
By: Delegate Howard

Introduced and read first time: January 31, 1997

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Public Education Employment Relations Commission**

3 FOR the purpose of establishing a Public Education Employment Relations Commission
4 in the State Department of Education; requiring the Commission to decide certain
5 controversies and disputes; requiring the Commission to adopt certain regulations;
6 requiring the Commission to provide for supervision of certain elections; requiring
7 the Commission to make certain determinations on certain employment matters;
8 requiring the Commission to provide certain assistance and advice under specified
9 circumstances; requiring the Governor to appoint the members of the Commission;
10 establishing the terms of members of the Commission; specifying the powers of the
11 Commission; repealing certain powers and duties of the State Board of Education
12 and the State Superintendent of Schools; specifying the terms of the initial members
13 of the Commission; and generally relating to the establishment of the Public
14 Education Employment Relations Commission.

15 BY repealing and reenacting, with amendments,
16 Article - Education
17 Section 2-205(e), 6-405(f), 6-408, 6-506(f), and 6-510
18 Annotated Code of Maryland
19 (1997 Replacement Volume)

20 BY adding to
21 Article - Education
22 Section 6-801 through 6-805, inclusive, to be under the new subtitle "Subtitle 8.
23 Public Education Employment Relations Commission"
24 Annotated Code of Maryland
25 (1997 Replacement Volume)

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

28 **Article - Education**

29 2-205.

30 (e) (1) Without charge and with the advice of the Attorney General, the State
31 Board shall explain the true intent and meaning of the provisions of:

2

1 (i) This article that are within its jurisdiction; and

2 (ii) The bylaws, rules, and regulations adopted by the Board.

3 (2) [The] EXCEPT AS OTHERWISE PROVIDED IN TITLE 6, SUBTITLES 4
4 AND 5 OF THIS ARTICLE, THE Board shall decide all controversies and disputes under
5 these provisions.

6 (3) The decision of the Board is final.

7 (4) (I) CONTROVERSIES AND DISPUTES UNDER TITLE 6, SUBTITLE 4
8 OR SUBTITLE 5 OF THIS ARTICLE, SHALL BE DECIDED BY THE PUBLIC EDUCATION
9 EMPLOYMENT RELATIONS COMMISSION.

10 (II) THE DECISION OF THE PUBLIC EDUCATION EMPLOYMENT
11 RELATIONS COMMISSION IS FINAL, SUBJECT TO THE OTHER PROVISIONS OF THIS
12 ARTICLE CONCERNING THE FISCAL RELATIONSHIP BETWEEN THE PUBLIC SCHOOL
13 EMPLOYER AND THE COUNTY COMMISSIONERS, COUNTY COUNCIL, AND MAYOR
14 AND CITY COUNCIL OF BALTIMORE CITY.

15 6-405.

16 (f) (1) The [State Board] PUBLIC EDUCATION EMPLOYMENT RELATIONS
17 COMMISSION shall adopt rules and regulations for:

18 (i) Verifying the number of certificated employees of the public
19 school employer or individuals of equivalent status in Baltimore City who are members in
20 good standing of an employee organization on the date of the certification or who have
21 signed a petition under this section; and

22 (ii) Holding elections under this section and the certification of their
23 results.

24 (2) The [State Board] PUBLIC EDUCATION EMPLOYMENT RELATIONS
25 COMMISSION shall provide for supervision of these elections.

26 (3) The elections shall be held:

27 (i) In each school facility where public employees are assigned on a
28 regularly scheduled school day;

29 (ii) In a manner assuring the secrecy of the ballot; and

30 (iii) On a regular working day for public school employees, between
31 June 1 and June 15, inclusive, except in Baltimore City where the elections shall be held
32 between November 1 and November 15 following the date on which certification of
33 required membership enrollment is made.

34 (4) In any election held under this section, the employee organization that
35 receives the largest number of votes cast in a unit shall be declared to be the exclusive
36 representative of all public school employees in the unit. If the largest number of votes in
37 the election is cast not to have exclusive representation, a representative may not be
38 designated for the unit.

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1 (5) The public school employer shall provide any assistance required in
2 holding the elections.

3 6-408.

