTY EXECUTIVE SHALL INCLUDE IN THE BUDGET SUFFICIENT FUNDING TO FUND THE
39 FINAL OFFER OF THE UNIFORMED PUBLIC SAFETY REPRESENTATIVE. THE COUNTY
40 EXECUTIVE SHALL SUBMIT TO THE COUNTY COUNCIL ANY LEGISLATION NECESSARY TO
41 IMPLEMENT THE FINAL DECISION OF THE NEUTRAL ARBITRATOR. A FINAL WRITTEN AWARD
42 THAT IS BASED ON THE FINAL OFFER OF THE UNIFORMED PUBLIC SAFETY EXCLUSIVE
43 REPRESENTATIVE, BUT THE COUNTY EXECUTIVE SHALL:

44
45 (1) INCLUDE IN THE BUDGET SUBMITTED TO THE COUNTY COUNCIL FUNDING
46 SUFFICIENT FOR THE FINAL OFFER OF THE ADMINISTRATION AS DESCRIBED IN SUBSECTION
47 (E)(4);

48
49 (2) SUBMIT TO THE COUNTY COUNCIL BY APRIL 15 OR WITHIN FIVE DAYS OF RECEIPT
50 OF THE FINAL WRITTEN AWARD, WHICHEVER IS LATER, A DESCRIPTION OF THE AMOUNT OF

Amendment No. 2

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Amendment No. 3

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Amendment No. 4

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*John A. Hoopes
3.9.11*

1 ANY INCREASE IN EXPENDITURE IN THE BUDGET SUBMITTED TO THE COUNTY COUNCIL
2 NECESSARY TO IMPLEMENT A FINAL WRITTEN AWARD THAT IS BASED ON THE FINAL OFFER
3 OF THE UNIFORMED PUBLIC SAFETY EXCLUSIVE REPRESENTATIVE;

5 (3) SUBMIT TO THE COUNTY COUNCIL BY APRIL 15 OR WITHIN FIVE DAYS OF RECEIPT
6 OF THE FINAL WRITTEN AWARD, WHICHEVER IS LATER, ANY LEGISLATION NECESSARY TO
7 IMPLEMENT THE FINAL WRITTEN AWARD; AND

9 (4) IF REQUESTED TO DO SO BY THE COUNTY COUNCIL, SUBMIT WITHIN FIVE DAYS
10 OF THE REQUEST A LIST OF RECOMMENDATIONS TO THE COUNTY COUNCIL FOR AMENDING
11 THE BUDGET IN ORDER TO FUND A FINAL WRITTEN AWARD THAT IS BASED ON THE FINAL
12 OFFER OF THE UNIFORMED PUBLIC SAFETY EXCLUSIVE REPRESENTATIVE.

14 (T) **Action on the budget by the County Council.** IF THE COUNTY COUNCIL DECIDES TO
15 FUND A FINAL WRITTEN AWARD THAT IS BASED ON THE FINAL OFFER OF THE UNIFORMED
16 PUBLIC SAFETY EXCLUSIVE REPRESENTATIVE IT MAY INCREASE ANY EXPENDITURE IN THE
17 BUDGET SUBMITTED BY THE COUNTY EXECUTIVE TO THE COUNTY COUNCIL NECESSARY TO
18 FUND THE WRITTEN AWARD WITHOUT THE REQUIREMENT FOR AN AMENDMENT TO THE
19 BUDGET PROPOSED BY THE COUNTY EXECUTIVE.

21 (U) **(T) Powers reserved to the County Council.** THE COUNTY COUNCIL SHALL NOT BE
22 REQUIRED TO APPROPRIATE FUNDS OR ENACT LEGISLATION NECESSARY TO IMPLEMENT A
23 FINAL WRITTEN AWARD, AND NOTHING IN THIS SECTION SHALL BE CONSTRUED AS
24 OTHERWISE LIMITING THE BUDGETARY AND LEGISLATIVE POWERS OF THE COUNTY
25 COUNCIL SET FORTH IN THE COUNTY CHARTER.

27 (V) **(U) Governing provisions.** THE WAGES, HOURS, WORKING CONDITIONS, AND OTHER
28 TERMS AND CONDITIONS OF EMPLOYMENT FOR EMPLOYEES REPRESENTED BY A
29 UNIFORMED PUBLIC SAFETY EXCLUSIVE REPRESENTATIVE SHALL BE GOVERNED BY:

31 (1) THE PROVISIONS OF A FINAL WRITTEN AWARD THAT DO NOT REQUIRE AN
32 APPROPRIATION OF FUNDS OR THE ENACTMENT OF LEGISLATION TO IMPLEMENT AS
33 DESCRIBED IN SUBSECTION (M); AND

35 (2) THE OTHER PROVISIONS OF A FINAL WRITTEN AWARD THAT THE COUNTY
36 COUNCIL HAS APPROVED BY THE APPROPRIATION OF FUNDS AND THE ENACTMENT OF
37 LEGISLATION AS DESCRIBED SUBSECTIONS (T) AND (U) IN SUBSECTION (T).

