
By: Delegates C. Mitchell, Muse, Kirk, and Cummings

Introduced and read first time: January 29, 1996

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Public Employee Labor Relations Act**

3 FOR the purpose of creating the Maryland Public Employee Labor Relations Board;
4 establishing the membership, terms of office, qualifications, and duties of the
5 Board; granting certain public employees the right to join or refrain from joining
6 employee organizations, to engage in collective bargaining activities with their
7 public employers by and through their representatives, and to engage in concerted
8 activities for the purpose of collective bargaining, mutual aid, and protection;
9 imposing on certain public employers and employee organizations the obligation to
10 negotiate in good faith; requiring that certain terms be incorporated in negotiated
11 agreements including a "no strike" clause and a "no lockout" clause; prohibiting
12 certain unfair labor practices; providing for a procedure to dispose of violations;
13 providing procedures for determination of a bargaining unit and the certification
14 thereof; granting certain rights to representatives of certified bargaining units;
15 providing a procedure for the resolution of disputes and impasses; prohibiting
16 strikes except under certain circumstances; providing for venue and jurisdiction of
17 actions; providing for the maintenance of records and reports; defining certain
18 terms; and generally relating to relations between public employers and public
19 employees.

20 BY adding to

21 Article - Labor and Employment
22 Section 4-701 through 4-775, inclusive, to be under the new subtitle "Subtitle 7.
23 Maryland Public Employee Labor Relations Act"
24 Annotated Code of Maryland
25 (1991 Volume and 1995 Supplement)

26 Preamble

27 The General Assembly of Maryland, recognizing that unresolved disputes between
28 public employers and their employees are injurious to the public, and that adequate
29 means must be established to provide for the resolution of these disputes, announces the
30 following as the policy underlying the provisions of this Act.

1 It is the policy of this State to foster harmonious and cooperative relations between
2 public employers and their employees and to protect the public by encouraging the
3 orderly and uninterrupted operation of government. This can best be achieved by:

4 (1) Providing for the right of all public employees to organize and be represented
5 for the purpose of bargaining collectively with the State or any political subdivision;

6 (2) Requiring public employers to negotiate in good faith and to enter into
7 written agreements with employee organizations which have been certified as exclusive
8 representatives of appropriate units of public employees; and

9 (3) Establishing a Maryland Public Employee Labor Relations Board to assist in
10 resolving disputes between government and its employees; now, therefore,

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

13 **Article - Labor and Employment**

14 SUBTITLE 7. MARYLAND PUBLIC EMPLOYEE LABOR RELATIONS ACT.

15 4-701.

16 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
17 INDICATED.

18 (B) "ARBITRATION" MEANS THE SUBMISSION BY AN EXCLUSIVE
19 REPRESENTATIVE AND A PUBLIC EMPLOYER OF ANY DISPUTE CONCERNING TERMS
20 AND CONDITIONS OF EMPLOYMENT TO THE FINAL AND BINDING JUDGMENT OF A
21 THIRD PARTY, SELECTED ACCORDING TO THE PROCEDURES OF THE AMERICAN
22 ARBITRATION ASSOCIATION, THE FEDERAL MEDIATION AND CONCILIATION
23 SERVICE, OR ANY OTHER MUTUALLY AGREED ON PROCEDURE.

24 (C) "BARGAINING UNIT" MEANS A GROUP OF EMPLOYEES PROPOSED FOR
25 REPRESENTATION BY A SINGLE EXCLUSIVE REPRESENTATIVE.

26 (D) "BOARD" MEANS THE MARYLAND PUBLIC EMPLOYEE LABOR RELATIONS
27 BOARD.

28 (E) "CERTIFICATION" MEANS THE OFFICIAL RECOGNITION BY THE BOARD
29 THAT AN EMPLOYEE ORGANIZATION IS THE EXCLUSIVE REPRESENTATIVE OF ALL
30 EMPLOYEES IN A BARGAINING UNIT FOR THE PURPOSE OF COLLECTIVE
31 BARGAINING.

32 (F) "COST ITEM" MEANS ANY BENEFIT ACQUIRED THROUGH COLLECTIVE
33 BARGAINING THE IMPLEMENTATION OF WHICH REQUIRES AN APPROPRIATION BY
34 THE LEGISLATIVE BODY OF THE PUBLIC EMPLOYER WITH WHOM NEGOTIATIONS
35 ARE BEING CONDUCTED.

36 (G) "COUNTY" DOES NOT INCLUDE THE CITY OF BALTIMORE.

37 (H) (1) "EMPLOYEE ORGANIZATION" MEANS ANY LABOR ORGANIZATION
38 OR BONA FIDE EMPLOYEE ORGANIZATION IN WHICH PUBLIC EMPLOYEES

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1 PARTICIPATE AND THAT HAS AS ITS PRIMARY PURPOSE DEALING WITH PUBLIC
2 EMPLOYERS CONCERNING GRIEVANCES, LABOR DISPUTES, WAGES, HOURS, RATES
3 OF PAY, AND TERMS AND CONDITIONS OF EMPLOYMENT.

4 (2) "EMPLOYEE ORGANIZATION" DOES NOT INCLUDE ANY
5 ORGANIZATION THAT PRACTICES DISCRIMINATION IN MEMBERSHIP BECAUSE OF
6 RACE, COLOR, RELIGION, SEX, AGE, NATIONAL ORIGIN, OR POLITICAL AFFILIATION.

7 (I) "EXCLUSIVE REPRESENTATIVE" MEANS THE EMPLOYEE ORGANIZATION
8 WHICH, AS A RESULT OF CERTIFICATION, HAS THE RIGHT TO BE THE COLLECTIVE
9 BARGAINING AGENT OF ALL EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT.

10 (J) "GOOD FAITH" MEANS:

11 (1) MEETING TO NEGOTIATE AT REASONABLE TIMES AND PLACES; AND

12 (2) COOPERATING IN MEDIATION IN AN EFFORT TO REACH
13 AGREEMENT ON THE TERMS AND CONDITIONS OF EMPLOYMENT.

14 (K) "IMPASSE" MEANS FAILURE OF A PUBLIC EMPLOYER AND AN EXCLUSIVE
15 REPRESENTATIVE TO ACHIEVE AGREEMENT IN THE COURSE OF NEGOTIATIONS
16 BEFORE THE 90TH DAY BEFORE THE BUDGET SUBMISSION DATE.

17 (L) "LOCKOUT" MEANS ANY REFUSAL BY A PUBLIC EMPLOYER TO PERMIT
18 ANY PUBLIC EMPLOYEE TO REPORT FOR OR PERFORM REGULARLY AND
19 CUSTOMARILY SCHEDULED WORK.

20 (M) "MEDIATION" MEANS AN IMPASSE RESOLVING PROCEDURE IN WHICH A
21 NEUTRAL THIRD PARTY IS SELECTED BY THE BOARD TO FACILITATE
22 NEGOTIATIONS BETWEEN A PUBLIC EMPLOYER AND AN EXCLUSIVE
23 REPRESENTATIVE.

24 (N) "MERIT PRINCIPLE" IS THE CONCEPT THAT PUBLIC EMPLOYEES ARE
25 SELECTED, PROMOTED, AND RETAINED ON THE BASIS OF OPEN COMPETITION
26 BASED ON EXPERIENCE AND ABILITY, AND ARE PROTECTED AGAINST ARBITRARY
27 DISCHARGE OR DISCIPLINE, AND ARE FREE OF ANY DISCRIMINATION BASED ON
28 POLITICAL CONSIDERATIONS OR ANY OTHER FACTORS NOT RELATED TO
29 PERFORMANCE.

