

---

By: **Delegate C. Davis**

Introduced and read first time: February 23, 2000

Assigned to: Rules and Executive Nominations

---

A BILL ENTITLED

1 AN ACT concerning

2 **State Personnel - Higher Education - Collective Bargaining**

3 FOR the purpose of expanding the scope of certain provisions of law governing  
4 collective bargaining to include certain employees of certain State institutions of  
5 higher education; requiring that the boards of regents and the boards of trustees  
6 of certain State institutions of higher education take certain actions in  
7 accordance with the requirements of certain laws governing collective  
8 bargaining; requiring the boards of regents and the boards of trustees to  
9 designate one or more representatives to participate as a party in collective  
10 bargaining; specifying appropriate bargaining units for certain employees of  
11 certain State institutions of higher education; authorizing the State Labor  
12 Relations Board to assign classification titles and positions to the bargaining  
13 units; requiring the negotiation of a supplemental memorandum of  
14 understanding at each constituent institution of the University System of  
15 Maryland under certain circumstances; repealing certain provisions of law that  
16 prohibit the Board of Regents of the University System of Maryland from  
17 establishing or implementing a certain collective bargaining plan; and generally  
18 relating to collective bargaining for employees of State institutions of higher  
19 education.

20 BY repealing and reenacting, with amendments,

21 Article - Education

22 Section 12-110, 12-111, 14-104(f) and (g), 14-408, and 16-505(c) and (j)

23 Annotated Code of Maryland

24 (1999 Replacement Volume)

25 BY repealing and reenacting, with amendments,

26 Article - State Personnel and Pensions

27 Section 3-102, 3-403, and 3-501

28 Annotated Code of Maryland

29 (1997 Replacement Volume and 1999 Supplement)

30 BY repealing

31 Chapter 298 of the Acts of the General Assembly of 1999

1 Section 6

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

4 **Article - Education**

5 12-110.

6 (a) (1) Upon the recommendation of the Chancellor who shall consult with  
7 the presidents, AND IN ACCORDANCE WITH THE REQUIREMENTS OF TITLE 3 OF THE  
8 STATE PERSONNEL AND PENSIONS ARTICLE, the Board of Regents shall establish  
9 general standards and guidelines governing the appointment, compensation,  
10 advancement, tenure, and termination of all faculty and administrative personnel in  
11 the University System of Maryland.

12 (2) These standards and guidelines shall recognize the diverse missions  
13 of the constituent institutions.

14 (3) ON THE RECOMMENDATION OF THE CHANCELLOR WHO SHALL  
15 CONSULT WITH THE PRESIDENTS, THE BOARD OF REGENTS SHALL DESIGNATE ONE  
16 OR MORE REPRESENTATIVES TO PARTICIPATE AS A PARTY IN COLLECTIVE  
17 BARGAINING ON BEHALF OF THE UNIVERSITY SYSTEM OF MARYLAND.

18 (b) The Board of Regents may establish different standards of compensation  
19 based on the size and missions of the constituent institutions.

20 (c) Subject to such standards and guidelines, AND IN ACCORDANCE WITH THE  
21 REQUIREMENTS OF TITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE, a  
22 president may:

23 (1) Prescribe additional personnel policies; and

24 (2) Approve individual personnel actions affecting the terms and  
25 conditions of academic and administrative appointments.

26 12-111.

27 (a) Except as otherwise provided by law, appointments of the University  
28 System of Maryland are not subject to or controlled by the provisions of the State  
29 Personnel and Pensions Article that govern the State Personnel Management System.

30 (b) After appointment, employees in positions designated by the University  
31 shall be regarded and treated in the same manner as skilled service or professional  
32 service employees, with the exception of special appointments, in the State Personnel  
33 Management System and:

34 (1) Have all rights and privileges of skilled service or professional service  
35 employees, with the exception of special appointments, in the State Personnel  
36 Management System;

1 (2) Have the right of appeal as provided by law, OR AS PROVIDED IN AN  
2 APPLICABLE MEMORANDUM OF UNDERSTANDING CONTAINING A GRIEVANCE AND  
3 APPEAL PROCEDURE THAT SUPERSEDES THE PROCEDURES ESTABLISHED IN TITLE  
4 13, SUBTITLE 2 OF THIS ARTICLE, in any case of alleged injustice;

5 (3) Shall be paid salaries not less than those paid in similar  
6 classifications in other State agencies; and

7 (4) Shall retain their vacation privileges, retirement status, and benefits  
8 under the State retirement systems.

9 (c) Subject to subsection (b) of this section, AND IN ACCORDANCE WITH THE  
10 REQUIREMENTS OF TITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE, the  
11 Board of Regents shall establish general policies and guidelines governing the  
12 appointment, compensation, advancement, tenure, and termination of all classified  
13 personnel.

