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**By: Delegates Howard, McHale, Cadden, Patterson, Pitkin, Linton, Muse, and Malone**

Introduced and read first time: February 5, 1996

Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2 **Public Education Employment Relations Commission**

3 FOR the purpose of establishing the Public Education Employment Relations  
4 Commission; requiring the Commission to decide certain controversies and  
5 disputes; requiring the Commission to adopt certain regulations; requiring the  
6 Commission to provide for supervision of certain elections; requiring the  
7 Commission to make certain determinations on certain employment matters;  
8 requiring the Commission to provide certain assistance and advice under specified  
9 circumstances; requiring the Governor to appoint the members of the Commission;  
10 establishing the terms of members of the Commission; specifying the terms of the  
11 initial members of the Commission; specifying the powers of the Commission;  
12 specifying which recommendations of the Commission are binding on certain  
13 parties; and generally relating to the establishment of the Public Education  
14 Employment Relations Commission.

15 BY repealing and reenacting, with amendments,  
16 Article - Education  
17 Section 2-205(e), 6-405(f), 6-408, 6-506(f), and 6-510  
18 Annotated Code of Maryland  
19 (1992 Replacement Volume and 1995 Supplement)

20 BY adding to  
21 Article - Education  
22 Section 6-801 through 6-805, inclusive, to be under the new subtitle "Subtitle 8.  
23 Public Education Employment Relations Commission"  
24 Annotated Code of Maryland  
25 (1992 Replacement Volume and 1995 Supplement)

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

28 **Article - Education**

29 2-205.

30 (e) (1) Without charge and with the advice of the Attorney General, the State  
31 Board shall explain the true intent and meaning of the provisions of:

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1 (i) This article that are within its jurisdiction; and

2 (ii) The bylaws, rules, and regulations adopted by the Board.

3 (2) (I) [The] EXCEPT AS OTHERWISE PROVIDED IN SUBTITLES 4 AND  
4 5 OF THIS TITLE, THE Board shall decide all controversies and disputes under these  
5 provisions.

6 (3) The decision of the Board is final.

7 (4) (I) CONTROVERSIES AND DISPUTES UNDER SUBTITLES 4 AND 5 OF  
8 THIS TITLE SHALL BE DECIDED BY THE PUBLIC EDUCATION EMPLOYMENT  
9 RELATIONS COMMISSION.

10 (II) THE DECISION OF THE PUBLIC EDUCATION EMPLOYMENT  
11 RELATIONS COMMISSION IS FINAL, SUBJECT TO THE OTHER PROVISIONS OF THIS  
12 ARTICLE CONCERNING THE FISCAL RELATIONSHIP BETWEEN THE PUBLIC SCHOOL  
13 EMPLOYER AND THE COUNTY COMMISSIONERS, COUNTY COUNCIL, AND MAYOR  
14 AND CITY COUNCIL OF BALTIMORE CITY.

15 6-405.

16 (f) (1) The [State Board] PUBLIC EDUCATION EMPLOYMENT RELATIONS  
17 COMMISSION shall adopt rules and regulations for:

18 (i) Verifying the number of certificated employees of the public  
19 school employer or individuals of equivalent status in Baltimore City who are members in  
20 good standing of an employee organization on the date of the certification or who have  
21 signed a petition under this section; and

22 (ii) Holding elections under this section and the certification of their  
23 results.

24 (2) The [State Board] PUBLIC EDUCATION EMPLOYMENT RELATIONS  
25 COMMISSION shall provide for supervision of these elections.

26 (3) The elections shall be held:

27 (i) In each school facility where public employees are assigned on a  
28 regularly scheduled school day;

29 (ii) In a manner assuring the secrecy of the ballot; and

30 (iii) On a regular working day for public school employees, between  
31 June 1 and June 15, inclusive, except in Baltimore City where the elections shall be held  
32 between November 1 and November 15 following the date on which certification of  
33 required membership enrollment is made.

34 (4) In any election held under this section, the employee organization that  
35 receives the largest number of votes cast in a unit shall be declared to be the exclusive  
36 representative of all public school employees in the unit. If the largest number of votes in  
37 the election is cast not to have exclusive representation, a representative may not be  
38 designated for the unit.

