

HOUSE BILL 179

Unofficial Copy
P4

1999 Regular Session
(91r0228)

ENROLLED BILL
-- Appropriations/Finance --

Introduced by **The Speaker (Administration) and Delegates Hixson, McIntosh, Franchot, R. Baker, A. Jones, Barkley, Barve, Benson, Billings, Bobo, Burns, Conroy, C. Davis, DeCarlo, Dembrow, Dobson, Donoghue, Dypski, Frush, Griffith, Harrison, Healey, Heller, Howard, Hubbard, K. Kelly, Malone, Mandel, Marriott, Menes, Moe, Montague, Nathan-Pulliam, Paige, Patterson, Petzold, Pitkin, and ~~Shriver~~ Shriver, Griffith, Giannetti, and Valderrama**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **State Employees - Collective Bargaining**

3 FOR the purpose of establishing collective bargaining rights for certain State
4 employees; specifying which State employees are not eligible to participate in
5 the collective bargaining process; establishing a State Labor Relations Board;
6 specifying the manner of appointment, membership, duties, and responsibilities
7 of the Board; providing for staffing of the Board; authorizing the ~~Board~~
8 Secretary of Budget and Management to adopt and enforce certain regulations,
9 guidelines, and policies; specifying that the provisions of this Act may not limit
10 or interfere with ~~the~~ certain powers of the General Assembly; providing that
11 certain information furnished to the Board is confidential; permitting the Board

1 to petition a circuit court to seek enforcement of an order of the Board;
 2 establishing the respective rights of employees and employers; prohibiting
 3 strikes, lockouts, and unfair labor practices; providing for election and
 4 certification of exclusive representatives of bargaining units; specifying certain
 5 contents of a ~~collective bargaining agreement memorandum of understanding;~~
 6 ~~authorizing the imposition of certain service fees in a collective bargaining~~
 7 ~~agreement under certain circumstances; excluding certain employees from~~
 8 ~~certain disciplinary actions under certain circumstances;~~ requiring the Board to
 9 acknowledge certain bargaining units and exclusive representatives; providing
 10 that provisions of this Act are severable; repealing the requirement to establish
 11 employee/management teams; defining certain terms; providing that certain
 12 definitions shall remain in effect until a certain time; ~~requiring prohibiting the~~
 13 Board of Regents of the University System of Maryland to establish and
 14 implement from establishing or implementing a certain collective bargaining
 15 plan; ~~requiring certain reports providing that a certain provision of law~~
 16 supersedes another provision of law relating to the requirement for the
 17 establishment and implementation of a certain collective bargaining plan;
 18 reserving the right of the General Assembly to make certain changes or
 19 modifications in law with regard to subjects of a certain memorandum of
 20 understanding regardless of whether the changes or modifications would be
 21 effective during the term of the memorandum of understanding; prohibiting
 22 collective bargaining from including certain negotiations relating to certain
 23 service fees; and generally relating to collective bargaining for State employees.

24 BY repealing
 25 Article - State Personnel and Pensions
 26 Section 3-101 through 3-107, inclusive, and the title "Title 3.
 27 Employee/Management Teams"
 28 Annotated Code of Maryland
 29 (1997 Replacement Volume and 1998 Supplement)

30 BY adding to
 31 Article - State Personnel and Pensions
 32 Section 3-101 through ~~3-701~~ 3-601, inclusive, to be under the new title "Title 3.
 33 Collective Bargaining"
 34 Annotated Code of Maryland
 35 (1997 Replacement Volume and 1998 Supplement)

36 ~~BY repealing and reenacting, with amendments,~~
 37 ~~Article - State Personnel and Pensions~~
 38 ~~Section 11-102~~
 39 ~~Annotated Code of Maryland~~
 40 ~~(1997 Replacement Volume and 1998 Supplement)~~

41 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 42 MARYLAND, That Section(s) 3-101 through 3-107, inclusive, and the title "Title 3.

1 Employee/Management Teams" of Article - State Personnel and Pensions of the
2 Annotated Code of Maryland be repealed.

3 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
4 read as follows:

5 **Article - State Personnel and Pensions**

6 TITLE 3. COLLECTIVE BARGAINING.

7 SUBTITLE 1. DEFINITIONS AND GENERAL PROVISIONS.

8 3-101.

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

10 (B) "BOARD" MEANS THE STATE LABOR RELATIONS BOARD.

11 (C) "COLLECTIVE BARGAINING" MEANS GOOD FAITH NEGOTIATIONS BY
12 AUTHORIZED REPRESENTATIVES OF EMPLOYEES AND THEIR EMPLOYER WITH THE
13 INTENTION OF:

14 (1) REACHING AN AGREEMENT ABOUT WAGES, HOURS, AND OTHER
15 TERMS AND CONDITIONS OF EMPLOYMENT; AND

16 (2) INCORPORATING THE TERMS OF THE AGREEMENT IN A WRITTEN
17 ~~COLLECTIVE BARGAINING AGREEMENT~~ MEMORANDUM OF UNDERSTANDING.

18 ~~(D) "DEPARTMENT" MEANS THE DEPARTMENT OF BUDGET AND~~
19 ~~MANAGEMENT.~~

20 ~~(E)~~ (D) "EMPLOYEE ORGANIZATION" MEANS A LABOR OR OTHER
21 ORGANIZATION IN WHICH STATE EMPLOYEES PARTICIPATE AND THAT HAS AS ONE
22 OF ITS PRIMARY PURPOSES REPRESENTING EMPLOYEES.

23 ~~(F)~~ (E) "EXCLUSIVE REPRESENTATIVE" MEANS AN EMPLOYEE
24 ORGANIZATION THAT HAS BEEN CERTIFIED BY THE BOARD AS AN EXCLUSIVE
25 REPRESENTATIVE UNDER SUBTITLE 4 OF THIS TITLE.

26 ~~(G) "SECRETARY" MEANS THE SECRETARY OF THE DEPARTMENT OF BUDGET~~
27 ~~AND MANAGEMENT.~~

28 3-102.

29 (A) EXCEPT AS PROVIDED IN THIS TITLE OR AS OTHERWISE PROVIDED BY
30 LAW, THIS TITLE APPLIES TO ALL EMPLOYEES OF:

31 (1) THE PRINCIPAL DEPARTMENTS WITHIN THE EXECUTIVE BRANCH OF
32 STATE GOVERNMENT;

33 ~~(2) ANY STATE INSTITUTION OF HIGHER EDUCATION;~~

- 1 ~~(3)~~ (2) THE MARYLAND INSURANCE ADMINISTRATION;
- 2 ~~(4)~~ (3) THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION;
- 3 AND
- 4 ~~(5)~~ (4) THE STATE LOTTERY AGENCY.