14 14-104.

15 (f) (1) (i) On the recommendation of the President, AND IN ACCORDANCE  
16 WITH THE REQUIREMENTS OF TITLE 3 OF THE STATE PERSONNEL AND PENSIONS  
17 ARTICLE, the Board of Regents shall establish general standards and guidelines  
18 governing the appointment, compensation, advancement, tenure, and termination of  
19 all faculty, executive staff, and professional administrative personnel in the Morgan  
20 State University.

21 (ii) Subject to such standards and guidelines, AND IN ACCORDANCE  
22 WITH THE REQUIREMENTS OF TITLE 3 OF THE STATE PERSONNEL AND PENSIONS  
23 ARTICLE, the President may:

24 1. Adopt additional personnel policies; and

25 2. Approve individual personnel actions affecting the terms  
26 and conditions of academic and administrative appointments.

27 (2) Except as otherwise provided by law, appointments of Morgan State  
28 University are not subject to or controlled by the provisions of the State Personnel  
29 and Pensions Article that govern the State Personnel Management System.

30 (3) (i) Notwithstanding any other provision of law, the Board of  
31 Regents may create any position to the extent that the cost of the position, including  
32 any fringe benefit costs, is funded from existing funds.

33 (ii) Nothing in this paragraph may be construed to require any  
34 additional State General Fund support.

35 (iii) By September 1 of each year, the Board shall submit an annual  
36 position accountability report to the Department of Budget and Management, the  
37 Department of Legislative Services, and the Maryland Higher Education Commission

1 reporting the total positions created and the cost and the funding source for any  
2 positions created by the University in the previous fiscal year.

3 (iv) The total number of positions authorized under this paragraph  
4 shall be limited as specified annually in the State budget bill.

5 (4) ON THE RECOMMENDATION OF THE PRESIDENT, THE BOARD OF  
6 REGENTS SHALL DESIGNATE ONE OR MORE REPRESENTATIVES TO PARTICIPATE AS  
7 A PARTY IN COLLECTIVE BARGAINING ON BEHALF OF THE UNIVERSITY.

8 (g) (1) After appointment, employees in positions designated by the  
9 University shall be regarded and treated in the same manner as skilled service or  
10 professional service employees, with the exception of special appointments, in the  
11 State Personnel Management System and:

12 (i) Have all rights and privileges of skilled service or professional  
13 service employees, with the exception of special appointments, in the State Personnel  
14 Management System;

15 (ii) Have the right of appeal as provided by law, OR AS PROVIDED IN  
16 AN APPLICABLE MEMORANDUM OF UNDERSTANDING CONTAINING A GRIEVANCE  
17 AND APPEAL PROCEDURE THAT SUPERSEDES THE PROCEDURES ESTABLISHED BY  
18 LAW, in any case of alleged injustice;

19 (iii) Shall be paid salaries not less than those paid in similar  
20 classifications in other State agencies; and

21 (iv) Shall retain their vacation privileges, accrued sick leave,  
22 retirement status, and benefits under the State retirement systems.

23 (2) Subject to paragraph (1) of this subsection, AND IN ACCORDANCE  
24 WITH THE REQUIREMENTS OF TITLE 3 OF THE STATE PERSONNEL AND PENSIONS  
25 ARTICLE, the Board of Regents shall establish general policies and guidelines  
26 governing the appointment, compensation, advancement, tenure, and termination of  
27 all classified personnel.

28 14-408.

29 (a) (1) On the recommendation of the President, AND IN ACCORDANCE WITH  
30 THE REQUIREMENTS OF TITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE,  
31 the Board of Trustees of St. Mary's College shall establish a personnel system.

32 (2) To carry out the requirements of this section, the Board [may]:

33 (i) [Establish] MAY ESTABLISH and abolish positions;

34 (ii) [Determine] MAY DETERMINE employee qualifications;

35 (iii) [Establish] MAY ESTABLISH terms of employment, including  
36 compensation, benefits, holiday schedules, and leave policies; [and]

1 (iv) [Determine] MAY DETERMINE any other matters concerning  
2 employees; AND

3 (V) SHALL DESIGNATE ONE OR MORE REPRESENTATIVES TO  
4 PARTICIPATE AS A PARTY IN COLLECTIVE BARGAINING ON BEHALF OF THE  
5 COLLEGE.

6 (b) The personnel system shall provide fair and equitable procedures for:

7 (1) The redress of employee grievances; and

8 (2) The hiring, promotion, and termination of employees in accordance  
9 with law.

10 (c) (1) Except as provided in paragraph (2) of this subsection, an employee of  
11 the College qualifies for and shall participate in the Employees' Pension System of the  
12 State of Maryland or the Teachers' Pension System of the State of Maryland.

