
By: **Senators Stone, Collins, Lawlah, Sfikas, Della, Dyson, Currie,
McFadden, Frosh, Kelley, and Conway**

Introduced and read first time: February 6, 1998

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Labor Relations Between Public Employers and Designated Employee**
3 **Organizations**

4 FOR the purpose of providing that public employees have the right to organize and
5 choose freely their representatives; requiring public employers to negotiate and
6 bargain with employee organizations representing public employees and to
7 enter into written agreements evidencing the result of the bargaining;
8 prohibiting a public employer from arranging for negotiations to be held at a
9 public hearing or meeting unless both parties consent; establishing procedures
10 to provide for the protection of the rights of the public employee, the public
11 employer, and the public; establishing a Public Employee Relations Commission;
12 requiring the Commission to decide certain controversies and disputes;
13 requiring the Commission to adopt certain regulations; requiring the
14 Commission to provide for supervision of certain elections; requiring the
15 Commission to make certain determinations on certain employment matters;
16 requiring the Governor to appoint the members of the Commission; establishing
17 the terms of members of the Commission; specifying the powers of the
18 Commission; repealing certain powers and duties of the State Board of
19 Education and the State Superintendent of Schools; and generally relating to
20 the establishment of the Public Employee Relations Commission and to State
21 employee labor relations.

22 BY repealing
23 Article - State Personnel and Pensions
24 Section 2-403
25 Annotated Code of Maryland
26 (1997 Replacement Volume)

27 BY repealing
28 Article - Education
29 Section 6-405, 6-406, 6-506, 6-507, and 6-508
30 Annotated Code of Maryland
31 (1997 Replacement Volume and 1997 Supplement)

1 BY adding to
2 Article - Labor and Employment
3 Section 12-101 through 12-1201, inclusive, to be under the new title "Title 12.
4 Public Employee Relations Act"
5 Annotated Code of Maryland
6 (1991 Volume and 1997 Supplement)

7 BY repealing and reenacting, with amendments,
8 Article - Education
9 Section 2-205(e), 6-404(a) and (b), 6-407(a), 6-408, 6-501, 6-502, 6-505,
10 6-509(a), and 6-510
11 Annotated Code of Maryland
12 (1997 Replacement Volume and 1997 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That Section(s) 2-403 of Article - State Personnel and Pensions of the
15 Annotated Code of Maryland be repealed.

16 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 6-405,
17 6-406, 6-506, 6-507, and 6-508 of Article - Education of the Annotated Code of
18 Maryland be repealed.

19 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
20 read as follows:

21 **Article - Labor and Employment**

22 **TITLE 12. PUBLIC EMPLOYEE RELATIONS ACT.**

23 **SUBTITLE 1. DEFINITIONS.**

24 12-101.

25 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

26 (B) "COMMISSION" MEANS THE MARYLAND PUBLIC EMPLOYEE RELATIONS
27 COMMISSION.

28 (C) "COUNTY" MEANS A COUNTY OF THIS STATE AND, UNLESS EXPRESSLY
29 PROVIDED OTHERWISE, BALTIMORE CITY.

30 (D) "PUBLIC EMPLOYER" MEANS THE STATE OF MARYLAND, ITS POLITICAL
31 SUBDIVISIONS INCLUDING, BUT NOT LIMITED TO, LOCAL EDUCATION AGENCIES AND
32 ANY OFFICER, BOARD, COMMISSION, AGENCY, AUTHORITY, OR OTHER
33 INSTRUMENTALITY THEREOF, ANY NONPROFIT ORGANIZATION OR INSTITUTION
34 RECEIVING GRANTS OR APPROPRIATIONS FROM LOCAL, STATE OR FEDERAL
35 GOVERNMENTS, AND ANY OTHER ORGANIZATION, NOT COVERED OR PRESENTLY

1 SUBJECT TO COVERAGE UNDER THE NATIONAL LABOR RELATIONS ACT, PROVIDING
2 SERVICES TO PUBLIC EMPLOYERS.

3 (E) "PUBLIC EMPLOYEE" MEANS ANY INDIVIDUAL EMPLOYED BY A PUBLIC
4 EMPLOYER BUT DOES NOT INCLUDE ELECTED OFFICIALS, APPOINTEES OF THE
5 GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE, A TEMPORARY
6 EMPLOYEE, A MEMBER OF A BOARD OR COMMISSION, A CONFIDENTIAL EMPLOYEE, A
7 MANAGEMENT EMPLOYEE, A SUPERVISORY EMPLOYEE, AN INDIVIDUAL IN THE
8 CUSTODY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES,
9 THE CHIEF ADMINISTRATIVE OR EXECUTIVE OFFICER OF AN AGENCY, OR
10 EMPLOYEES COVERED OR PRESENTLY SUBJECT TO COVERAGE UNDER THE
11 NATIONAL LABOR RELATIONS ACT. AN INDIVIDUAL SHALL CONTINUE TO BE AN
12 EMPLOYEE WITHIN THE MEANING OF THIS TITLE EVEN IF HIS OR HER WORK HAS
13 CEASED AS A CONSEQUENCE OF, OR IN CONNECTION WITH, ANY UNFAIR LABOR
14 PRACTICE, AS SPECIFIED IN § 12-801 OF THIS TITLE.

15 (F) "EMPLOYEE ORGANIZATION" MEANS AN ORGANIZATION IN WHICH
16 EMPLOYEES PARTICIPATE AND WHICH EXISTS FOR THE PURPOSE, IN WHOLE OR IN
17 PART, OF DEALING WITH EMPLOYERS CONCERNING GRIEVANCES, LABOR DISPUTES,
18 SALARIES, WAGES, HOURS, AND OTHER TERMS AND CONDITIONS OF EMPLOYMENT
19 OF SUCH EMPLOYEES.

20 (G) "EMPLOYEE EXCLUSIVE BARGAINING REPRESENTATIVE" MEANS AN
21 EMPLOYEE ORGANIZATION RECOGNIZED AS THE EXCLUSIVE BARGAINING
22 REPRESENTATIVE PURSUANT TO THE PROVISIONS OF THIS TITLE OR ANY
23 PREEXISTING COLLECTIVE BARGAINING RELATIONSHIP INCLUDING THOSE
24 ESTABLISHED UNDER EXECUTIVE ORDER 01.01.1996.13.

25 (H) "PERSON" MEANS AN INDIVIDUAL, A COUNTY, A PUBLIC EMPLOYEE, A
26 PUBLIC EMPLOYER, AN EMPLOYEE ORGANIZATION, A LEGISLATIVE BODY, OR ANY
27 REPRESENTATIVE OF ANY OF THOSE PARTIES.

28 (I) "LEGISLATIVE BODY" MEANS A COUNTY COUNCIL, THE CITY COUNCIL OF
29 THE CITY OF BALTIMORE, OR ANY OTHER UNIT OF GOVERNMENT WHICH IS
30 REQUIRED BY LAW TO TAKE ANY ACTION TO PROVIDE FUNDS TO PERMIT THE
31 IMPLEMENTATION OF ANY PROVISION IN A COLLECTIVE BARGAINING AGREEMENT
32 BETWEEN A PUBLIC EMPLOYER AND AN EXCLUSIVE REPRESENTATIVE.

33 (J) "REPRESENTATIVE" MEANS ANY INDIVIDUAL ACTING FOR PUBLIC
34 EMPLOYERS OR EMPLOYEES AND SHALL INCLUDE AN EMPLOYEE ORGANIZATION.

35 (K) "CONFIDENTIAL EMPLOYEE" MEANS AN EMPLOYEE:

36 (1) WHO HAS ACCESS TO CONFIDENTIAL OR DISCRETIONARY
37 INFORMATION REGARDING THE FORMULATION OF POLICY OR PROCEDURES;

38 (2) WHO IN THE REGULAR COURSE OF HIS OR HER EMPLOYMENT,
39 PARTICIPATES IN LABOR RELATIONS ACTIVITIES, INCLUDING COLLECTIVE
40 BARGAINING, CONTRACT ADMINISTRATION, OR GRIEVANCE PROCESSING, ON
41 BEHALF OF A PUBLIC EMPLOYER; OR

1 (3) WHO IS THE PERSONAL SECRETARY OF THE CHIEF ADMINISTRATIVE
2 OR EXECUTIVE OFFICER OF AN AGENCY.

3 (L) "MANAGEMENT EMPLOYEE" MEANS AN INDIVIDUAL WHO IS ENGAGED
4 PREDOMINANTLY IN EXECUTIVE OR MANAGEMENT FUNCTIONS OR CHARGED WITH
5 THE RESPONSIBILITY OF DIRECTING THE EFFECTUATION OF MANAGEMENT
6 POLICIES AND PRACTICES. AN EMPLOYEE MAY NOT BE DEEMED A MANAGEMENT
7 EMPLOYEE SOLELY BECAUSE HE OR SHE PARTICIPATES IN A SITE-BASED
8 MANAGEMENT ARRANGEMENT, IS A MEMBER OF A WORK TEAM OR JOINT
9 COMMITTEE, OR OTHERWISE IS INVOLVED ON AN OCCASIONAL BASIS IN THE
10 DEVELOPMENT OR ADMINISTRATION OF MANAGEMENT PROGRAMS OR POLICIES OF
11 A PUBLIC EMPLOYER.

12 (M) "PROFESSIONAL EMPLOYEE" MEANS AN EMPLOYEE ENGAGED IN WORK:

13 (1) WHICH IS PREDOMINANTLY INTELLECTUAL AND VARIED IN
14 CHARACTER;

15 (2) WHICH INVOLVES THE CONSISTENT EXERCISE OF DISCRETION AND
16 JUDGMENT IN ITS PERFORMANCE;

17 (3) OF SUCH CHARACTER THAT THE RESULT ACCOMPLISHED CANNOT
18 BE STANDARDIZED IN RELATION TO A GIVEN PERIOD OF TIME; AND

19 (4) REQUIRING KNOWLEDGE OF AN ADVANCED TYPE IN A FIELD OF
20 SCIENCE OR LEARNING CUSTOMARILY ACQUIRED BY A PROLONGED COURSE OF
21 SPECIALIZED INTELLECTUAL INSTRUCTION AT AN INSTITUTION OF HIGHER
22 LEARNING OR A HOSPITAL.

23 (N) "SUPERVISOR" MEANS AN INDIVIDUAL HAVING AUTHORITY IN THE
24 INTERESTS OF A PUBLIC EMPLOYER TO HIRE, TRANSFER, SUSPEND, LAY OFF,
25 RECALL, PROMOTE, AND DISCHARGE OTHER EMPLOYEES, OR EFFECTIVELY TO
26 RECOMMEND SUCH ACTION, IF, IN CONNECTION WITH THE FOREGOING, THE
27 EXERCISE OF SUCH AUTHORITY IS NOT OF A MERELY ROUTINE OR CLERICAL
28 NATURE BUT REQUIRES THE USE OF INDEPENDENT JUDGMENT. A PERSON MAY NOT
29 BE DEEMED A SUPERVISOR SOLELY BECAUSE OF THE AUTHORITY THAT HE OR SHE
30 EXERCISES IN REGARD TO A SECRETARY, AIDE, OR OTHER EMPLOYEE SPECIFICALLY
31 ASSIGNED TO ASSIST HIM OR HER OR SOLELY BECAUSE HE OR SHE PARTICIPATES IN
32 A PEER REVIEW PROGRAM OR ANY PROGRAM WHICH INVOLVES THAT PERSON ON AN
33 OCCASIONAL BASIS IN THE PERFORMANCE OF SUPERVISORY FUNCTIONS.