4 (a) (1) In this section, "negotiate" includes the duty to:

5 (i) Confer in good faith, at all reasonable times; and

6 (ii) Reduce to writing the matters agreed on as a result of the
7 negotiations.

8 (2) The agreements may provide for binding arbitration of the grievances
9 arising under the agreement that the parties have agreed to be subject to arbitration.

10 (b) (1) On request, a public school employer or at least two of its designated
11 representatives shall meet and negotiate with at least two representatives of the employee
12 organization that is designated as the exclusive negotiating agent for the public school
13 employees in a unit of the county on all matters that relate to salaries, wages, hours, and
14 other working conditions.

15 (2) ON PETITION TO THE PUBLIC EDUCATION EMPLOYMENT RELATIONS
16 COMMISSION, THE COMMISSION SHALL DETERMINE IF A MATTER IS A MANDATORY,
17 PERMISSIVE, OR ILLEGAL SUBJECT OF BARGAINING.

18 [(2)] (3) In Montgomery County, notwithstanding any agreement in effect
19 on June 1, 1978 which excludes substitute teachers, and without affecting any other part
20 of such an agreement, the exclusive negotiating agent for the public school employees in
21 a unit and the public school employer shall meet and negotiate under this section the
22 salaries, wages, hours, and other working conditions of all persons actually employed as
23 substitute teachers.

24 (c) The designation of representatives by the employer under this section does
25 not prevent the designated employee organization from appearing before or making
26 proposals to the public school employer at a public meeting or hearing.

27 (d) (1) If, on the request of either party, the [State Superintendent] PUBLIC
28 EDUCATION EMPLOYMENT RELATIONS COMMISSION determines from the facts that
29 an impasse is reached in negotiations between a public school employer and an employee
30 organization that is designated as an exclusive negotiating agent, the assistance and
31 advice of the [State Board] PUBLIC EDUCATION EMPLOYMENT RELATIONS
32 COMMISSION may be requested, with the consent of both parties.

33 (2) If consent is not given and at the request of either party, a panel shall be
34 named to aid in resolving the differences.

35 (3) The panel shall contain three individuals chosen as follows:

36 (i) One member is to be named by each party within 3 days; and

37 (ii) The third member is to be chosen by the other two members within
38 10 days after the request.

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1 (4) The [State Board] PUBLIC EDUCATION EMPLOYMENT RELATIONS
2 COMMISSION or the panel selected shall meet with the parties to aid in resolving the
3 differences, and, if the matter is not resolved, shall make a written report and
4 [recommendation] DETERMINATION within 30 days after the request.

5 (5) A copy of the report AND DETERMINATION shall be sent to the
6 representatives of the public school employer and the employee organization.

7 (6) All costs of mediation shall be shared by the public school employer and
8 the employee organization.

9 (7) [Notwithstanding any other provision of this subtitle, the public school
10 employer shall make the final determination as to matters that have been the subject of
11 negotiation, but this final determination is subject to the other provisions of this article
12 concerning the fiscal relationship between the public school employer and the county
13 commissioners, county council, and Mayor and City Council of Baltimore City.] THE
14 DETERMINATION OF THE PUBLIC EDUCATION EMPLOYMENT RELATIONS
15 COMMISSION OR THE PANEL SELECTED SHALL BE BINDING ON THE PARTIES AS TO
16 NONECONOMIC MATTERS.

17 (8) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE
18 FINAL DETERMINATION OF THE PUBLIC EDUCATION EMPLOYMENT RELATIONS
19 COMMISSION OR PANEL SELECTED IS SUBJECT TO THE OTHER PROVISIONS OF THIS
20 ARTICLE CONCERNING THE FISCAL RELATIONSHIP BETWEEN THE PUBLIC SCHOOL
21 EMPLOYER AND THE COUNTY COMMISSIONERS, COUNTY COUNCIL, AND MAYOR
22 AND CITY COUNCIL OF BALTIMORE CITY.

23 6-506.

24 (f) (1) The [State Board] PUBLIC EDUCATION EMPLOYMENT RELATIONS
25 COMMISSION shall adopt rules and regulations for:

26 (i) Verifying the number of public school employees who are members
27 in good standing of an employee organization on the date of the certification or who have
28 signed a petition under this section; and

29 (ii) Holding elections under this section and the certification of their
30 results.