5 (B) THIS TITLE DOES NOT APPLY TO:

6 (1) EMPLOYEES OF THE MASS TRANSIT ADMINISTRATION, AS THAT

7 TERM IS DEFINED IN § 7-601(A)(2) OF THE TRANSPORTATION ARTICLE;

8 (2) AN EMPLOYEE WHO IS ELECTED TO THE POSITION BY POPULAR

9 VOTE;

10 (3) AN EMPLOYEE IN A POSITION BY ELECTION OR APPOINTMENT THAT

11 IS PROVIDED FOR BY THE MARYLAND CONSTITUTION;

12 (4) AN EMPLOYEE WHO IS:

13 (I) A SPECIAL APPOINTEE IN THE STATE PERSONNEL

14 MANAGEMENT SYSTEM; OR

15 (II) 1. DIRECTLY APPOINTED BY THE GOVERNOR BY AN

16 APPOINTMENT THAT IS NOT PROVIDED FOR BY THE MARYLAND CONSTITUTION;

17 2. APPOINTED BY OR ON THE STAFF OF THE GOVERNOR OR

18 LIEUTENANT GOVERNOR; OR

19 3. ASSIGNED TO THE GOVERNMENT HOUSE OR THE

20 GOVERNOR'S OFFICE;

21 (5) AN EMPLOYEE ASSIGNED TO THE BOARD OR WITH ACCESS TO

22 RECORDS OF THE BOARD;

23 (6) AN EMPLOYEE IN:

24 (I) THE EXECUTIVE SERVICE OF THE STATE PERSONNEL

25 MANAGEMENT SYSTEM; OR

26 (II) A UNIT OF THE EXECUTIVE BRANCH WITH AN INDEPENDENT

27 PERSONNEL SYSTEM WHO IS:

28 1. THE CHIEF ADMINISTRATOR OF THE UNIT OR A

29 COMPARABLE POSITION THAT IS NOT EXCLUDED UNDER ITEM (3) OF THIS

30 SUBSECTION AS A CONSTITUTIONAL OR ELECTED OFFICE; OR

31 2. A DEPUTY OR ASSISTANT ADMINISTRATOR OF THE UNIT

32 OR A COMPARABLE POSITION;

1 (7) (I) A TEMPORARY OR CONTRACTUAL EMPLOYEE IN THE STATE
2 PERSONNEL MANAGEMENT SYSTEM; OR

3 (II) A CONTRACTUAL, TEMPORARY, OR EMERGENCY EMPLOYEE IN
4 A UNIT OF THE EXECUTIVE BRANCH WITH AN INDEPENDENT PERSONNEL SYSTEM;

5 ~~(8) A MEMBER OF THE FACULTY OF A STATE INSTITUTION OF HIGHER~~
6 ~~EDUCATION;~~

7 ~~(9)~~ (8) AN EMPLOYEE WHO IS ENTITLED TO PARTICIPATE IN
8 COLLECTIVE BARGAINING UNDER ANOTHER LAW;

9 ~~(10)~~ (9) AN EMPLOYEE WHOSE PARTICIPATION IN A LABOR
10 ORGANIZATION WOULD BE CONTRARY TO THE STATE'S ETHICS LAWS; OR

11 ~~(11)~~ (10) ANY SUPERVISORY, MANAGERIAL, OR CONFIDENTIAL
12 EMPLOYEE AS DEFINED BY REGULATION BY THE SECRETARY.

13 3-103.

14 THIS TITLE AND ANY AGREEMENT UNDER THIS TITLE DO NOT LIMIT OR
15 OTHERWISE INTERFERE WITH THE POWERS OF THE MARYLAND GENERAL ASSEMBLY
16 UNDER ARTICLE III, § 52 OF THE MARYLAND CONSTITUTION.

17 SUBTITLE 2. STATE LABOR RELATIONS BOARD.

18 3-201.

19 THERE IS A STATE LABOR RELATIONS BOARD IN THE DEPARTMENT.

20 3-202.

21 (A) THE BOARD CONSISTS OF THE FOLLOWING FIVE MEMBERS:

22 (1) THE SECRETARY OR A DESIGNEE OF THE SECRETARY; ~~AND~~

23 (2) ~~FOUR MEMBERS OF THE GENERAL PUBLIC~~ TWO MEMBERS WITH
24 KNOWLEDGE OF LABOR ISSUES APPOINTED BY THE GOVERNOR WITH THE ADVICE
25 AND CONSENT OF THE SENATE, WHO:

26 (I) ARE NOT OFFICERS OR EMPLOYEES OF THE STATE OR ~~OF AN~~
27 EMPLOYEE ORGANIZATION; AND

28 (II) ARE KNOWN FOR OBJECTIVE AND INDEPENDENT JUDGMENT;
29 AND

30 (3) TWO MEMBERS OF THE BUSINESS COMMUNITY, APPOINTED BY THE
31 GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE, WHO ARE KNOWN FOR
32 OBJECTIVE AND INDEPENDENT JUDGMENT.

1 (B) BEFORE TAKING OFFICE, EACH APPOINTED MEMBER SHALL TAKE THE
2 OATH REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.

3 (C) WITH THE ADVICE OF THE SECRETARY, THE GOVERNOR SHALL
4 DESIGNATE A CHAIRMAN FROM AMONG THE APPOINTED MEMBERS OF THE BOARD.

5 (D) THE SECRETARY OR THE SECRETARY'S DESIGNEE SHALL SERVE AS A
6 CONTINUING MEMBER.

7 (E) (1) THE TERM OF AN APPOINTED MEMBER IS 6 YEARS.

8 (2) THE TERMS OF APPOINTED MEMBERS ARE STAGGERED AS
9 REQUIRED BY THE TERMS PROVIDED FOR APPOINTED MEMBERS OF THE BOARD ON
10 ~~OCTOBER~~ JULY 1, 1999.

11 (3) A VACANCY SHALL BE FILLED FOR AN UNEXPIRED TERM IN THE
12 SAME MANNER AS AN ORIGINAL APPOINTMENT.

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

15 (5) 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 (F) THE GOVERNOR MAY REMOVE AN APPOINTED MEMBER FOR
19 INCOMPETENCE OR MISCONDUCT.

20 (G) IN MAKING APPOINTMENTS TO THE BOARD, THE GOVERNOR SHALL
21 ENSURE, TO THE EXTENT PRACTICABLE, THAT:

22 (1) THE RATIO OF MALE AND FEMALE MEMBERS AND THE RACIAL
23 MAKEUP OF THE BOARD IS REFLECTIVE OF THE GENERAL POPULATION OF THE
24 STATE; AND

25 (2) EACH MAJOR GEOGRAPHIC AREA OF THE STATE IS REPRESENTED
26 ON THE BOARD.

27 3-203.

28 (A) (1) A MAJORITY OF THE VOTING MEMBERS ~~IS~~ SHALL CONSTITUTE A
29 QUORUM FOR:

30 ~~(1)~~ (I) THE TRANSACTION OF ANY BUSINESS; OR

31 ~~(2)~~ (II) THE EXERCISE OF ANY POWER; OR

32 ~~(3)~~ (III) THE PERFORMANCE OF ANY DUTY AUTHORIZED OR IMPOSED BY
33 LAW.

1 (2) NO FORMAL ACTION MAY BE TAKEN BY THE BOARD WITHOUT THE
2 APPROVAL OF A MAJORITY OF THE VOTING MEMBERS OF THE BOARD.

3 (B) THE BOARD SHALL SET THE TIMES AND PLACES OF ITS MEETINGS.

4 (C) AN APPOINTED MEMBER OF THE BOARD IS ENTITLED TO:

5 (1) THE COMPENSATION PROVIDED IN THE STATE BUDGET; AND

6 (2) REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE
7 TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

8 3-204.

