

# Court: Montgomery police bargaining law will appear on the ballot

By [Victor Zapana](#), Published: August 17

Members of the Montgomery County police union have long been able to negotiate their salaries, benefits and working conditions. But there are other aspects of a police officer's job — even something as seemingly small as checking e-mail — that they think should be part of collective bargaining.

Now, after a long, contentious battle, the state's highest court ruled Friday that the voters should decide in November whether the union could expand those bargaining rights.

Last year, the County Council unanimously passed a law limiting the issues that could be included in collective bargaining to traditional rights such as wages and vacation time.

The union, Fraternal Order of Police Lodge 35, employed an outside consultant last fall to collect signatures to challenge the law. County election officials [certified the union's petition](#) in November.

County officials [immediately sued](#) to block the petition. And in June, Montgomery County Circuit Court Judge Eric M. Johnson struck down the referendum, saying signature gatherers had provided incorrect information on many of the petition forms.

The union's attorney, F.J. Collins, quickly filed an appeal, and the Maryland Court of Appeals, the highest court in the state, [held a hearing on the lawsuit](#) Thursday.

The seven-member court has yet to file an official ruling, but a majority of the appellate judges voted Friday to allow the issue to go before voters, according to an e-mail obtained by The Washington Post from the clerk of the court to lawyers involved in the case.

The union is pleased with the decision, a spokesman said.

“Now the voters will decide on how they feel that collective bargaining is being undermined,” said Peter H. Fenn, a political media consultant employed by the union to help with the referendum campaign. “We're ready to have a full discussion of the issue as we move to the election.”

In a statement, County Council President Roger Berliner (D-Potomac-Bethesda) said the law was “intended to enable the police chief to manage his department effectively.”

At the hearing Thursday, attorneys for the two parties disagreed on the significance of the information that was incorrect on the petitions. For instance, many of the petition forms

included only incorrect Zip codes. The union argued that such a mistake is unimportant when the rest of the address is correct.

“You can draw a line that is not requiring perfection,” Collins told the judges. “You can say that a circulator [must only be able to] be reasonably located.”

But Jonathan Shurberg, an election law specialist employed by the county, said at the hearing that “wrong information is wrong information” and that any petition forms containing such information should be invalidated.

“Now the voters will have a chance to decide,” said Donna Bigler, a county spokeswoman. The county has spent \$201,000 in legal fees so far, she said. Margie Roher, a spokeswoman for the county’s Board of Elections, said in June that the board’s legal fees amounted to \$25,000.

The high court’s decision makes the bargaining law one of three issues that will appear on the ballot in the county in November. Residents will also vote on whether to create [a county hiring authority for people with disabilities](#), and Damascus residents will vote on whether to lift the town’s ban on beer and wine sales.

A fourth ballot question could also appear. This week, longtime Republican activist Robin Ficker submitted 14,500 signatures for a ballot proposal that would make it harder to increase the county’s energy tax. But County Executive Isiah Leggett (D) refused to certify the measure, which would prevent it from appearing on the ballot. Ficker said he plans to challenge the decision in court.