31 (2) The [State Board] PUBLIC EDUCATION EMPLOYMENT RELATIONS
32 COMMISSION shall provide for supervision of these elections.

33 (3) The elections shall be held:

34 (i) In each school facility where public school employees are assigned
35 on a regularly scheduled school day;

36 (ii) In a manner assuring the secrecy of the ballot; and

37 (iii) On a regular working day for public school employees, between
38 June 1 and June 15, inclusive.

39 (4) In all elections held under this section, the employee organization that
40 receives a majority of the votes cast in a unit shall be declared to be the exclusive

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1 representative of all public school employees in the unit. If a majority of the votes in the
2 election are cast not to have exclusive representation, a representative may not be
3 designated for the unit.

4 (5) The two choices on the ballot that receive the most votes shall be placed
5 on a ballot for a runoff election that shall be held in the same manner as the original
6 election if:

7 (i) More than one employee organization is on the ballot;

8 (ii) No employee organization obtains a majority of the votes; and

9 (iii) A majority of the votes is not for "not to have exclusive
10 representation".

11 (6) The public school employer shall provide any assistance required in
12 conducting the elections.

13 6-510.

14 (a) (1) In this section, "negotiate" includes the duty to:

15 (i) Confer in good faith, at all reasonable times; and

16 (ii) Reduce to writing the matters agreed on as a result of the
17 negotiations.

18 (2) The agreements may provide for binding arbitration of the grievances
19 arising under the agreement that the parties have agreed to be subject to arbitration.

20 (b) (1) On request, a public school employer or at least two of its designated
21 representatives shall meet and negotiate with at least two representatives of the employee
22 organization that is designated as the exclusive negotiating agent for the public school
23 employees in a unit of the county on all matters that relate to salaries, wages, hours, and
24 other working conditions.

25 (2) ON PETITION TO THE PUBLIC EDUCATION EMPLOYMENT RELATIONS
26 COMMISSION, THE COMMISSION SHALL DETERMINE IF A MATTER IS A MANDATORY,
27 PERMISSIVE, OR ILLEGAL SUBJECT OF BARGAINING.

28 (c) The designation of representatives by the employer under this section does
29 not prevent an employee organization from appearing before or making proposals to the
30 public school employer at a public meeting or hearing.

31 (d) (1) If, on the request of either party, the [State Superintendent] PUBLIC
32 EDUCATION EMPLOYMENT RELATIONS COMMISSION determines from the facts that
33 an impasse is reached in negotiations between a public school employer and an employee
34 organization that is designated as an exclusive negotiating agent, the assistance and
35 advice of the [State Board] PUBLIC EDUCATION EMPLOYMENT RELATIONS
36 COMMISSION may be requested, with the consent of both parties.

37 (2) If consent is not given and at the request of either party, a panel shall be
38 named to aid in resolving the differences.

6

1 (3) The panel shall contain three individuals chosen as follows:

2 (i) One member is to be named by each party within 3 days; and

3 (ii) The third member is to be chosen by the other two members within
4 10 days after the request.

5 (4) The [State Board] PUBLIC EDUCATION EMPLOYMENT RELATIONS
6 COMMISSION or the panel selected shall meet with the parties to aid in resolving the
7 differences, and, if the matter is not resolved, shall make a written report and
8 [recommendation] DETERMINATION within 30 days after the request.

9 (5) A copy of the report AND DETERMINATION shall be sent to
10 representatives of the public school employer and the employee organization.

11 (6) All costs of the impasse proceedings, including mediation, shall be
12 shared equally by the public school employer and the employee organization.

13 (7) [Notwithstanding any other provision of this subtitle, the public school
14 employer shall make the final determination as to matters which have been the subject of
15 negotiation, but this final determination is subject to the other provisions of this article
16 concerning the fiscal relationship between the public school employer and the county
17 commissioners and county council.] THE DETERMINATION OF THE PUBLIC
18 EDUCATION EMPLOYMENT RELATIONS COMMISSION OR THE PANEL SELECTED
19 SHALL BE BINDING ON THE PARTIES AS TO NONECONOMIC MATTERS.

