

HOUSE BILL 451

P4
HB 1617/17 – HRU

8lr2675
CF SB 655

By: **Delegates Jackson, Barron, Krimm, Proctor, and A. Washington**

Introduced and read first time: January 25, 2018

Assigned to: Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 2018

CHAPTER _____

1 AN ACT concerning

2 **State Personnel – Collective Bargaining – State Institutions of Higher**
3 **Education**

4 FOR the purpose of clarifying that a member of the ~~State Labor Relations Board or~~ State
5 Higher Education Labor Relations Board may petition the circuit court to order
6 certain entities to comply with an order from the Board; establishing that the failure
7 to meet an established negotiation deadline is an unfair labor practice for certain
8 entities under certain circumstances; requiring a system institution in the
9 University System of Maryland to designate a representative of the University
10 System of Maryland Board of Regents to participate as a party in collective
11 bargaining; ~~providing for an extension of the effective period of a memorandum of~~
12 ~~understanding under certain circumstances; providing for the expiration of a~~
13 ~~memorandum of understanding under certain circumstances;~~ and generally relating
14 to collective bargaining and State institutions of higher education.

15 BY repealing and reenacting, without amendments,
16 Article – State Personnel and Pensions
17 Section 3–101 and 3–601
18 Annotated Code of Maryland
19 (2015 Replacement Volume and 2017 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article – State Personnel and Pensions
22 ~~Section 3–2A–09, 3–306, 3–501, and 3–601~~ Section 3–2A–09, 3–306, and 3–501
23 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(2015 Replacement Volume and 2017 Supplement)

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

Article – State Personnel and Pensions

3–101.

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

(b) “Board” means:

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

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

(c) “Collective bargaining” means:

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

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

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

(ii) clarifying terms and conditions of employment;

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

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

(d) “Employee organization” means a labor or other organization in which State employees participate and that has as one of its primary purposes representing employees.

(e) “Exclusive representative” means an employee organization that has been certified by the Board as an exclusive representative under Subtitle 4 of this title.

1 (f) "President" means:

2 (1) with regard to a constituent institution, as defined in § 12-101 of the
3 Education Article, the president of the constituent institution;

4 (2) with regard to a center or institute, as those terms are defined in §
5 12-101 of the Education Article, the president of the center or institute;

6 (3) with regard to the University System of Maryland Office, the
7 Chancellor of the University System of Maryland; and

8 (4) with regard to Morgan State University, St. Mary's College of
9 Maryland, and Baltimore City Community College, the president of the institution.

10 (g) "System institution" means:

11 (1) a constituent institution, as defined in § 12-101 of the Education
12 Article;

13 (2) a center or institute, as those terms are defined in § 12-101 of the
14 Education Article; and

15 (3) the University System of Maryland Office.

16 3-2A-09.

17 (a) If ~~THE STATE, A PRESIDENT, A SYSTEM INSTITUTION, AN EXCLUSIVE~~
18 REPRESENTATIVE, OR a person fails to comply with an order issued by the Board, a
19 member of the Board may petition the circuit court to order the ~~STATE, PRESIDENT,~~
20 SYSTEM INSTITUTION, AN EXCLUSIVE REPRESENTATIVE, OR person to comply with the
21 Board's order.

22 (b) The Board shall not be required to post bond in an action under subsection (a)
23 of this section.

24 3-306.

25 (a) The State and its officers, employees, agents, or representatives are prohibited
26 from engaging in any unfair labor practice, including:

27 (1) interfering with, restraining, or coercing employees in the exercise of
28 their rights under this title;

29 (2) dominating, interfering with, contributing financial or other support to,
30 or assisting in the formation, existence, or administration of any labor organization;

1 (3) granting administrative leave to employees to attend employer
2 sponsored or supported meetings or events relating to an election under § 3-405 of this
3 title, unless the employer grants employees at least the same amount of administrative
4 leave to attend labor organization sponsored or supported meetings or employee meetings;

5 (4) discriminating in hiring, tenure, or any term or condition of
6 employment to encourage or discourage membership in an employee organization;