30 (O) "MOST APPROPRIATE BARGAINING UNIT" MEANS THE GROUP OF
31 EMPLOYEES THAT MAY PROPERLY BE REPRESENTED BY AN EXCLUSIVE
32 REPRESENTATIVE.

33 (P) "PAYROLL DUES DEDUCTION AUTHORIZATION" MEANS ANY LAWFUL
34 WRITTEN AUTHORIZATION FILED BY A PUBLIC EMPLOYEE WITH A PUBLIC
35 EMPLOYER FOR THE PERIODIC DEDUCTION OF DUES PAYABLE TO A NAMED
36 EMPLOYEE ORGANIZATION.

37 (Q) "PERSON" MEANS ONE OR MORE INDIVIDUALS, EMPLOYEE
38 ORGANIZATIONS, PUBLIC EMPLOYEES, PUBLIC EMPLOYERS, ASSOCIATIONS,
39 CORPORATIONS, LEGAL REPRESENTATIVES, TRUSTEES, TRUSTEES IN BANKRUPTCY,
40 OR RECEIVERS.

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1 (R) "PROFESSIONAL EMPLOYEE" MEANS ANY PUBLIC EMPLOYEE ENGAGED
2 IN WORK THAT:

3 (1) IS PREDOMINANTLY INTELLECTUAL AND VARIED IN CHARACTER
4 AS OPPOSED TO ROUTINE MENTAL, MANUAL, MECHANICAL, OR PHYSICAL WORK;

5 (2) INVOLVES THE CONSISTENT EXERCISE OF DISCRETION AND
6 JUDGMENT IN ITS PERFORMANCE;

7 (3) IS OF SUCH A CHARACTER THAT THE OUTPUT PRODUCED OR THE
8 RESULT ACCOMPLISHED CANNOT BE STANDARDIZED IN RELATION TO A GIVEN
9 PERIOD OF TIME; AND

10 (4) REQUIRES KNOWLEDGE OF AN ADVANCED TYPE IN A FIELD OF
11 SCIENCE OR LEARNING CUSTOMARILY ACQUIRED BY A PROLONGED COURSE OF
12 SPECIALIZED INTELLECTUAL INSTRUCTION AND BY STUDYING IN AN INSTITUTION
13 OF HIGHER LEARNING OR A HOSPITAL, AS DISTINGUISHED FROM A GENERAL
14 ACADEMIC EDUCATION, AN APPRENTICESHIP, OR TRAINING IN THE PERFORMANCE
15 OF ROUTINE MENTAL, MANUAL, OR PHYSICAL PROCESSES.

16 (S) (1) "PUBLIC EMPLOYEE" MEANS ANY INDIVIDUAL, CLASSIFIED OR
17 UNCLASSIFIED, EMPLOYED BY A PUBLIC EMPLOYER.

18 (2) "PUBLIC EMPLOYEE" DOES NOT INCLUDE AN INDIVIDUAL WHO IS:

19 (I) ELECTED BY POPULAR VOTE;

20 (II) APPOINTED TO OFFICE BY THE CHIEF EXECUTIVE OR THE
21 LEGISLATIVE BODY OF THE PUBLIC EMPLOYER;

22 (III) ABOVE THE LEVEL OF SUPERVISOR AND IS REASONABLY
23 REQUIRED, ON BEHALF OF A PUBLIC EMPLOYER, TO ASSIST IN THE PREPARATION
24 FOR AND CONDUCT OF COLLECTIVE NEGOTIATIONS WITH EMPLOYEE
25 ORGANIZATIONS AND TO RESPONSIBLY ADMINISTER NEGOTIATED AGREEMENTS
26 GOVERNING THE TERMS AND CONDITIONS OF EMPLOYMENT OF PUBLIC
27 EMPLOYEES; OR

28 (IV) IS IN AN EXECUTIVE LEVEL POLICY-MAKING AND POLICY
29 ENFORCING ROLE WITH RESPECT TO PERSONNEL ADMINISTRATION FOR A PUBLIC
30 EMPLOYER.

31 (T) "PUBLIC EMPLOYER" MEANS:

32 (1) THE STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE;

33 (2) ANY PUBLIC OR QUASI-PUBLIC CORPORATION, COUNCIL,
34 COMMISSION, AGENCY OR AUTHORITY, OR UNIVERSITY SYSTEM THAT IS NOT
35 SUBJECT TO FEDERAL OR STATE INCOME TAXATION; OR

36 (3) THE REPRESENTATIVES OF EITHER THE EXECUTIVE OR
37 LEGISLATIVE BRANCH OF THE STATE GOVERNMENT.

38 (U) "SERVICE FEES" MEANS ANY ASSESSMENT, BY AN EXCLUSIVE
39 REPRESENTATIVE, OF PUBLIC EMPLOYEES IN A BARGAINING UNIT WHO ARE NOT

5
1 MEMBERS OF THE EXCLUSIVE REPRESENTATIVE, FOR ANY SERVICES RENDERED BY
2 THE EXCLUSIVE REPRESENTATIVE IN NEGOTIATING OR ADMINISTERING A
3 COLLECTIVE BARGAINING AGREEMENT.

4 (V) "STRIKE" MEANS A CONCERTED REFUSAL OF PUBLIC EMPLOYEES TO
5 REPORT FOR WORK FOR A PUBLIC EMPLOYER.

6 (W) "SUPERVISOR" MEANS ANY INDIVIDUAL WHO, IN THE INTEREST OF THE
7 PUBLIC EMPLOYER, MAKES THE FINAL, OPERATIVE DECISION WITH RESPECT TO
8 HIRING, DISCHARGING, PROMOTING, DEMOTING, LAYING OFF, RECALLING,
9 REWARDING, SUSPENDING, TAKING OF CORRECTIVE ACTION CONCERNING, OR
10 ADJUSTING GRIEVANCES OF PUBLIC EMPLOYEES, IF THE EXERCISE OF THESE
11 FUNCTIONS AND DUTIES IS NOT CLERICAL OR ROUTINE IN NATURE, AND REQUIRES
12 THE USE OF INDEPENDENT JUDGMENT.

13 (X) "TERMS AND CONDITIONS OF EMPLOYMENT" MEANS SALARIES, WAGES,
14 HOURS, BENEFITS, AND ANY OTHER TERM OR CONDITION AFFECTING
15 EMPLOYMENT INCLUDING THOSE PERTAINING TO HIRING, PROMOTING, RETIRING,
16 DISCIPLINING, TERMINATING, OR REWARDING PUBLIC EMPLOYEES, OR
17 SUBCONTRACTING BARGAINING UNIT WORK.

18 4-702.

19 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS
20 SUBTITLE APPLIES TO ALL PUBLIC EMPLOYERS AND PUBLIC EMPLOYEES OF THIS
21 STATE.

22 (B) (1) HOWEVER, EACH COUNTY MAY EXCLUDE ITS PUBLIC EMPLOYEES
23 FROM COVERAGE UNTIL JULY 1, 1997.

24 (2) IF A COUNTY PASSES ITS OWN LEGISLATION TO TAKE EFFECT NOT
25 LATER THAN JULY 1, 1997, WHICH ESTABLISHES FOR ITS PUBLIC EMPLOYEES RIGHTS
26 SIMILAR TO THOSE CREATED BY THIS SUBTITLE, THAT LEGISLATION GOVERNS THE
27 LABOR RELATIONS BETWEEN ITSELF AND ITS PUBLIC EMPLOYEES.

28 (3) THIS SUBTITLE DOES NOT APPLY TO PUBLIC EMPLOYEES COVERED
29 BY ANY OTHER STATEWIDE COLLECTIVE BARGAINING LAW OR TO EMPLOYEES OF
30 THE CITY OF BALTIMORE.

