

# HOUSE BILL 790

P4

3lr1537

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By: **Delegate Conaway**

Introduced and read first time: February 6, 2013

Assigned to: Appropriations

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## A BILL ENTITLED

1 AN ACT concerning

2 **State Employees – Collective Bargaining – Judicial Branch Employees**

3 FOR the purpose of expanding the scope of certain provisions of law governing  
4 collective bargaining to include certain employees of the Judicial Branch of  
5 State government; altering the membership of the State Labor Relations Board  
6 to include certain members appointed by the Chief Judge of the Court of  
7 Appeals; providing that the Chief Judge may remove a member appointed by  
8 the Chief Judge only for certain reasons; altering the responsibilities and  
9 powers of the Board; requiring a bargaining unit to consist only of employees  
10 defined in regulations adopted by the Board, instead of the Secretary of Budget  
11 and Management; providing that the Board, instead of the Secretary or the  
12 Secretary's designee, shall have the authority to assign certain titles and  
13 positions to bargaining units; requiring the Chief Judge to designate certain  
14 representatives for the purpose of collective bargaining; requiring a certain  
15 memorandum of understanding to be executed by the Chief Judge; clarifying the  
16 applicability of the terms of certain memoranda of understanding; providing  
17 that a certain memorandum of understanding is not effective until it is ratified  
18 by the Chief Judge and a majority of votes cast by certain employees; defining a  
19 certain term; altering a certain definition; making certain clarifying and  
20 conforming changes; and generally relating to collective bargaining for  
21 employees of the Judicial Branch of State government.

22 BY repealing and reenacting, with amendments,

23 Article – State Personnel and Pensions

24 Section 3–101, 3–102(a), 3–202(a), (e), and (f), 3–205(a) and (b), 3–403(c) and (e),  
25 3–501, and 3–601

26 Annotated Code of Maryland

27 (2009 Replacement Volume and 2012 Supplement)

28 BY repealing and reenacting, without amendments,

29 Article – State Personnel and Pensions

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 3–201  
2 Annotated Code of Maryland  
3 (2009 Replacement Volume and 2012 Supplement)

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

6 **Article – State Personnel and Pensions**

7 3–101.

8 (a) In this title the following words have the meanings indicated.

9 (b) “Board” means:

10 (1) with regard to any matter relating to employees of any of the units  
11 of State government described in § 3–102(a)(1)(i) through (iv) and (vi) through (ix) of  
12 this subtitle and employees described in § 3–102(a)(2) **AND (3)** of this subtitle, the  
13 State Labor Relations Board; and

14 (2) with regard to any matter relating to employees of any State  
15 institution of higher education described in § 3–102(a)(1)(v) of this subtitle, the State  
16 Higher Education Labor Relations Board.

17 **(C) “CHIEF JUDGE” MEANS THE CHIEF JUDGE OF THE COURT OF**  
18 **APPEALS.**

19 **[(c)] (D)** “Collective bargaining” means:

20 (1) good faith negotiations by authorized representatives of employees  
21 and their employer with the intention of:

22 (i) 1. reaching an agreement about wages, hours, and other  
23 terms and conditions of employment; and

24 2. incorporating the terms of the agreement in a written  
25 memorandum of understanding or other written understanding; or

26 (ii) clarifying terms and conditions of employment;

27 (2) administration of terms and conditions of employment; or

28 (3) the voluntary adjustment of a dispute or disagreement between  
29 authorized representatives of employees and their employer that arises under a  
30 memorandum of understanding or other written understanding.



1 (v) the University System of Maryland, Morgan State  
2 University, St. Mary's College of Maryland, and Baltimore City Community College;

3 (vi) the Comptroller;

4 (vii) the Maryland Transportation Authority who are not police  
5 officers;

6 (viii) the State Retirement Agency; and

7 (ix) the State Department of Education; [and]

8 (2) all full-time Maryland Transportation Authority police officers at  
9 the rank of first sergeant and below; AND

10 **(3) ALL STATE EMPLOYEES OF THE JUDICIAL BRANCH OF STATE**  
11 **GOVERNMENT.**

12 3-201.