34 (O) "TEMPORARY EMPLOYEE" MEANS AN INDIVIDUAL WHO IS EMPLOYED TO
35 PERFORM SPECIAL JOBS OR FUNCTIONS NOT NECESSARILY RELATED TO THE WORK
36 PERFORMED BY REGULAR PUBLIC EMPLOYEES FOR NOT MORE THAN 90 DAYS,
37 COLLECTIVELY, WITHIN THE COURSE OF A YEAR.

38 (P) "UNFAIR PRACTICE" MEANS ANY PRACTICE PROHIBITED BY SUBTITLE 8 OF
39 THIS TITLE.

1 (Q) "MEMBERSHIP DUES DEDUCTION" MEANS THE PRACTICE OF A PUBLIC
2 EMPLOYER TO DEDUCT FROM THE SALARY OR WAGES OF A PUBLIC EMPLOYEE, WITH
3 HIS OR HER WRITTEN CONSENT, AN AMOUNT FOR THE PAYMENT OF MEMBERSHIP
4 DUES OR REPRESENTATION FEES TO AN EMPLOYEE ORGANIZATION, WHICH
5 DEDUCTION IS TRANSMITTED BY THE PUBLIC EMPLOYER TO THE EMPLOYEE
6 ORGANIZATION.

7 (R) "MEET AND DISCUSS" OR "CONSULTATION" MEANS THE OBLIGATION OF A
8 PUBLIC EMPLOYER, UPON REQUEST, TO MEET AT REASONABLE TIMES AND DISCUSS,
9 IN GOOD FAITH, RECOMMENDATIONS SUBMITTED BY REPRESENTATIVES OF PUBLIC
10 EMPLOYEES REGARDING MANAGEMENT POLICIES AND TO EXECUTE, IF REQUESTED
11 BY EITHER PARTY, A WRITTEN DOCUMENT INCORPORATING ANY AGREEMENTS
12 REACHED.

13 (S) "MANAGEMENT POLICIES" MEANS MATTERS THAT AFFECT THE
14 EFFICIENCY, EFFECTIVENESS, OR QUALITY OF SERVICES PROVIDED TO THE PUBLIC
15 BY A PUBLIC EMPLOYER, BUT WHICH ARE NOT, IN THEMSELVES, TERMS AND
16 CONDITIONS OF EMPLOYMENT.

17 (T) "SITE BASED MANAGEMENT" MEANS AN ARRANGEMENT PURSUANT TO
18 WHICH SOME OR ALL OF THE TERMS AND CONDITIONS OF EMPLOYMENT, AND THE
19 MANAGEMENT POLICIES, AT AN INDIVIDUAL WORK SITE ARE DETERMINED BY A
20 DECISION MAKING PROCESS AT THE WORK SITE, AND AS A RESULT OF WHICH THE
21 TERMS AND CONDITIONS OF EMPLOYMENT AND MANAGEMENT POLICY MAY DIFFER
22 FROM THOSE AT OTHER WORK SITES.

23 (U) "IMPASSE" MEANS THE FAILURE OF THE TWO PARTIES TO ACHIEVE
24 AGREEMENT IN THE COURSE OF GOOD FAITH BARGAINING, RESULTING IN A
25 DEADLOCK IN NEGOTIATIONS.

26 SUBTITLE 2. EMPLOYEE RIGHTS.

27 12-201.

28 (A) PUBLIC EMPLOYEES SHALL HAVE THE RIGHT TO FORM, JOIN, OR ASSIST
29 EMPLOYEE ORGANIZATIONS, ENGAGE IN LAWFUL ACTIVITIES, INDIVIDUALLY OR IN
30 CONCERT, TO ESTABLISH, MAINTAIN OR IMPROVE TERMS AND CONDITIONS OF
31 EMPLOYMENT, OR FOR OTHER MUTUAL AID OR PROTECTION OR TO BARGAIN
32 COLLECTIVELY THROUGH REPRESENTATIVES OF THEIR CHOOSING.

33 (B) THIS TITLE MAY NOT BE CONSTRUED TO GRANT EMPLOYEES THE RIGHT
34 TO ENGAGE IN A STRIKE.

35 SUBTITLE 3. MARYLAND PUBLIC EMPLOYEE RELATIONS COMMISSION.

36 12-301.

37 THERE IS A PUBLIC EMPLOYEE LABOR RELATIONS COMMISSION.

1 12-302.

2 (A) (1) THE COMMISSION SHALL CONSIST OF FIVE MEMBERS, APPOINTED
3 BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE OF
4 MARYLAND.

5 (2) THE GOVERNOR MAY REMOVE A MEMBER OF THE COMMISSION
6 UPON NOTICE AND HEARING BEFORE AN IMPARTIAL HEARING OFFICER, FOR
7 NEGLECT OF DUTY OR MALFEASANCE IN OFFICE.

8 (3) OF THE MEMBERS:

9 (I) TWO SHALL BE APPOINTED WHO SHALL HAVE EXTENSIVE
10 EXPERIENCE REPRESENTING ORGANIZED LABOR IN THE PUBLIC SECTOR AND SHALL
11 BE CHOSEN FROM NOMINATIONS TO BE MADE BY ORGANIZED LABOR;

12 (II) TWO SHALL BE APPOINTED WHO SHALL HAVE EXTENSIVE
13 EXPERIENCE IN REPRESENTING MANAGEMENT INTERESTS; AND

14 (III) ONE SHALL BE APPOINTED TO REPRESENT THE PUBLIC AT
15 LARGE AND SHALL NOT HOLD ELECTIVE OR APPOINTIVE PUBLIC OFFICE, OR
16 ELECTIVE OR APPOINTIVE OFFICE, OR MEMBERSHIP IN, ORGANIZED LABOR,
17 BUSINESS, OR MANAGEMENT ASSOCIATIONS.

18 (4) EACH MEMBER OF THE COMMISSION SHALL SERVE FOR A TERM OF 4
19 YEARS, EXCEPT THAT OF THE MEMBERS FIRST APPOINTED, TWO SHALL BE
20 APPOINTED FOR 2 YEARS, TWO FOR 3 YEARS, AND ONE FOR 4 YEARS.

21 (5) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
22 SUCCESSOR IS APPOINTED AND QUALIFIES. A PERSON WHO IS APPOINTED TO FILL A
23 VACANCY SHALL BE APPOINTED FOR THE REMAINDER OF THE UNEXPIRED PORTION
24 OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

25 (6) THE COMMISSION SHALL ANNUALLY ELECT A CHAIRMAN FROM
26 AMONG ITS MEMBERS.

27 (B) (1) MEMBERS OF THE COMMISSION ARE ENTITLED TO THE SALARY
28 PROVIDED IN THE STATE BUDGET AND SHALL RECEIVE REIMBURSEMENT FOR
29 EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS AS ARE PROVIDED
30 IN THE STATE BUDGET.

31 (2) THE SALARY OF A MEMBER MAY NOT BE REDUCED DURING A TERM.

32 12-303.

33 THREE MEMBERS OF THE COMMISSION SHALL CONSTITUTE A QUORUM;
34 HOWEVER, A MEETING MAY NOT BE HELD UNLESS ORGANIZED LABOR,
35 MANAGEMENT, AND THE PUBLIC AT LARGE ARE EACH REPRESENTED BY AT LEAST
36 ONE COMMISSION MEMBER.

1 12-304.

2 (A) THE COMMISSION SHALL EXERCISE THOSE POWERS AND PERFORM
3 THOSE DUTIES WHICH ARE SPECIFICALLY PROVIDED FOR IN THIS TITLE. THESE
4 POWERS AND DUTIES ARE IN ADDITION TO AND EXERCISED COMPLETELY
5 INDEPENDENT OF ANY POWERS AND DUTIES THAT MAY BE SPECIFICALLY GRANTED
6 TO IT BY OTHER STATUTORY ENACTMENTS.

7 (B) (1) THE COMMISSION, OR ANY MEMBER OF THE COMMISSION, MAY
8 SUBPOENA WITNESSES, COMPEL THE PRODUCTION OF DOCUMENTS AND OTHER
9 EVIDENCE, ADMINISTER OATHS AND AFFIRMATIONS, AND TAKE TESTIMONY OR
10 DEPOSITION OF ANY PERSON UNDER OATH IN RELATION TO THE ADMINISTRATION
11 OF THE PROVISIONS OF THIS TITLE.

12 (2) THE COMMISSION MAY DELEGATE THESE POWERS TO ANY PERSON
13 IT MAY APPOINT.

14 (C) THE COMMISSION SHALL CONDUCT HEARINGS, CONDUCT
15 INVESTIGATIONS, MAKE DECISIONS CONCERNING DISPUTED MATTERS UNDER THIS
16 TITLE, AND MAKE RECOMMENDATIONS FOR LEGISLATIVE ACTION REGARDING THE
17 OPERATION OF THIS TITLE.

18 (D) (1) THE COMMISSION SHALL MEET PERIODICALLY TO CONSIDER SUCH
19 MATTERS AS ENHANCED EMPLOYEE INVOLVEMENT IN DECISION MAKING, NEW AND
20 INNOVATIVE METHODS FOR ACHIEVING VOLUNTARY AGREEMENTS BETWEEN
21 EMPLOYERS AND EMPLOYEE ORGANIZATIONS, ALTERNATIVE PROCEDURES FOR
22 CONFLICT AND DISPUTE RESOLUTION, AND OTHER MATTERS RELEVANT TO THE
23 IMPROVEMENT OF RELATIONSHIPS AMONG PUBLIC EMPLOYEES, PUBLIC
24 EMPLOYERS, AND EMPLOYEE ORGANIZATIONS.

25 (2) THE COMMISSION SHALL GATHER AND DISSEMINATE INFORMATION,
26 CONDUCT STUDIES, ISSUE REPORTS AND PROVIDE TRAINING TO PUBLIC EMPLOYERS
27 AND EMPLOYEE ORGANIZATIONS REGARDING THESE MATTERS AS MAY, FROM TIME
28 TO TIME, BE APPROPRIATE.

29 12-305.

30 THE COMMISSION MAY ADOPT REGULATIONS, ESTABLISH PROCEDURES, AND
31 CONDUCT STUDIES AS MAY BE NECESSARY TO CARRY OUT THE PROVISIONS OF THIS
32 TITLE.

33 12-306.