31 4-703. RESERVED.

32 4-704. RESERVED.

33 4-705.

34 THERE IS A MARYLAND PUBLIC EMPLOYEE LABOR RELATIONS BOARD.

35 4-706.

36 (A) THE BOARD CONSISTS OF THE FOLLOWING FIVE MEMBERS APPOINTED
37 BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE OF
38 MARYLAND:

39 (1) FOUR PART-TIME MEMBERS; AND

6

1 (2) ONE CHAIRMAN, WHO SHALL DEVOTE FULL TIME TO THE DUTIES OF
2 THE CHAIRMAN.

3 (B) A MEMBER OF THE BOARD MAY NOT:

4 (1) HOLD AN ELECTED OR AN APPOINTED PUBLIC OFFICE AT THE TIME
5 OF APPOINTMENT TO OR DURING THE TERM OF MEMBERSHIP ON THE BOARD;

6 (2) HAVE ANY OTHER RESPONSIBILITIES THAT INTERFERE OR
7 CONFLICT WITH THE DUTIES OF THE MEMBER ON THE BOARD; AND

8 (3) BE A MEMBER OF THE SAME POLITICAL PARTY AS THREE OTHER
9 MEMBERS OF THE BOARD.

10 (C) (1) THE TERM OF A MEMBER IS 5 YEARS.

11 (2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY
12 THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 1996.

13 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
14 SUCCESSOR IS APPOINTED AND QUALIFIES.

15 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
16 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
17 QUALIFIES.

18 (D) THE GOVERNOR AND THE SENATE OF MARYLAND, ACTING TOGETHER,
19 MAY REMOVE A MEMBER FOR CAUSE.

20 4-707.

21 (A) (1) THE BOARD SHALL ELECT A VICE CHAIRMAN, A SECRETARY, AND A
22 TREASURER FROM AMONG ITS PART-TIME MEMBERS.

23 (2) IN THE ABSENCE OF THE CHAIRMAN, THE MEMBER WITH THE
24 HIGHEST SENIORITY OF THE REMAINING MEMBERS SHALL ACT AS CHAIRMAN.

25 (B) THE MANNER OF ELECTION OF OFFICERS AND THEIR TERMS OF OFFICE
26 SHALL BE AS THE BOARD DETERMINES.

27 4-708.

28 (A) THREE MEMBERS OF THE FULL AUTHORIZED MEMBERSHIP OF THE
29 BOARD IS A QUORUM TO DO BUSINESS.

30 (B) THE BOARD SHALL DETERMINE THE TIMES AND PLACES OF ITS
31 MEETINGS.

32 (C) EACH MEMBER OF THE BOARD IS ENTITLED TO REIMBURSEMENT FOR
33 EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN
34 THE STATE BUDGET.

35 (D) (1) THE BOARD MAY EMPLOY A STAFF IN ACCORDANCE WITH THE
36 STATE BUDGET, INCLUDING COUNSEL.

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1 (2) OTHER THAN THE COUNSEL, EACH EMPLOYEE OF THE BOARD
2 SHALL BE IN A CLASSIFIED POSITION.

3 (E) IN ITS INTERNAL FUNCTIONS, THE BOARD SHALL FOLLOW THE
4 PROCEDURES OF THIS STATE THAT GOVERN THE PURCHASE OF OFFICE SPACE,
5 SUPPLIES, FACILITIES, MATERIALS, EQUIPMENT, AND PROFESSIONAL SERVICES.

6 4-709.

7 THE BOARD SHALL:

8 (1) KEEP PROPER RECORDS OF ITS ACCOUNTS;

9 (2) MAKE AN ANNUAL REPORT ON ITS CONDITIONS AND OPERATIONS
10 TO THE GOVERNOR; AND

11 (3) MAINTAIN ITS DOCUMENTS AND RECORDS FOR AT LEAST 50 YEARS.

12 4-710.

13 THE BOARD SHALL SUBMIT ITS ANNUAL BUDGET TO THE GOVERNOR AND THE
14 GENERAL ASSEMBLY.

15 4-711.

16 IN ADDITION TO ANY OTHER POWERS SET FORTH IN THIS SUBTITLE, THE
17 BOARD MAY:

18 (1) ADOPT, AMEND, OR RESCIND RULES AND REGULATIONS TO CARRY
19 OUT THE PROVISIONS OF THIS SUBTITLE;

20 (2) HOLD HEARINGS AND KEEP RECORDS AND MINUTES NECESSARY
21 FOR THE ORDERLY CONDUCT OF BUSINESS;

22 (3) ESTABLISH ANY PROCEDURES NECESSARY OR CONVENIENT TO
23 CARRY OUT ITS POWERS; AND

24 (4) ISSUE OPINIONS INTERPRETING THIS SUBTITLE.

25 4-712.

26 (A) IF AN IMPASSE IS REACHED, A MEMBER OF THE BOARD, SELECTED AT
27 RANDOM AS THE BOARD DETERMINES, MAY:

28 (1) MEDIATE THE NEGOTIATIONS;

29 (2) CONDUCT THE MEDIATION IN ANY PRUDENT MANNER UNTIL AN
30 AGREEMENT IS REACHED; AND

31 (3) CONTINUE THE MEDIATION DURING ANY PERIOD OF ARBITRATION
32 OR DURING A STRIKE OR LOCKOUT.

33 (B) A BOARD MEMBER WHO HAS MEDIATED AN IMPASSE MAY NOT SIT ON A
34 BOARD PANEL TO DECIDE CHARGES BROUGHT PURSUANT TO § 4-753 OF THIS
35 SUBTITLE BY OR AGAINST EITHER OF THE PARTIES TO THE IMPASSE WITH REGARD
36 TO MATTERS ARISING OUT OF THE MEDIATION.

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1 (C) IF A BOARD MEMBER IS NOT AVAILABLE TO MEDIATE AN IMPASSE, THE
2 BOARD MAY ADOPT PROCEDURES TO SELECT A NEUTRAL THIRD PARTY TO
3 MEDIATE THE IMPASSE.

4 4-713. RESERVED.

5 4-714. RESERVED.

6 4-715.

7 A PUBLIC EMPLOYEE MAY:

8 (1) FORM, JOIN, ASSIST, OR PARTICIPATE IN EMPLOYEE
9 ORGANIZATIONS OF THE CHOOSING AND AT THE INDIVIDUAL OPTION OF THE
10 PUBLIC EMPLOYEE;

11 (2) ENGAGE IN CONCERTED ACTIVITIES FOR THE PURPOSE OF
12 COLLECTIVE BARGAINING OR OTHER MUTUAL AID AND PROTECTION;

13 (3) BE REPRESENTED BY AN EXCLUSIVE REPRESENTATIVE;

14 (4) BARGAIN COLLECTIVELY, BY AND THROUGH AN EXCLUSIVE
15 REPRESENTATIVE, WITH THE PUBLIC EMPLOYER TO DETERMINE THE WAGES,
16 HOURS, TERMS, AND CONDITIONS OF EMPLOYMENT;

17 (5) ENTER INTO COLLECTIVE BARGAINING AGREEMENTS; AND

18 (6) PRESENT A GRIEVANCE TO A PUBLIC EMPLOYER.

19 4-716.

20 A PUBLIC EMPLOYER AND A PUBLIC EMPLOYEE MAY NOT RESOLVE A
21 GRIEVANCE IN ANY MANNER THAT IS INCONSISTENT WITH THE TERMS OF AN
22 EXISTING COLLECTIVE BARGAINING AGREEMENT.

23 4-717.