9 (A) (1) WITH APPROVAL OF THE BOARD, THE SECRETARY SHALL APPOINT
10 AN EXECUTIVE DIRECTOR OF THE BOARD.

11 (2) THE EXECUTIVE DIRECTOR:

12 (I) IS RESPONSIBLE TO AND SERVES AT THE PLEASURE OF THE
13 SECRETARY; AND

14 (II) IS ENTITLED TO THE SALARY PROVIDED IN THE STATE
15 BUDGET.

16 (B) THE EXECUTIVE DIRECTOR SHALL PERFORM THE DUTIES THAT THE
17 SECRETARY ASSIGNS, INCLUDING:

18 (1) OPERATING THE OFFICE OF THE BOARD; AND

19 (2) KEEPING THE OFFICIAL RECORDS OF THE BOARD.

20 (C) (1) WITH APPROVAL OF THE SECRETARY, THE EXECUTIVE DIRECTOR
21 MAY EMPLOY PROFESSIONAL CONSULTANTS.

22 (2) EACH PROFESSIONAL CONSULTANT SERVES AT THE PLEASURE OF
23 THE EXECUTIVE DIRECTOR.

24 3-205.

25 THE DEPARTMENT SHALL PROVIDE ADMINISTRATIVE SUPPORT TO THE BOARD.
26 3-206.

27 (A) THE BOARD IS RESPONSIBLE ~~TO ADMINISTER AND ENFORCE FOR~~
28 ADMINISTERING AND ENFORCING THIS TITLE.

29 (B) IN ADDITION TO ANY OTHER ~~POWER OR DUTY~~ POWERS OR DUTIES
30 PROVIDED FOR ELSEWHERE IN THIS TITLE, THE BOARD MAY:

1 (1) (I) ESTABLISH GUIDELINES FOR CREATING NEW BARGAINING
2 UNITS THAT INCLUDE A CONSIDERATION OF:

- 3 1. THE EFFECT OF OVERFRAGMENTATION ON THE
4 EMPLOYER;
- 5 2. THE ADMINISTRATIVE STRUCTURES OF THE STATE
6 EMPLOYER;
- 7 3. THE ~~RECOMMENDATION~~ RECOMMENDATIONS OF THE
8 PARTIES;
- 9 4. THE RECOMMENDATIONS OF THE SECRETARY ~~AND THE~~
10 ~~STATE INSTITUTIONS OF HIGHER EDUCATION OR THEIR DESIGNEES~~;
- 11 5. THE DESIRES OF THE EMPLOYEES INVOLVED;
- 12 6. THE COMMUNITIES OF INTEREST OF THE EMPLOYEES
13 INVOLVED; AND
- 14 7. THE WAGES, HOURS, AND OTHER WORKING CONDITIONS
15 OF THE EMPLOYEES;

16 (II) ESTABLISH STANDARDS FOR DETERMINING AN APPROPRIATE
17 BARGAINING UNIT; AND

18 (III) INVESTIGATE AND RESOLVE DISPUTES ABOUT APPROPRIATE
19 BARGAINING UNITS;

20 (2) ESTABLISH PROCEDURES FOR, SUPERVISE THE CONDUCT OF, AND
21 RESOLVE DISPUTES ABOUT ELECTIONS FOR EXCLUSIVE REPRESENTATIVES; AND

22 (3) INVESTIGATE AND TAKE APPROPRIATE ACTION IN RESPONSE TO:

23 ~~(A)~~ COMPLAINTS OF UNFAIR LABOR PRACTICES AND LOCKOUTS;
24 ~~AND~~

25 ~~(B)~~ ~~IMPASSES IN COLLECTIVE BARGAINING.~~

26 3-207.

27 THE SECRETARY MAY ADOPT AND ENFORCE REGULATIONS, GUIDELINES, AND
28 POLICIES TO CARRY OUT THIS TITLE ~~THAT~~ WHICH:

29 (1) DEFINE UNFAIR LABOR PRACTICES; AND

30 (2) ESTABLISH PERMISSIBLE LABOR-RELATED ACTIVITIES ON THE
31 WORK SITE.

1 3-208.

2 (A) THE BOARD MAY INVESTIGATE:

3 (1) A POSSIBLE VIOLATION OF THIS TITLE OR ANY REGULATION
4 ADOPTED UNDER IT; AND

5 (2) ANY OTHER RELEVANT MATTER.

6 (B) THE BOARD MAY HOLD A HEARING IN ACCORDANCE WITH TITLE 10,
7 SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE WHENEVER NECESSARY FOR A
8 FAIR DETERMINATION OF ANY ISSUE OR COMPLAINT ARISING UNDER THIS TITLE OR
9 A REGULATION ADOPTED UNDER IT.

10 3-209.

11 ~~(A) FOR PURPOSES OF ANY HEARING OR INVESTIGATION CONDUCTED BY THE~~
12 ~~BOARD OR OF ANY FACT FINDING PROCEEDING CONDUCTED UNDER THIS TITLE:~~

13 ~~(1) A MEMBER OF THE BOARD OR OF THE FACT FINDING PANEL MAY~~
14 ~~ADMINISTER OATHS AND TAKE TESTIMONY AND OTHER EVIDENCE; AND~~

15 ~~(2) A MEMBER OF THE BOARD MAY ISSUE SUBPOENAS FOR THE BOARD,~~
16 ~~FOR A NEUTRAL MEMBER OF A FACT FINDING PANEL, OR FOR ANY PARTY TO BOARD~~
17 ~~PROCEEDINGS OR FACT FINDING PROCEEDINGS, TO COMPEL THE ATTENDANCE AND~~
18 ~~TESTIMONY OF WITNESSES OR TO COMPEL THE PRODUCTION FOR EXAMINATION OF~~
19 ~~ANY DOCUMENTS.~~

20 ~~(B) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA OR REFUSES TO BE~~
21 ~~SWORN OR TO TESTIFY THEN, ON COMPLAINT OF A MEMBER OF THE BOARD, THE~~
22 ~~CIRCUIT COURT MAY ORDER THE PERSON TO COMPLY WITH THE SUBPOENA, TO BE~~
23 ~~SWORN, OR TO TESTIFY.~~

24 ~~3-210.~~

25 NAMES OR LISTS OF EMPLOYEES PROVIDED TO THE BOARD IN CONNECTION
26 WITH AN ELECTION UNDER THIS TITLE ARE NOT SUBJECT TO DISCLOSURE IN
27 ACCORDANCE WITH TITLE 10, SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE.

28 ~~3-211.~~ 3-210.

29 (A) IF A PERSON FAILS TO COMPLY WITH AN ORDER ISSUED BY THE BOARD, A
30 MEMBER OF THE BOARD MAY PETITION THE CIRCUIT COURT TO ORDER THE PERSON
31 TO COMPLY WITH THE BOARD'S ORDER.

32 (B) THE BOARD SHALL NOT BE REQUIRED TO POST BOND IN AN ACTION
33 UNDER SUBSECTION (A) OF THIS SECTION.

1 SUBTITLE 3. RIGHTS OF EMPLOYEES AND EMPLOYERS; STRIKES, LOCKOUTS, AND
2 UNFAIR LABOR PRACTICES PROHIBITED.

3 3-301.