39 SECTION 3. ~~And be it further enacted, That notwithstanding the provisions of § 1-1-106~~
40 ~~of the County Code (2005, as amended), neither the provisions of Section 2 of this Ordinance~~
41 ~~nor the provisions of § 6-4-111 of the County Code (2005, as amended) as amended by this~~
42 ~~Ordinance are severable, and if any provision of Section 2 of this Ordinance or the~~
43 ~~application thereof to any person or circumstance is held invalid for any reason in a court of~~
44 ~~competent jurisdiction, no other provision of § 6-4-111 of the County Code (2005, as~~
45 ~~amended) may be given effect and § 6-4-111 of the County Code (2005, as amended) in its~~
46 ~~entirety shall be deemed repealed by operation of law without the necessity of further action~~
47 ~~by the County Council, and the provisions of § 6-4-110 of the County Code (2005, as~~
48 ~~amended) thereafter shall apply to all impasses between the Administration and an exclusive~~
49 ~~representative.~~

51 SECTION 4. 2. ~~And be it further enacted, That this Ordinance shall apply to final written~~
52 ~~awards issued by neutral arbitrators beginning with final written awards applicable to fiscal~~
53 ~~year 2012.~~

1 SECTION 5. ~~And be it further enacted,~~ That this Ordinance shall take effect 45 days
2 from the date it becomes law.

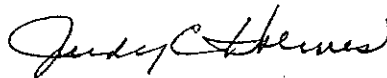
3

4 SECTION 5.3. And be it further enacted, That this Ordinance is hereby declared to be an
5 emergency ordinance and necessary for the immediate preservation of the public peace,
6 health, safety, welfare, and property, and being passed by the affirmative vote of five
7 members of the County Council, the same shall take effect from the date it becomes law.

AMENDMENTS ADOPTED: February 22 and March 7, 2011

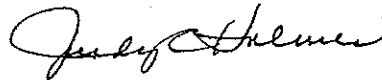
READ AND PASSED this 7th day of March, 2011

By Order:



Judy C. Holmes
Administrative Officer

PRESENTED to the County Executive for his approval this 8th day of March, 2011



Judy C. Holmes
Administrative Officer

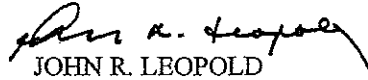
APPROVED AND ENACTED this 9 day of March, 2011

With the exception of amendments 2, 3 and 4

DISAPPROVED AND VETOED: March 9, 2011

Items and Sections affected by
Amendment Nos. 2, 3 and 4 adopted
March 7, 2011. See attached Veto
Message dated March 9, 2011

EFFECTIVE DATE: March 9, 2011

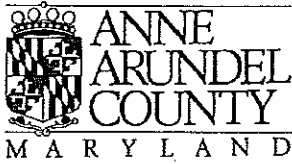


JOHN R. LEOPOLD
County Executive

I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF BILL NO.
4-11 THE ORIGINAL OF WHICH IS RETAINED IN THE FILES OF THE
COUNTY COUNCIL.



Judy C. Holmes
Administrative Officer



County Executive John R. Leopold
P.O. Box 2700, Annapolis, MD 21404
410-222-1821

March 9, 2011

The Anne Arundel County Council
Arundel Center, 1st Floor
44 Calvert Street
Annapolis, Maryland 21401

Subject: **Executive Vetoes and Veto Statements**
Bill No. 4-11, Amendment Nos. 2, 3 and 4

Dear Members of the County Council:

In accordance with the authority vested in me by Section 307(j) of the Anne Arundel County Charter, I hereby veto Amendment Nos. 2, 3 and 4 to Bill No. 4-11. These Vetoes and Veto Statements are incorporated by reference to the bill as returned to you.

Item Veto - Amendment No. 2. Amendment No. 2, a copy of which is attached, advances the date for the issuance of the final written award of a neutral arbitrator and requires the County Executive to include in the budget submitted to the County Council funding sufficient for a final written award based on the final offer of the Uniformed Public Safety Exclusive Representative if the award is issued by April 8th. Amendment No. 2 also requires the inclusion in the budget of funding sufficient to fund the final offer of the uniformed public safety representative if the neutral arbitrator does not provide an award by April 8th.

I have vetoed Amendment No. 2 because it is inconsistent and impractical with the timeline currently established in Section 6-4-111 in that existing dates established in that section have either already passed or will pass shortly. Further, a number of uniformed public safety representatives eligible for the provisions of Section 6-4-111 have not foreclosed the possibility of an extension of the impasse date provided for in this section.

March 9, 2011

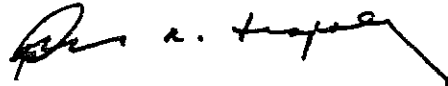
In addition, Amendment No. 2 provides that "(If the neutral arbitrator does not provide an award by the April 8 deadline, the County Executive shall include in the budget sufficient funding to fund the final offer of the uniformed public safety representative" Such a requirement would cause havoc with the budget process. It would, in effect, mandate the submission of a budget based on increased fiscal assumptions resulting from the potential decisions of multiple neutral arbitrators. Those assumptions, without County Council approval of additional revenue sources, would require significant reductions in the remainder of the County budget, including appropriations to the Board of Education. I believe that such an approach to the County budget process is not in the best interests of the taxpayers of Anne Arundel County.