7 (5) discharging or discriminating against an employee because of the
8 signing or filing of an affidavit, petition, or complaint, or giving information or testimony
9 in connection with matters under this subtitle;

10 (6) failing to provide all employee organizations involved in an election the
11 same rights of access as prescribed by the Board through regulation;

12 (7) engaging in surveillance of union activities;

13 (8) refusing to bargain in good faith; ~~for~~

14 (9) engaging in a lockout; ~~OR~~

15 ~~(10) UNLESS A WRITTEN AGREEMENT BETWEEN THE STATE, OR ITS~~
16 ~~OFFICERS, EMPLOYEES, AGENTS, OR REPRESENTATIVES, AND THE EXCLUSIVE~~
17 ~~REPRESENTATIVE PROVIDES OTHERWISE, FAILING TO MEET AN ESTABLISHED~~
18 ~~NEGOTIATION DEADLINE.~~

19 (b) Employee organizations and their agents or representatives are prohibited
20 from engaging in any unfair labor practice, including:

21 (1) interfering with, restraining, or coercing employees in the exercise of
22 their rights under this title;

23 (2) causing or attempting to cause an employer to discriminate in hiring,
24 tenure, or any term or condition of employment to encourage or discourage membership in
25 an employee organization;

26 (3) engaging in, inducing, or encouraging any person to engage in a strike,
27 as defined in § 3-303(a) of this subtitle;

28 (4) interfering with the statutory duties of the State or an employer;

29 (5) refusing to bargain in good faith; or

30 (6) not fairly representing employees in collective bargaining or in any
31 other matter in which the employee organization has the duty of fair representation.

1 **(C) (1) THIS SUBSECTION APPLIES TO A SYSTEM INSTITUTION, AN**
2 **EMPLOYEE ORGANIZATION FOR EMPLOYEES OF A SYSTEM INSTITUTION, AND ITS**
3 **OFFICERS, EMPLOYEES, AGENTS, OR REPRESENTATIVES.**

4 **(2) IN ADDITION TO THE UNFAIR LABOR PRACTICES IN SUBSECTIONS**
5 **(A) AND (B) OF THIS SECTION, A SYSTEM INSTITUTION AND AN EMPLOYEE**
6 **ORGANIZATION ARE PROHIBITED FROM FAILING TO MEET AN ESTABLISHED**
7 **NEGOTIATION DEADLINE, UNLESS A WRITTEN AGREEMENT BETWEEN THE SYSTEM**
8 **INSTITUTION, OR ITS OFFICERS, EMPLOYEES, AGENTS, OR REPRESENTATIVES, AND**
9 **THE EXCLUSIVE REPRESENTATIVE PROVIDES OTHERWISE.**

10 3-501.

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

14 (i) on behalf of the State, the Governor;

15 (ii) on behalf of a system institution[.]:

16 1. the president of the system institution; and

17 2. **IF APPLICABLE, A REPRESENTATIVE FOR THE**
18 **UNIVERSITY SYSTEM OF MARYLAND BOARD OF REGENTS; AND**

19 (iii) on behalf of Morgan State University, St. Mary's College of
20 Maryland, or Baltimore City Community College, the governing board of the institution.

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

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

27 (c) (1) The parties shall make every reasonable effort to conclude negotiations
28 in a timely manner for inclusion by the principal unit in its budget request to the Governor.

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

32 (ii) In the budget bill submitted to the General Assembly, the
33 Governor shall include any amounts in the budgets of the principal units required to

1 accommodate any additional cost resulting from the negotiations, including the actuarial
2 impact of any legislative changes to any of the State pension or retirement systems that
3 are required, as a result of the negotiations, for the fiscal year beginning the following July
4 1 if the legislative changes have been negotiated to become effective in that fiscal year.

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

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

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

11 1. by the Federal Mediation and Conciliation Service; or

12 2. under the Labor Arbitration Rules of the American
13 Arbitration Association.