4 (A) EMPLOYEES SUBJECT TO THIS TITLE HAVE THE RIGHT TO:

5 (1) TAKE PART OR REFRAIN FROM TAKING PART IN FORMING, JOINING,
6 SUPPORTING, OR PARTICIPATING IN ANY EMPLOYEE ORGANIZATION OR ITS LAWFUL
7 ACTIVITIES;

8 (2) BE FAIRLY REPRESENTED BY THEIR EXCLUSIVE REPRESENTATIVE,
9 IF ANY, IN COLLECTIVE BARGAINING; AND

10 (3) EXCEPT AS PROVIDED IN §§ 3-303 AND 3-305 OF THIS SUBTITLE,
11 ENGAGE IN OTHER CONCERTED ACTIVITIES FOR THE PURPOSE OF COLLECTIVE
12 BARGAINING.

13 (B) ~~(1)~~ AN EMPLOYEE WHO IS A MEMBER OF A BARGAINING UNIT WITH AN
14 EXCLUSIVE REPRESENTATIVE MAY, WITHOUT THE INTERVENTION OF AN EMPLOYEE
15 ORGANIZATION, DISCUSS ANY MATTER WITH THE EMPLOYER ~~AND PRESENT A~~
16 ~~GRIEVANCE AND HAVE THE GRIEVANCE RESOLVED.~~

17 ~~(2) WHEN A GRIEVANCE IS RESOLVED UNDER PARAGRAPH (1) OF THIS~~
18 ~~SUBSECTION:~~

19 ~~(I) THE RESOLUTION MAY NOT BE INCONSISTENT WITH THE~~
20 ~~TERMS OF THE COLLECTIVE BARGAINING AGREEMENT THEN IN EFFECT BETWEEN~~
21 ~~THE EMPLOYER AND THE EXCLUSIVE AGENT; AND~~

22 ~~(II) THE EXCLUSIVE REPRESENTATIVE SHALL BE NOTIFIED~~
23 ~~PROMPTLY OF THE RESOLUTION.~~

24 3-302.

25 ~~(A)~~ THE STATE, THROUGH ITS APPROPRIATE OFFICERS AND EMPLOYEES, HAS
26 THE RIGHT TO:

27 (1) (I) DETERMINE THE MISSION, BUDGET, ORGANIZATION,
28 NUMBERS, TYPES AND GRADES OF EMPLOYEES ASSIGNED, THE WORK PROJECTS,
29 TOURS OF DUTY, METHODS, MEANS, AND PERSONNEL BY WHICH ITS OPERATIONS
30 ARE TO BE CONDUCTED, TECHNOLOGY NEEDED, INTERNAL SECURITY PRACTICES,
31 AND RELOCATION OF ITS FACILITIES; AND

32 (II) MAINTAIN AND IMPROVE THE EFFICIENCY AND
33 EFFECTIVENESS OF GOVERNMENTAL OPERATIONS;

34 (2) DETERMINE THE:

35 (I) SERVICES TO BE RENDERED, OPERATIONS TO BE PERFORMED,
36 AND TECHNOLOGY TO BE UTILIZED; AND

1 (II) OVERALL METHODS, PROCESSES, MEANS, AND CLASSES OF
2 WORK OR PERSONNEL BY WHICH GOVERNMENTAL OPERATIONS ARE TO BE
3 CONDUCTED;

4 (3) HIRE, DIRECT, SUPERVISE, AND ASSIGN EMPLOYEES;

5 (4) (I) PROMOTE, DEMOTE, DISCIPLINE, DISCHARGE, RETAIN, AND
6 LAY OFF EMPLOYEES; AND

7 (II) TERMINATE EMPLOYMENT BECAUSE OF LACK OF FUNDS, LACK
8 OF WORK, UNDER CONDITIONS WHERE THE EMPLOYER DETERMINES CONTINUED
9 WORK WOULD BE INEFFICIENT OR NONPRODUCTIVE, OR FOR OTHER LEGITIMATE
10 REASONS;

11 (5) SET THE QUALIFICATIONS OF EMPLOYEES FOR APPOINTMENT; AND
12 PROMOTION, AND ~~TO~~ SET STANDARDS OF CONDUCT;

13 (6) PROMULGATE STATE OR DEPARTMENT RULES, REGULATIONS, OR
14 PROCEDURES;

15 (7) PROVIDE A SYSTEM OF MERIT EMPLOYMENT ACCORDING TO THE
16 STANDARD OF BUSINESS EFFICIENCY; AND

17 (8) TAKE ACTIONS, NOT OTHERWISE SPECIFIED IN THIS SECTION TO
18 CARRY OUT THE MISSION OF THE EMPLOYER.

19 ~~(B) UNLESS THE STATE AGREES TO MODIFY THROUGH A COLLECTIVE~~
20 ~~BARGAINING AGREEMENT, THE STATE THROUGH ITS APPROPRIATE OFFICERS AND~~
21 ~~EMPLOYEES, HAS THE RIGHT TO:~~

22 ~~(1) SCHEDULE, TRANSFER, AND EVALUATE EMPLOYEES; AND~~

23 ~~(2) SET THE QUALIFICATIONS OF EMPLOYEES FOR STEP INCREASES,~~
24 ~~AND TO SET STANDARDS OF PERFORMANCE AND APPEARANCE.~~

25 3-303.

26 (A) (1) IN THIS SECTION, "STRIKE" MEANS ANY CONCERTED ACTION TO
27 IMPEDE THE FULL AND PROPER PERFORMANCE OF EMPLOYMENT DUTIES IN ORDER
28 TO INDUCE, INFLUENCE, COERCE, OR ENFORCE DEMANDS FOR A CHANGE IN WAGES,
29 HOURS, TERMS, OR OTHER CONDITIONS OF EMPLOYMENT.

30 (2) ~~EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,~~
31 "STRIKE" INCLUDES A TOTAL OR PARTIAL:

32 (I) REFUSAL OR FAILURE TO REPORT TO WORK;

33 (II) REFUSAL OR FAILURE TO PERFORM EMPLOYMENT DUTIES;

34 (III) WITHDRAWAL FROM WORK;

1 (IV) WORK STOPPAGE; OR

2 (V) WORK SLOWDOWN.

3 ~~(3) "STRIKE" DOES NOT INCLUDE A WORK STOPPAGE BY EMPLOYEES IN~~
4 ~~GOOD FAITH BECAUSE OF ABNORMAL WORKING CONDITIONS AT THE WORK SITE~~
5 ~~THAT ARE DANGEROUS AND UNHEALTHFUL.~~

6 (B) STATE EMPLOYEES ARE PROHIBITED FROM ENGAGING IN ANY STRIKE.

7 (C) AN APPOINTING AUTHORITY MAY TAKE DISCIPLINARY ACTION,
8 INCLUDING TERMINATION OF EMPLOYMENT, AGAINST AN EMPLOYEE WHO
9 PARTICIPATES IN A STRIKE.

10 (D) THE BOARD SHALL REVOKE THE CERTIFICATION OF AN EXCLUSIVE
11 REPRESENTATIVE WHO ENGAGES IN ANY STRIKE ACTIVITY IN VIOLATION OF THIS
12 SECTION.

13 3-304.