34 (A) THE COMMISSION SHALL APPOINT AN EXECUTIVE DIRECTOR AND MAY
35 APPOINT OTHER STAFF, INCLUDING COUNSEL WITH THE AUTHORITY TO SEEK
36 ENFORCEMENT OF THE PROVISIONS OF THIS TITLE, AS PROVIDED IN THE STATE
37 BUDGET.

38 (B) THESE EMPLOYEES SHALL SERVE AT THE PLEASURE OF THE
39 COMMISSION.

SUBTITLE 4. REPRESENTATION.

12-401.

PUBLIC EMPLOYERS MAY SELECT REPRESENTATIVES TO ACT IN THEIR INTEREST IN ANY COLLECTIVE BARGAINING WITH REPRESENTATIVES OF PUBLIC EMPLOYEES.

12-402.

(A) A PUBLIC EMPLOYER MAY RECOGNIZE EMPLOYEE REPRESENTATIVES FOR COLLECTIVE BARGAINING PURPOSES, PROVIDED THE PARTIES JOINTLY REQUEST CERTIFICATION BY THE COMMISSION WHICH SHALL ISSUE SUCH CERTIFICATION IF IT FINDS THE UNIT APPROPRIATE.

(B) (1) ANY EMPLOYEE EXCLUSIVE BARGAINING REPRESENTATIVE IN EXISTENCE ON JANUARY 1, 1998 SHALL CONTINUE AS SUCH WITHOUT THE REQUIREMENT OF AN ELECTION AND CERTIFICATION UNTIL SUCH TIME AS A QUESTION CONCERNING REPRESENTATION IS APPROPRIATELY RAISED UNDER THIS TITLE.

(2) EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS TITLE MAY NOT BE CONSTRUED TO ANNUL OR MODIFY ANY LAWFUL AGREEMENT BETWEEN AN EMPLOYEE ORGANIZATION AND A PUBLIC EMPLOYER COVERING TERMS AND CONDITIONS OF EMPLOYMENT OR MANAGEMENT POLICIES THAT WAS ENTERED INTO PRIOR TO JULY 1, 1998.

12-403.

(A) A PUBLIC EMPLOYEE, A GROUP OF PUBLIC EMPLOYEES, OR AN EMPLOYEE ORGANIZATION MAY NOTIFY THE PUBLIC EMPLOYER THAT 30% OR MORE OF THE PUBLIC EMPLOYEES IN AN APPROPRIATE UNIT DESIRE TO BE EXCLUSIVELY REPRESENTED FOR COLLECTIVE BARGAINING PURPOSES BY A DESIGNATED EMPLOYEE ORGANIZATION AND REQUEST THE PUBLIC EMPLOYER TO CONSENT TO AN ELECTION.

(B) IF THE PUBLIC EMPLOYER CONSENTS, THE PUBLIC EMPLOYEE, GROUP OF PUBLIC EMPLOYEES, OR EMPLOYEE ORGANIZATION, WHICHEVER APPLICABLE, MAY SUBMIT IN A FORM AND MANNER ESTABLISHED BY THE COMMISSION AN ELECTION REQUEST. SUCH REQUEST SHALL INCLUDE A DESCRIPTION OF THE UNIT DEEMED TO BE APPROPRIATE, THE BASIS UPON WHICH IT WAS DETERMINED THAT 30% OR MORE OF THE EMPLOYEES DESIRE TO BE REPRESENTED AND A JOINDER BY THE PUBLIC EMPLOYER. THE COMMISSION MAY ON THE BASIS OF THE SUBMISSIONS ORDER AN ELECTION TO BE HELD OR IT MAY AT ITS DISCRETION INVESTIGATE OR CONDUCT HEARINGS TO DETERMINE THE VALIDITY OF THE MATTERS CONTAINED IN SUCH SUBMISSIONS BEFORE DETERMINING WHETHER OR NOT AN ORDER SHOULD ISSUE.

(C) IF A PUBLIC EMPLOYER REFUSES TO CONSENT TO AN ELECTION, THE PARTY MAKING THE REQUEST MAY FILE A PETITION WITH THE COMMISSION ALLEGING THAT 30% OR MORE OF THE PUBLIC EMPLOYEES IN AN APPROPRIATE

1 UNIT WISH TO BE EXCLUSIVELY REPRESENTED FOR COLLECTIVE BARGAINING
2 PURPOSES BY A DESIGNATED EMPLOYEE ORGANIZATION. THE COMMISSION SHALL
3 SEND A COPY OF THE PETITION TO THE PUBLIC EMPLOYER AND PROVIDE FOR AN
4 APPROPRIATE HEARING UPON DUE NOTICE AND WITHIN 20 DAYS. IF THE
5 COMMISSION CONSIDERS THE ALLEGATIONS OF THE PETITION TO BE VALID AND
6 THE UNIT TO BE APPROPRIATE, THE COMMISSION SHALL PROMPTLY ORDER AN
7 ELECTION. IF THE COMMISSION FINDS TO THE CONTRARY, THE COMMISSION MAY
8 DISMISS THE PETITION OR PERMIT AMENDMENT OF THE PETITION IN ACCORDANCE
9 WITH PROCEDURES ESTABLISHED BY THE COMMISSION.

10 (D) IF A PUBLIC EMPLOYER RECEIVES NOTIFICATION THAT 30% OR MORE OF
11 THE PUBLIC EMPLOYEES DESIRE TO BE EXCLUSIVELY REPRESENTED FOR
12 COLLECTIVE BARGAINING PURPOSES BY A DESIGNATED EMPLOYEE ORGANIZATION
13 AND THE PARTY GIVING NOTICE DOES NOT THEREAFTER SEEK AN ELECTION. THE
14 PUBLIC EMPLOYER MAY FILE A PETITION FOR THE SAME WITH THE COMMISSION.
15 THE COMMISSION SHALL THEN FOLLOW THE PROCEDURES AS ESTABLISHED FOR
16 PETITIONS FILED UNDER SUBSECTION (C) OF THIS SECTION.

17 12-404.

18 (A) THE COMMISSION OR ITS DESIGNEE SHALL DETERMINE THE
19 APPROPRIATENESS OF A BARGAINING UNIT. IN MAKING THIS DETERMINATION, THE
20 COMMISSION SHALL CONSIDER THE EFFECTS OF OVER-FRAGMENTATION, THE
21 DESIRES OF THE EMPLOYEES IN QUESTION, AND THE PRINCIPLE THAT BARGAINING
22 UNITS SHOULD HAVE AN IDENTIFIABLE COMMUNITY OF INTEREST, INCLUDING:

23 (1) EMPLOYEES WITH SIMILAR CONDITIONS OF EMPLOYMENT;

24 (2) EMPLOYEES WITH A HISTORY OF WORKABLE AND ACCEPTABLE
25 COLLECTIVE NEGOTIATIONS; AND

26 (3) EMPLOYEES FUNCTIONING WITHIN THE SAME ORGANIZATIONAL
27 UNIT.

28 (B) IN DETERMINING SUPERVISORY STATUS, THE COMMISSION MAY TAKE
29 INTO CONSIDERATION THE EXTENT TO WHICH SUPERVISORY AND NONSUPERVISORY
30 FUNCTIONS ARE PERFORMED.

31 (C) IN THE EVENT THAT ANY DETERMINATIONS ARE MADE UNDER THIS
32 SECTION BY A DESIGNEE OF THE COMMISSION, THE DECISION MAY BE APPEALED TO
33 THE COMMISSION FOR FINAL DETERMINATION.

34 (D) THIS SECTION DOES NOT PRECLUDE MULTIUNIT BARGAINING.

35 12-405.

36 (A) REPRESENTATION ELECTIONS SHALL BE CONDUCTED BY SECRET BALLOT
37 AT THE TIMES AND PLACES SELECTED BY THE COMMISSION SUBJECT TO THE
38 PROVISIONS OF THIS SECTION.

1 (B) THE COMMISSION SHALL PROVIDE NO LESS THAN 10 DAYS' NOTICE OF
2 THE TIME AND PLACE OF SUCH ELECTION.

3 (C) THE COMMISSION SHALL ADOPT REGULATIONS CONCERNING THE
4 CONDUCT OF ANY ELECTION INCLUDING REGULATIONS WHICH WOULD GUARANTEE
5 THE SECRECY OF THE BALLOT.

6 (D) A REPRESENTATIVE MAY NOT BE CERTIFIED UNLESS THE
7 REPRESENTATIVE RECEIVES A MAJORITY OF THE VALID VOTES CAST IN A
8 REPRESENTATION ELECTION.

9 (E) THE COMMISSION SHALL INCLUDE ON THE BALLOT A CHOICE OF "NO
10 REPRESENTATIVE".

11 (F) IN AN ELECTION WHERE NONE OF THE CHOICES ON THE BALLOT
12 RECEIVES A MAJORITY OF THE VALID VOTES CAST, A RUNOFF ELECTION SHALL BE
13 CONDUCTED. THE BALLOT IN A RUNOFF SHALL PROVIDE FOR A SELECTION
14 BETWEEN THE TWO CHOICES OR PARTIES RECEIVING THE HIGHEST AND THE
15 SECOND HIGHEST NUMBER OF BALLOTS CAST IN THE ELECTION.

16 (G) (1) THE COMMISSION SHALL CERTIFY THE RESULTS OF A
17 REPRESENTATION ELECTION WITHIN 5 WORKING DAYS AFTER THE FINAL TALLY OF
18 VOTES IF NO CHARGE IS FILED BY ANY PERSON ALLEGING THAT AN "UNFAIR
19 PRACTICE" WAS COMMITTED IN CONNECTION WITH SAID ELECTION.

20 (2) IF ANY PERSON FILES A CHARGE ALLEGING THAT AN UNFAIR
21 PRACTICE WAS COMMITTED IN CONNECTION WITH A REPRESENTATION ELECTION
22 AND THE COMMISSION HAS REASON TO BELIEVE SUCH ALLEGATIONS ARE VALID,
23 THE COMMISSION SHALL SET A TIME AND PLACE FOR A HEARING ON THE MATTER
24 AFTER PROVIDING DUE NOTICE. ANY SUCH HEARING SHALL BE CONDUCTED WITHIN
25 2 WEEKS OF THE DATE UPON WHICH SUCH CHARGES ARE RECEIVED.

26 (3) IF THE COMMISSION DETERMINES THAT THE OUTCOME OF A
27 REPRESENTATION ELECTION WAS AFFECTED BY THE UNFAIR PRACTICE CHARGED
28 OR BY ANY OTHER UNFAIR PRACTICE IT MAY DEEM EXISTED, IT SHALL REQUIRE
29 CORRECTIVE ACTION AND ORDER A NEW ELECTION.

30 (4) IF THE COMMISSION DETERMINES, UPON CONSIDERATION OF A
31 CHARGE, THAT NO UNFAIR PRACTICE EXISTED OR THAT ANY UNFAIR PRACTICE
32 WHICH DID EXIST DID NOT AFFECT THE OUTCOME OF THE REPRESENTATION
33 ELECTION, IT SHALL IMMEDIATELY CERTIFY THE ELECTION RESULTS.

