Be Prepared: Public Employee Collective Bargaining

VML Annual Conference & Mayors Institute | October 13, 2026

Sabrina B. Joy-Hogg
City of Newport News
Senior Deputy City Manager
joyhoggsb@nnva.gov
(757) 525-6256

Sharon Carr, Esq.
City of Richmond
Senior Assistant City Attorney
Sharon.Carr@rva.gov
(804) 646-6801

Faith A. Alejandro, Esq.
falejandro@sandsanderson.com
(804) 783-7278



Sands Anderson

Agenda

- Overview of Legal Framework
- Prepare for Collective Bargaining & Management Mindset
- Lessons Learned at the Table
- Looking Ahead at the Legislative Landscape
- Closing/Q&A

 ©2026 Sands Anderson PC

Sands Anderson

What Is Collective Bargaining?

The process by which organized workers (a union) and their employer negotiate a legally binding contract (CBA) covering employment terms & conditions (i.e., wages, hours, benefits, etc.)

Right to Work State

Virginia is a right-to-work state. Employees cannot be required to join a union or pay dues as a condition of employment.

Key Components

- Bargaining Unit (Group of Employees)
- Exclusive Bargaining Representative (Union)
- Duty to Bargain in Good Faith
- Resulting Collective Bargaining Agreement (CBA)

 ©2026 Sands Anderson PC

Sands Anderson

The Past: Virginia's Long Ban

1946

General Assembly declares by joint resolution that public employees cannot collectively bargain, after UVA Black hospital workers attempted to organize to protest low wages

1977

Virginia Supreme Court rules in Commonwealth v. County Board of Arlington County that the Dillon Rule does not confer authority to bargain absent express authorization

1993

General Assembly codifies ban in Va. Code § 40.1-57.2

1993–2020

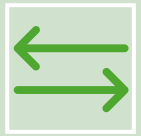
Virginia is one of three states (NC & SC) to expressly ban public-sector collective bargaining

Default Legal Rule: There is NO authority to collectively bargain with the workforce.

 ©2026 Sands Anderson PC

Sands Anderson

The Present: 2020 Local Framework



The Change: In 2020, General Assembly amended Va. Code § 40.1-57.2, effective May 1, 2021, to allow counties, cities, and towns to authorize collective bargaining by local ordinance or resolution.



Key Feature: Permissive, not mandatory. School boards also permitted to opt in. No statewide framework, no state oversight board, no uniform rules.



Limitations: State employees still excluded. Strikes still prohibited. Each locality must craft its own rules.

 ©2026 Sands Anderson PC

Sands Anderson

Va. Code § 40.1-57.2

- Permits an OPT-IN for collective bargaining by ordinance or resolution, which must:
  - Establish procedures for certification and decertification of EBRs
  - Include reasonable public notice and opportunity for labor organizations to intervene in the designation process
- Must not "restrict the governing body's authority to establish the budget or appropriate funds"
- Requires response to certification by majority of public employees in a purported unit within 120 days
  - **Vote to adopt OR NOT to adopt**
- Excludes constitutional officers and their employees
- Does NOT set rules for determining bargaining units, impasse, scope

 ©2026 Sands Anderson PC

Sands Anderson

Right to Work & Prohibition on Strikes

- Va. Code §§ 40.1-58 *et seq*. protects the right of employees to work without being required to join a labor union
- Va. Code § 40.1-55 deems public employees who strike or willfully refuse to perform employment duties as having terminated their employment and become ineligible for employment for 12 months with any public employer
- Both remain law today and were not actively the subject of repeal in the 2026 collective bargaining bill

 ©2026 Sands Anderson PC

Sands Anderson

Right to Secret Ballot & Grievance Procedure

- Va. Code 40.1-54.3 recognizes "**the right of an individual employee to vote by secret ballot in such a procedure [to elect a union] is a fundamental right that shall be guaranteed from infringement.**"
- Va. Code § 15.2-1506 & 1507 require every locality with 15± employees to establish:
  - Grievance procedure
  - Personnel system including: (i) Classification plan of service and (ii) Uniform pay plan (except school divisions)
  - Matters NOT grievable include:
    - Establishment of wages and salaries, position classification, benefits
    - Methods, means, and personnel by which work activities are executed

 ©2026 Sands Anderson PC

Sands Anderson

Who Has Opted In?