14 (A) IN THIS SECTION, "LOCKOUT" MEANS ACTION TAKEN BY AN EMPLOYER
15 TO:

16 (1) INTERRUPT OR PREVENT THE CONTINUITY OF THE EMPLOYEES'
17 USUAL WORK FOR THE PURPOSE AND WITH THE INTENT OF COERCING THE
18 EMPLOYEES INTO RELINQUISHING RIGHTS GUARANTEED BY THIS TITLE; OR

19 (2) BRING ECONOMIC PRESSURE ON EMPLOYEES FOR THE PURPOSE OF
20 SECURING THE AGREEMENT OF THEIR EXCLUSIVE REPRESENTATIVE TO CERTAIN
21 COLLECTIVE BARGAINING AGREEMENT TERMS.

22 (B) THE STATE IS PROHIBITED FROM ENGAGING IN ANY LOCKOUT.

23 3-305.

24 (A) IN THE EVENT A STRIKE OCCURS OR APPEARS IMMINENT, THE STATE MAY
25 PETITION THE CIRCUIT COURT FOR APPROPRIATE RELIEF, INCLUDING INJUNCTION.

26 (B) IN THE EVENT A LOCKOUT OCCURS OR APPEARS IMMINENT, THE
27 EMPLOYEE ORGANIZATION INVOLVED MAY PETITION THE CIRCUIT COURT FOR
28 APPROPRIATE RELIEF, INCLUDING INJUNCTION.

29 3-306.

30 (A) THE STATE AND ITS OFFICERS, EMPLOYEES, AGENTS, OR
31 REPRESENTATIVES ARE PROHIBITED FROM ENGAGING IN ANY UNFAIR LABOR
32 PRACTICE, AS DEFINED BY THE ~~BOARD~~ SECRETARY.

33 (B) EMPLOYEE ORGANIZATIONS AND THEIR AGENTS OR REPRESENTATIVES
34 ARE PROHIBITED FROM ENGAGING IN ANY UNFAIR LABOR PRACTICE, AS DEFINED
35 BY THE ~~BOARD~~ SECRETARY.

1 ~~(C) STATE EMPLOYEES ARE PROHIBITED FROM ENGAGING IN ANY UNFAIR~~
2 ~~LABOR PRACTICE, AS DEFINED BY THE BOARD.~~

3 SUBTITLE 4. ELECTION AND CERTIFICATION OF EXCLUSIVE REPRESENTATIVE.
4 3-401.

5 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE BOARD SHALL
6 CONDUCT AN ELECTION FOR AN EXCLUSIVE REPRESENTATIVE OF A BARGAINING
7 UNIT IF:

8 (1) A VALID PETITION IS FILED IN ACCORDANCE WITH § 3-402 OF THIS
9 SUBTITLE; AND

10 (2) THE BARGAINING UNIT INVOLVED IN THE PETITION IS DETERMINED
11 TO BE AN APPROPRIATE BARGAINING UNIT UNDER § 3-403 OF THIS SUBTITLE.

12 (B) ~~(+)~~ THE BOARD MAY NOT CONDUCT AN ELECTION FOR AN EXCLUSIVE
13 REPRESENTATIVE ~~IN~~ OF A BARGAINING UNIT IF:

14 ~~(+)~~ THE BOARD HAS CERTIFIED AN EXCLUSIVE REPRESENTATIVE
15 FOR THAT BARGAINING UNIT WITHIN THE PRECEDING 2 YEARS; ~~OR~~

16 ~~(II)~~ THE BARGAINING UNIT HAS IN EFFECT A VALID COLLECTIVE
17 BARGAINING AGREEMENT THAT, BY ITS TERMS, DOES NOT EXCEED 3 YEARS.

18 ~~(2)~~ THE LIMITATION OF PARAGRAPH ~~(1)(II)~~ OF THIS SUBSECTION DOES
19 NOT APPLY IF THE PETITION FOR ELECTION IS FILED NOT MORE THAN 90 DAYS
20 BEFORE THE EXISTING COLLECTIVE BARGAINING AGREEMENT EXPIRES.

21 3-402.

22 (A) A PETITION FOR THE ELECTION OF AN EXCLUSIVE REPRESENTATIVE OF A
23 BARGAINING UNIT MAY BE FILED WITH THE BOARD BY:

24 (1) AN EMPLOYEE ORGANIZATION SEEKING CERTIFICATION AS
25 EXCLUSIVE REPRESENTATIVE; OR

26 (2) AN EMPLOYEE, A GROUP OF EMPLOYEES, OR AN EMPLOYEE
27 ORGANIZATION SEEKING A NEW ELECTION TO DETERMINE AN EXCLUSIVE
28 REPRESENTATIVE.

29 (B) A PETITION SHALL:

30 (1) CONTAIN THE INFORMATION THE BOARD REQUIRES; AND

31 (2) ~~MUST~~ BE ACCOMPANIED BY A SHOWING OF INTEREST SUPPORTED
32 BY 30% OF THE EMPLOYEES IN THE APPROPRIATE UNIT INDICATING THEIR DESIRE
33 TO BE EXCLUSIVELY REPRESENTED BY THE PETITIONER FOR THE PURPOSE OF
34 COLLECTIVE BARGAINING.

1 3-403.

2 (A) (1) THE BOARD SHALL DETERMINE THE APPROPRIATENESS OF EACH
3 BARGAINING UNIT.

4 (2) IF THERE IS NO DISPUTE ABOUT THE APPROPRIATENESS OF THE
5 ESTABLISHMENT OF THE BARGAINING UNIT SOUGHT, THE BOARD SHALL ISSUE AN
6 ORDER DEFINING AN APPROPRIATE BARGAINING UNIT.

7 (3) IF THERE IS A DISPUTE ABOUT THE APPROPRIATENESS OF THE
8 ESTABLISHMENT OF THE BARGAINING UNIT SOUGHT, THE BOARD SHALL:

9 (I) CONDUCT A HEARING; AND

10 (II) ISSUE AN ORDER DEFINING AN APPROPRIATE BARGAINING
11 UNIT.

12 (B) IF THE APPROPRIATE BARGAINING UNIT AS DETERMINED BY THE BOARD
13 DIFFERS FROM THE BARGAINING UNIT DESCRIBED IN THE PETITION, THE BOARD
14 MAY:

15 (1) DISMISS THE PETITION; OR

16 (2) DIRECT AN ELECTION IN THE APPROPRIATE BARGAINING UNIT IF
17 THE SIGNATURES INCLUDED IN THE PETITION INCLUDE THOSE OF AT LEAST 30% OF
18 THE EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT.

19 (C) A BARGAINING UNIT SHALL CONSIST ONLY OF EMPLOYEES DEFINED IN
20 REGULATIONS ADOPTED BY THE SECRETARY AND NOT SPECIFICALLY EXCLUDED BY
21 § 3-102(B) OF THIS TITLE.

22 (D) THE SECRETARY OR THE SECRETARY'S DESIGNEE SHALL HAVE THE
23 AUTHORITY TO ASSIGN CLASSIFICATION TITLES AND POSITIONS TO BARGAINING
24 UNITS AS APPROPRIATE.

25 3-404.