34 (H) (1) AN ELECTION MAY NOT BE CONDUCTED PURSUANT TO THIS
35 SECTION IN ANY APPROPRIATE BARGAINING UNIT WITHIN WHICH IN THE
36 PRECEDING 12 MONTH PERIOD AN ELECTION HAS BEEN HELD NOR SHALL AN
37 ELECTION BE CONDUCTED DURING THE FIRST 3 YEARS OF THE TERM OF ANY
38 LAWFUL COLLECTIVE BARGAINING AGREEMENT BETWEEN A PUBLIC EMPLOYER
39 AND AN EMPLOYEE EXCLUSIVE BARGAINING REPRESENTATIVE.

1 (2) PETITIONS FOR ELECTIONS MAY BE FILED WITH THE COMMISSION
2 NOT SOONER THAN 90 DAYS NOR LATER THAN 60 DAYS BEFORE THE EXPIRATION
3 DATE OF ANY COLLECTIVE BARGAINING AGREEMENT OR AFTER THE EXPIRATION
4 DATE UNTIL SUCH TIME AS A NEW WRITTEN AGREEMENT IS ENTERED INTO.

5 12-406.

6 REPRESENTATIVES SELECTED BY PUBLIC EMPLOYEES IN A UNIT APPROPRIATE
7 FOR COLLECTIVE BARGAINING PURPOSES SHALL BE THE EXCLUSIVE
8 REPRESENTATIVE OF ALL THE EMPLOYEES IN SUCH UNIT TO BARGAIN ON SALARIES
9 OR WAGES, HOURS, AND TERMS AND CONDITIONS OF EMPLOYMENT AND TO MEET
10 AND DISCUSS OR CONSULT WITH PUBLIC EMPLOYERS WITH REGARD TO
11 MANAGEMENT POLICIES.

12 SUBTITLE 5. SCOPE OF BARGAINING.

13 12-501.

14 (A) COLLECTIVE BARGAINING IS THE PERFORMANCE OF THE MUTUAL
15 OBLIGATION OF THE EMPLOYER AND THE EMPLOYEE EXCLUSIVE BARGAINING
16 ORGANIZATION TO NEGOTIATE IN GOOD FAITH AND AT REASONABLE TIMES AND
17 PLACES WITH RESPECT TO SALARIES OR WAGES, HOURS, AND OTHER TERMS AND
18 CONDITIONS OF EMPLOYMENT, OR THE NEGOTIATION OF AN AGREEMENT OR ANY
19 QUESTION ARISING THEREUNDER AND THE EXECUTION OF A WRITTEN CONTRACT
20 INCORPORATING ANY AGREEMENT REACHED. THE OBLIGATION DOES NOT COMPEL
21 EITHER PARTY TO AGREE TO A PROPOSAL OR TO MAKE A CONCESSION.

22 (B) ALL MATTERS CONCERNING TERMS, TENURE, OR CONDITIONS OF
23 EMPLOYMENT, OR AFFECTING EMPLOYEES SHALL BE BARGAINABLE, INCLUDING,
24 BUT NOT LIMITED TO, EMPLOYEE ATTENDANCE, GRIEVANCE, AND DISCIPLINE
25 POLICIES; PROPOSED NEW RULES OR MODIFICATIONS OF EXISTING RULES
26 GOVERNING WORKING CONDITIONS; EMPLOYEE JOB CLASSIFICATIONS; PEER
27 ASSISTANCE AND REVIEW PROGRAMS; SITE-BASED MANAGEMENT; THE
28 ESTABLISHMENT AND COMPOSITION OF SCHOOL ACHIEVEMENT TEAMS; CLASS SIZE;
29 CURRICULUM CONTENT; CONTRACTING OUT OF BARGAINING UNIT WORK;
30 PRIVATIZATION; SCHOOL CALENDARS; TEACHER STUDENT RATIOS; MEMBERSHIP
31 DUES DEDUCTION; DEDUCTION OF REASONABLE REPRESENTATION OR AGENCY
32 FEES FROM THE PAY OF NONMEMBERS FOR REPRESENTATIONAL ACTIVITIES
33 UNDERTAKEN BY THE EXCLUSIVE REPRESENTATIVE ON THEIR BEHALF; THE IMPACT
34 UPON TERMS AND CONDITIONS OF EMPLOYMENT OF ACTIONS TAKEN BY A PUBLIC
35 EMPLOYER WITH REGARD TO MANAGEMENT POLICIES AND OF MATTERS WHICH ARE
36 OR MAY BE THE SUBJECT OF A STATUTE, ORDINANCE, REGULATION, OR OTHER
37 ENACTMENT BY THE STATE OR ANY POLITICAL SUBDIVISION THEREOF;
38 DISCONTINUANCE OF EMPLOYEE ORGANIZATION MEMBERSHIP; AND HOLIDAYS AND
39 VACATIONS.

1 12-502.

2 NOTHING CONTAINED IN THIS ACT SHALL IMPAIR THE EMPLOYER'S RIGHT TO
3 HIRE EMPLOYEES OR TO DISCHARGE EMPLOYEES FOR JUST CAUSE, EXCEPT AS
4 SPECIFICALLY PROVIDED IN THE EDUCATION ARTICLE.

5 SUBTITLE 6. BARGAINING IMPASSE.

6 12-601.

7 (A) IF, AFTER A REASONABLE PERIOD OF NEGOTIATIONS OF AT LEAST 30
8 DAYS, A DISPUTE EXISTS BETWEEN THE PUBLIC EMPLOYER AND THE EMPLOYEE
9 REPRESENTATIVE OR IF THESE PARTIES HAVE REACHED A BARGAINING IMPASSE,
10 EITHER PARTY MAY REQUEST THE AID OF THE COMMISSION TO RESOLVE THE
11 ISSUES REMAINING IN DISPUTE. IF SUCH A REQUEST IS MADE THE COMMISSION OR
12 ITS DESIGNEE SHALL UNDERTAKE TO MEDIATE THE ISSUES REMAINING IN DISPUTE.

13 (B) IN THE EVENT THAT THE PUBLIC EMPLOYER AND THE EMPLOYEE
14 REPRESENTATIVE ARE UNABLE TO SETTLE ON THE TERMS OF A BARGAINING
15 AGREEMENT 120 DAYS BEFORE THE LAST DAY ON WHICH MONEY CAN BE
16 APPROPRIATED TO FUND THE FIRST YEAR OF THE CONTRACT PERIOD OR 90 DAYS
17 PRIOR TO THE EXPIRATION OF THE THEN CURRENT AGREEMENT, THEN ANY AND
18 ALL UNRESOLVED ISSUES SHALL BE SUBMITTED TO THE COMMISSION FOR
19 MEDIATION. IN SUCH CIRCUMSTANCES, THE COMMISSION IS EMPOWERED TO
20 COMPEL THE ATTENDANCE OF ALL PARTIES TO ANY AND ALL MEETINGS IT DEEMS
21 NECESSARY UNTIL THE DISPUTE IS RESOLVED.

22 (C) ONCE MEDIATION HAS COMMENCED IT SHALL CONTINUE FOR AS LONG AS
23 THE PARTIES HAVE NOT REACHED AN AGREEMENT. IF AN AGREEMENT HAS NOT
24 BEEN REACHED WITHIN 30 DAYS AFTER MEDIATION HAS COMMENCED OR IN NO
25 EVENT LATER THAN 90 DAYS PRIOR TO THE LAST DAY ON WHICH MONEY CAN BE
26 APPROPRIATED TO FUND THE FIRST YEAR OF THE CONTRACT PERIOD, THEN ANY
27 ISSUES REMAINING UNRESOLVED SHALL BE REFERRED TO BINDING ARBITRATION
28 IN ACCORDANCE WITH § 12-602 OF THIS SUBTITLE.

29 12-602.

30 (A) ALL ISSUES REMAINING IN DISPUTE AFTER THE PROCEDURES FOR
31 VOLUNTARY RESOLUTION OF ISSUES PROVIDED IN § 12-601 OF THIS SUBTITLE ARE
32 EXHAUSTED SHALL BE REFERRED TO FINAL AND BINDING ARBITRATION.

33 (B) WITHIN 5 DAYS THEREAFTER AN ARBITRATOR SHALL BE SELECTED FROM
34 A LIST OF 7 CERTIFIED LABOR ARBITRATORS, WHO EACH ARE MEMBERS OF THE
35 NATIONAL ACADEMY OF ARBITRATORS, SUBMITTED BY, AND IN ACCORDANCE WITH
36 THE RULES OF, THE AMERICAN ARBITRATION ASSOCIATION OR THE FEDERAL
37 MEDIATION AND CONCILIATION SERVICE. IF THE PARTIES CANNOT AGREE UPON AN
38 ARBITRATOR, THE ARBITRATOR SHALL BE CHOSEN BY ALTERNATELY STRIKING
39 NAMES FROM THE LIST. THE LAST NAME REMAINING BEING THE ARBITRATOR
40 CHOSEN. THE PUBLIC EMPLOYER SHALL STRIKE THE FIRST NAME.

1 (C) THE ARBITRATOR SHALL CALL A HEARING TO BE HELD WITHIN 10 DAYS
2 OF HIS OR HER APPOINTMENT AND SHALL GIVE AT LEAST 7 DAYS NOTICE, IN
3 WRITING, TO THE EMPLOYEE REPRESENTATIVE AND THE EMPLOYER OF THE TIME
4 AND PLACE FOR THE HEARING. THE HEARING AND DELIBERATIONS SHALL BE
5 CONDUCTED IN ACCORDANCE WITH THE LABOR ARBITRATION RULES OF THE
6 AMERICAN ARBITRATION ASSOCIATION OR THOSE OF THE FEDERAL MEDIATION AND
7 CONCILIATION SERVICE. THE ARBITRATOR SHALL HAVE THE POWER TO ADMINISTER
8 OATHS AND TO REQUIRE BY SUBPOENA THE ATTENDANCE AND TESTIMONY OF
9 WITNESSES, THE PRODUCTION OF BOOKS, RECORDS, AND OTHER EVIDENCE
10 RELATIVE OR PERTINENT TO THE ISSUES PRESENTED TO HIM OR HER FOR
11 DETERMINATION.

12 (D) WITHIN 10 DAYS AFTER THE CONCLUSION OF THE HEARINGS, THE
13 ARBITRATOR SHALL ISSUE WRITTEN FINDINGS AND A WRITTEN OPINION ON THE
14 ISSUES PRESENTED, A COPY OF WHICH SHALL BE DELIVERED TO THE EMPLOYEE
15 REPRESENTATIVE AND THE EMPLOYER OR THEIR DESIGNATED REPRESENTATIVES.

16 (E) THE DECISION OF THE ARBITRATOR SHALL BE BINDING UPON AND
17 INCORPORATED INTO THE AGREEMENT BETWEEN THE BARGAINING AGENT AND
18 THE PUBLIC EMPLOYER AS TO ALL ISSUES AND MATTERS OTHER THAN AN ISSUE
19 WHICH INVOLVES SALARIES OR WAGES, AND AS TO THOSE ISSUES, THE DECISION
20 SHALL BE ADVISORY IN NATURE.