24 AN EXCLUSIVE REPRESENTATIVE MAY:

25 (1) REPRESENT PUBLIC EMPLOYEES IN COLLECTIVE BARGAINING
26 NEGOTIATIONS AND IN THE SETTLEMENT OF GRIEVANCES;

27 (2) BE PRESENT AT A HEARING IN WHICH AN INDIVIDUAL PUBLIC
28 EMPLOYEE PRESENTS A GRIEVANCE TO A PUBLIC EMPLOYER;

29 (3) REPRESENT THE APPROPRIATE UNIT EXCLUSIVELY AND WITHOUT
30 CHALLENGE DURING THE TERM OF THE COLLECTIVE BARGAINING AGREEMENT;
31 AND

32 (4) AS AN INDIVIDUAL PUBLIC EMPLOYEE, BE GIVEN THE
33 OPPORTUNITY TO MEET WITH THE PUBLIC EMPLOYER OR ITS REPRESENTATIVE
34 DURING WORKING HOURS WITHOUT LOSS OF COMPENSATION OR BENEFITS.

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1 4-718.

2 (A) REGARDLESS OF THE AMOUNT OF DAMAGES SOUGHT, ACTIONS BY OR
3 AGAINST THE EXCLUSIVE REPRESENTATIVE OF AN APPROPRIATE UNIT OR A
4 BARGAINING UNIT MAY BE BROUGHT IN THE CIRCUIT COURT OF ANY COUNTY:

5 (1) IN WHICH THE EXCLUSIVE REPRESENTATIVE IS PRINCIPALLY
6 LOCATED; OR

7 (2) WHERE THE PLAINTIFF:

8 (I) RESIDES; OR

9 (II) HAS ITS PRINCIPAL PLACE OF BUSINESS.

10 (B) AN EMPLOYEE ORGANIZATION MAY SUE ON BEHALF OF ANY OR ALL
11 PUBLIC EMPLOYEES FOR WHOM IT IS THE EXCLUSIVE REPRESENTATIVE.

12 4-719. RESERVED.

13 4-720. RESERVED.

14 4-721.

15 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, A PUBLIC
16 EMPLOYER SHALL RECOGNIZE AN EMPLOYEE ORGANIZATION AS THE EXCLUSIVE
17 REPRESENTATIVE OF THE EMPLOYEES OF A BARGAINING UNIT IF:

18 (1) THE BARGAINING UNIT IN WHICH THE EMPLOYEE ORGANIZATION
19 IS RECOGNIZED CONFORMS TO THE STANDARDS SET FORTH IN § 4-722 OF THIS
20 SUBTITLE; AND

21 (2) THE PUBLIC EMPLOYER IS AUTHORIZED BY A MAJORITY OF THE
22 EMPLOYEES OF THE PROPOSED BARGAINING UNIT WHO AUTHORIZED THE
23 DEDUCTION OF DUES TO AN ORGANIZATION TO DEDUCT FROM THEIR WAGES
24 MEMBERSHIP DUES ON BEHALF OF THE EMPLOYEE ORGANIZATION PETITIONING
25 TO BECOME THE EXCLUSIVE REPRESENTATIVE.

26 4-722.

27 IF A PUBLIC EMPLOYER RECOGNIZES AN EMPLOYEE ORGANIZATION IN
28 ACCORDANCE WITH § 4-721 OF THIS SUBTITLE, AND THE EMPLOYEE ORGANIZATION
29 PETITIONS THE BOARD, THE BOARD:

30 (1) SHALL CERTIFY THE EMPLOYEE ORGANIZATION AS THE EXCLUSIVE
31 REPRESENTATIVE OF THE EMPLOYEES IT REPRESENTS; AND

32 (2) MAY NOT LATER ALTER OR MODIFY THE MOST APPROPRIATE
33 BARGAINING UNIT EXCEPT BY MUTUAL CONSENT OF THE PUBLIC EMPLOYER AND
34 THE EXCLUSIVE REPRESENTATIVE.

35 4-723.

36 IF BARGAINING UNITS OF NONSUPERVISORY, NONPROFESSIONAL,
37 SUPERVISORY, AND PROFESSIONAL EMPLOYEES SELECT THE SAME EMPLOYEE
38 ORGANIZATION UNDER § 4-728 OF THIS SUBTITLE, § 4-724 OF THIS SUBTITLE DOES

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1 NOT LIMIT THE SAME EMPLOYEE ORGANIZATION FROM REPRESENTING THOSE
2 BARGAINING UNITS, REGARDLESS OF THE BOARD'S DEFINITION OF THE MOST
3 APPROPRIATE BARGAINING UNIT.

4 4-724.

5 (A) EXCEPT AS PROVIDED IN § 4-723 OF THIS SUBTITLE, IF A DISPUTE ARISES
6 BETWEEN A PUBLIC EMPLOYER AND AN EMPLOYEE ORGANIZATION CONCERNING
7 THE APPROPRIATENESS OF A UNIT THAT AN EMPLOYEE ORGANIZATION IS
8 CLAIMING TO REPRESENT AS EXCLUSIVE REPRESENTATIVE, THE BOARD SHALL
9 DETERMINE THE MOST APPROPRIATE BARGAINING UNIT AND SHALL CERTIFY ITS
10 EXCLUSIVE REPRESENTATIVE.

11 (B) IN MAKING A DETERMINATION UNDER SUBSECTION (A) OF THIS SECTION,
12 THE BOARD SHALL BE GUIDED BY:

13 (1) THE STRUCTURE OF EXISTING RELATIONSHIPS BETWEEN PUBLIC
14 EMPLOYERS AND EMPLOYEE ORGANIZATIONS IN EFFECT ON OCTOBER 1, 1996;

15 (2) THE MINIMIZATION OF DISRUPTIONS TO THEIR RELATIONSHIPS;

16 (3) THE COMMUNITY OF INTEREST OF THE EMPLOYEES INVOLVED;

17 (4) THE WAGES, HOURS, AND CONDITIONS OF WORK OF THE PUBLIC
18 EMPLOYEES;

19 (5) THE WISHES OF THE EMPLOYEES INVOLVED; AND

20 (6) THE PROMOTION OF EFFICIENT AND HARMONIOUS LABOR
21 RELATIONS BY AVOIDING UNNECESSARY FRAGMENTATION OF BARGAINING UNITS.

22 (C) THE BOARD SHALL BE DEEMED TO HAVE GIVEN APPROPRIATE
23 CONSIDERATION TO AVOIDING UNNECESSARY FRAGMENTATION OF BARGAINING
24 UNITS WHEN IT DEFINES THE MOST APPROPRIATE BARGAINING UNIT TO CONSIST
25 OF ALL OF THE EMPLOYEES OF THE PUBLIC EMPLOYER OR ALL OF THE EMPLOYEES
26 OF ANY DEPARTMENT OF THE EMPLOYER IF:

27 (1) SUPERVISORS ARE NOT INCLUDED IN THE SAME UNIT AS THE
28 NONSUPERVISORY EMPLOYEES OF ANY DEPARTMENT OF THE EMPLOYER; OR

29 (2) PROFESSIONAL AND NONPROFESSIONAL EMPLOYEES ARE NOT
30 INCLUDED IN THE SAME UNIT EXCEPT BY THEIR MUTUAL CONSENT AS EXPRESSED
31 BY A MAJORITY OF EACH OF THE TWO GROUPS IN A BOARD CONDUCTED ELECTION.

32 4-725.

33 THE DETERMINATION OF THE MOST APPROPRIATE BARGAINING UNIT BY THE
34 BOARD IS SUBJECT TO JUDICIAL REVIEW IN ACCORDANCE WITH § 10-222 OF THE
35 STATE GOVERNMENT ARTICLE, IF:

36 (1) THE CERTIFICATION ELECTION IN THE MOST APPROPRIATE
37 BARGAINING UNIT HAS BEEN HELD; AND

11

1 (2) THE PARTY SEEKING REVIEW HAS EXHAUSTED THE AVAILABLE
2 BOARD PROCEDURES.