26 ~~(A)~~ EACH EMPLOYEE ORGANIZATION THAT SEEKS CERTIFICATION AS AN
27 EXCLUSIVE REPRESENTATIVE SHALL FILE WITH THE BOARD:

28 (1) A COPY OF THE EMPLOYEE ORGANIZATION'S GOVERNING
29 DOCUMENTS, WHICH:

30 (I) GIVE INDIVIDUAL MEMBERS THE RIGHT TO PARTICIPATE IN
31 ACTIVITIES OF THE ORGANIZATION;

32 ~~(II) PROVIDE FAIR AND EQUITABLE PROCEDURES IN DISCIPLINARY~~
33 ~~ACTIONS;~~

1 ~~(III)~~ (II) REQUIRE PERIODIC ELECTIONS BY SECRET BALLOT THAT
2 ARE CONDUCTED WITH RECOGNIZED SAFEGUARDS TO ENSURE THE EQUAL RIGHTS
3 OF ALL MEMBERS TO NOMINATE, SEEK OFFICE, AND VOTE IN THE ELECTIONS;

4 ~~(IV)~~ (III) DIRECT FULL AND ACCURATE ACCOUNTING OF ALL
5 INCOME AND EXPENSES USING STANDARD ACCOUNTING METHODS; AND

6 ~~(V)~~ (IV) REQUIRE AN ANNUAL REPORT THAT IS MADE AVAILABLE
7 TO ALL MEMBERS OF THE APPROPRIATE BARGAINING UNIT; AND

8 (2) A CERTIFICATION THAT THE ORGANIZATION:

9 (I) ACCEPTS MEMBERS WITHOUT REGARD TO ANY FACTOR IN §
10 2-302(B) OF THIS ARTICLE; AND

11 (II) WILL DENY MEMBERSHIP ONLY TO AN EMPLOYEE FOR A
12 REASON THAT IS ACCEPTABLE TO THE BOARD.

13 3-405.

14 (A) WITHIN 5 DAYS OF DETERMINATION THAT A VALID PETITION HAS BEEN
15 SUBMITTED, THE BOARD SHALL NOTIFY INTERESTED EMPLOYEE ORGANIZATIONS
16 OF THE PENDING ELECTION PETITION.

17 (B) AN ELECTION SHALL BE HELD IN ANY UNIT WITHIN 90 DAYS AFTER THE
18 FILING OF A VALID PETITION FOR ELECTION IN SUCH UNIT IN ACCORDANCE WITH
19 GUIDELINES ESTABLISHED BY THE BOARD.

20 (C) (1) ALL ELECTIONS SHALL BE CONDUCTED BY SECRET BALLOT.

21 (2) THE BOARD SHALL PLACE THE FOLLOWING CHOICES ON THE
22 BALLOT:

23 (I) THE NAME OF THE EXCLUSIVE REPRESENTATIVE, IF ANY;

24 (II) THE NAME OF THE EMPLOYEE ORGANIZATION DESIGNATED IN
25 THE PETITION FILED UNDER § 3-402 OF THIS SUBTITLE WITH RESPECT TO AN
26 APPROPRIATE BARGAINING UNIT;

27 (III) THE NAME OF EACH EMPLOYEE ORGANIZATION DESIGNATED
28 IN A PETITION FILED WITH THE BOARD, WITHIN 15 DAYS OF NOTICE OF THE
29 PENDING ELECTION PETITION, THAT INCLUDES THE SIGNATURES OF AT LEAST 10%
30 OF THE EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT; AND

31 (IV) A PROVISION FOR "NO EXCLUSIVE REPRESENTATIVE".

32 (D) IF NONE OF THE CHOICES ON A BALLOT RECEIVES A MAJORITY OF THE
33 VOTES CAST IN AN ELECTION, THE BOARD SHALL CONDUCT A RUNOFF ELECTION
34 BETWEEN THE CHOICES THAT RECEIVED THE TWO HIGHEST NUMBER OF VOTES IN
35 THE ELECTION.

1 3-406.

2 (A) THE BOARD SHALL CERTIFY AS EXCLUSIVE REPRESENTATIVE THE
3 EMPLOYEE ORGANIZATION RECEIVING THE VOTES IN AN ELECTION FROM A
4 MAJORITY OF THE EMPLOYEES VOTING IN THE ELECTION.

5 (B) WITHOUT CONDUCTING AN ELECTION, THE BOARD SHALL CERTIFY AS
6 EXCLUSIVE REPRESENTATIVE THE EMPLOYEE ORGANIZATION DESIGNATED IN THE
7 PETITION FILED UNDER § 3-402 OF THIS SUBTITLE, IF:

8 (1) THAT ORGANIZATION IS THE ONLY EMPLOYEE ORGANIZATION THAT
9 WOULD BE NAMED ON A BALLOT IN AN ELECTION; AND

10 (2) THE ORGANIZATION FILES WITH THE BOARD A CERTIFICATION THAT
11 A MAJORITY OF THE EMPLOYEES IN THE BARGAINING UNIT WANT TO BE
12 REPRESENTED BY THAT ORGANIZATION.

13 (C) AFTER NOTICE AND AN OPPORTUNITY FOR A HEARING, THE BOARD MAY
14 DENY OR REVOKE CERTIFICATION AS EXCLUSIVE REPRESENTATIVE OF AN
15 EMPLOYEE ORGANIZATION FOR WILLFUL FAILURE TO COMPLY WITH:

16 (1) THIS TITLE; OR

17 (2) THE GOVERNING DOCUMENTS OF THE ORGANIZATION.

18 3-407.

19 AN EMPLOYEE ORGANIZATION CERTIFIED AS THE EXCLUSIVE
20 REPRESENTATIVE SHALL:

21 (1) SERVE AS THE SOLE AND EXCLUSIVE BARGAINING AGENT FOR ALL
22 EMPLOYEES IN THE BARGAINING UNIT;

23 (2) REPRESENT FAIRLY AND WITHOUT DISCRIMINATION ALL
24 EMPLOYEES IN THE BARGAINING UNIT, WHETHER OR NOT THE EMPLOYEES ARE
25 MEMBERS OF THE EMPLOYEE ORGANIZATION OR ARE PAYING DUES OR OTHER
26 CONTRIBUTIONS TO IT OR PARTICIPATING IN ITS AFFAIRS; AND

27 (3) PROMPTLY FILE WITH THE BOARD ALL CHANGES AND AMENDMENTS
28 TO THE ORGANIZATION'S GOVERNING DOCUMENTS.

29 SUBTITLE 5. COLLECTIVE BARGAINING PROCESS.

30 3-501.

31 ~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS~~
32 ~~INDICATED.~~

1 ~~(B) "IMPASSE" MEANS A FAILURE TO REACH AN AGREEMENT IN THE~~
 2 ~~COLLECTIVE BARGAINING PROCESS AFTER REASONABLE TIME AND EFFORT BY THE~~
 3 ~~PARTIES INVOLVED IN COLLECTIVE BARGAINING.~~

4 ~~(C) "MEDIATION" MEANS AN EFFORT BY AN IMPARTIAL THIRD PARTY TO~~
 5 ~~ASSIST CONFIDENTIALLY IN RESOLVING A DISPUTE ARISING OUT OF COLLECTIVE~~
 6 ~~BARGAINING USING INTERPRETATION, SUGGESTION, AND ADVICE TO RESOLVE THE~~
 7 ~~DISPUTE.~~

8 ~~(D) "FACT FINDING" MEANS AN INVESTIGATION OF AN UNRESOLVED~~
 9 ~~DISPUTE ARISING OUT OF COLLECTIVE BARGAINING, SUBMITTING A REPORT~~
 10 ~~DEFINING THE UNRESOLVED ISSUES, REPORTING AND ANALYZING THE FACTS~~
 11 ~~RELATING TO THOSE ISSUES, AND MAKING RECOMMENDATIONS TO RESOLVE THE~~
 12 ~~DISPUTE.~~

13 ~~3-502.~~

14 (A) (1) THE GOVERNOR SHALL DESIGNATE ONE OR MORE
 15 REPRESENTATIVES TO PARTICIPATE AS A PARTY IN COLLECTIVE BARGAINING ON
 16 BEHALF OF THE STATE.