21 12-603.

22 THE FACTORS, AMONG OTHERS, TO BE GIVEN WEIGHT BY THE ARBITRATOR IN
23 ARRIVING AT A RECOMMENDATION SHALL INCLUDE:

24 (1) AGREEMENTS REACHED IN COLLECTIVE BARGAINING BETWEEN
25 THE PARTIES PRIOR TO THIS STAGE OF THE PROCESS;

26 (2) THE INTEREST AND WELFARE OF THE PUBLIC;

27 (3) THE TERMS AND CONDITIONS OF EMPLOYMENT OF THE EMPLOYEES
28 INVOLVED AS COMPARED TO THE TERMS AND CONDITIONS OF EMPLOYMENT OF
29 OTHER EMPLOYEES OF THE PUBLIC EMPLOYER AND OF OTHER PUBLIC AND PRIVATE
30 SECTOR EMPLOYEES PROVIDING SIMILAR SERVICES IN THE SAME COMMUNITY AND
31 IN COMPARABLE COMMUNITIES;

32 (4) THE FINANCIAL ABILITY OF THE PUBLIC EMPLOYER TO FINANCE
33 ECONOMIC ADJUSTMENTS; AND

34 (5) ANY OTHER FACTORS THAT TRADITIONALLY ARE TAKEN INTO
35 CONSIDERATION IN THE TERMS AND CONDITIONS OF EMPLOYMENT THROUGH
36 COLLECTIVE BARGAINING IN PUBLIC AND PRIVATE SECTOR EMPLOYMENT.

37 12-604.

38 FEES AND NECESSARY EXPENSES OF ARBITRATION SHALL BE PAID EQUALLY
39 BY THE BARGAINING AGENT AND THE EMPLOYER.

1 12-605.

2 EVERY EMPLOYER SUBJECT TO THIS TITLE SHALL ANNUALLY INFORM THE
3 COMMISSION OF THE DATE BEYOND WHICH FUNDS CANNOT BE APPROPRIATED IN
4 ORDER TO EFFECTUATE THE TERMS OF A NEGOTIATED AGREEMENT.

5 SUBTITLE 7. COLLECTIVE BARGAINING AGREEMENT.

6 12-701.

7 (A) ONCE AN AGREEMENT IS REACHED BETWEEN THE EMPLOYEE
8 REPRESENTATIVE AND THE PUBLIC EMPLOYER, THE AGREEMENT SHALL BE
9 REDUCED TO WRITING AND SIGNED BY BOTH PARTIES.

10 (B) THE WRITTEN AGREEMENT SHALL BE DEEMED A LAWFUL DOCUMENT.

11 12-702.

12 (A) THE PROCEDURES BY WHICH DISPUTES OR GRIEVANCES ARISING OUT OF
13 THE INTERPRETATION OF THE PROVISIONS OF A COLLECTIVE BARGAINING
14 AGREEMENT ARE DEALT WITH SHALL BE A PROPER SUBJECT OF BARGAINING,
15 EXCEPT THAT THE FINAL STEP OF ANY SUCH NEGOTIATED PROCESS MUST PROVIDE
16 FOR A BINDING DECISION OF AN ARBITRATOR.

17 (B) IF THE PARTIES CANNOT VOLUNTARILY AGREE UPON THE SELECTION OF
18 AN ARBITRATOR, THEN ONE SHALL BE SELECTED IN THE MANNER ESTABLISHED IN §
19 12-602(A) OF THIS TITLE.

20 (C) THE COSTS OF ARBITRATION SHALL BE BORNE EQUALLY BY THE PARTIES.

21 SUBTITLE 8. UNFAIR PRACTICES.

22 11-801.

23 (A) A PUBLIC EMPLOYER, OR THE AGENT OR REPRESENTATIVE OF A PUBLIC
24 EMPLOYER, MAY NOT:

25 (1) INTERFERE, RESTRAIN, OR COERCE EMPLOYEES IN THE EXERCISE
26 OF THE RIGHTS GRANTED UNDER THIS TITLE OR DOMINATE OR INTERFERE WITH
27 THE FORMATION, EXISTENCE, OR ADMINISTRATION OF ANY EMPLOYEE
28 ORGANIZATION; HOWEVER, NOTHING IN THIS TITLE OR ANY OTHER LAW OF THIS
29 STATE MAY PRECLUDE AN EMPLOYER FROM MAKING AN AGREEMENT WITH AN
30 EXCLUSIVE BARGAINING REPRESENTATIVE (NOT ESTABLISHED, MAINTAINED, OR
31 ASSISTED BY ANY ACTION DEFINED IN THIS SUBSECTION AS AN UNFAIR PRACTICE)
32 TO REQUIRE ALL EMPLOYEES IN A BARGAINING UNIT WHO ARE NOT MEMBERS OF
33 THE EXCLUSIVE BARGAINING AGENT TO PAY A REPRESENTATION CHARGE OR
34 AGENCY FEE, IN AN AMOUNT NO GREATER THAN THE MEMBERSHIP DUES OF SUCH
35 LABOR ORGANIZATION, AS A CONTRIBUTION TOWARDS THE NEGOTIATION AND
36 ADMINISTRATION OF A COLLECTIVE BARGAINING AGREEMENT;

1 (2) DISCRIMINATE WITH REGARD TO HIRING OR TENURE OF
2 EMPLOYMENT OR ANY TERM OR CONDITION OF EMPLOYMENT TO ENCOURAGE OR
3 DISCOURAGE MEMBERSHIP IN ANY EMPLOYEE ORGANIZATION;

4 (3) DISCHARGE OR OTHERWISE DISCRIMINATE AGAINST AN EMPLOYEE
5 BECAUSE HE HAS SIGNED OR FILED AN AFFIDAVIT, PETITION, OR COMPLAINT OR
6 GIVEN ANY INFORMATION OR TESTIMONY UNDER THIS TITLE;

7 (4) REFUSE TO BARGAIN COLLECTIVELY IN GOOD FAITH WITH AN
8 EMPLOYEE REPRESENTATIVE WHICH IS THE EXCLUSIVE REPRESENTATIVE OF
9 EMPLOYEES IN AN APPROPRIATE UNIT, INCLUDING THE REFUSAL TO DISCUSS
10 GRIEVANCES, TO MEET AND DISCUSS OR CONSULT AS REQUIRED BY THIS TITLE, TO
11 REDUCE A COLLECTIVE BARGAINING AGREEMENT TO WRITING, AND TO SIGN SUCH
12 AN AGREEMENT AS WELL AS SYSTEMATICALLY OR INTENTIONALLY BREACH A
13 COLLECTIVE BARGAINING AGREEMENT;

14 (5) REFUSE TO PARTICIPATE IN MEDIATION OR ARBITRATION AS
15 REQUIRED UNDER THE PROVISIONS OF SUBTITLE 6 OF THIS TITLE OR REFUSE TO
16 COMPLY WITH THE PROVISIONS OF A BINDING ARBITRATION AWARD ISSUED UNDER
17 THAT SUBTITLE;

18 (6) INVOKE A LOCKOUT;

19 (7) VIOLATE ANY OF THE REGULATIONS ADOPTED BY THE COMMISSION
20 REGULATING THE CONDUCT OF REPRESENTATION ELECTIONS OR FAILING TO
21 COMPLY WITH THIS TITLE OR ANY OTHER REGULATIONS ADOPTED UNDER THIS
22 TITLE; OR

23 (8) MAKE ANY LAW OR REGULATION, OR ADOPT ANY RULE RELATIVE TO
24 THE TERMS AND CONDITIONS OF EMPLOYMENT THAT WOULD INVALIDATE ANY
25 PORTION OF AN AGREEMENT ENTERED INTO BY THE PUBLIC EMPLOYER MAKING OR
26 ADOPTING THE LAW, REGULATION OR RULE.

27 (B) AN EMPLOYEE ORGANIZATION, THE AGENT, OR REPRESENTATIVE OF AN
28 EMPLOYEE ORGANIZATION, OR A PUBLIC EMPLOYEE MAY NOT:

29 (1) RESTRAIN OR COERCE EMPLOYEES IN THE EXERCISE OF THE
30 RIGHTS GRANTED UNDER THIS TITLE;

31 (2) REFUSE TO BARGAIN COLLECTIVELY IN GOOD FAITH;

32 (3) REFUSE TO PARTICIPATE IN MEDIATION OR ARBITRATION AS
33 REQUIRED UNDER THE PROVISIONS OF SUBTITLE 6 OF THIS TITLE;

34 (4) INVOKE A STRIKE;

35 (5) RESTRAIN OR COERCE A PUBLIC EMPLOYER IN THE SELECTION OF
36 ITS REPRESENTATIVES FOR PURPOSES OF COLLECTIVE BARGAINING,
37 CONSULTATION, OR THE ADJUSTMENT OF GRIEVANCES; OR

1 (6) FAIL TO COMPLY WITH THIS TITLE OR ANY REGULATION ADOPTED
2 UNDER THIS TITLE.

3 SUBTITLE 9. VIOLATIONS.

4 12-901.

5 THE COMMISSION MAY DEAL WITH ANY VIOLATIONS OF SUBTITLE 8 OF THIS
6 TITLE. THIS POWER SHALL BE EXCLUSIVE AND IS NOT AFFECTED BY ANY OTHER
7 MEANS OF ADJUSTMENT OR PREVENTION THAT HAVE BEEN OR MAY BE
8 ESTABLISHED BY AGREEMENT, LAW, OR OTHERWISE.

9 12-902.

10 (A) WHENEVER AN INTERESTED PARTY CHARGES BY AFFIDAVIT THAT ANY
11 PERSON, WITHIN THE PAST 120 DAYS, HAS ENGAGED IN OR IS ENGAGING IN ANY
12 UNFAIR PRACTICE LISTED IN SUBTITLE 8 OF THIS TITLE, THE COMMISSION, OR ANY
13 MEMBER OR DESIGNATED AGENT OF THE COMMISSION, MAY ISSUE AND CAUSE TO
14 BE SERVED UPON SUCH PERSON OR HIS OR HER REPRESENTATIVE A COMPLAINT
15 STATING THE CHARGES IN THAT RESPECT AND CONTAINING A NOTICE OF HEARING
16 BEFORE THE COMMISSION, OR ANY MEMBER OR DESIGNATED AGENT OF THE
17 COMMISSION, NOT LESS THAN 5 NOR MORE THAN 15 WORKING DAYS AFTER THE
18 SERVING OF SAID COMPLAINT.

19 (B) ALL PARTIES REQUIRED TO APPEAR AT THE HEARING SET IN THE
20 COMPLAINT SHALL ALSO BE GIVEN 5 WORKING DAYS' NOTICE OF THE HEARING BY
21 CERTIFIED MAIL.

22 (C) A COMPLAINT MAY BE AMENDED BY THE COMMISSION, MEMBER, OR
23 AGENT CONDUCTING THE HEARING AT ANY TIME PRIOR TO THE ISSUANCE OF AN
24 ORDER BASED ON IT.