3 4-726. RESERVED.

4 4-727. RESERVED.

5 4-728.

6 (A) A PETITION FOR AN ELECTION TO CERTIFY AN EMPLOYEE
7 ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT
8 SHALL BE:

9 (1) FILED WITH THE BOARD IN ACCORDANCE WITH REGULATIONS
10 ADOPTED BY THE BOARD; AND

11 (2) FILED BY A PUBLIC EMPLOYEE, A GROUP OF PUBLIC EMPLOYEES,
12 OR ANY INDIVIDUAL OR EMPLOYEE ORGANIZATION ACTING ON THEIR BEHALF.

13 (B) FROM AT LEAST 30% OF THE PUBLIC EMPLOYEES IN THE BARGAINING
14 UNIT, THE PETITIONER SHALL SUBMIT SIGNED AUTHORIZATION CARDS THAT
15 INDICATE THAT:

16 (1) THE EMPLOYEES WISH TO BE REPRESENTED FOR COLLECTIVE
17 BARGAINING PURPOSES BY A NAMED EMPLOYEE ORGANIZATION; AND

18 (2) THEIR PUBLIC EMPLOYER DECLINES TO RECOGNIZE THE
19 EMPLOYEE ORGANIZATION AS THEIR EXCLUSIVE REPRESENTATIVE.

20 4-729.

21 (A) A PETITION FOR AN ELECTION TO DECERTIFY AN EMPLOYEE
22 ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT
23 SHALL BE:

24 (1) FILED WITH THE BOARD IN ACCORDANCE WITH REGULATIONS
25 ADOPTED BY THE BOARD;

26 (2) FILED BY A PUBLIC EMPLOYEE, A GROUP OF PUBLIC EMPLOYEES,
27 OR ANY INDIVIDUAL OR EMPLOYEE ORGANIZATION ACTING ON THEIR BEHALF;
28 AND

29 (3) FILED IN THE SECOND MONTH OF THE PUBLIC EMPLOYER'S FISCAL
30 YEAR IN WHICH THE BARGAINING AGREEMENT EXPIRES.

31 (B) FROM AT LEAST 45% OF THE MEMBERS OF THE MOST APPROPRIATE
32 BARGAINING UNIT, THE PETITIONER SHALL SUBMIT SIGNED AUTHORIZATION
33 CARDS THAT INDICATE THAT THE EMPLOYEE ORGANIZATION CERTIFIED BY THE
34 BOARD, OR RECOGNIZED BY THE PUBLIC EMPLOYER, IS NO LONGER THE
35 REPRESENTATIVE OF THE MAJORITY OF THE EMPLOYEES IN THE MOST
36 APPROPRIATE BARGAINING UNIT WHO AUTHORIZE THE DEDUCTION OF DUES TO
37 AN EMPLOYEE ORGANIZATION.

12

1 4-730.

2 IN THE CASE OF A CERTIFICATION OR A DECERTIFICATION ELECTION, THE
3 BOARD MAY NOT ACCEPT AUTHORIZATION CARDS SIGNED MORE THAN 6 MONTHS
4 BEFORE THE PETITION IS FILED WITH THE BOARD.

5 4-731.

6 (A) (1) THE BOARD SHALL INVESTIGATE EACH ELECTION PETITION FILED
7 UNDER §§ 4-728 AND 4-729 OF THIS SUBTITLE TO DETERMINE IF THE PETITION IS IN
8 ACCORDANCE WITH THE RULES AND REGULATIONS OF THE BOARD WITH REGARD
9 TO ELECTION PETITIONS.

10 (2) IN DETERMINING WHETHER THE REQUIREMENTS OF §§ 4-728 AND
11 4-729 HAVE BEEN MET, A PUBLIC EMPLOYEE'S PAYROLL DUES DEDUCTION
12 AUTHORIZATION ON FILE WITH A PUBLIC EMPLOYER IS DISPOSITIVE OF THE
13 EMPLOYEE'S IDENTITY AS A PUBLIC EMPLOYEE IN THE BARGAINING UNIT AND OF
14 THE VALIDITY OF THE EMPLOYEE'S SIGNATURE.

15 (B) IN DETERMINING WHETHER A QUESTION OF REPRESENTATION EXISTS,
16 THE SAME REGULATIONS AND RULES OF DECISION SHALL APPLY REGARDLESS OF
17 THE IDENTITY OF THE PERSON FILING THE PETITION OR THE KIND OF RELIEF
18 SOUGHT.

19 (C) (1) IF THE BOARD FINDS THAT THERE IS GOOD CAUSE TO BELIEVE
20 THAT A QUESTION OF REPRESENTATION EXISTS, THE BOARD SHALL PROVIDE,
21 AFTER DUE NOTICE TO ALL INTERESTED PARTIES, FOR A HEARING ON THAT
22 QUESTION.

23 (2) THE HEARING:

24 (I) MAY BE CONDUCTED BY AN OFFICER OR EMPLOYEE OF THE
25 BOARD; AND

26 (II) SHALL BE HELD AT A LOCATION MUTUALLY CONVENIENT TO
27 THE PUBLIC EMPLOYER AND PUBLIC EMPLOYEES CONCERNED.

28 (3) IF, ON THE RECORD OF THE HEARING, THE BOARD FINDS THAT A
29 QUESTION OF REPRESENTATION EXISTS, THE BOARD SHALL:

30 (I) DIRECT AN ELECTION TO BE HELD BY SECRET BALLOT; AND

31 (II) CERTIFY THE RESULTS OF THE ELECTION.

32 4-732.

33 (A) THE BOARD SHALL DIRECT THAT A CERTIFICATION ELECTION MAY NOT
34 TAKE PLACE WITHIN 12 MONTHS AFTER AN ELECTION THAT RESULTS IN A VOTE
35 AGAINST REPRESENTATION BY ANY EMPLOYEE ORGANIZATION.

36 (B) THE BOARD SHALL DIRECT THAT A DECERTIFICATION ELECTION SHALL:

37 (1) TAKE PLACE WITHIN 60 DAYS AFTER THE EXPIRATION OF THE
38 COLLECTIVE BARGAINING AGREEMENT; AND

13

1 (2) INCLUDE THE NAME OF THE INCUMBENT EXCLUSIVE
2 REPRESENTATIVE.

3 (C) THE BOARD SHALL DIRECT THAT THE CERTIFICATION OR
4 DECERTIFICATION ELECTION BALLOT SHALL INCLUDE A SPACE PERMITTING A
5 VOTE FOR NO EMPLOYEE ORGANIZATION REPRESENTATION.

6 4-733.

7 (A) THE BOARD SHALL CERTIFY AN EMPLOYEE ORGANIZATION RECEIVING A
8 SIMPLE MAJORITY OF THE VOTES CAST AS THE EXCLUSIVE REPRESENTATIVE OF
9 THE MOST APPROPRIATE BARGAINING UNIT.

10 (B) IN THE ABSENCE OF A SIMPLE MAJORITY, A RUNOFF ELECTION SHALL BE
11 CONDUCTED BETWEEN THE TWO BALLOT SELECTIONS RECEIVING THE MOST
12 VOTES.

13 4-734.

14 CERTIFICATION AS THE EXCLUSIVE REPRESENTATIVE IS VALID UNTIL THE
15 EMPLOYEE ORGANIZATION IS DISSOLVED, VOLUNTARILY SURRENDERS
16 CERTIFICATION, LOSES A VALID ELECTION, OR IS DECERTIFIED.

17 4-735.

