

SENATE BILL 247

P4, F2

3lr1503
CF HB 275

By: **Senators Kramer, Feldman, Jackson, Rosapepe, Hettleman, Brooks, Carter, Muse, and Elfreth**

Introduced and read first time: January 25, 2023

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **State Personnel – Collective Bargaining – Faculty, Part–Time Faculty, and**
3 **Graduate Assistants**

4 FOR the purpose of providing collective bargaining rights to certain faculty, part–time
5 faculty, and graduate assistants at certain public institutions of higher education;
6 establishing separate collective bargaining units for faculty, part–time faculty, and
7 graduate assistants; altering the procedures for petitions, elections, and certification
8 that are applicable to the bargaining units for faculty and part–time faculty; and
9 generally relating to collective bargaining for faculty, part–time faculty, and
10 graduate assistants at public institutions of higher education.

11 BY repealing and reenacting, with amendments,
12 Article – State Personnel and Pensions
13 Section 3–101, 3–102, 3–402, 3–403(d), 3–404, 3–405, and 3–406
14 Annotated Code of Maryland
15 (2015 Replacement Volume and 2022 Supplement)

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

18 **Article – State Personnel and Pensions**

19 3–101.

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

21 (b) “Board” means:

22 (1) with regard to any matter relating to employees of any of the units of
23 State government described in § 3–102(a)(1)(i) through (iv) and (vi) through (xii) of this

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 subtitle and employees described in § 3–102(a)(2) and (3) of this subtitle, the State Labor
2 Relations Board; and

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

6 (c) “Chancellor” has the meaning stated in § 12–101 of the Education Article.

7 (d) “Collective bargaining” means:

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

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

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

14 (ii) clarifying terms and conditions of employment;

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

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

19 (e) “Employee organization” means a labor or other organization in which State
20 employees, **INCLUDING GRADUATE ASSISTANTS**, participate and that has as one of its
21 primary purposes representing employees.

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

24 (g) (1) “Faculty at the Maryland School for the Deaf” means employees who
25 have been granted the following status by the Board of Trustees of the Maryland School for
26 the Deaf:

27 (i) after–school program counselors;

28 (ii) American Sign Language specialists;

29 (iii) athletic trainers;

30 (iv) behavior specialists;

- 1 (v) clerical aides;
- 2 (vi) dorm counselors;
- 3 (vii) employment specialists;
- 4 (viii) instructional technology resource specialists;
- 5 (ix) librarians;
- 6 (x) literacy and reading specialists;
- 7 (xi) occupational therapists;
- 8 (xii) orientation and mobility specialists;
- 9 (xiii) physical therapists;
- 10 (xiv) school counselors;
- 11 (xv) school IEP coordinators;
- 12 (xvi) school nurses;
- 13 (xvii) school social workers;
- 14 (xviii) speech–language pathologists;
- 15 (xix) student support specialists;
- 16 (xx) teachers;
- 17 (xxi) teacher aides;
- 18 (xxii) transition coordinators; and
- 19 (xxiii) work–to–learn specialists.

20 (2) “Faculty at the Maryland School for the Deaf” does not include officers
21 or supervisory employees at the Maryland School for the Deaf.

22 (H) “GRADUATE ASSISTANT” MEANS A GRADUATE STUDENT AT A SYSTEM
23 INSTITUTION, MORGAN STATE UNIVERSITY, OR ST. MARY’S COLLEGE OF
24 MARYLAND WHO IS A TEACHING, ADMINISTRATIVE, OR RESEARCH ASSISTANT, OR IN
25 A COMPARABLE POSITION, OR A FELLOW.

1 **[(h)] (I)** “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 **[(i)] (J)** “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 3–102.

17 (a) Except as provided in this title or as otherwise provided by law, this title
18 applies to:

19 (1) all employees of:

20 (i) the principal departments within the Executive Branch of State
21 government;

22 (ii) the Maryland Insurance Administration;

23 (iii) the State Department of Assessments and Taxation;

24 (iv) the State Lottery and Gaming Control Agency;

25 (v) the University System of Maryland, Morgan State University,
26 St. Mary’s College of Maryland, and Baltimore City Community College;

27 (vi) the Comptroller;

28 (vii) the Maryland Transportation Authority who are not police
29 officers;

1 (viii) the State Retirement Agency;

2 (ix) the State Department of Education;

3 (x) the Maryland Environmental Service;

4 (xi) the Maryland School for the Deaf; and

5 (xii) the Office of the Public Defender;

6 (2) firefighters for the Martin State Airport at the rank of captain or below
7 who are employed by the Military Department; and

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

10 (b) This title does not apply to:

11 (1) employees of the Maryland Transit Administration, as that term is
12 defined in § 7-601(a)(2) of the Transportation Article;

13 (2) an employee who is elected to the position by popular vote;

14 (3) an employee in a position by election or appointment that is provided
15 for by the Maryland Constitution;

16 (4) an employee who is:

17 (i) a special appointment in the State Personnel Management
18 System; or

19 (ii) 1. directly appointed by the Governor by an appointment
20 that is not provided for by the Maryland Constitution;

21 2. appointed by or on the staff of the Governor or Lieutenant
22 Governor; or

23 3. assigned to the Government House or the Governor's
24 Office;

25 (5) an employee assigned to the Board or with access to records of the
26 Board;

27 (6) an employee in:

28 (i) the executive service of the State Personnel Management

1 System; or

2 (ii) a unit of the Executive Branch with an independent personnel
3 system who is:

4 1. the chief administrator of the unit or a comparable
5 position that is not excluded under item (3) of this subsection as a constitutional or elected
6 office; or

7 2. a deputy or assistant administrator of the unit or a
8 comparable position;

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

11 (ii) a contractual, temporary, or emergency employee in a unit of the
12 Executive Branch with an independent personnel system;

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

15 (9) an employee of the University System of Maryland, Morgan State
16 University, St. Mary's College of Maryland, or Baltimore City Community College who is:

17 (i) a chief administrator or in a comparable position;

18 (ii) a deputy, associate, or assistant administrator or in a
19 comparable position;

20 (iii) [a member of the faculty, including a faculty librarian;

21 (iv) a] AN UNDERGRADUATE student employee[, including a
22 teaching assistant or a comparable position, fellow, or post doctoral intern];

23 [(v)] (IV) a contingent, contractual, temporary, or emergency
24 employee, EXCEPT FOR A PART-TIME FACULTY OR GRADUATE ASSISTANT;

25 [(vi)] (V) a contingent, contractual, or temporary employee whose
26 position is funded through a research or service grant or contract, or through clinical
27 revenues, EXCEPT FOR A PART-TIME FACULTY OR GRADUATE ASSISTANT; or

28 [(vii)] (VI) an employee whose regular place of employment is outside
29 the State of Maryland;

30 (10) an employee whose participation in a labor organization would be
31 contrary to the State's ethics laws;

1 (11) any supervisory, managerial, or confidential employee of a unit of State
2 government listed in subsection (a)(1)(i) through (iv) and (vi) through (xi) of this section, as
3 defined in regulations adopted by the Secretary;

4 (12) any supervisory, managerial, or confidential employee of a State
5 institution of higher education listed in subsection (a)(1)(v) of this section, as defined in
6 regulations adopted by the governing board of the institution; or

7 (13) any employee described in subsection (a)(2) of this section who is a
8 supervisory, managerial, or confidential employee, as defined in regulations adopted by the
9 Secretary.

10 3-402.

11 **(A) THIS SECTION DOES NOT APPLY TO A PETITION FOR THE ELECTION OF**
12 **AN EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT LISTED IN §**
13 **3-403(D)(3)(IV) OR (V) OF THIS SUBTITLE.**

14 **[(a)] (B)** A petition for the election of an exclusive representative of a bargaining
15 unit may be filed with the Board by:

16 (1) an employee organization seeking certification as an exclusive
17 representative; or

18 (2) an employee, a group of employees, or an employee organization
19 seeking a new election to determine an exclusive representative.

20 **[(b)] (C)** A petition shall:

21 (1) contain the information the Board requires; and

22 (2) be accompanied by a showing of interest supported by 30% of the
23 employees in the appropriate unit indicating their desire to be exclusively represented by
24 the petitioner for the purpose of collective bargaining.

25 3-403.

26 (d) **(1) (I) IN THIS SUBSECTION, THE FOLLOWING WORDS HAVE THE**
27 **MEANINGS INDICATED.**

28 **(II) 1. "FACULTY" MEANS EMPLOYEES WHOSE**
29 **ASSIGNMENTS INVOLVE ACADEMIC RESPONSIBILITIES, INCLUDING TEACHERS,**
30 **SCIENTISTS, RESEARCHERS, ACADEMIC ADVISORS, POSTDOCTORAL INTERNS, AND**
31 **DEPARTMENT HEADS.**

1 **2. “FACULTY” DOES NOT INCLUDE OFFICERS,**
2 **SUPERVISORY EMPLOYEES, CONFIDENTIAL EMPLOYEES, PART-TIME FACULTY, OR**
3 **GRADUATE ASSISTANTS.**

4 **(III) “PART-TIME FACULTY” MEANS EMPLOYEES WHOSE**
5 **ASSIGNMENTS INVOLVE ACADEMIC RESPONSIBILITIES, INCLUDING TEACHERS,**
6 **SCIENTISTS, RESEARCHERS, ACADEMIC ADVISORS, AND DEPARTMENT HEADS, WHO**
7 **ARE DESIGNATED WITH PART-TIME FACULTY STATUS BY THE PRESIDENT.**

8 **[(1)] (2)** Each system institution, Morgan State University, St. Mary’s
9 College of Maryland, and Baltimore City Community College shall have separate
10 bargaining units.