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1 (5) The public school employer shall provide any assistance required in  
2 holding the elections.

3 6-408.

4 (a) (1) In this section, "negotiate" includes the duty to:

5 (i) Confer in good faith, at all reasonable times; and

6 (ii) Reduce to writing the matters agreed on as a result of the  
7 negotiations.

8 (2) The agreements may provide for binding arbitration of the grievances  
9 arising under the agreement that the parties have agreed to be subject to arbitration.

10 (b) (1) On request a public school employer or at least two of its designated  
11 representatives shall meet and negotiate with at least two representatives of the employee  
12 organization that is designated as the exclusive negotiating agent for the public school  
13 employees in a unit of the county on all matters that relate to salaries, wages, hours, and  
14 other working conditions.

15 (2) ON PETITION TO THE PUBLIC EDUCATION EMPLOYMENT RELATIONS  
16 COMMISSION, THE COMMISSION SHALL DETERMINE IF A MATTER IS A MANDATORY,  
17 A PERMISSIVE, OR AN ILLEGAL SUBJECT OF BARGAINING.

18 [(2)] (3) In Montgomery County, notwithstanding any agreement in effect on  
19 June 1, 1978 which excludes substitute teachers, and without affecting any other part of  
20 such an agreement, the exclusive negotiating agent for the public school employees in a  
21 unit and the public school employer shall meet and negotiate under this section the  
22 salaries, wages, hours, and other working conditions of all persons actually employed as  
23 substitute teachers.

24 (c) The designation of representatives by the employer under this section does  
25 not prevent the designated employee organization from appearing before or making  
26 proposals to the public school employer at a public meeting or hearing.

27 (d) (1) If, on the request of either party, the [State Superintendent] PUBLIC  
28 EDUCATION EMPLOYMENT RELATIONS COMMISSION determines from the facts that  
29 an impasse is reached in negotiations between a public school employer and an employee  
30 organization that is designated as an exclusive negotiating agent, the assistance and  
31 advice of the [State Board] PUBLIC EDUCATION EMPLOYMENT RELATIONS  
32 COMMISSION may be requested, with the consent of both parties.

33 (2) If consent is not given and at the request of either party, a panel shall be  
34 named to aid in resolving the differences.

35 (3) The panel shall contain three individuals chosen as follows:

36 (i) One member is to be named by each party within 3 days; and

37 (ii) The third member is to be chosen by the other two members within  
38 10 days after the request.

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1 (4) The [State Board] PUBLIC EDUCATION EMPLOYMENT RELATIONS  
2 COMMISSION or the panel selected shall meet with the parties to aid in resolving the  
3 differences, and, if the matter is not resolved, shall make a written report and  
4 recommendation within 30 days after the request.

5 (5) A copy of the report shall be sent to the representatives of the public  
6 school employer and the employee organization.

7 (6) All costs of mediation shall be shared by the public schoolemployer and  
8 the employee organization.

9 (7) THE DETERMINATION OF THE PUBLIC EDUCATION EMPLOYMENT  
10 RELATIONS COMMISSION OR THE PANEL SELECTED SHALL BE BINDING ON THE  
11 PARTIES AS TO NONECONOMIC MATTERS.

12 [(7)] (8) Notwithstanding any other provision of this subtitle, the public  
13 school employer shall make the final determination as to matters that have been the  
14 subject of negotiation, but this final determination is subject to the other provisions of  
15 this article concerning the fiscal relationship between the public school employer and the  
16 county commissioners, county council, and Mayor and City Council of Baltimore City.

17 6-506.

18 (f) (1) The [State Board] PUBLIC EDUCATION EMPLOYMENT RELATIONS  
19 COMMISSION shall adopt rules and regulations for:

20 (i) Verifying the number of public school employees who are members  
21 in good standing of an employee organization on the date of the certification or who have  
22 signed a petition under this section; and

23 (ii) Holding elections under this section and the certification of their  
24 results.

25 (2) The [State Board] PUBLIC EDUCATION EMPLOYMENT RELATIONS  
26 COMMISSION shall provide for supervision of these elections.