13 There is a State Labor Relations Board established as an independent unit of  
14 State government.

15 3-202.

16 (a) The Board consists of the following [five] SEVEN members:

17 (1) one member appointed by the Governor with the advice and  
18 consent of the Senate representing the public, who:

19 (i) is not an officer or employee of the State or a State employee  
20 organization; and

21 (ii) is not an elected official of the State or a State employee  
22 organization;

23 (2) two members with knowledge of labor issues chosen from a list of  
24 candidates submitted by each exclusive representative, appointed by the Governor  
25 with the advice and consent of the Senate, who:

26 (i) are not officers or employees of the State or a State employee  
27 organization; and

28 (ii) are known for objective and independent judgment; [and]

1           (3) two members of the business community, appointed by the  
2 Governor with the advice and consent of the Senate, who:

3                   (i) are not officers or employees of the State or a State employee  
4 organization; and

5                   (ii) are known for objective and independent judgment; AND

6           **(4) TWO MEMBERS WITH KNOWLEDGE OF LABOR ISSUES**  
7 **APPOINTED BY THE CHIEF JUDGE.**

8           (e) **(1)** The Governor may remove a member **APPOINTED BY THE**  
9 **GOVERNOR** only for incompetence or misconduct.

10           **(2) THE CHIEF JUDGE MAY REMOVE A MEMBER APPOINTED BY**  
11 **THE CHIEF JUDGE ONLY FOR INCOMPETENCE OR MISCONDUCT.**

12           (f) In making appointments to the Board, the Governor **AND CHIEF JUDGE**  
13 shall ensure, to the extent practicable, that:

14                   (1) the ratio of male to female members and the racial makeup of the  
15 Board is reflective of the general population of the State; and

16                   (2) each major geographic area of the State is represented on the  
17 Board.

18 3-205.

19           (a) The Board is responsible for administering and enforcing provisions of  
20 this title relating to employees described in § 3-102(a)(1)(i) through (iv) and (vi)  
21 through (ix) [and], (2), **AND (3)** of this title.

22           (b) In addition to any other powers or duties provided for elsewhere in this  
23 title, the Board may:

24                   (1) (i) establish guidelines for creating new bargaining units that  
25 include a consideration of:

26                                   1. the effect of overfragmentation on the employer;

27                                   2. the administrative structures of the State employer;

28                                   3. the recommendations of the parties;

29                                   4. the recommendations of the Executive Director;

**5. THE RECOMMENDATIONS OF THE CHIEF JUDGE;**

[5.] **6.** the desires of the employees involved;

[6.] **7.** the communities of interest of the employees involved; and

[7.] **8.** the wages, hours, and other working conditions of the employees;

(ii) establish standards for determining an appropriate bargaining unit; and

(iii) investigate and resolve disputes about appropriate bargaining units;

(2) establish procedures for, supervise the conduct of, and resolve disputes about elections for exclusive representatives; and

(3) investigate and take appropriate action in response to complaints of unfair labor practices and lockouts.

3–403.

(c) A bargaining unit shall consist only of employees defined in regulations adopted by the [Secretary] **BOARD** and not specifically excluded by § 3–102(b) of this title.

(e) (1) Except as provided in paragraph (2) of this subsection, the [Secretary or the Secretary’s designee] **BOARD** shall have the authority to assign classification titles and positions to bargaining units as appropriate.

(2) The following individuals and entities shall assign classification titles and positions to bargaining units at the following institutions:

(i) at a system institution, the President of the system institution; and

(ii) at Morgan State University, St. Mary’s College of Maryland, or Baltimore City Community College, the governing board of the institution.

3–501.