18 THE BOARD MAY NOT DECERTIFY AN EXCLUSIVE REPRESENTATIVE
19 INVOLUNTARILY FOR AT LEAST 2 YEARS AFTER THE DATE OF ORIGINAL
20 CERTIFICATION.

21 4-736.

22 IF AN EXCLUSIVE REPRESENTATIVE HAS BEEN CERTIFIED FOR AN
23 APPROPRIATE BARGAINING UNIT, AN EMPLOYER MAY NOT PERMIT PAYROLL DUES
24 DEDUCTION AUTHORIZATIONS OR CHECKOFFS FOR ANY OTHER EMPLOYEE
25 ORGANIZATION UNTIL THE EXCLUSIVE REPRESENTATIVE LOSES ITS
26 CERTIFICATION.

27 4-737.

28 BY FEBRUARY 1, 1997, THE BOARD SHALL ADOPT REGULATIONS AND RULES OF
29 DECISION AND PROCEDURE WITH REGARD TO CERTIFICATION AND
30 DECERTIFICATION ELECTIONS IN ACCORDANCE WITH TITLE 10, SUBTITLE 1 OF THE
31 STATE GOVERNMENT ARTICLE.

32 4-738. RESERVED.

33 4-739. RESERVED.

34 4-740.

35 (A) A PUBLIC EMPLOYER AND AN EMPLOYEE ORGANIZATION CERTIFIED BY
36 THE BOARD AS AN EXCLUSIVE REPRESENTATIVE SHALL NEGOTIATE COLLECTIVE
37 BARGAINING AGREEMENTS IN GOOD FAITH.

14

1 (B) EXCEPT AS PROVIDED IN §§ 4-742 AND 4-747 OF THIS SUBTITLE, THE
2 OBLIGATION TO NEGOTIATE IN GOOD FAITH MAY NOT COMPEL EITHER PARTY TO
3 AGREE TO A PROPOSAL OR TO MAKE A CONCESSION.

4 4-741.

5 THE CERTIFIED REPRESENTATIVES OF TWO OR MORE APPROPRIATE
6 BARGAINING UNITS MAY JOIN TOGETHER FOR THE PURPOSE OF ENGAGING IN
7 COLLECTIVE BARGAINING WITH A SINGLE PUBLIC EMPLOYER.

8 4-742.

9 (A) EACH AGREEMENT NEGOTIATED UNDER THE TERMS OF THIS SUBTITLE
10 SHALL BE REDUCED TO WRITING AND SHALL CONTAIN:

11 (1) GRIEVANCE PROCEDURES WHICH PROVIDE FOR BINDING
12 ARBITRATION;

13 (2) A "NO STRIKE" CLAUSE;

14 (3) A "NO LOCKOUT" CLAUSE; AND

15 (4) A PROVISION FOR PAYROLL DEDUCTIONS FOR MEMBERSHIP DUES
16 AND ANY SERVICE FEES TO WHICH THE EXCLUSIVE REPRESENTATIVE IS ENTITLED.

17 (B) THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT SHALL PREVAIL
18 OVER THE RULES OF A PUBLIC EMPLOYER OR A STATUTE CONCERNING THE TERMS
19 AND CONDITIONS OF EMPLOYMENT IF:

20 (1) THERE IS A CONFLICT BETWEEN THE AGREEMENT AND THE RULES
21 OR STATUTES; AND

22 (2) THE AGREEMENT PROVIDES TERMS AND CONDITIONS OF
23 EMPLOYMENT:

24 (I) EQUAL TO OR BETTER THAN THE TERMS AND CONDITIONS OF
25 EMPLOYMENT PROVIDED UNDER THE EXISTING MERIT SYSTEM; AND

26 (II) CONSISTENT WITH THE MERIT PRINCIPLE AND THE PRINCIPLE
27 OF EQUAL PAY FOR EQUAL WORK.

28 4-743.

29 THE PARTIES TO ANY COLLECTIVE BARGAINING AGREEMENT, REACHED IN
30 ACCORDANCE WITH THIS SUBTITLE, SHALL FILE A COPY OF THAT AGREEMENT
31 WITH THE BOARD WITHIN 14 DAYS AFTER THE EXECUTION OF THE AGREEMENT.

32 4-744.

33 THIS SUBTITLE DOES NOT AFFECT ANY AGREEMENT IN EXISTENCE ON
34 OCTOBER 1, 1996 IF THAT AGREEMENT CONCERNS:

35 (1) A MOST APPROPRIATE BARGAINING UNIT;

36 (2) THE CERTIFICATION OF AN EXCLUSIVE REPRESENTATIVE; OR

15

1 (3) A COLLECTIVE BARGAINING AGREEMENT.

2 4-745. RESERVED.

3 4-746. RESERVED.

4 4-747.

5 (A) (1) IF NEGOTIATIONS UNDER § 4-740 OF THIS SUBTITLE REACH AN
6 IMPASSE, THE BOARD SHALL MEDIATE THE NEGOTIATIONS UNTIL AN AGREEMENT
7 IS REACHED OR AN ARBITRATOR IS APPOINTED.

8 (2) THE MEDIATOR MAY CONTINUE MEDIATION EFFORTS AFTER THE
9 APPOINTMENT OF AN ARBITRATOR.

10 (3) IF THERE IS NO AGREEMENT BY THE 60TH DAY BEFORE THE
11 BUDGET SUBMISSION DATE, AN ARBITRATOR SELECTED ACCORDING TO THE
12 PROCEDURES OF THE AMERICAN ARBITRATION ASSOCIATION OR THROUGH ANY
13 OTHER MUTUALLY ACCEPTED PROCEDURE SHALL CONDUCT A HEARING, MAKE
14 FINDINGS OF FACT, AND ANNOUNCE A BINDING AWARD COVERING ALL OF THE
15 ISSUES IN DISPUTE.

16 (B) (1) TO RESOLVE DISPUTES CONCERNING THE INTERPRETATION OR
17 APPLICATION OF A COLLECTIVE BARGAINING AGREEMENT, THE PUBLIC EMPLOYER
18 AND THE EXCLUSIVE REPRESENTATIVE MAY NEGOTIATE USING IMPASSE
19 PROCEDURES OF THEIR CHOICE.

20 (2) THE IMPASSE PROCEDURES CHOSEN UNDER PARAGRAPH (1) OF
21 THIS SUBSECTION SHALL PROVIDE FOR BINDING ARBITRATION.

22 (C) IN MAKING AN ARBITRATION DECISION, THE ARBITRATOR SHALL
23 CONSIDER ALL RELEVANT FACTORS, INCLUDING:

24 (1) THE TERMS AND CONDITIONS OF EMPLOYMENT FOR EMPLOYEES
25 SIMILARLY SITUATED IN OTHER STATES OR OTHER POLITICAL SUBDIVISIONS, AS
26 WELL AS SIMILARLY SITUATED EMPLOYEES OF THE FEDERAL GOVERNMENT;

27 (2) THE DEGREE OF EDUCATION, SKILL, EXPERIENCE, RESPONSIBILITY,
28 DANGER, AND HARDSHIP ASSOCIATED WITH THE WORK PERFORMED; AND

29 (3) THE REVENUE TRADITIONALLY AVAILABLE TO AND THE FUNDS
30 TRADITIONALLY APPROPRIATED BY THE LEGISLATIVE BODY FOR THE SERVICES
31 PERFORMED.

32 4-748.

33 THE PARTIES TO THE ARBITRATION SHALL SHARE EQUALLY ALL OF THE FEES
34 AND COSTS OF THE ARBITRATION, EXCLUSIVE OF ATTORNEY'S FEES.

35 4-749.