27 (3) The elections shall be held:

28 (i) In each school facility where public school employees are assigned  
29 on a regularly scheduled school day;

30 (ii) In a manner assuring the secrecy of the ballot; and

31 (iii) On a regular working day for public school employees, between  
32 June 1 and June 15, inclusive.

33 (4) In all elections held under this section, the employee organization that  
34 receives a majority of the votes cast in a unit shall be declared to be the exclusive  
35 representative of all public school employees in the unit. If a majority of the votes in the  
36 election are cast not to have exclusive representation, a representative may not be  
37 designated for the unit.

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1 (5) The two choices on the ballot that receive the most votes shall be placed  
2 on a ballot for a runoff election that shall be held in the same manner as the original  
3 election if:

4 (i) More than one employee organization is on the ballot;

5 (ii) No employee organization obtains a majority of the votes; and

6 (iii) A majority of the votes is not for "not to have exclusive  
7 representation."

8 (6) The public school employer shall provide any assistance required in  
9 conducting the elections.

10 6-510.

11 (a) (1) In this section, "negotiate" includes the duty to:

12 (i) Confer in good faith, at all reasonable times; and

13 (ii) Reduce to writing the matters agreed on as a result of the  
14 negotiations.

15 (2) The agreements may provide for binding arbitration of the grievances  
16 arising under the agreement that the parties have agreed to be subject to arbitration.

17 (b) (1) On request, a public school employer or at least two of its designated  
18 representatives shall meet and negotiate with at least two representatives of the employee  
19 organization that is designated as the exclusive negotiating agent for the public school  
20 employees in a unit of the county on all matters that relate to salaries, wages, hours, and  
21 other working conditions.

22 (2) ON PETITION TO THE PUBLIC EDUCATION EMPLOYMENT RELATIONS  
23 COMMISSION, THE COMMISSION SHALL DETERMINE IF A MATTER IS A MANDATORY,  
24 A PERMISSIVE, OR AN ILLEGAL SUBJECT OF BARGAINING.

25 (c) The designation of representatives by the employer under this section does  
26 not prevent an employee organization from appearing before or making proposals to the  
27 public school employer at a public meeting or hearing.

28 (d) (1) If, on the request of either party, the [State Superintendent] PUBLIC  
29 EDUCATION EMPLOYMENT RELATIONS COMMISSION determines from the facts that  
30 an impasse is reached in negotiations between a public school employer and an employee  
31 organization that is designated as an exclusive negotiating agent, the assistance and  
32 advice of the [State Board] PUBLIC EDUCATION EMPLOYMENT RELATIONS  
33 COMMISSION may be requested, with the consent of both parties.

34 (2) If consent is not given and at the request of either party, a panel shall be  
35 named to aid in resolving the differences.

36 (3) The panel shall contain three individuals chosen as follows:

37 (i) One member is to be named by each party within 3 days; and

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1 (ii) The third member is to be chosen by the other two members within  
2 10 days after the request.

3 (4) The [State Board] PUBLIC EDUCATION EMPLOYMENT RELATIONS  
4 COMMISSION or the panel selected shall meet with the parties to aid in resolving the  
5 differences, and, if the matter is not resolved, shall make a written report and  
6 [recommendation] DETERMINATION within 30 days after the request.

7 (5) A copy of the report AND DETERMINATION shall be sent to  
8 representatives of the public school employer and the employee organization.

9 (6) All costs of the impasse proceedings, including mediation, shall be  
10 shared equally by the public school employer and the employee organization.

11 (7) [Notwithstanding any other provision of this subtitle, the public school  
12 employer shall make the final determination as to matters which have been the subject of  
13 negotiation, but this final determination is subject to the other provisions of this article  
14 concerning the fiscal relationship between the public school employer and the county  
15 commissioners and county council.] THE DETERMINATION OF THE PUBLIC  
16 EDUCATION EMPLOYMENT RELATIONS COMMISSION OR THE PANEL SELECTED  
17 SHALL BE BINDING ON THE PARTIES AS TO NONECONOMIC MATTERS.