17 (2) THE EXCLUSIVE REPRESENTATIVE SHALL DESIGNATE ONE OR MORE
 18 REPRESENTATIVES TO PARTICIPATE AS A PARTY IN COLLECTIVE BARGAINING ON
 19 BEHALF OF THE EXCLUSIVE REPRESENTATIVE.

20 (B) THE PARTIES SHALL MEET AT REASONABLE TIMES AND ENGAGE IN
 21 COLLECTIVE BARGAINING IN GOOD FAITH.

22 (C) THE PARTIES SHALL MAKE EVERY REASONABLE EFFORT TO CONCLUDE
 23 NEGOTIATIONS IN A TIMELY MANNER FOR INCLUSION BY THE PRINCIPAL UNIT IN
 24 ITS BUDGET REQUEST TO THE GOVERNOR.

25 (D) (1) THE PARTIES, THE GOVERNOR'S DESIGNEE, AND THE EXCLUSIVE
 26 REPRESENTATIVE SHALL EXECUTE A ~~WRITTEN AGREEMENT~~ MEMORANDUM OF
 27 UNDERSTANDING INCORPORATING ALL MATTERS OF AGREEMENT REACHED.

28 (2) TO THE EXTENT THESE MATTERS REQUIRE LEGISLATIVE APPROVAL
 29 OR THE APPROPRIATION OF FUNDS, THE MATTERS SHALL BE RECOMMENDED TO
 30 THE GENERAL ASSEMBLY FOR APPROVAL OR FOR THE APPROPRIATION OF FUNDS.

31 (E) NEGOTIATIONS OR MATTERS RELATING TO NEGOTIATIONS SHALL BE
 32 CONSIDERED CLOSED SESSIONS UNDER § 10-508 OF THE STATE GOVERNMENT
 33 ARTICLE.

34 ~~3-503.~~ 3-502.

35 (A) COLLECTIVE BARGAINING SHALL INCLUDE ALL MATTERS RELATING TO:

36 (4) WAGES, HOURS, AND OTHER TERMS AND CONDITIONS OF
 37 EMPLOYMENT; ~~AND.~~

1 ~~(2) THE RIGHT OF THE EMPLOYEE ORGANIZATION TO RECEIVE~~
2 ~~MEMBERSHIP DUES AND SERVICE FEES THROUGH PAYROLL DEDUCTION.~~

3 ~~(B) COLLECTIVE BARGAINING MAY NOT INCLUDE NEGOTIATIONS RELATING~~
4 ~~TO THE RIGHT OF AN EMPLOYEE ORGANIZATION TO RECEIVE SERVICE FEES FROM~~
5 ~~NONMEMBERS.~~

6 ~~(C) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, THE GOVERNOR~~
7 ~~OR THE GOVERNOR'S DESIGNEE:~~

8 ~~(1) SHALL NOT BE REQUIRED TO NEGOTIATE OVER ANY MATTER THAT~~
9 ~~IS INCONSISTENT WITH APPLICABLE LAW; AND~~

10 ~~(2) MAY NEGOTIATE AND REACH AGREEMENT WITH REGARD TO ANY~~
11 ~~SUCH MATTER ONLY IF IT IS UNDERSTOOD THAT THE AGREEMENT WITH RESPECT~~
12 ~~TO SUCH MATTER CANNOT BECOME EFFECTIVE UNLESS THE APPLICABLE LAW IS~~
13 ~~AMENDED BY THE GENERAL ASSEMBLY.~~

14 ~~3-504.~~

15 ~~(A) EITHER PARTY INVOLVED IN COLLECTIVE BARGAINING MAY DECLARE AN~~
16 ~~IMPASSE AND SUBMIT A REQUEST FOR MEDIATION TO THE BOARD.~~

17 ~~(B) (1) IF THE BOARD DETERMINES THAT AN IMPASSE EXISTS, THE BOARD~~
18 ~~SHALL GIVE THE PARTIES A NOTICE THAT:~~

19 ~~(I) ADVISES THE PARTIES THAT MEDIATION WILL BE INSTITUTED;~~
20 ~~AND~~

21 ~~(II) REQUESTS THE PARTIES TO MUTUALLY ENGAGE A MEDIATOR~~
22 ~~WITHIN 5 DAYS AFTER RECEIVING THE NOTICE.~~

23 ~~(2) IF, WITHIN 5 DAYS AFTER RECEIVING THE NOTICE, THE PARTIES~~
24 ~~FAIL TO ENGAGE A MEDIATOR, THE BOARD MAY APPOINT A MEDIATOR.~~

25 ~~(C) THE COSTS OF MEDIATION SHALL BE SHARED EQUALLY BY THE PARTIES.~~
26 ~~3-505.~~

27 ~~(A) IF, AFTER A REASONABLE PERIOD OF MEDIATION, NO AGREEMENT HAS~~
28 ~~BEEN REACHED OR THE PARTIES ARE AT AN IMPASSE, EITHER PARTY OR BOTH~~
29 ~~PARTIES MAY PETITION THE BOARD TO INITIATE FACT FINDING.~~

30 ~~(B) (1) ON RECEIPT OF A PETITION FROM THE PARTIES OR ON ITS OWN~~
31 ~~MOTION, THE BOARD MAY:~~

32 ~~(I) FIND THAT AN IMPASSE EXISTS;~~

33 ~~(II) DEFINE THE AREA OR AREAS OF DISPUTE;~~

34 ~~(III) ORDER THAT FACT FINDING BEGIN; AND~~

1 (IV) NOTIFY THE PARTIES THAT, WITHIN 5 DAYS AFTER RECEIVING
2 THE ORDER, THE PARTIES SHALL SELECT THE FOLLOWING THREE FACT FINDERS
3 FROM THE LIST OF CERTIFIED FACT FINDERS PROVIDED BY THE BOARD:

4 1. EACH PARTY SHALL SELECT ONE FACT FINDER; AND
5 2. THE PARTIES JOINTLY SHALL SELECT THE THIRD FACT
6 FINDER.

7 (2) IF, WITHIN 5 DAYS AFTER RECEIVING THE ORDER, THE PARTIES FAIL
8 TO AGREE ON A FACT FINDER AS DIRECTED, THE BOARD SHALL DESIGNATE THE
9 FACT FINDER FROM THE LIST.

10 (3) THE FACT FINDER WHO IS JOINTLY SELECTED BY THE PARTIES OR
11 DESIGNATED BY THE BOARD SHALL BE CHAIRMAN OF THE PANEL.