Item Veto - Amendment No. 3. Amendment No. 3, a copy of which is attached, would eliminate Section 3 of the bill, which provides that, if the modifications to binding arbitration enacted by the bill are held invalid for any reason by a court, § 6-4-111 of the County Code would be repealed by operation of law, and the provisions of § 6-4-110 of the County Code would thereafter apply to all impasses between the Administration and an Exclusive Representative. I have vetoed Amendment No. 3 because, as the Office of Law has advised the County Council both in oral testimony and in the written Legislative Summary to this bill, Section 3 is necessary to preserve the role of the County Council as the final authority on the appropriation of public funds for the compensation of County employees and the consequences of such appropriations on the remainder of the County budget.

Item Veto - Amendment No. 4. I have vetoed Amendment No. 4, a copy of which is attached, because it is a technical amendment to the bill based upon Amendment No. 2. Since I have vetoed Amendment No. 2, it is appropriate to also veto Amendment No. 4.

By my signature to the bill as presented and as explained herein, I signify my veto of Amendment Nos. 2, 3 and 4, while approving the remainder of Bill No. 4-11.

Sincerely,



JOHN R. LEOPOLD
County Executive

VETOED

AMENDMENT TO BILL NO. 4-11, AS AMENDED
(Personnel – Employee Relations – Binding Arbitration)

March 7, 2011

Introduced by Mr. Walker



JOHN R. LEOPOLD
COUNTY EXECUTIVE

3.9.11

DATE

Amendment No. 2

On Page 1 of the amended bill, in line 4, after “of” insert “changing the date for issuance of a final written award and revision of a final written award;”; in line 16, strike “6-4-111(m)” and substitute “6-4-111(e)(2), (f)(2), (j)(5), (k) and (m) (as amended by Bill No. 88-10)”; in line 19, strike the second comma and substitute “and”; after “(u)” strike the comma and strike “and (v)”.

On page 2, in line 30, after “(2005, as amended)” insert “(and as amended by Bill No. 88-10)”; after line 36, insert

“(e) Arbitration. If the Administration and a Uniformed Public Safety Exclusive Representative are at impasse on February 28, the Administration and the Uniformed Public Safety Exclusive Representative shall:

(2) pursuant to an application made under subsection (e)(1), instruct the American Arbitration Association to provide a list of neutral arbitrators by March 18 and ensure that all of the arbitrators on the list provided are available to conduct hearings and to issue a final written award by April [20] 8;

(f) Alternative arbitrator lists. If the American Arbitration Association is unable to satisfy the requirements of subsection (e), the Administration and the Uniformed Public Safety Exclusive Representative shall:

(2) request from the Federal Mediation and Conciliation Service a supplementary or alternative list of neutral labor arbitrators who are members of the National Academy of Arbitrators; familiar with impasse disputes and interest arbitration; and available to conduct hearings and issue a final written award by April [20] 8.

(j) Determinations of neutral arbitrator. The neutral arbitrator selected under this section shall:

(5) have copies of a final written award delivered to the Administration and the Uniformed Public Safety Exclusive Representative on or before the earlier of April [20] 8 or within [10] FIVE days after the hearing is adjourned.

AMENDMENT TO BILL NO. 4-11, AS AMENDED
(Personnel – Employee Relations – Binding Arbitration)

March 7, 2011

Introduced by Mr. Walker

Amendment No. 3

On page 1 of the amended bill, strike in their entirety, lines 10 through 12, inclusive; and in line 16, strike “§§6-4-110(a) and” and substitute “§”.

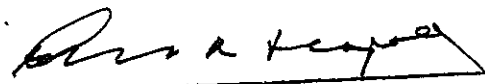
On page 2, strike, in their entirety, lines 19 through 30, inclusive.

On page 3, strike, in their entirety, lines 48 through 54, inclusive.

On page 4, strike in their entirety lines 1 through 4, inclusive and in lines 5 and 12, strike “4.” and “5.” and substitute “2.” and “3.”, respectively.

(This amendment removes the provision to make the Ordinance and Code nonseverable and removes the provision for repeal of binding arbitration should certain provisions of the Ordinance be held invalid).

VETOED



JOHN R. LEOPOLD
COUNTY EXECUTIVE

3.9.11

DATE

AMENDMENT TO BILL NO. 4-11, AS AMENDED
(Personnel – Employee Relations – Binding Arbitration)

March 7, 2011

Introduced by Mr. Walker

Amendment No. 4

On page 2 of the amended bill, in line 17, after “(2005, as amended)” insert “(as amended by Bill No. 88-10)”.

VETOED

John R. Leopold

**JOHN R. LEOPOLD
COUNTY EXECUTIVE**

3-9-11

DATE