18 (8) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, THE  
19 FINAL DETERMINATION OF THE COMMISSION OR PANEL SELECTED IS SUBJECT TO  
20 THE OTHER PROVISIONS OF THIS ARTICLE CONCERNING THE FISCAL RELATIONSHIP  
21 BETWEEN THE PUBLIC SCHOOL EMPLOYER AND THE COUNTY COMMISSIONERS,  
22 COUNTY COUNCIL, AND MAYOR AND CITY COUNCIL OF BALTIMORE CITY.

23 SUBTITLE 8. PUBLIC EDUCATION EMPLOYMENT RELATIONS COMMISSION.

24 6-801.

25 IN THIS SUBTITLE, "COMMISSION" MEANS THE PUBLIC EDUCATION  
26 EMPLOYMENT RELATIONS COMMISSION.

27 6-802.

28 THERE IS A PUBLIC EDUCATION EMPLOYMENT RELATIONS COMMISSION IN  
29 THE DEPARTMENT.

30 6-803.

31 (A) ON PETITION OF ANY INTERESTED PARTY, THE COMMISSION SHALL  
32 DECIDE ALL CONTROVERSIES AND DISPUTES UNDER SUBTITLES 4 AND 5 OF THIS  
33 TITLE.

34 (B) THE DECISION OF THE COMMISSION IS FINAL.

35 6-804.

36 (A) (1) THE COMMISSION CONSISTS OF THREE MEMBERS.

37 (2) (I) THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE  
38 SENATE OF MARYLAND, SHALL APPOINT THE MEMBERS OF THE COMMISSION.

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1 (II) THE MEMBERS SHALL BE INDIVIDUALS EXPERIENCED IN  
2 PUBLIC SECTOR LABOR RELATIONS AND MAY NOT BE EMPLOYED BY OR REPRESENT  
3 A PUBLIC EDUCATION EMPLOYER, AN EMPLOYEE ORGANIZATION, OR AN  
4 ORGANIZATION THAT REPRESENTS PUBLIC EDUCATION EMPLOYERS OR EMPLOYEE  
5 ORGANIZATIONS.

6 (3) (I) THE TERM OF A MEMBER IS 3 YEARS.

7 (II) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED  
8 BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 1996.

9 (III) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE  
10 UNTIL A SUCCESSOR IS APPOINTED.

11 (IV) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN  
12 SERVES ONLY FOR THE REMAINDER OF THE TERM AND UNTIL A SUCCESSOR IS  
13 APPOINTED AND QUALIFIES.

14 (V) THE GOVERNOR MAY REMOVE A MEMBER FOR  
15 INCOMPETENCE OR MISCONDUCT.

16 (VI) FROM AMONG ITS MEMBERS, THE COMMISSION ANNUALLY  
17 SHALL ELECT A CHAIRMAN.

18 (VII) A MAJORITY OF THE MEMBERS OF THE COMMISSION THEN  
19 SERVING ON THE COMMISSION IS A QUORUM.

20 (VIII) THE STATE BOARD SHALL PROVIDE STAFF FOR THE  
21 COMMISSION.

22 (B) A MEMBER OF THE COMMISSION IS ENTITLED TO THE SALARY PROVIDED  
23 IN THE STATE BUDGET.

24 6-805.

25 (A) THE COMMISSION MAY CONDUCT HEARINGS, ADMINISTER OATHS IN THE  
26 EXAMINATION OF ANY PERSON IN RELATION TO THE ADMINISTRATION OF THE  
27 PROVISIONS OF SUBTITLES 4 AND 5 OF THIS TITLE, HEAR TESTIMONY, CONDUCT  
28 INVESTIGATIONS, AND MAKE DECISIONS CONCERNING DISPUTED MATTERS UNDER  
29 SUBTITLES 4 AND 5 OF THIS TITLE.

30 (B) (1) THE DECISIONS OF THE COMMISSION ON NONECONOMIC MATTERS  
31 ARE BINDING ON THE PARTIES.

32 (2) THE DECISIONS OF THE COMMISSION ON ECONOMIC MATTERS ARE  
33 ADVISORY ON THE PARTIES.

34 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial  
35 members of the Public Education Employment Relations Commission shall expire as  
36 follows:

37 (1) One member in 1998;

38 (2) One member in 1999; and

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1                   (3) One member in 2000.

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