

SENATE BILL 9

P4, F2

(PRE-FILED)

11r0829
CF HB 486

By: **Senator Kramer**

Requested: October 3, 2020

Introduced and read first time: January 13, 2021

Assigned to: Finance

Committee Report: Favorable

Senate action: Adopted

Read second time: February 26, 2021

CHAPTER _____

1 AN ACT concerning

2 **State Employees – Collective Bargaining – Applicability, Bargaining Processes,**
3 **and Memorandums of Understanding**

4 FOR the purpose of requiring the Chancellor of the University System of Maryland to act
5 on behalf of the University System of Maryland and certain system institutions for
6 the purpose of collective bargaining; altering the application of certain collective
7 bargaining requirements to certain employees by requiring the State Labor
8 Relations Board and the State Higher Education Labor Relations Board to make
9 certain determinations based on certain definitions used by a certain national board;
10 repealing a provision of law authorizing certain presidents of certain system
11 institutions to cooperate for the purpose of collective bargaining; specifying that
12 certain good faith negotiations between certain parties include facilitating the
13 meaningful use of a certain fact finder under certain provisions of law; repealing a
14 provision of law regarding the termination of a certain cooperating agreement;
15 providing for the negotiation of a certain consolidated memorandum of
16 understanding between a certain exclusive representative and the Chancellor under
17 certain circumstances; specifying certain effective dates of a certain consolidated
18 memorandum of understanding; specifying the application of certain standards and
19 guidelines to certain employees by the University System of Maryland and the Board
20 of Regents under certain circumstances; providing for the application of this Act;
21 making conforming changes; defining a certain term; and generally relating to
22 collective bargaining for State employees.

23 BY repealing and reenacting, with amendments,

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.



1 Article – State Personnel and Pensions
2 Section 3–101, 3–102(b)(11) through (13), 3–2A–09(a), 3–306(c), 3–403(d), 3–501(a),
3 (b), (d), and (f), and 3–601
4 Annotated Code of Maryland
5 (2015 Replacement Volume and 2020 Supplement)

6 BY repealing
7 Article – State Personnel and Pensions
8 Section 3–602
9 Annotated Code of Maryland
10 (2015 Replacement Volume and 2020 Supplement)

11 BY adding to
12 Article – State Personnel and Pensions
13 Section 3–602
14 Annotated Code of Maryland
15 (2015 Replacement Volume and 2020 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Education
18 Section 12–110
19 Annotated Code of Maryland
20 (2018 Replacement Volume and 2020 Supplement)

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

23 **Article – State Personnel and Pensions**

24 3–101.

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

26 (b) “Board” means:

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

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

34 (C) “CHANCELLOR” HAS THE MEANING STATED IN § 12–101 OF THE
35 EDUCATION ARTICLE.

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

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

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

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

8 (ii) clarifying terms and conditions of employment;

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

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

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

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

18 **[(f)] (G)** “President” means:

19 (1) with regard to a constituent institution, as defined in § 12–101 of the
20 Education Article, the president of the constituent institution;

21 (2) with regard to a center or institute, as those terms are defined in §
22 12–101 of the Education Article, the president of the center or institute;

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

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

27 **[(g)] (H)** “System institution” means:

28 (1) a constituent institution, as defined in § 12–101 of the Education
29 Article;

30 (2) a center or institute, as those terms are defined in § 12–101 of the
31 Education Article; and

1 (3) the University System of Maryland Office.

2 3-102.

3 (b) This title does not apply to:

4 (11) any supervisory, managerial, or confidential employee of a unit of State
5 government listed in subsection (a)(1)(i) through (iv) and (vi) through (x) of this section, as
6 defined in regulations adopted by the [Secretary] **BOARD CONSISTENT WITH SIMILAR**
7 **DEFINITIONS ADOPTED BY THE NATIONAL LABOR RELATIONS BOARD;**

8 (12) any supervisory, managerial, or confidential employee of a State
9 institution of higher education listed in subsection (a)(1)(v) of this section, as defined in
10 regulations adopted by the [governing board of the institution] **BOARD CONSISTENT**
11 **WITH SIMILAR DEFINITIONS ADOPTED BY THE NATIONAL LABOR RELATIONS**
12 **BOARD;** or

13 (13) any employee described in subsection (a)(2) of this section who is a
14 supervisory, managerial, or confidential employee, as defined in regulations adopted by the
15 [Secretary] **BOARD AND SUBSTANTIALLY CONSISTENT WITH SIMILAR DEFINITIONS**
16 **ADOPTED BY THE NATIONAL LABOR RELATIONS BOARD.**

17 3-2A-09.

18 (a) If **THE CHANCELLOR**, a president, a system institution, an exclusive
19 representative, or a person fails to comply with an order issued by the Board, a member of
20 the Board may petition the circuit court to order **THE CHANCELLOR**, the president, **THE**
21 system institution, an exclusive representative, or **A** person to comply with the Board's
22 order.