13 (2) An employee in a position determined by the Board to be a  
14 professional or faculty position may join the optional retirement program under Title  
15 30 of the State Personnel and Pensions Article.

16 16-505.

17 (c) (1) The Board of Trustees shall:

18 (i) Adopt reasonable rules, regulations, and bylaws to carry out the  
19 provisions of this subtitle and §§ 10-204 and 10-211 of this article; and

20 (ii) Keep separate records and minutes.

21 (2) Except with respect to skilled service employee grievance appeals, OR  
22 AS PROVIDED IN AN APPLICABLE MEMORANDUM OF UNDERSTANDING CONTAINING  
23 A GRIEVANCE AND APPEAL PROCEDURE THAT SUPERSEDES THE PROCEDURES  
24 ESTABLISHED BY LAW, Title 10, Subtitles 1 and 2 of the State Government Article  
25 ("Administrative Procedure Act") does not apply to the Board of Trustees.

26 (j) The Board of Trustees may fix the salaries and terms of employment of the  
27 President, faculty, and officers of the College IN ACCORDANCE WITH THE  
28 REQUIREMENTS OF TITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

29 **Article - State Personnel and Pensions**

30 3-102.

31 (a) Except as provided in this title or as otherwise provided by law, this title  
32 applies to all employees of:

33 (1) the principal departments within the Executive Branch of State  
34 government;

- 1 (2) the Maryland Insurance Administration;
- 2 (3) the State Department of Assessments and Taxation; [and]
- 3 (4) the State Lottery Agency; AND
- 4 (5) THE UNIVERSITY SYSTEM OF MARYLAND, MORGAN STATE  
5 UNIVERSITY, ST. MARY'S COLLEGE OF MARYLAND, AND BALTIMORE CITY  
6 COMMUNITY COLLEGE.

7 (b) This title does not apply to:

- 8 (1) employees of the Mass Transit Administration, as that term is  
9 defined in § 7-601(a)(2) of the Transportation Article;
- 10 (2) an employee who is elected to the position by popular vote;
- 11 (3) an employee in a position by election or appointment that is provided  
12 for by the Maryland Constitution;
- 13 (4) an employee who is:
- 14 (i) a special appointee in the State Personnel Management  
15 System; or
- 16 (ii) 1. directly appointed by the Governor by an appointment  
17 that is not provided for by the Maryland Constitution;
- 18 2. appointed by or on the staff of the Governor or Lieutenant  
19 Governor; or
- 20 3. assigned to the Government House or the Governor's  
21 Office;
- 22 (5) an employee assigned to the Board or with access to records of the  
23 Board;
- 24 (6) an employee in:
- 25 (i) the executive service of the State Personnel Management  
26 System; or
- 27 (ii) a unit of the Executive Branch with an independent personnel  
28 system who is:
- 29 1. the chief administrator of the unit or a comparable  
30 position that is not excluded under item (3) of this subsection as a constitutional or  
31 elected office; or
- 32 2. a deputy or assistant administrator of the unit or a  
33 comparable position;

1 (7) (i) a temporary or contractual employee in the State Personnel  
2 Management System; or

3 (ii) a contractual, temporary, or emergency employee in a unit of  
4 the Executive Branch with an independent personnel system OTHER THAN A  
5 CONTRACTUAL, TEMPORARY, OR CONTINGENT EMPLOYEE OF THE UNIVERSITY  
6 SYSTEM OF MARYLAND, MORGAN STATE UNIVERSITY, ST. MARY'S COLLEGE OF  
7 MARYLAND, OR BALTIMORE CITY COMMUNITY COLLEGE;

8 (8) an employee who is entitled to participate in collective bargaining  
9 under another law;

10 (9) AN EMPLOYEE OF A COMMUNITY COLLEGE OTHER THAN  
11 BALTIMORE CITY COMMUNITY COLLEGE;

12 [(9)] (10) an employee whose participation in a labor organization would  
13 be contrary to the State's ethics laws; or

14 [(10)] (11) any supervisory, managerial, or confidential employee as  
15 defined by regulation by the Secretary.

16 3-403.

17 (a) (1) [The] EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, THE Board  
18 shall determine the appropriateness of each bargaining unit.

19 (2) If there is no dispute about the appropriateness of the establishment  
20 of the bargaining unit, the Board shall issue an order defining an appropriate  
21 bargaining unit.

22 (3) If there is a dispute about the appropriateness of the establishment of  
23 the bargaining unit, the Board shall:

24 (i) conduct a hearing; and

25 (ii) issue an order defining an appropriate bargaining unit.