20 (8) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE
21 FINAL DETERMINATION OF THE PUBLIC EDUCATION EMPLOYMENT RELATIONS
22 COMMISSION OR PANEL SELECTED IS SUBJECT TO THE OTHER PROVISIONS OF THIS
23 ARTICLE CONCERNING THE FISCAL RELATIONSHIP BETWEEN THE PUBLIC SCHOOL
24 EMPLOYER AND THE COUNTY COMMISSIONERS, COUNTY COUNCIL, AND MAYOR
25 AND CITY COUNCIL OF BALTIMORE CITY.

26 SUBTITLE 8. PUBLIC EDUCATION EMPLOYMENT RELATIONS COMMISSION.

27 6-801.

28 IN THIS SUBTITLE, "COMMISSION" MEANS THE PUBLIC EDUCATION
29 EMPLOYMENT RELATIONS COMMISSION.

30 6-802.

31 THERE IS A PUBLIC EDUCATION EMPLOYMENT RELATIONS COMMISSION IN
32 THE DEPARTMENT.

33 6-803.

34 (A) ON PETITION OF ANY INTERESTED PARTY, THE COMMISSION SHALL
35 DECIDE ALL CONTROVERSIES AND DISPUTES UNDER TITLE 6, SUBTITLE 4 OR
36 SUBTITLE 5 OF THIS ARTICLE.

37 (B) THE DECISION OF THE COMMISSION IS FINAL.

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1 6-804.

2 (A) (1) THE COMMISSION CONSISTS OF THREE MEMBERS.

3 (2) (I) THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE
4 SENATE OF MARYLAND, SHALL APPOINT THE MEMBERS OF THE COMMISSION.

5 (II) THE MEMBERS SHALL BE INDIVIDUALS EXPERIENCED IN
6 PUBLIC SECTOR LABOR RELATIONS AND MAY NOT BE EMPLOYED BY OR REPRESENT
7 A PUBLIC EDUCATION EMPLOYER, AN EMPLOYEE ORGANIZATION, OR AN
8 ORGANIZATION THAT REPRESENTS PUBLIC EDUCATION EMPLOYERS OR EMPLOYEE
9 ORGANIZATIONS.

10 (3) (I) THE TERM OF A MEMBER IS 3 YEARS.

11 (II) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED
12 BY THE TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON JULY 1, 1997.

13 (III) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE
14 UNTIL A SUCCESSOR IS APPOINTED.

15 (IV) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN
16 SERVES ONLY FOR THE REMAINDER OF THE TERM AND UNTIL A SUCCESSOR IS
17 APPOINTED AND QUALIFIED.

18 (V) THE GOVERNOR MAY REMOVE A MEMBER FOR
19 INCOMPETENCE OR MISCONDUCT.

20 (VI) THE COMMISSION ANNUALLY SHALL ELECT A CHAIRMAN
21 FROM AMONG ITS MEMBERS.

22 (VII) A MAJORITY OF THE MEMBERS OF THE COMMISSION THEN
23 SERVING ON THE COMMISSION IS A QUORUM.

24 (VIII) THE STATE BOARD SHALL PROVIDE STAFF FOR THE
25 COMMISSION.

26 (B) A MEMBER OF THE COMMISSION IS ENTITLED TO THE SALARY PROVIDED
27 IN THE STATE BUDGET.

28 6-805.

29 THE COMMISSION MAY CONDUCT HEARINGS, SUBPOENA WITNESSES,
30 ADMINISTER OATHS, AND TAKE THE TESTIMONY OR DEPOSITION OF ANY PERSON
31 UNDER OATH IN RELATION TO THE ADMINISTRATION OF THE PROVISIONS OF TITLE
32 6, SUBTITLES 4 AND 5 OF THIS ARTICLE, CONDUCT INVESTIGATIONS, MAKE
33 DECISIONS CONCERNING DISPUTED MATTERS UNDER TITLE 6, SUBTITLES 4 AND 5 OF
34 THIS ARTICLE, AND MAKE RECOMMENDATIONS FOR LEGISLATIVE ACTION
35 REGARDING THE OPERATION OF SUBTITLE 8.

36 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial
37 members of the Public Education Employment Relations Commission shall expire as
38 follows:

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1 (1) One member in 1998;

2 (2) One member in 1999; and

3 (3) One member in 2000.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 July 1, 1997.