(a) (1) The following individuals or entities shall designate one or more representatives to participate as a party in collective bargaining on behalf of the State or the following institutions:

1 (i) on behalf of the **EXECUTIVE BRANCH OF** State  
2 **GOVERNMENT**, the Governor;

3 (ii) on behalf of a system institution, the president of the system  
4 institution; [and]

5 (iii) on behalf of Morgan State University, St. Mary's College of  
6 Maryland, or Baltimore City Community College, the governing board of the  
7 institution; **AND**

8 **(IV) ON BEHALF OF STATE EMPLOYEES OF THE JUDICIAL**  
9 **BRANCH OF STATE GOVERNMENT, THE CHIEF JUDGE.**

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

13 (b) The parties shall meet at reasonable times and engage in collective  
14 bargaining in good faith to conclude a written memorandum of understanding or other  
15 written understanding as defined under § 3-101(c)(1)(ii) of this title.

16 (c) (1) The parties shall make every reasonable effort to conclude  
17 negotiations in a timely manner for inclusion by the principal unit **OR THE**  
18 **JUDICIARY** in its budget request to the Governor.

19 (2) (i) The parties shall conclude negotiations before January 1 for  
20 any item requiring an appropriation of funds for the fiscal year that begins on the  
21 following July 1.

22 (ii) In the budget bill submitted to the General Assembly, the  
23 Governor shall include any amounts in the budgets of the principal units **AND THE**  
24 **JUDICIARY** required to accommodate any additional cost resulting from the  
25 negotiations, including the actuarial impact of any legislative changes to any of the  
26 State pension or retirement systems that are required, as a result of the negotiations,  
27 for the fiscal year beginning the following July 1 if the legislative changes have been  
28 negotiated to become effective in that fiscal year.

29 (3) (i) If the parties do not conclude negotiations for the next fiscal  
30 year before October 25, either party may request that a fact finder be employed to  
31 resolve the issues.

32 (ii) The fact finder shall be employed no later than November 1.

33 (iii) A fact finder shall be a neutral party appointed by alternate  
34 striking from a list by the parties provided:

- 1                   1.     by the Federal Mediation and Conciliation Service; or  
2                   2.     under the Labor Arbitration Rules of the American  
3 Arbitration Association.

4                   (iv)   The fact finder:

- 5                   1.     may give notice and hold hearings in accordance with  
6 the Administrative Procedure Act;  
7                   2.     may administer oaths and take testimony and other  
8 evidence;  
9                   3.     may issue subpoenas; and  
10                  4.     before November 20, shall make written  
11 recommendations regarding wages, hours, and working conditions, and any other  
12 terms or conditions of employment that may be in dispute.

13                  (v)   The written recommendations of the fact finder shall be  
14 delivered to the Governor, the exclusive representative, the President of the Senate,  
15 and the Speaker of the House of Delegates by the Secretary on or before December 1.

16                  (d)   (1)   A memorandum of understanding that incorporates all matters of  
17 agreement reached by the parties shall be executed by the exclusive representative  
18 and:

19                   (i)   for a memorandum of understanding relating to the  
20 **EXECUTIVE BRANCH OF STATE GOVERNMENT**, the Governor or the Governor's  
21 designee;

22                   (ii)  for a memorandum of understanding relating to a system  
23 institution, the president of the system institution or the president's designee; **[and]**

24                   (iii) for a memorandum of understanding relating to Morgan  
25 State University, St. Mary's College of Maryland, or Baltimore City Community  
26 College, the governing board of the institution or the governing board's designee; **AND**

27                   **(IV) FOR A MEMORANDUM OF UNDERSTANDING RELATING**  
28 **TO STATE EMPLOYEES OF THE JUDICIAL BRANCH OF STATE GOVERNMENT, THE**  
29 **CHIEF JUDGE OR THE CHIEF JUDGE'S DESIGNEE.**

30                  (2)   To the extent these matters require legislative approval or the  
31 appropriation of funds, the matters shall be recommended to the General Assembly for  
32 approval or for the appropriation of funds.