14 (iv) The fact finder:

15 1. may give notice and hold hearings in accordance with the
16 Administrative Procedure Act;

17 2. may administer oaths and take testimony and other
18 evidence;

19 3. may issue subpoenas; and

20 4. before November 20, shall make written recommendations
21 regarding wages, hours, and working conditions, and any other terms or conditions of
22 employment that may be in dispute.

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

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

28 (i) for a memorandum of understanding relating to the State, the
29 Governor or the Governor's designee;

30 (ii) for a memorandum of understanding relating to a system
31 institution, the president of the system institution or the president's designee; and

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

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

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

10 (e) Negotiations for a memorandum of understanding shall be considered closed
11 sessions under § 3-305 of the General Provisions Article.

12 (f) (1) The terms of a memorandum of understanding executed by the
13 Governor or the Governor's designee and an exclusive representative of a bargaining unit
14 for skilled service or professional service employees in the State Personnel Management
15 System are not applicable to employees of a State institution of higher education.

16 (2) The terms of a memorandum of understanding executed by a president
17 of a system institution or the governing board of Morgan State University, St. Mary's
18 College of Maryland, or Baltimore City Community College, or their respective designees,
19 and the exclusive representative of a bargaining unit for employees of a State institution of
20 higher education are not applicable to skilled service or professional service employees in
21 the State Personnel Management System.

22 3-601.

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

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

27 (i) for a memorandum of understanding relating to the State, the
28 Governor or the Governor's designee;

29 (ii) for a memorandum of understanding relating to a system
30 institution, the president of the system institution or the president's designee; and

31 (iii) for a memorandum of understanding relating to Morgan State
32 University, St. Mary's College of Maryland, or Baltimore City Community College, the
33 governing board of the institution or the governing board's designee.

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

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

4 (2) In the case of a State institution of higher education, a memorandum of
 5 understanding;

6 ~~(i)~~ is not effective until it is ratified by the institution's governing
 7 board and a majority of the votes cast by the employees in the bargaining unit;

8 ~~(ii) SUBJECT TO ITEM (iii) OF THIS PARAGRAPH, SHALL REMAIN~~
 9 ~~IN EFFECT, NOTWITHSTANDING ANY EXPIRATION DATE SPECIFIED IN THE~~
 10 ~~MEMORANDUM OF UNDERSTANDING, IF THE INSTITUTION:~~

11 ~~1. A. IS BEING INVESTIGATED BY A STATE OR~~
 12 ~~FEDERAL AGENCY DURING THE EFFECTIVE PERIOD OF THE MEMORANDUM OF~~
 13 ~~UNDERSTANDING FOR COMMITTING AN UNFAIR LABOR PRACTICE; OR~~

14 ~~B. IS FOUND BY A STATE OR FEDERAL AGENCY DURING~~
 15 ~~THE EFFECTIVE PERIOD OF THE MEMORANDUM OF UNDERSTANDING TO HAVE~~
 16 ~~COMMITTED AN UNFAIR LABOR PRACTICE; AND~~

17 ~~2. HAS NOT RATIFIED A SUCCESSOR MEMORANDUM OF~~
 18 ~~UNDERSTANDING WITH THE BARGAINING UNIT; AND~~

19 ~~(iii) IF IN EFFECT UNDER ITEM (ii) OF THIS PARAGRAPH, SHALL~~
 20 ~~EXPIRE ON:~~

21 ~~1. IF THE STATE OR FEDERAL AGENCY DETERMINES~~
 22 ~~THAT AN UNFAIR LABOR PRACTICE DID NOT OCCUR, THE CONCLUSION OF THE~~
 23 ~~INVESTIGATION; OR~~

24 ~~2. IF THE STATE OR FEDERAL AGENCY DETERMINES~~
 25 ~~THAT AN UNFAIR LABOR PRACTICE DID OCCUR, THE CONCLUSION OF ANY LEGAL~~
 26 ~~PROCEEDINGS INITIATED TO REMEDY THE UNFAIR LABOR PRACTICE.~~

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 28 October 1, 2018.