11 Local Governments

- City of Alexandria (April 2021)
- Arlington County (July 2021)
- Fairfax County (October 2021)
- Loudoun County (December 2021)
- City of Richmond (July 2022)
- City of Charlottesville (October 2022)
- Prince William County (November 2022)
- City of Portsmouth (November 2023)
- Town of Leesburg (June 2026)
- City of Newport News (July 2026)
- Town of Herndon (August 2026)

9 School Boards

- Arlington County
- Prince William County
- Richmond City
- Charlottesville City
- Fairfax County
- Loudoun County
- Montgomery County
- Alexandria City
- Albemarle County

 ©2026 Sands Anderson PC

Sands Anderson

The Patchwork

Varying Rules

- Scope of bargaining
- Bargaining unit definitions
- Election procedures
- Impasse resolution
- Management rights

Example Contrast

- **Charlottesville CBO:** Covers wages, benefits, hours, and other terms and conditions of employment
- **Town of Herndon:** Limited to wages only (no benefits)

 ©2026 Sands Anderson PC

Sands Anderson

The Future: 2026 ~~Proposed~~ ~~Amended~~ Vetoed Legislation, HB 1263/SB 378

- Repealed prohibition on collective bargaining in Va. Code § 40.1-57.2
- Replaced local-option framework with mandatory statewide system, requiring ALL localities to collectively bargain if employees organize
- Created the Public Employee Relations Board (PERB), 5-member board appointed by Governor with rulemaking authority
- Would have made Virginia the first state in the South recognize comprehensive collective bargaining rights for public employees

 ©2026 Sands Anderson PC

Sands Anderson

Other Key Features of Vetoed Bill

- PERB would have power to adopt regulations and:
  - Determine appropriate bargaining units
  - Conduct and oversee certification/decertification elections for EBRs
  - Adjudicate unfair labor practice charges
  - Enforce the new law, including authority to order binding arbitration and bring suit
- Implementation by July 1, 2028
- Arbitration provisions arguably limited local budget decision making
  - Governing body must approve or reject funding as a whole
  - If rejected, back to the table

 ©2026 Sands Anderson PC

Sands Anderson

Governor Spanberger's Amendments *. . . That Failed!*

- Delayed implementation by nearly 2 years, to January 1, 2030
- Did not immediately repeal existing framework of Va. Code § 40.1-57.2 until the statewide system was ready
- Made arbitration advisory, not final and binding
- Broadened definition of "confidential employee" (excluded from bargaining)
- Added employee opt-out rights from sharing personal contact info with unions
- Gave PERB more discretion in the rulemaking process

 ©2026 Sands Anderson PC

Sands Anderson

What This Means for Your Locality



Already Bargaining

Existing CBAs and EBRs are preserved

If bill is re-introduced, expect some "grandfathering" and transition towards alignment with statewide rules



Haven't Started Yet

Begin preparing now as unions continue to grow their presence

Train management and HR

Review personnel policies and study compensation

Budget for bargaining costs

Develop labor relations strategy



Rejected Bargaining

No change, for now, but respond to any future (or repeat) petitions within 120 days

If bill is re-introduced, prior local decision likely won't matter

 ©2026 Sands Anderson PC

Sands Anderson

Prepare for Collective Bargaining

What to consider BEFORE bargaining begins!

Sands Anderson

Threshold Questions for Management

- What problem(s) are we trying to fix, and at what cost?
- What should/does our CBO permit and prohibit?
- What policies require updating before bargaining?
- Who should be “at the table” for management?
- Where should management discretion change?
- Who will own implementation and labor relations?
- How do we train managers and track obligations?

 ©2026 Sands Anderson PC

Sands Anderson

Six-Steps for a Management Mindset

1. Know Your Rules
2. Build the Right Team
3. Do Your Homework
4. Think Across the Organization
5. Bargain for Impact, Not Instinct
6. Plan for Day 1 AFTER Ratification



COLLECTIVE BARGAINING

A Local Government Management Readiness Guide

What to consider before bargaining begins — and immediately after it launches

THE MANAGEMENT MINDSET

Prepare for the contract you will have to administer — not just the agreement you hope to negotiate.

1 | KNOW YOUR RULES

Start with the legal and structural guardrails.

- Read the collective bargaining ordinance/resolution closely: permissions, restrictions, scope and process.
- Build the CBA so it aligns with the CBO; do not negotiate language the ordinance cannot support.
- Review policies you have been meaning to change. Once bargaining exists, changes affecting employment may require union involvement (impacts & effects bargaining).
- Treat every word, cross-reference, policy date and deadline as consequential.

2 | BUILD THE RIGHT TEAM

The people at the table become part of your bargaining history.

- Choose management representatives who can listen, explain operations and consider competing perspectives.
- Include subject-matter experts who understand the operational and financial consequences of proposals.
- Plan for continuity: preserve institutional knowledge for grievances, disputes and successor bargaining.
- Document negotiation-team meetings and bargaining sessions in detail.