25 (D) THE PERSON SO COMPLAINED OF SHALL HAVE THE RIGHT TO FILE AN
26 ANSWER TO THE ORIGINAL OR AMENDED COMPLAINT AND TO APPEAR IN PERSON,
27 OR OTHERWISE, TO GIVE TESTIMONY AT THE PLACE AND TIME SET BY THE
28 COMPLAINT.

29 (E) AT THE DISCRETION OF THE MEMBER OR AGENT CONDUCTING THE
30 HEARING, OR OF THE COMMISSION, ANY OTHER PARTY MAY BE ALLOWED TO
31 INTERVENE IN THE HEARING AND TO PRESENT TESTIMONY.

32 12-903.

33 (A) THE HEARING SHALL BE CONDUCTED UNDER RULES ADOPTED BY THE
34 COMMISSION PURSUANT TO THE POWERS GRANTED IN THIS TITLE.

35 (B) THE ADMISSION OF EVIDENCE SHALL BE GOVERNED BY THOSE FACTORS
36 ESTABLISHED IN § 10-213 OF THE STATE GOVERNMENT ARTICLE.

1 (C) THE PARTIES TO THE PROCEEDING SHALL HAVE THE RIGHT TO BE
2 REPRESENTED BY A REPRESENTATIVE OF THEIR OWN CHOOSING, INCLUDING
3 COUNSEL.

4 (D) PENDING A HEARING HELD UNDER THIS SUBTITLE, THE COMMISSION
5 MAY ISSUE A CEASE AND DESIST ORDER IF THAT OPTION IS IN THE PUBLIC
6 INTEREST.

7 12-904.

8 (A) THE COMMISSION SHALL RENDER ITS DECISION NOT MORE THAN 45 DAYS
9 AFTER ALL PROCEEDINGS CALLED FOR UNDER §§ 12-902 AND 12-903 OF THIS
10 SUBTITLE ARE COMPLETED.

11 (B) (1) IF THE COMMISSION DETERMINES THAT ANY PERSON NAMED IN
12 THE COMPLAINT HAS ENGAGED IN OR IS ENGAGING IN ANY UNFAIR PRACTICE, IT
13 SHALL ISSUE AN ORDER REQUIRING SUCH PERSON TO CEASE AND DESIST AND TAKE
14 SUCH REASONABLE AFFIRMATIVE ACTION INCLUDING, BUT NOT LIMITED TO,
15 REINSTATEMENT OF EMPLOYEES WITH BACK PAY, PAYMENT OF THE COSTS
16 INCURRED BY A PARTY NEGOTIATING IN GOOD FAITH IN NEGOTIATIONS FOUND BY
17 THE COMMISSION TO HAVE BEEN CARRIED OUT NOT IN GOOD FAITH BY THE OTHER
18 PARTY, OR SUCH OTHER RELIEF AS THE COMMISSION CONSIDERS NECESSARY TO
19 EFFECTUATE THE POLICIES OF THIS TITLE.

20 (2) A PERSON FOUND TO HAVE ENGAGED IN OR TO BE ENGAGING IN
21 UNFAIR PRACTICES MAY ALSO BE REQUIRED BY SUCH ORDER TO MAKE REASONABLE
22 REPORTS, FROM TIME TO TIME, SHOWING THE EXTENT TO WHICH THE ORDER HAS
23 BEEN COMPLIED WITH.

24 (C) IF, UPON COMPLETION OF THE REQUIRED PROCEEDINGS, THE
25 COMMISSION DETERMINES THAT THE PERSON OR PERSONS NAMED IN THE
26 COMPLAINT HAS NOT ENGAGED IN OR IS NOT ENGAGING IN ANY UNFAIR PRACTICES,
27 THEN THE COMMISSION SHALL MAKE ITS FINDINGS OF FACT AND SHALL ISSUE AN
28 ORDER DISMISSING THE COMPLAINT.

29 (D) A COPY OF A DETERMINATION, FINDING OF FACT, CONCLUSION OF LAW,
30 OR ORDER SHALL BE MAILED TO ALL PARTIES TO THE PROCEEDINGS OR THEIR
31 REPRESENTATIVES.

32 (E) A FINDING MAY NOT BE MADE ON THE BASIS OF EVIDENCE RELATING TO
33 ACTS WHICH OCCURRED PRIOR TO JULY 1, 1998.

34 12-905.

35 (A) NOTWITHSTANDING ANY OF THE PROCEDURES SET OUT IN THIS
36 SUBTITLE, THE COMMISSION, UPON THE FILING OF A CHARGE ALLEGING THE
37 COMMISSION OF AN UNFAIR LABOR PRACTICE COMMITTED DURING, OR ARISING OUT
38 OF THE COLLECTIVE BARGAINING PROCEDURES SET FORTH IN §§ 12-601 AND 12-602
39 OF THIS TITLE, SHALL BE EMPOWERED TO PETITION A CIRCUIT COURT OF

1 COMPETENT JURISDICTION FOR APPROPRIATE RELIEF OR RESTRAINING ORDER AS
2 SET OUT IN § 12-1001 OF THIS TITLE.

3 (B) UPON THE FILING OF ANY SUCH PETITION THE COMMISSION SHALL
4 CAUSE NOTICE THEREOF TO BE SERVED UPON SUCH PERSON AND THEREUPON THE
5 COURT SHALL HAVE JURISDICTION TO GRANT TO THE COMMISSION SUCH
6 TEMPORARY RELIEF OR RESTRAINING ORDER AS IT CONSIDERS JUST AND PROPER.

7 SUBTITLE 10. JUDICIAL REVIEW.

8 12-1001.

9 (A) THE COMMISSION MAY PETITION THE CIRCUIT COURT FOR THE COUNTY
10 WHERE THE UNFAIR PRACTICE COMPLAINED OF OCCURRED, OR WHERE ANY
11 PERSON CHARGED WITH THE COMMISSION OF ANY UNFAIR PRACTICE RESIDES OR
12 TRANSACTS BUSINESS, FOR THE ENFORCEMENT OF ANY ORDER ISSUED UNDER
13 SUBTITLE 9 OF THIS TITLE.

14 (B) THE COMMISSION SHALL CERTIFY AND FILE IN THAT COURT A
15 TRANSCRIPT OF THE ENTIRE RECORD OF THE UNFAIR PRACTICE PROCEEDING
16 LEADING UP TO THE ORDER, INCLUDING THE PLEADINGS AND TESTIMONY UPON
17 WHICH SUCH ORDER WAS ENTERED AND THE FINDINGS AND ORDER OF THE
18 COMMISSION.

19 (C) UPON SUCH FILING THE COURT SHALL CAUSE NOTICE THEREOF TO BE
20 SERVED UPON THE PARTIES, AND THEREUPON SHALL HAVE EXCLUSIVE
21 JURISDICTION OF THE PROCEEDING AND OF THE QUESTION DETERMINED THEREIN.
22 THE PARTIES BEFORE THE COURT SHALL BE THE COMMISSION, THE PERSON
23 CHARGED WITH THE COMMISSION OF ANY UNFAIR LABOR PRACTICE, AND MAY
24 INCLUDE THE CHARGING PARTY.

25 12-1002.

26 (A) IN A PROCEEDING TO ENFORCE OR ANNUL AN ORDER OF THE
27 COMMISSION A CIRCUIT COURT MAY GRANT TEMPORARY RELIEF OR A RESTRAINING
28 OR MANDAMUS ORDER AS IT CONSIDERS JUST AND PROPER OR REQUISITE TO
29 EFFECTUATE THE POLICIES OF THIS TITLE. THE COURT MAY ALSO MAKE AND ENTER
30 UPON THE PLEADINGS, TESTIMONY, AND PROCEEDINGS SET FORTH IN THE
31 TRANSCRIPT FILED BY THE COMMISSION A DECREE ENFORCING, MODIFYING AND
32 ENFORCING AS SO MODIFIED, OR SETTING ASIDE, IN WHOLE OR IN PART, THE ORDER
33 OF THE COMMISSION.

34 (B) A CIRCUIT COURT SHALL GIVE PRIORITY TO AN APPEAL UNDER THIS
35 SECTION OVER ALL OTHER CIVIL CASES EXCEPT CASES UNDER THE WORKERS'
36 COMPENSATION AND UNEMPLOYMENT INSURANCE LAWS OF THE STATE.

37 (C) THE FINDINGS OF THE COMMISSION AS TO FACTS, IF SUPPORTED BY
38 SUBSTANTIAL AND LEGALLY CREDIBLE EVIDENCE, SHALL BE CONCLUSIVE.
39 HOWEVER, IF EITHER PARTY SHALL APPLY TO THE COURT FOR LEAVE TO ADDUCE
40 ADDITIONAL EVIDENCE, AND SHALL SHOW TO THE SATISFACTION OF THE COURT,

1 THAT SUCH ADDITIONAL EVIDENCE IS MATERIAL, AND THAT THERE WAS
2 REASONABLE GROUNDS FOR THE FAILURE TO ADDUCE SUCH EVIDENCE AT THE
3 HEARING BEFORE THE COMMISSION, ITS MEMBERS, OR AGENT, THE COURT MAY
4 ORDER SUCH ADDITIONAL EVIDENCE TO BE TAKEN BEFORE THE COMMISSION, ITS
5 MEMBERS, OR AGENT AND TO BE MADE PART OF THE TRANSCRIPT.

6 (D) THE COMMISSION MAY SUBSEQUENTLY MODIFY ITS FINDINGS AS TO THE
7 FACTS OR MAKE NEW FINDINGS BY REASON OF ADDITIONAL EVIDENCE SO TAKEN
8 AND FILED, AND IT SHALL FILE SUCH MODIFIED OR NEW FINDINGS WHICH, IF
9 SUPPORTED BY SUBSTANTIAL AND LEGALLY CREDIBLE EVIDENCE, SHALL BE
10 CONCLUSIVE, AND SHALL FILE ITS RECOMMENDATIONS, IF ANY, FOR THE
11 MODIFICATION OR SETTING ASIDE OF ITS ORIGINAL ORDER.

12 12-1003.

13 A PETITION OR CHARGE INVOLVING QUESTIONS ARISING UNDER § 12-801(A)(2)
14 OF THIS TITLE DOES NOT RELIEVE THE COMMISSION OF DETERMINING ANY
15 QUESTION ARISING UNDER §§ 12-403 THROUGH 12-405, INCLUSIVE, OF THIS TITLE
16 IMMEDIATELY, AND IN THEIR REGULAR AND NORMAL ORDER, AND THE MAKING OF A
17 CERTIFICATION THEREON IF SUCH IS WARRANTED.

18 SUBTITLE 11. PROCEEDINGS BEFORE THE COMMISSION.

19 12-1101.

20 (A) THE COMMISSION OR ITS DULY AUTHORIZED AGENTS SHALL AT ALL
21 REASONABLE TIMES HAVE ACCESS TO AND THE RIGHT TO COPY ANY EVIDENCE OF
22 ANY PERSON BEING INVESTIGATED OR PROCEEDED AGAINST THAT RELATES TO ANY
23 MATTER UNDER INVESTIGATION OR IN QUESTION.