11 **[(2)] (3)** Appropriate bargaining units shall consist of:

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

14 (ii) all eligible exempt employees, as described in the federal Fair
15 Labor Standards Act; [and]

16 (iii) all eligible sworn police officers;

17 **(IV) FACULTY AT A SYSTEM INSTITUTION, MORGAN STATE**
18 **UNIVERSITY OR ST. MARY’S COLLEGE OF MARYLAND;**

19 **(V) PART-TIME FACULTY AT A SYSTEM INSTITUTION, MORGAN**
20 **STATE UNIVERSITY, OR ST. MARY’S COLLEGE OF MARYLAND; AND**

21 **(VI) ALL ELIGIBLE GRADUATE ASSISTANTS AT A SYSTEM**
22 **INSTITUTION, MORGAN STATE UNIVERSITY, OR ST. MARY’S COLLEGE OF**
23 **MARYLAND.**

24 **(4) NOTWITHSTANDING §§ 3-401, 3-402, 3-404, 3-405, AND 3-406 OF**
25 **THIS SUBTITLE, PETITIONS, ELECTIONS, AND CERTIFICATION OF EXCLUSIVE**
26 **REPRESENTATIVES FOR FACULTY AND PART-TIME FACULTY BARGAINING UNITS**
27 **ESTABLISHED UNDER THIS SUBSECTION SHALL BE CONDUCTED IN ACCORDANCE**
28 **WITH §§ 16-704 AND 16-705 OF THE EDUCATION ARTICLE.**

29 3-404.

30 **[Each] EXCEPT AS PROVIDED IN § 3-403(D)(4) OF THIS SUBTITLE, EACH**
31 **employee organization that seeks certification as an exclusive representative shall file with**
32 **the Board:**

1 (1) a copy of the employee organization's governing documents, which:

2 (i) give individual members the right to participate in activities of
3 the organization;

4 (ii) require periodic elections by secret ballot that are conducted with
5 recognized safeguards to ensure the equal rights of all members to nominate, seek office,
6 and vote in the elections;

7 (iii) direct full and accurate accounting of all income and expenses
8 using standard accounting methods; and

9 (iv) require an annual report that is made available to all members
10 of the appropriate bargaining unit; and

11 (2) a certification that the organization:

12 (i) accepts members without regard to any factor in § 2-302(b) of
13 this article; and

14 (ii) will deny membership only to an employee for a reason that is
15 acceptable to the Board.

16 3-405.

17 **(A) THIS SECTION DOES NOT APPLY TO THE ELECTION OF AN EXCLUSIVE**
18 **REPRESENTATIVE OF A BARGAINING UNIT LISTED IN § 3-403(D)(3)(IV) OR (V) OF**
19 **THIS SUBTITLE.**

20 **[(a)] (B)** (1) Within 5 days of determination that a valid petition has been
21 submitted, the Board shall notify interested employee organizations of the pending election
22 petition.

23 (2) Within 10 days of determination that a valid petition has been
24 submitted under § 3-402 of this subtitle or subsection **[(c)(2)(iii)] (D)(2)(III)** of this section,
25 the Department or the Maryland Environmental Service, as appropriate, shall make
26 available to all interested employee organizations reasonable and equivalent means to
27 communicate by mail and in person with each employee in the appropriate bargaining unit
28 for the purpose of soliciting the employee's vote in an election held under this section.

29 **[(b)] (C)** An election shall be held in any unit within 90 days after the filing of a
30 valid petition for election in such unit in accordance with guidelines established by the
31 Board.

32 **[(c)] (D)** (1) All elections shall be conducted by secret ballot.

- 1 (2) The Board shall place the following choices on the ballot:
- 2 (i) the name of the exclusive representative, if any;
- 3 (ii) the name of the employee organization designated in the petition
4 filed under § 3–402 of this subtitle with respect to an appropriate bargaining unit;
- 5 (iii) the name of each employee organization designated in a petition
6 filed with the Board, within 15 days of notice of the pending election petition, that includes
7 the signatures of at least 10% of the employees in the appropriate bargaining unit; and
- 8 (iv) a provision for “no exclusive representative”.

9 **[(d)] (E)** If none of the choices on a ballot receives a majority of the votes cast in
10 an election, the Board shall conduct a runoff election between the choices that received the
11 two highest number of votes in the election.

12 3–406.

13 **(A) THIS SECTION DOES NOT APPLY TO CERTIFICATION OF AN EXCLUSIVE**
14 **REPRESENTATIVE OF A BARGAINING UNIT LISTED IN § 3–403(D)(3)(IV) OR (V) OF**
15 **THIS SUBTITLE.**

16 **[(a)] (B)** The Board shall certify as exclusive representative the employee
17 organization receiving the votes in an election from a majority of the employees voting in
18 the election.

19 **[(b)] (C)** After notice and an opportunity for a hearing, the Board may deny or
20 revoke certification as exclusive representative of an employee organization for willful
21 failure to comply with:

- 22 (1) this title; or
- 23 (2) the governing documents of the organization.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
25 1, 2023.