1 (3) To the extent matters involving a State institution of higher  
2 education require legislative approval, the legislation shall be recommended to the  
3 Governor for submission to the General Assembly.

4 (e) Negotiations for a memorandum of understanding shall be considered  
5 closed sessions under § 10-508 of the State Government Article.

6 (f) (1) The terms of a memorandum of understanding executed by the  
7 Governor or the Governor's designee and an exclusive representative of a bargaining  
8 unit for skilled service or professional service employees in the State Personnel  
9 Management System are not applicable to employees of a State institution of higher  
10 education **OR STATE EMPLOYEES OF THE JUDICIAL BRANCH OF STATE**  
11 **GOVERNMENT.**

12 (2) The terms of a memorandum of understanding executed by a  
13 president of a system institution or the governing board of Morgan State University,  
14 St. Mary's College of Maryland, or Baltimore City Community College, or their  
15 respective designees, and the exclusive representative of a bargaining unit for  
16 employees of a State institution of higher education are not applicable to skilled  
17 service or professional service employees in the State Personnel Management System  
18 **OR STATE EMPLOYEES OF THE JUDICIAL BRANCH OF STATE GOVERNMENT.**

19 **(3) THE TERMS OF A MEMORANDUM OF UNDERSTANDING**  
20 **EXECUTED BY THE CHIEF JUDGE OR THE CHIEF JUDGE'S DESIGNEE AND THE**  
21 **EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT FOR STATE EMPLOYEES**  
22 **OF THE JUDICIAL BRANCH OF STATE GOVERNMENT ARE NOT APPLICABLE TO**  
23 **SKILLED SERVICE OR PROFESSIONAL SERVICE EMPLOYEES IN THE STATE**  
24 **PERSONNEL MANAGEMENT SYSTEM OR EMPLOYEES OF A STATE INSTITUTION**  
25 **OF HIGHER EDUCATION.**

26 3-601.

27 (a) (1) A memorandum of understanding shall contain all matters of  
28 agreement reached in the collective bargaining process.

29 (2) The memorandum shall be in writing and signed by the exclusive  
30 representative involved in the collective bargaining negotiations and:

31 (i) for a memorandum of understanding relating to the  
32 **EXECUTIVE BRANCH OF STATE GOVERNMENT**, the Governor or the Governor's  
33 designee;

34 (ii) for a memorandum of understanding relating to a system  
35 institution, the president of the system institution or the president's designee; **[and]**

1 (iii) for a memorandum of understanding relating to Morgan  
2 State University, St. Mary's College of Maryland, or Baltimore City Community  
3 College, the governing board of the institution or the governing board's designee; AND

4 **(IV) FOR A MEMORANDUM OF UNDERSTANDING RELATING**  
5 **TO STATE EMPLOYEES OF THE JUDICIAL BRANCH OF STATE GOVERNMENT, THE**  
6 **CHIEF JUDGE OR THE CHIEF JUDGE'S DESIGNEE.**

7 (b) No memorandum of understanding is valid if it extends for less than 1  
8 year or for more than 3 years.

9 (c) (1) Except as provided in [paragraph (2)] **PARAGRAPHS (2) AND (3)**  
10 of this subsection, a memorandum of understanding is not effective until it is ratified  
11 by the Governor and a majority of the votes cast by the employees in the bargaining  
12 unit.

13 (2) In the case of a State institution of higher education, a  
14 memorandum of understanding is not effective until it is ratified by the institution's  
15 governing board and a majority of the votes cast by the employees in the bargaining  
16 unit.

17 **(3) IN THE CASE OF THE JUDICIAL BRANCH OF STATE**  
18 **GOVERNMENT, A MEMORANDUM OF UNDERSTANDING IS NOT EFFECTIVE UNTIL**  
19 **IT IS RATIFIED BY THE CHIEF JUDGE AND A MAJORITY OF THE VOTES CAST BY**  
20 **THE EMPLOYEES IN THE BARGAINING UNIT.**

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 2013.