36 (A) THE PUBLIC EMPLOYER SHALL SUBMIT ANY COST ITEM INCURRED
37 UNDER § 4-740 OR § 4-747 OF THIS SUBTITLE TO ITS LEGISLATIVE BODY WITHIN 5
38 DAYS AFTER A COLLECTIVE BARGAINING AGREEMENT IS REACHED OR THE
39 ARBITRATOR RENDERS AN AWARD.

16

1 (B) IF THE LEGISLATIVE BODY REJECTS OR MODIFIES ANY PART OF THE
2 COST ITEM SUBMISSION, THE EXCLUSIVE REPRESENTATIVE MAY REOPEN
3 NEGOTIATIONS ON ALL OR ANY PART OF THE AGREEMENT.

4 (C) EXCEPT FOR COST ITEMS, ALL PROVISIONS OF A COLLECTIVE
5 BARGAINING AGREEMENT TAKE EFFECT WHEN THE COLLECTIVE BARGAINING
6 AGREEMENT IS EXECUTED UNLESS THE PARTIES PROVIDE, IN WRITING, FOR A
7 DIFFERENT EFFECTIVE DATE FOR A PROVISION.

8 4-750.

9 (A) IF EITHER PARTY FAILS TO COMPLY WITH THE ARBITRATOR'S AWARD,
10 THE INJURED PARTY OR THE BOARD MAY PETITION THE CIRCUIT COURT FOR
11 ENFORCEMENT OF THE ARBITRATOR'S DECISION AND FOR OTHER APPROPRIATE
12 RELIEF.

13 (B) THE COURT WITH JURISDICTION OVER THE DISPUTE IS THE CIRCUIT
14 COURT:

15 (1) FOR THE COUNTY WHERE THE NONCOMPLYING PARTY HAS ITS
16 PRINCIPAL BUSINESS OFFICES; OR

17 (2) FOR ANNE ARUNDEL COUNTY.

18 (C) THE BOARD SHALL CERTIFY AND FILE WITH THE COURT:

19 (1) A TRANSCRIPT OF THE ARBITRATION PROCEEDING; AND

20 (2) A COPY OF THE ARBITRATION AWARD.

21 (D) IF THE BOARD FILES THE PETITION, THE COMPLAINING PARTY OR
22 PARTIES MAY INTERVENE IN THE CASE AS A MATTER OF RIGHT.

23 (E) THE PARTY PREVAILING ON THE PETITION FOR ENFORCEMENT IS
24 ENTITLED TO COSTS AND ATTORNEY'S FEES.

25 (F) UNLESS AN ARBITRATION AWARD IS NOT SUPPORTED BY THE RECORD
26 OF THE ARBITRATION PROCEEDING, THE COURT SHALL ENFORCE THE AWARD.

27 4-751. RESERVED.

28 4-752. RESERVED.

29 4-753.

30 (A) A PUBLIC EMPLOYER MAY NOT:

31 (1) RESTRAIN, COERCE, OR OTHERWISE INTERFERE WITH ITS
32 EMPLOYEES IN THE EXERCISE OF THE RIGHTS CONFERRED BY THIS SUBTITLE;

33 (2) DOMINATE OR INTERFERE IN THE FORMATION OR
34 ADMINISTRATION OF ANY EMPLOYEE ORGANIZATION;

35 (3) DISCRIMINATE IN THE TERMS AND CONDITIONS OF EMPLOYMENT
36 OF ITS EMPLOYEES FOR THE PURPOSE OF ENCOURAGING OR DISCOURAGING
37 MEMBERSHIP IN AN EMPLOYEE ORGANIZATION;

17

1 (4) DISCHARGE OR OTHERWISE DISCRIMINATE AGAINST ANY PUBLIC
2 EMPLOYEE BECAUSE OF A BARGAINING UNIT;

3 (5) REFUSE TO NEGOTIATE IN GOOD FAITH WITH THE EXCLUSIVE
4 REPRESENTATIVE OF A BARGAINING UNIT;

5 (6) FAIL TO SUBMIT TO THE LEGISLATIVE BODY, WITHIN THE
6 APPROPRIATE TIME, ANY COST ITEM AGREED ON IN NEGOTIATIONS;

7 (7) INVOKE A LOCKOUT;

8 (8) FAIL TO COMPLY WITH THIS SUBTITLE OR ANY RULES ISSUED
9 UNDER THIS SUBTITLE; OR

10 (9) BREACH ANY PROVISION OF A COLLECTIVE BARGAINING
11 AGREEMENT.

12 (B) AN EMPLOYEE ORGANIZATION MAY NOT:

13 (1) RESTRAIN OR COERCE PUBLIC EMPLOYEES IN THE EXERCISE OF
14 THEIR RIGHTS UNDER THIS SUBTITLE;

15 (2) RESTRAIN OR COERCE PUBLIC EMPLOYERS IN THEIR SELECTION OF
16 AGENTS TO REPRESENT THEM IN COLLECTIVE BARGAINING NEGOTIATIONS OR THE
17 SETTLEMENT OF GRIEVANCES;

18 (3) CAUSE OR ATTEMPT TO CAUSE A PUBLIC EMPLOYER TO
19 DISCRIMINATE AGAINST AN EMPLOYEE, OR TO DISCRIMINATE AGAINST ANY
20 PUBLIC EMPLOYEE FOR REASONS OTHER THAN THE FAILURE TO PAY SERVICE
21 FEES;

22 (4) REFUSE TO NEGOTIATE IN GOOD FAITH WITH A PUBLIC EMPLOYER;

23 (5) EXCEPT FOR INFORMATIONAL PICKETING AND AS OTHERWISE
24 PERMITTED BY THIS SUBTITLE, ENGAGE IN A STRIKE; OR

25 (6) BREACH ANY PROVISION OF A COLLECTIVE BARGAINING
26 AGREEMENT.

27 (C) A VIOLATION OF ANY PROVISION OF THIS SECTION IS AN UNFAIR LABOR
28 PRACTICE THAT MAY BE REMEDIED BY THE BOARD IN ACCORDANCE WITH THIS
29 SUBTITLE.

30 4-754.

31 (A) A PUBLIC EMPLOYER, PUBLIC EMPLOYEE, OR MEMBER OF THE BOARD
32 MAY FILE, WITH THE BOARD, A CHARGE ALLEGING THAT A VIOLATION OF § 4-753 OF
33 THIS SUBTITLE HAS OCCURRED.

34 (B) THE BOARD SHALL INVESTIGATE A CHARGE OF AN UNFAIR LABOR
35 PRACTICE FILED UNDER SUBSECTION (A) OF THIS SECTION.

18

1 4-755.

2 EXCEPT AS PROVIDED IN § 4-756 OF THIS SUBTITLE, IF THE BOARD
3 DETERMINES AFTER AN INVESTIGATION THAT THERE IS GOOD REASON TO BELIEVE
4 THAT AN UNFAIR LABOR PRACTICE HAS OCCURRED OR EXISTS, THE BOARD MAY
5 SERVE A COMPLAINT ON THE ALLEGED VIOLATOR.

6 4-756.

7 THE BOARD MAY NOT ISSUE A COMPLAINT OR ORDER BASED ON AN UNFAIR
8 LABOR PRACTICE OCCURRING MORE THAN 6 MONTHS BEFORE THE FILING OF THE
9 CHARGE UNLESS:

10 (1) THE CHARGING PARTY WAS PREVENTED FROM FILING THE
11 CHARGE BECAUSE OF SERVICE IN THE ARMED FORCES; AND

12 (2) THE CHARGING PARTY WAS NOT DISCHARGED FROM THE ARMED
13 FORCES MORE THAN 6 MONTHS BEFORE THE FILING OF THE CHARGE.

14 4-757.