3 | DO YOUR HOMEWORK

Arrive with evidence — and your own language.

- Read CBAs from other localities to identify provisions and trends that may reach your table.
- Cost financial proposals before taking a position; understand staffing, overtime and downstream impacts.
- Compile the documentation and data supporting management positions.
- Do not bargain only in reaction. Be proactive and draft management proposals and preferred language for issues you expect the union to raise.

4 | THINK ACROSS THE ORGANIZATION

One agreement can create consequences far beyond one bargaining unit.

- Coordinate proposals across bargaining units and departments, especially where employees work under different agreements.
- Aim for administratively consistent processes where possible; conflicting rules are difficult to manage.
- Assume unions will share information. Management should also maintain strong internal coordination.
- If multiple CBAs are contemplated, consider staggering expiration dates to avoid simultaneous renegotiations.

5 | BARGAIN FOR IMPACT, NOT INSTINCT

Evaluate what a proposal actually does.

- Avoid reflexive "no". Ask what the proposal changes operationally, financially and managerially. Under that you are binding future administrations whose priorities and revenue may differ from what they are now.
- Identify what is feasible, what can be modified and what risks accompany impasse or arbitration.
- Know where management discretion may be reduced and where longer-term planning will be required.
- Keep the existing management-workforce relationship in view; unresolved issues often become bargaining issues.

6 | PLAN FOR DAY 1 AFTER RATIFICATION

Contract administration is a permanent workload.

- Identify who will own labor relations; consider dedicated labor-relations capacity as the workload grows.
- Train managers on the new "rules of the road" before they make decisions covered by the CBA.
- Create an implementation checklist: new processes, deadlines, responsible units and required labor-management meetings.
- Centralize labor communications to reduce inconsistent messages, gaps and competing conversations.

QUESTIONS MANAGEMENT SHOULD ANSWER BEFORE EMBARKING ON COLLECTIVE BARGAINING

1. What problem(s) are we trying to fix and at what cost?
2. What should/does our CBO permit — and prohibit?
3. Which policies should we update before bargaining?
4. Who should be on the management's negotiation team?
5. What language do we want to propose proactively?
6. What do peer-locality CBAs tell us to expect?
7. Which proposals can we cost with reliable data? Can we afford this proposal going forward?
8. Where could management discretion change and how will we handle that?
9. How will we coordinate across bargaining units?
10. Who will own implementation and labor relations?
11. How will we train managers and track every obligation?

FIELD LESSON: **The inaugural negotiation takes substantial time — and administering the resulting contract can demand just as much attention.**

Prepared by Sharon M. Carr, Senior Assistant City Attorney, Richmond City Attorney's Office

October 2026

 ©2026 Sands Anderson PC

Sands Anderson

Lessons Learned at the Bargaining Table

Sands Anderson

Knowledge Is Power

For Employees



CITY OF NEWPORT NEWS, VIRGINIA
DEPARTMENT OF HUMAN RESOURCES

Know Your Rights

as a City Employee

IMPORTANT NOTICE
The Newport News City Council **has authorized** collective bargaining (Ordinance #8189-26) for City employees beginning in FY 2029. As of now no union is certified or recognized to represent you. Union organizers do **not** speak for the City.

YOU HAVE THE RIGHT TO SAY NO

You are **never required** to:
- Talk to union organizers
- Sign any authorization card
- Attend union meetings or events
- Answer questions about your views

Your choice is **100% protected.**

1 RIGHT TO DECLINE UNION CONTACT
- You have the absolute right to refuse to speak with any union organizer at any time.
- You may walk away, hang up, or close the door — you owe a union organizer nothing.
- No one may pressure, harass, or follow up repeatedly after you decline.
- Simply say: **"I am not interested"** — you are not required to explain further.

2 RIGHT NOT TO SIGN ANYTHING
- Authorization cards, membership forms, and petitions are entirely voluntary.
- Signing a card may designate a union as your bargaining representative — read carefully.
- You may never be penalized for refusing to sign any union document.
- A signed card can typically be revoked — contact HR if you feel pressured.

3 YOUR PERSONAL INFO IS PROTECTED
- The City will NOT provide your home address, phone, or personal contact info to any union.
- Unions have no automatic right to your personal data from City records.
- If a union contacts you at home, they obtained your info elsewhere — not from the City.
- Report any suspected unauthorized disclosure to HR immediately.