26 (b) If the appropriate bargaining unit as determined by the Board differs from  
27 the bargaining unit described in the petition, the Board may:

28 (1) dismiss the petition; or

29 (2) direct an election in the appropriate bargaining unit if the signatures  
30 included in the petition include those of at least 30% of the employees in the  
31 appropriate bargaining unit.

32 (c) A bargaining unit shall consist only of employees defined in regulations  
33 adopted by the Secretary and not specifically excluded by § 3-102(b) of this title.

1 (D) (1) THE UNIVERSITY SYSTEM OF MARYLAND, MORGAN STATE  
2 UNIVERSITY, ST. MARY'S COLLEGE OF MARYLAND, AND BALTIMORE CITY  
3 COMMUNITY COLLEGE EACH SHALL HAVE SEPARATE BARGAINING UNITS.

4 (2) APPROPRIATE BARGAINING UNITS SHALL CONSIST OF:

5 (I) ALL ELIGIBLE LABOR AND TRADES EMPLOYEES;

6 (II) ALL ELIGIBLE ADMINISTRATIVE, TECHNICAL, AND CLERICAL  
7 EMPLOYEES EXCEPT PROFESSIONAL EMPLOYEES, AS DEFINED BY THE FEDERAL  
8 FAIR LABOR STANDARDS ACT;

9 (III) ALL ELIGIBLE PROFESSIONAL EMPLOYEES, AS DEFINED BY  
10 THE FEDERAL FAIR LABOR STANDARDS ACT;

11 (IV) ALL ELIGIBLE FACULTY EMPLOYEES;

12 (V) ALL ELIGIBLE NONFACULTY TEACHING STAFF, GRADUATE  
13 EMPLOYEES, AND RESEARCH ASSISTANT EMPLOYEES; AND

14 (VI) ALL ELIGIBLE PUBLIC SAFETY EMPLOYEES.

15 [(d)] (E) (1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
16 SUBSECTION, THE Secretary or the Secretary's designee shall have the authority to  
17 assign classification titles and positions to bargaining units as appropriate.

18 (2) THE BOARD MAY ASSIGN CLASSIFICATION TITLES AND POSITIONS  
19 TO BARGAINING UNITS FOR EMPLOYEES OF THE UNIVERSITY SYSTEM OF  
20 MARYLAND, MORGAN STATE UNIVERSITY, ST. MARY'S COLLEGE OF MARYLAND, AND  
21 BALTIMORE CITY COMMUNITY COLLEGE.

22 3-501.

23 (a) (1) The Governor OR THE GOVERNING BOARD OF A STATE INSTITUTION  
24 OF HIGHER EDUCATION FOR BARGAINING UNITS WITHIN THE INSTITUTION shall  
25 designate one or more representatives to participate as a party in collective  
26 bargaining on behalf of the State OR THE STATE INSTITUTION OF HIGHER  
27 EDUCATION.

28 (2) The exclusive representative shall designate one or more  
29 representatives to participate as a party in collective bargaining on behalf of the  
30 exclusive representative.

31 (b) The parties shall meet at reasonable times and engage in collective  
32 bargaining in good faith.

33 (c) The parties shall make every reasonable effort to conclude negotiations in  
34 a timely manner for inclusion by the principal unit in its budget request to the  
35 Governor.

1 (d) (1) The parties, the Governor's designee OR THE DESIGNEE OF THE  
2 GOVERNING BOARD OF A STATE INSTITUTION OF HIGHER EDUCATION, and the  
3 exclusive representative shall execute a memorandum of understanding  
4 incorporating all matters of agreement reached.

5 (2) To the extent these matters require legislative approval or the  
6 appropriation of funds, the matters shall be recommended to the General Assembly  
7 OR GOVERNING BOARD for approval or for the appropriation of funds.

8 (E) AT THE REQUEST OF EITHER PARTY, THE PARTIES SHALL NEGOTIATE A  
9 SUPPLEMENTAL MEMORANDUM OF UNDERSTANDING AT EACH CONSTITUENT  
10 INSTITUTION OF THE UNIVERSITY SYSTEM OF MARYLAND.

11 [(e)] (F) Negotiations or matters relating to negotiations shall be considered  
12 closed sessions under § 10-508 of the State Government Article.

13 **Chapter 298 of the Acts of 1999**

14 [SECTION 6. AND BE IT FURTHER ENACTED, That the Board of Regents of  
15 the University System of Maryland may not establish or implement a collective  
16 bargaining plan for the system's nonfaculty employees. The prohibition established  
17 under this Section supersedes any provision of law relating to the requirement for the  
18 establishment and implementation of a collective bargaining plan as set forth in  
19 Chapter(s) 515 (S.B. 682/H.B. 1026) of the Acts of the General Assembly of 1999.]

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 July 1, 2000.