15 IN THE COMPLAINT OR ORDER, THE BOARD SHALL INCLUDE:

16 (1) THE CHARGES UNDERLYING THE ALLEGED UNFAIR LABOR
17 PRACTICE; AND

18 (2) NOTICE OF A HEARING BEFORE THE BOARD AT A FIXED TIME AND
19 PLACE.

20 4-758.

21 ANY COMPLAINT ISSUED BY THE BOARD MAY BE AMENDED BY THE BOARD AT
22 ANY TIME BEFORE THE ISSUANCE OF AN ORDER BASED UPON THE COMPLAINT.

23 4-759.

24 THE BOARD SHALL SERVE A COPY OF THE COMPLAINT OR ORDER ON ANY
25 PERSON WHOSE INTEREST, AS DETERMINED BY THE BOARD, MAY BE ADVERSELY
26 AFFECTED BY THE PROCEEDINGS.

27 4-760.

28 (A) IF THE BOARD ENTERS AN ORDER DENYING THE ISSUANCE OF A
29 COMPLAINT, THE BOARD SHALL STATE, IN WRITING, THE REASONS FOR THE
30 DENIAL.

31 (B) A DENIAL OF THE ISSUANCE OF A COMPLAINT CONSTITUTES A FINAL
32 ORDER AND, IF THE AVAILABLE BOARD PROCEDURES HAVE BEEN EXHAUSTED, IS
33 SUBJECT TO JUDICIAL REVIEW IN ACCORDANCE WITH § 10-222 OF THE STATE
34 GOVERNMENT ARTICLE.

35 4-761.

36 (A) THE BOARD SHALL HOLD A HEARING CONCERNING AN UNFAIR LABOR
37 PRACTICE:

19

1 (1) NOT LESS THAN 10 DAYS AFTER SERVING THE COMPLAINT OR
2 ORDER;

3 (2) AT A LOCATION MUTUALLY CONVENIENT FOR THE PUBLIC
4 EMPLOYER AND THE PUBLIC EMPLOYEES INVOLVED; AND

5 (3) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, IN
6 ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

7 (B) THE BOARD MAY NOT ADJUDICATE ANY COMPLAINT UNLESS:

8 (1) DUE NOTICE HAS BEEN GIVEN TO ALL PARTIES TO THE COMPLAINT;
9 AND

10 (2) ALL PARTIES HAVE BEEN GIVEN A REASONABLE OPPORTUNITY TO
11 APPEAR AND PRESENT EVIDENCE.

12 (C) THE BOARD EXPEDITIOUSLY SHALL HEAR CASES ALLEGING UNFAIR
13 LABOR PRACTICES AND, FOR GOOD CAUSE SHOWN, SHALL GIVE PRECEDENCE TO
14 THESE CASES OVER ALL OTHER CIVIL MATTERS EXCEPT EARLIER MATTERS OF THE
15 SAME CHARACTER.

16 4-762.

17 ANY PERSON WHO IS SERVED WITH A COMPLAINT OR ORDER HAS THE RIGHT:

18 (1) TO FILE AN ANSWER TO THE ORIGINAL OR AMENDED COMPLAINT;

19 (2) TO APPEAR IN PERSON OR OTHERWISE; AND

20 (3) TO GIVE TESTIMONY AT THE TIME AND PLACE FIXED IN THE
21 COMPLAINT.

22 4-763.

23 IN ANY PROCEEDING, THE BOARD IS NOT BOUND BY THE TECHNICAL RULES
24 OF EVIDENCE PREVAILING IN THE COURTS OF LAW.

25 4-764.

26 (A) IF THE FINDINGS OF FACT OF THE BOARD ARE SUPPORTED BY RELIABLE,
27 PROBATIVE, AND SUBSTANTIAL EVIDENCE, THEY ARE CONCLUSIVE.

28 (B) NOTWITHSTANDING THE REQUIREMENTS OF § 10-216 OF THE STATE
29 GOVERNMENT ARTICLE, AFTER A HEARING, THE BOARD SHALL ISSUE A FINAL
30 DECISION.

31 4-765.

32 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE BOARD,
33 THE CHARGING PARTY, OR THE RESPONDENT MAY SEEK REVIEW OR
34 ENFORCEMENT OF A FINAL BOARD DECISION IN THE MANNER SET FORTH IN TITLE
35 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

36 (B) THE PARTY SEEKING JUDICIAL REVIEW SHALL EXHAUST THE AVAILABLE
37 PROCEDURES OF THE BOARD.

20

1 (C) (1) THE FILING OF A PETITION FOR JUDICIAL REVIEW DOES NOT STAY
2 AUTOMATICALLY THE ENFORCEMENT OF A FINAL DECISION OF THE BOARD.

3 (2) WITH THE CONSENT OF THE BOARD, A REVIEWING COURT MAY
4 ORDER A STAY OF THE ENFORCEMENT OF THE FINAL DECISION ON TERMS THAT
5 THE COURT CONSIDERS PROPER.

6 4-766.

7 UNLESS SPECIFICALLY ORDERED BY A COURT, THE COMMENCEMENT OF
8 PROCEEDINGS UNDER § 4-761 OF THIS SUBTITLE DOES NOT OPERATE AS A STAY OF
9 THE BOARD'S ORDER.

10 4-767. RESERVED.

11 4-768. RESERVED.

12 4-769.

13 THE PROVISIONS OF THIS SUBTITLE DO NOT DIMINISH THE AUTHORITY OF THE
14 STATE DEPARTMENT OF PERSONNEL, OR ANY BOARD OR AGENCY ESTABLISHED BY
15 STATUTE OR CHARTER, TO CONDUCT AND GRADE MERIT EXAMINATIONS FROM
16 WHICH APPOINTMENTS OR PROMOTIONS MAY BE MADE.

17 4-770.

18 UNLESS THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE
19 AGREE TO ANY MODIFICATIONS OR REVISIONS, THE PAY AND BENEFITS ENJOYED
20 BY PUBLIC EMPLOYEES AS OF SEPTEMBER 30, 1996 SHALL CONTINUE IN EFFECT.

21 4-771.

22 (A) SERVICE FEES:

23 (1) ARE REQUIRED FROM ALL PUBLIC EMPLOYEES IN A MOST
24 APPROPRIATE BARGAINING UNIT WHO ARE NOT MEMBERS OF THE EXCLUSIVE
25 REPRESENTATIVE CERTIFIED BY THE BOARD;

26 (2) SHALL BE DEDUCTED FROM NONMEMBER EMPLOYEES' PAYCHECKS
27 BY THEIR PUBLIC EMPLOYER AND PAID TO THE EXCLUSIVE REPRESENTATIVE; AND

28 (3) MAY NOT EXCEED DUES PAID BY PUBLIC EMPLOYEES WHO ARE
29 MEMBERS OF THE SAME EXCLUSIVE REPRESENTATIVE.

30 (B) THE BOARD SHALL ADOPT PROCEDURES TO REQUIRE THE REFUND OF
31 THAT PORTION OF THE SERVICE FEE THAT MUST BE REFUNDED BY LAW.

32 4-772.

33 A PUBLIC EMPLOYEE MAY NOT STRIKE.

21

1 4-773. RESERVED.

2 4-774. RESERVED.

3 4-775.

4 THIS SUBTITLE MAY BE CITED AS THE "MARYLAND PUBLIC EMPLOYEE LABOR
5 RELATIONS ACT".

6 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial
7 members of the Maryland Public Employee Labor Relations Board shall expire as
8 follows:

9 (1) 1 member in 1997;

10 (2) 1 member in 1998;

11 (3) 1 member in 1999;

12 (4) 1 member in 2000; and

13 (5) 1 member in 2001.

14 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 1996.