23 3-306.

24 (c) (1) This subsection applies to [a system institution] **THE CHANCELLOR**,
25 an employee organization for employees of a system institution, and its officers, employees,
26 agents, or representatives.

27 (2) In addition to the unfair labor practices in subsections (a) and (b) of this
28 section, [a system institution] **THE CHANCELLOR** and an employee organization are
29 prohibited from failing to meet an established negotiation deadline, unless a written
30 agreement between the [system institution] **CHANCELLOR**, or [its] **THE CHANCELLOR'S**
31 officers, employees, agents, or representatives, and the exclusive representative provides
32 otherwise.

33 3-403.

1 (d) (1) Each system institution, Morgan State University, St. Mary's College
2 of Maryland, and Baltimore City Community College shall have separate bargaining units.

3 (2) [The presidents of the system institutions may agree to cooperate for
4 the purpose of collective bargaining:

5 (i) before the election of exclusive representatives; or

6 (ii) after the certification of exclusive representatives under §
7 3-406(a) of this subtitle.

8 (3)] Appropriate bargaining units shall consist of:

9 (i) all eligible nonexempt employees, as described in the federal Fair
10 Labor Standards Act, except eligible sworn police officers;

11 (ii) all eligible exempt employees, as described in the federal Fair
12 Labor Standards Act; and

13 (iii) all eligible sworn police officers.

14 3-501.

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

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

19 (ii) on behalf of [a system institution, the president of the system
20 institution] **THE UNIVERSITY SYSTEM OF MARYLAND, THE CHANCELLOR;** and

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

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

26 (b) The parties shall meet at reasonable times and engage in collective bargaining
27 in good faith, **INCLUDING FACILITATING THE MEANINGFUL USE OF A FACT FINDER**
28 **UNDER SUBSECTION (C)(3) OF THIS SECTION, AND** to conclude a written memorandum
29 of understanding or other written understanding as defined under [§ 3-101(c)(1)(ii)] §
30 **3-101(D)(1)(II)** of this title.

31 (d) (1) A memorandum of understanding that incorporates all matters of

1 agreement reached by the parties shall be executed by the exclusive representative and:

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

4 (ii) for a memorandum of understanding relating to a system
5 institution, [the president of the system institution or the president's] **THE CHANCELLOR**
6 **OR THE CHANCELLOR'S** designee; and

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

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

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

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

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

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 State, the
32 Governor or the Governor's designee;

33 (ii) for a memorandum of understanding relating to a system
34 institution **OR THE UNIVERSITY SYSTEM OF MARYLAND**, [the president of the system

1 institution or the president's designee] **THE CHANCELLOR OR THE CHANCELLOR'S**
2 **DESIGNEE**; and

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

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

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

11 (2) In the case of a State institution of higher education **OR THE**
12 **UNIVERSITY SYSTEM OF MARYLAND**, a memorandum of understanding is not effective
13 until it is ratified by the institution's governing board **OR THE UNIVERSITY SYSTEM OF**
14 **MARYLAND BOARD OF REGENTS** and a majority of the votes cast by the employees in
15 the bargaining unit.

16 [3-602.

17 The president of a system institution may elect to terminate a cooperation agreement
18 with another system institution, entered into for the purpose of collective bargaining with
19 exclusive representatives, effective on the termination date of the memorandum of
20 understanding between the exclusive representatives and the system institutions that are
21 parties to the cooperation agreement.]

22 **3-602.**

23 **(A) WITH REGARD TO THE UNIVERSITY SYSTEM OF MARYLAND, IF AN**
24 **EXCLUSIVE REPRESENTATIVE REPRESENTS MORE THAN ONE BARGAINING UNIT OF**
25 **EMPLOYEES AND REQUESTS TO BARGAIN A CONSOLIDATED MEMORANDUM OF**
26 **UNDERSTANDING:**

27 **(1) THE CHANCELLOR AND THE EXCLUSIVE REPRESENTATIVE SHALL**
28 **NEGOTIATE THE TERMS OF ONE CONSOLIDATED MEMORANDUM OF**
29 **UNDERSTANDING TO APPLY TO ALL BARGAINING UNITS FOR EMPLOYEES OF ALL**
30 **SYSTEM INSTITUTIONS REPRESENTED BY THE EXCLUSIVE REPRESENTATIVE; AND**

31 **(2) ON MUTUAL AGREEMENT AND IN WRITING, THE PARTIES MAY**
32 **DESIGNATE A MATTER PARTICULAR TO A SYSTEM INSTITUTION TO BE NEGOTIATED**
33 **BY THE EXCLUSIVE REPRESENTATIVE AND THE PRESIDENT OF THE SYSTEM**
34 **INSTITUTION OR THE PRESIDENT'S DESIGNEE.**

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.