24 (B) UPON THE REQUEST OF EITHER PARTY AT ANY TIME DURING THE
25 PENDENCY OF A PROCEEDING, SUBPOENAS REQUIRING THE ATTENDANCE AND
26 TESTIMONY OF WITNESSES AND THE PRODUCTION OF ANY EVIDENCE THAT
27 RELATES TO ANY MATTER UNDER INVESTIGATION OR IN QUESTION BEFORE THE
28 COMMISSION, ITS MEMBERS, OR AGENT CONDUCTING THE HEARING OR
29 INVESTIGATION SHALL BE ISSUED AS A MATTER OF RIGHT.

30 12-1102.

31 IN CASE OF CONTUMACY OR REFUSAL TO OBEY A SUBPOENA ISSUED TO ANY
32 PERSON, THE COURT, UPON APPLICATION BY THE COMMISSION, SHALL ISSUE TO
33 SUCH PERSON AN ORDER REQUIRING THAT PERSON TO APPEAR BEFORE THE
34 COMMISSION, ITS MEMBERS, OR AGENT, TO PRODUCE EVIDENCE IF SO ORDERED, OR
35 TO GIVE TESTIMONY REGARDING THE MATTER UNDER INVESTIGATION OR IN
36 QUESTION, AND ANY FAILURE TO OBEY AN ORDER OF THE COURTS MAY BE
37 PUNISHED BY THE COURT AS CONTEMPT.

1 12-1103.

2 COMPLAINTS, ORDERS, AND OTHER PROCESS AND PAPERS OF THE
3 COMMISSION, ITS MEMBERS, OR AGENT MAY BE SERVED EITHER PERSONALLY OR BY
4 REGISTERED MAIL OR BY LEAVING A COPY AT THE PRINCIPAL OFFICE OR PLACE OF
5 BUSINESS OF THE PERSON REQUIRED TO BE SERVED. THE VERIFIED RETURN OF THE
6 INDIVIDUAL SO SERVING THE SAME, SETTING FORTH THE MANNER OF SUCH
7 SERVICE, SHALL BE PROOF OF THE SAME AND THE RETURN POST OFFICE RECEIPT
8 WHEN REGISTERED AND MAILED AS AFORESAID SHALL BE PROOF OF SERVICE OF
9 THE SAME.

10 SUBTITLE 12. EXISTING ORDINANCES.

11 12-1201.

12 ANY PUBLIC EMPLOYER OTHER THAN THE STATE THAT, PRIOR TO JANUARY 1,
13 1998, ADOPTED BY ORDINANCE, RESOLUTION, OR CHARTER AMENDMENT A SYSTEM
14 OF PROVISIONS AND PROCEDURES PERMITTING EMPLOYEES TO FORM, JOIN, OR
15 ASSIST ANY LABOR ORGANIZATION FOR THE PURPOSE OF BARGAINING
16 COLLECTIVELY THROUGH EXCLUSIVE REPRESENTATIVES MAY CONTINUE TO
17 OPERATE UNDER THOSE PROVISIONS AND PROCEDURES RATHER THAN THOSE SET
18 FORTH IN THE PUBLIC EMPLOYEE RELATIONS ACT PROVIDED THAT THE
19 EMPLOYEES, OR THEIR EXCLUSIVE REPRESENTATIVES, COVERED BY SUCH
20 ORDINANCE, RESOLUTION, OR CHARTER AMENDMENT AGREE AND PROVIDED THAT
21 THE FOLLOWING PROVISIONS AND PROCEDURES ARE INCLUDED IN EACH
22 ORDINANCE, RESOLUTION, OR CHARTER AMENDMENT:

23 (1) THE RIGHT OF PUBLIC EMPLOYEES TO FORM, JOIN, OR ASSIST
24 EMPLOYEE ORGANIZATIONS FOR THE PURPOSE OF ACHIEVING COLLECTIVE
25 BARGAINING;

26 (2) PROCEDURES FOR THE IDENTIFICATION OF APPROPRIATE UNITS,
27 CERTIFICATION ELECTIONS, AND DECERTIFICATION ELECTIONS EQUIVALENT TO
28 THOSE SET FORTH IN SUBTITLE 4 OF THIS TITLE;

29 (3) THE RIGHT OF A LABOR ORGANIZATION TO BE CERTIFIED AS AN
30 EXCLUSIVE REPRESENTATIVE;

31 (4) THE RIGHT OF AN EXCLUSIVE REPRESENTATIVE TO NEGOTIATE ALL
32 MATTERS CONCERNING TERMS, TENURE, OR CONDITIONS OF EMPLOYMENT, OR
33 AFFECTING PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNITS
34 INCLUDING, BUT NOT LIMITED TO, THOSE ITEMS SET OUT IN § 12-501 OF THIS TITLE;

35 (5) THE OBLIGATION TO INCORPORATE AGREEMENTS REACHED BY THE
36 PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE INTO A COLLECTIVE
37 BARGAINING AGREEMENT;

38 (6) A REQUIREMENT THAT GRIEVANCE PROCEDURES CULMINATING
39 WITH BINDING ARBITRATION BE NEGOTIATED;

1 (7) IMPASSE RESOLUTION PROCEDURES EQUIVALENT TO THOSE SET
2 FORTH IN SUBTITLE 6 OF THIS TITLE; AND

3 (8) PROHIBITIONS AGAINST UNFAIR PRACTICES, EQUIVALENT TO
4 THOSE SET FORTH IN SUBTITLE 8 OF THIS TITLE, TOGETHER WITH METHODS OF
5 RECONCILING VIOLATIONS OF THOSE PROHIBITIONS EQUIVALENT TO THOSE SET
6 FORTH IN SUBTITLES 9 AND 10 OF THIS TITLE.

7 **Article - Education**

8 2-205.

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

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

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

13 (2) [The] EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH 4 OF THIS
14 SUBSECTION, THE Board shall decide all controversies and disputes under these
15 provisions. THE DECISION OF THE BOARD IS FINAL.

16 [(3) The decision of the Board is final.]

17 (3) (I) CONTROVERSIES AND DISPUTES UNDER TITLE 6, SUBTITLE 4
18 OR SUBTITLE 5 OF THIS ARTICLE SHALL BE DECIDED BY THE PUBLIC EMPLOYEE
19 RELATIONS COMMISSION ESTABLISHED UNDER TITLE 12 OF THE LABOR AND
20 EMPLOYMENT ARTICLE.

21 (II) THE DECISIONS OF THE PUBLIC EMPLOYEE RELATIONS
22 COMMISSION SHALL BE FINAL.

23 6-404.

24 (a) [Each public school employer] THE PUBLIC EMPLOYEE LABOR RELATIONS
25 COMMISSION shall designate, as provided in [this subtitle] TITLE 12, SUBTITLE 4 OF
26 THE LABOR AND EMPLOYMENT ARTICLE, which employee organization, if any, shall
27 be the exclusive representative of all public school employees in a specified unit in the
28 county.

29 (b) (1) (I) Except as provided in paragraph (2) of this subsection, the
30 public school employer shall determine the composition of the unit in negotiation with
31 any employee organization that requests negotiation concerning the composition of
32 the unit. IF THE PARTIES ARE UNABLE TO AGREE UPON THE APPROPRIATE
33 COMPOSITION OF A UNIT, THEN THE DETERMINATION WILL BE MADE BY THE PUBLIC
34 EMPLOYEE LABOR RELATIONS COMMISSION AS SET OUT IN § 12-404 OF THE LABOR
35 AND EMPLOYMENT ARTICLE.

1 (II) THE COMMISSION SHALL DEFER TO ANY AGREEMENT
2 REGARDING THE APPROPRIATENESS OF A UNIT REACHED THROUGH NEGOTIATIONS
3 BETWEEN A PUBLIC SCHOOL EMPLOYER AND AN EMPLOYEE ORGANIZATION.

4 (2) In Baltimore County, the public school employer may designate a
5 separate unit comprised of all registered nurses employed by the county in
6 elementary schools or special schools.

7 6-407.

8 (a) An employee organization designated as an exclusive representative
9 UNDER THE PROVISIONS OF §§ 12-401 THROUGH 12-406, OF THE LABOR AND
10 EMPLOYMENT ARTICLE shall be the negotiating agent of all public school employees
11 in the unit in the county.

12 6-408.

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

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

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

17 (2) The agreements [may] SHALL provide for binding arbitration of the
18 grievances arising under the agreement AS SET OUT IN § 12-703 OF THE LABOR AND
19 EMPLOYMENT ARTICLE [that the parties have agreed to be subject to arbitration].

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

25 (2) In Montgomery County, notwithstanding any agreement in effect on
26 June 1, 1978, which excludes substitute teachers, and without affecting any other
27 part of such an agreement, the exclusive negotiating agent for the public school
28 employees in a unit and the public school employer shall meet and negotiate under
29 this section the salaries, wages, hours, and other working conditions of all persons
30 actually employed as substitute teachers.

31 (C) (1) ALL MATTERS CONCERNING TERMS, TENURE, OR CONDITIONS OF
32 EMPLOYMENT OR AFFECTING EMPLOYEES SHALL BE BARGAINABLE, INCLUDING,
33 BUT NOT LIMITED TO:

34 (I) EMPLOYEE ATTENDANCE, GRIEVANCE, AND DISCIPLINE
35 POLICIES;

36 (II) PROPOSED NEW RULES OR MODIFICATIONS OF EXISTING
37 RULES GOVERNING WORKING CONDITIONS;

- 1 (III) EMPLOYEE JOB CLASSIFICATIONS;
- 2 (IV) PEER ASSISTANCE AND REVIEW PROGRAMS;
- 3 (V) SITE-BASED MANAGEMENT;
- 4 (VI) THE ESTABLISHMENT AND COMPOSITION OF SCHOOL
5 ACHIEVEMENT TEAMS;
- 6 (VII) CLASS SIZE;
- 7 (VIII) CURRICULUM CONTENT;
- 8 (IX) CONTRACTING OUT OF BARGAINING UNIT WORK;
- 9 (X) SCHOOL CALENDARS;
- 10 (XI) TEACHER STUDENT RATIOS;
- 11 (XII) MEMBERSHIP DUES DEDUCTION;
- 12 (XIII) DEDUCTION OF REASONABLE REPRESENTATION OR AGENCY
13 FEES FROM THE PAY OF NONMEMBERS FOR REPRESENTATIONAL ACTIVITIES
14 UNDERTAKEN BY THE EXCLUSIVE REPRESENTATIVE ON THEIR BEHALF;
- 15 (XIV) THE IMPACT UPON TERMS AND CONDITIONS OF
16 EMPLOYMENT OF ACTIONS TAKEN BY A PUBLIC EMPLOYER WITH REGARD TO
17 MANAGEMENT POLICIES AND OF MATTERS WHICH ARE OR MAY BE THE SUBJECT OF
18 A STATUTE, ORDINANCE, REGULATION, OR OTHER ENACTMENT BY THE STATE OR
19 ANY POLITICAL SUBDIVISION THEREOF;
- 20 (XV) DISCONTINUANCE OF EMPLOYEE ORGANIZATION
21 MEMBERSHIP; AND
- 22 (XVI) HOLIDAYS AND VACATIONS.
- 23 (2) WHEN DISPUTES ARISE REGARDING WHETHER AN ISSUE IS
24 BARGAINABLE, THE PUBLIC EMPLOYEE RELATIONS COMMISSION SHALL MAKE ANY
25 AND ALL DETERMINATIONS ON THE MATTER.
- 26 [(c)] (D) The designation of representatives by the employer under this section
27 does not prevent the designated employee organization from appearing before or
28 making proposals to the public school employer at a public meeting or hearing.
- 29 [(d) (1)] (E) If, on the request of either party AFTER A REASONABLE PERIOD
30 OF NEGOTIATIONS NOT TO EXCEED 30 DAYS, the [State Superintendent] PUBLIC
31 EMPLOYEE RELATIONS COMMISSION determines from the facts that an impasse, AS
32 DEFINED IN § 12-101(U) OF THE LABOR AND EMPLOYMENT ARTICLE, [is] HAS BEEN
33 reached in negotiations between a public school employer and an employee
34 organization that is designated as an exclusive negotiating agent, [the assistance and
35 advice of the State Board may be requested, with the consent of both parties] THE

1 PUBLIC EMPLOYEE RELATIONS COMMISSION SHALL PROCEED AS SET OUT IN TITLE
2 12, SUBTITLE 6 OF THE LABOR AND EMPLOYMENT ARTICLE.