4 RIGHT TO CHOOSE (OR NOT JOIN)
- Virginia is a right-to-work state — union membership is always voluntary.
- No employee may be required to join a union or pay dues as a condition of employment.
- You may support or decline any union without affecting your job, pay, or benefits.
- Your decision is private — you are not required to disclose it to anyone.

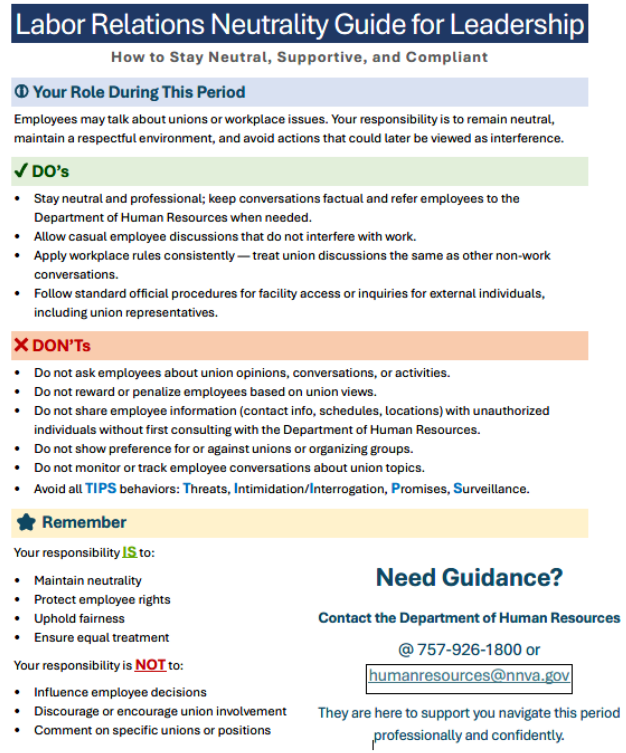
5 PROTECTION FROM RETALIATION
- It is unlawful for anyone to retaliate against you for refusing to join or support a union.
- It is equally unlawful to retaliate against you for supporting a union.
- Prohibited conduct includes threats, harassment, or changes to working conditions.
- Report any retaliation to City HR or the VA Dept. of Labor & Industry: (804) 371-2327.

HR Department
700 Town Center Drive · (757) 926-1800
humanresources@nnva.gov

VA Dept. of Labor & Industry
(804) 371-2327 · doli.virginia.gov

Legal Reference
Va. Code § 40.1-57.2 | Informational only — not legal advice.

For Managers



Labor Relations Neutrality Guide for Leadership

How to Stay Neutral, Supportive, and Compliant

ⓘ Your Role During This Period

Employees may talk about unions or workplace issues. Your responsibility is to remain neutral, maintain a respectful environment, and avoid actions that could later be viewed as interference.

✓ DO's
- Stay neutral and professional; keep conversations factual and refer employees to the Department of Human Resources when needed.
- Allow casual employee discussions that do not interfere with work.
- Apply workplace rules consistently — treat union discussions the same as other non-work conversations.
- Follow standard official procedures for facility access or inquiries for external individuals, including union representatives.

✗ DON'Ts
- Do not ask employees about union opinions, conversations, or activities.
- Do not reward or penalize employees based on union views.
- Do not share employee information (contact info, schedules, locations) with unauthorized individuals without first consulting with the Department of Human Resources.
- Do not show preference for or against unions or organizing groups.
- Do not monitor or track employee conversations about union topics.
- Avoid all **TIPS** behaviors: **T**hreats, **I**ntimidation/**I**nterrogation, **P**romises, **S**urveillance.

★ Remember

Your responsibility **IS** to:
- Maintain neutrality
- Protect employee rights
- Uphold fairness
- Ensure equal treatment

Your responsibility is **NOT** to:
- Influence employee decisions
- Discourage or encourage union involvement
- Comment on specific unions or positions

Need Guidance?

Contact the Department of Human Resources

@ 757-926-1800 or
humanresources@nnva.gov

They are here to support you navigate this period professionally and confidently.

 ©2026 Sands Anderson PC

Sands Anderson

More Management Tips



 ©2026 Sands Anderson PC

Sands Anderson

Looking Forward

Sands Anderson

Questions?

Thank you for your time!

Sabrina B. Joy-Hogg
City of Newport News
Senior Deputy City Manager
joyhoggsb@nnva.gov
(757) 525-6256

Sharon Carr, Esq.
City of Richmond
Senior Assistant City Attorney
Sharon.Carr@rva.gov
(804) 646-6801

Faith A. Alejandro, Esq.
falejandro@sandsanderson.com
(804) 783-7278



Sands Anderson