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

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

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

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

9 (4) The State Board or the panel selected shall meet with the parties to
10 aid in resolving the differences, and, if the matter is not resolved, shall make a
11 written report and recommendation within 30 days after the request.

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

14 (6) All costs of mediation shall be shared by the public school employer
15 and the employee organization.

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

22 6-501.

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

24 (b) "Confidential employee" includes an individual whose employment
25 responsibilities require knowledge of the public school employer's posture in the
26 collective negotiation process, as determined by the public school employer in
27 negotiations with an employee organization that requests negotiation on this issue.

28 (c) "Employee organization" means an organization that:

29 (1) Includes noncertificated employees of a public school employer; and

30 (2) Has as one of its main purposes the representation of the employees
31 in their relations with that public school employer.

32 (d) "Management personnel" includes an individual who is engaged mainly in
33 executive and managerial functions, as determined by the public school employer in
34 negotiation with an employee organization that requests negotiation on this issue.

1 (e) ["Noncertificated employee", in Montgomery County, means only a
2 full-time employee.

3 (f) (1) "Public school employee" means a noncertificated individual who is
4 employed for at least 9 months a year on a full-time basis by a public school employer.

5 (2)] (1) "Public school employee" includes a noncertificated employee
6 [in Baltimore City] notwithstanding that the noncertificated employee does not work
7 for at least 9 months a year on a full-time basis.

8 [(3)] (2) "Public school employee" does not include:

9 (i) Management personnel;

10 (ii) A confidential employee; or

11 (iii) Any individual designated by the public school employer to act
12 in a negotiating capacity as provided in § 6-510(b) of this subtitle.

13 [(g)] (F) (1) "Public school employer" means the county board in each county
14 [except:

15 (i) Somerset;

16 (ii) Wicomico; and

17 (iii) Worcester].

18 (2) "Public school employer" includes the New Baltimore City Board of
19 School Commissioners.

20 [(h)] (G) "Supervisory employee" includes any individual who responsibly
21 directs the work of other employees, as determined by the public school employer in
22 negotiation with an employee organization that requests negotiation on this issue.

23 6-502.

24 [(a) This subtitle does not apply to Caroline, Cecil, Dorchester, Kent, Queen
25 Anne's, and Talbot counties.

26 (b)] This subtitle does not apply to any public employees who, as of July 1,
27 1974, were covered by a negotiated agreement lawfully made between the employees
28 and any county under local law or ordinance.

29 6-505.

30 (a) [(1) Each public school employer] THE PUBLIC EMPLOYEE LABOR
31 RELATIONS COMMISSION [may] SHALL designate, as provided in [this] TITLE 12,
32 [subtitle] SUBTITLE 4 OF THE LABOR AND EMPLOYMENT ARTICLE, which employee
33 organization, if any, shall be the exclusive representative of all public school
34 employees in a specified unit in the county.

1 [(2) In Baltimore City, Garrett County, and Frederick County, the public
2 school employer shall designate, as provided in this subtitle, which employee
3 organization, if any, shall be the exclusive representative of all public school
4 employees in a specified unit in the county.]

5 (b) (1) The public school employer shall determine the composition of the
6 unit in negotiation with any employee organization that requests negotiation
7 concerning the composition of the unit. IF THE PARTIES ARE UNABLE TO AGREE UPON
8 THE APPROPRIATE COMPOSITION OF A UNIT, THEN THE DETERMINATION WILL BE
9 MADE BY THE PUBLIC EMPLOYEE LABOR RELATIONS COMMISSION AS SET OUT IN §
10 12-404 OF THE LABOR AND EMPLOYMENT ARTICLE.

11 (2) THE COMMISSION SHALL DEFER TO ANY AGREEMENT REGARDING
12 THE APPROPRIATENESS OF A UNIT REACHED THROUGH NEGOTIATIONS BETWEEN A
13 PUBLIC SCHOOL EMPLOYER AND AN EMPLOYEE ORGANIZATION.

14 (c) (1) There may not be more than three units in a county and a unit may
15 not include both supervisory and nonsupervisory employees.

16 (2) If a county has more than three recognized units and, as of July 1,
17 1974, the units have exclusive representation for collective negotiations, these units
18 may continue as negotiating units.

19 (d) (1) All eligible public school employees shall:

20 (i) Be included in one of these units; and

21 (ii) Have the rights granted in this subtitle.

22 (2) Except for an individual who is designated as management personnel
23 or a confidential employee [under this subtitle], each public school employee is
24 eligible for membership in one of the negotiating units.

25 6-509.

26 (a) An employee organization designated as an exclusive representative
27 UNDER THE PROVISIONS OF §§ 12-401 THROUGH 12-406 OF THE LABOR AND
28 EMPLOYMENT ARTICLE shall be the negotiating agent of all public school employees
29 in the unit in the county.

30 6-510.

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

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

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

1 (2) The agreements [may] SHALL provide for binding arbitration of the
2 grievances arising under the agreement AS SET OUT IN § 12-703 OF THE LABOR AND
3 EMPLOYMENT ARTICLE [that the parties have agreed to be subject to arbitration].

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

9 (C) (1) ALL MATTERS CONCERNING TERMS, TENURE, OR CONDITIONS OF
10 EMPLOYMENT OR AFFECTING EMPLOYEES SHALL BE BARGAINABLE, INCLUDING,
11 BUT NOT LIMITED TO:

12 (I) EMPLOYEE ATTENDANCE, GRIEVANCE, AND DISCIPLINE
13 POLICIES;

14 (II) PROPOSED NEW RULES OR MODIFICATIONS OF EXISTING
15 RULES GOVERNING WORKING CONDITIONS;

16 (III) EMPLOYEE JOB CLASSIFICATIONS;

17 (IV) PEER ASSISTANCE AND REVIEW PROGRAMS;

18 (V) SITE-BASED MANAGEMENT;

19 (VI) THE ESTABLISHMENT AND COMPOSITION OF SCHOOL
20 ACHIEVEMENT TEAMS;

21 (VII) CLASS SIZE;

22 (VIII) CURRICULUM CONTENT;

23 (IX) CONTRACTING OUT OF BARGAINING UNIT WORK;

24 (X) SCHOOL CALENDARS;

25 (XI) MEMBERSHIP DUES DEDUCTION;

26 (XII) DEDUCTION OF REASONABLE REPRESENTATION OR AGENCY
27 FEES FROM THE PAY OF NON-MEMBERS FOR REPRESENTATIONAL ACTIVITIES
28 UNDERTAKEN BY THE EXCLUSIVE REPRESENTATIVE ON THEIR BEHALF;

29 (XIII) THE IMPACT UPON TERMS AND CONDITIONS OF
30 EMPLOYMENT OF ACTIONS TAKEN BY A PUBLIC EMPLOYER WITH REGARD TO
31 MANAGEMENT POLICIES AND OF MATTERS WHICH ARE OR MAY BE THE SUBJECT OF
32 A STATUTE, ORDINANCE, REGULATION, OR OTHER ENACTMENT BY THE STATE OR
33 ANY POLITICAL SUBDIVISION THEREOF;

34 (XIV) DISCONTINUANCE OF EMPLOYEE ORGANIZATION
35 MEMBERSHIP; AND

1 (XV) HOLIDAYS AND VACATIONS.

2 (2) WHEN DISPUTES ARISE REGARDING WHETHER AN ISSUE IS
3 BARGAINABLE, THE PUBLIC EMPLOYEE RELATIONS COMMISSION SHALL MAKE ANY
4 AND ALL DETERMINATIONS ON THE MATTER.

5 [(c)] (D) The designation of representatives by the employer under this section
6 does not prevent an employee organization from appearing before or making
7 proposals to the public school employer at a public meeting or hearing.

8 [(d) (1)] (E) If, on the request of either party AFTER A REASONABLE PERIOD
9 OF NEGOTIATIONS NOT TO EXCEED 30 DAYS, the [State Superintendent] PUBLIC
10 EMPLOYEE RELATIONS COMMISSION determines from the facts that an impasse, AS
11 DEFINED IN § 12-101(U) OF THE LABOR AND EMPLOYMENT ARTICLE, [is] HAS BEEN
12 reached in negotiations between a public school employer and an employee
13 organization that is designated as an exclusive negotiating agent, [the assistance and
14 advice of the State Board may be requested, with the consent of both parties] THE
15 PUBLIC EMPLOYEE RELATIONS COMMISSION SHALL PROCEED AS SET OUT IN TITLE
16 12, SUBTITLE 6 OF THE LABOR AND EMPLOYMENT ARTICLE.

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

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

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

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

23 (4) The State Board or the panel selected shall meet with the parties to
24 aid in resolving the differences, and, if the matter is not resolved, shall make a
25 written report and recommendation within 30 days after the request.

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

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

30 (7) Notwithstanding any other provision of this subtitle, the public
31 school employer shall make the final determination as to matters which have been
32 the subject of negotiation, but this final determination is subject to the other
33 provisions of this article concerning the fiscal relationship between the public school
34 employer and the county commissioners and county council.]

35 SECTION 4. AND BE IT FURTHER ENACTED, That if any provision of this
36 Act or the application thereof to any person or circumstance is held invalid for any
37 reason in a court of competent jurisdiction, the invalidity does not affect other
38 provisions or any other application of this Act which can be given effect without the

1 invalid provision or application, and for this purpose the provisions of this Act are
2 declared severable.

3 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 July 1, 1998.