12 (C) (1) AT A HEARING, EACH PARTY SHALL SUBMIT TO THE PANEL A
13 POSITION ON EACH ISSUE IN DISPUTE.

14 (2) (I) AFTER CONDUCTING HEARINGS, THE FACT FINDING PANEL
15 SHALL MAKE WRITTEN FINDINGS OF FACT AND RECOMMENDATIONS FOR
16 RESOLUTION OF THE IMPASSE.

17 (II) AS TO EACH ISSUE, THE PANEL MAY RECOMMEND ONLY THE
18 LAST POSITION ADVOCATED BY EITHER ONE OF THE PARTIES AND MAY NOT
19 RECOMMEND ANY OTHER POSITION AS A COMPROMISE.

20 (3) NOT LATER THAN 30 DAYS AFTER THE PANEL IS APPOINTED, THE
21 PANEL SHALL SEND FINDINGS TO THE PARTIES AND SEND A COPY TO THE BOARD.

22 (4) THE FACT FINDING PANEL SHALL BASE ITS FINDINGS AND
23 RECOMMENDATIONS ON THE FOLLOWING FACTORS:

24 (I) PAST COLLECTIVE BARGAINING CONTRACTS BETWEEN THE
25 PARTIES INCLUDING THE BARGAINING HISTORY THAT LED TO THOSE CONTRACTS;

26 (II) STIPULATIONS OF THE PARTIES;

27 (III) THE INTERESTS AND WELFARE OF THE PUBLIC;

28 (IV) THE FINANCIAL ABILITY OF THE STATE OR A UNIT OF STATE
29 GOVERNMENT TO FINANCE ECONOMIC ADJUSTMENTS AND THE EFFECT OF THOSE
30 ADJUSTMENTS ON THE NORMAL STANDARD OF PUBLIC SERVICES PROVIDED BY THE
31 STATE;

32 (V) THE OVERALL COMPENSATION PRESENTLY RECEIVED BY
33 EMPLOYEES IN THE BARGAINING UNIT, INCLUDING DIRECT WAGES, PAID LEAVE AND
34 HOLIDAYS, HEALTH AND WELFARE BENEFITS, PENSIONS, THE CONTINUITY AND
35 STABILITY OF EMPLOYMENT, AND ALL OTHER BENEFITS RECEIVED;

1 (VI) COMPARISONS OF WAGES, HOURS, AND CONDITIONS OF
2 EMPLOYMENT RECEIVED BY:

- 3 1. EMPLOYEES IN THE BARGAINING UNIT;
- 4 2. EMPLOYEES PERFORMING SIMILAR DUTIES; AND
- 5 3. EMPLOYEES GENERALLY IN PUBLIC OR PRIVATE
6 EMPLOYMENT IN COMPARABLE COMMUNITIES;

7 (VII) THE AVERAGE CONSUMER PRICES FOR GOODS AND SERVICES,
8 COMMONLY KNOWN AS THE COST OF LIVING, AND OTHER FACTORS THAT
9 GENERALLY OR TRADITIONALLY ARE TAKEN INTO CONSIDERATION IN THE
10 DETERMINATION OF WAGES, HOURS, AND CONDITIONS OF EMPLOYMENT THROUGH
11 VOLUNTARY COLLECTIVE BARGAINING, MEDIATION, FACT FINDING, OR OTHERWISE
12 BETWEEN PARTIES IN PUBLIC OR PRIVATE EMPLOYMENT; AND

13 (VIII) ANY CHANGES IN ITEMS (I) THROUGH (VII) OF THIS PARAGRAPH
14 DURING THE PENDENCY OF THE PROCEEDINGS.

15 (5) (I) THE PRESIDENT OF THE SENATE MAY DESIGNATE A
16 REPRESENTATIVE TO ATTEND FACT FINDING PROCEEDINGS AND TO PRESENT
17 TESTIMONY ON ISSUES OF INTEREST.

18 (II) THE SPEAKER OF THE HOUSE OF DELEGATES MAY DESIGNATE
19 A REPRESENTATIVE TO ATTEND FACT FINDING PROCEEDINGS AND TO PRESENT
20 TESTIMONY ON ISSUES OF INTEREST.

21 (D) PAYMENT OF THE COSTS OF FACT FINDING SHALL BE DETERMINED BY
22 THE BOARD.

23 (E) THE BOARD SHALL ISSUE AN ORDER DIRECTING THE PARTIES TO COMPLY
24 WITH EACH RECOMMENDATION OF THE PANEL THAT IS SUPPORTED BY COMPETENT
25 AND MATERIAL EVIDENCE ON THE WHOLE RECORD.

26 (F) THE ORDER CAN BE OVERTURNED BY THE GOVERNOR OR THE
27 GOVERNOR'S DESIGNEE.

28 SUBTITLE 6. COLLECTIVE BARGAINING AGREEMENT MEMORANDUM OF
29 UNDERSTANDING.

30 3-601.

31 (A) (1) A COLLECTIVE BARGAINING AGREEMENT MEMORANDUM OF
32 UNDERSTANDING SHALL CONTAIN ALL MATTERS OF AGREEMENT REACHED IN THE
33 COLLECTIVE BARGAINING PROCESS.

34 (2) THE AGREEMENT MEMORANDUM SHALL BE IN WRITING AND
35 SIGNED BY THE DESIGNATED REPRESENTATIVES OF THE GOVERNOR AND THE

1 EXCLUSIVE REPRESENTATIVE INVOLVED IN THE COLLECTIVE BARGAINING
2 NEGOTIATIONS.

3 (B) (1) ~~A COLLECTIVE BARGAINING AGREEMENT THAT CONTAINS A
4 PROVISION FOR AUTOMATIC RENEWAL OR EXTENSION IS VOID IN ITS ENTIRETY
5 UNLESS THE RENEWAL OR EXTENSION REQUIRES THE CONSENT OF BOTH PARTIES.~~

6 (2) ~~UNLESS RENEWED OR EXTENDED AS PROVIDED IN PARAGRAPH (1)
7 OF THIS SUBSECTION, NO COLLECTIVE BARGAINING AGREEMENT MEMORANDUM OF
8 UNDERSTANDING IS VALID IF IT EXTENDS FOR LESS THAN 1 YEAR OR FOR MORE
9 THAN 3 YEARS.~~

10 (C) ~~A COLLECTIVE BARGAINING AGREEMENT MEMORANDUM OF
11 UNDERSTANDING IS NOT EFFECTIVE UNTIL IT IS RATIFIED BY THE GOVERNOR AND A
12 MAJORITY OF THE VOTES CAST BY THE EMPLOYEES IN THE BARGAINING UNIT.~~

13 ~~SUBTITLE 7. SERVICE FEES.~~

14 ~~3-701.~~

15 (A) ~~NOTWITHSTANDING THE PROVISIONS OF § 3-301 OF THIS TITLE, A
16 COLLECTIVE BARGAINING AGREEMENT BETWEEN THE STATE AND AN EMPLOYEE
17 ORGANIZATION THAT IS THE EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT
18 MAY REQUIRE, AS A CONDITION OF EMPLOYMENT, THE PAYMENT OF A SERVICE FEE
19 BY NONMEMBERS IN LIEU OF, AND IN AN AMOUNT NOT GREATER THAN, THE DUES
20 WHICH ARE PAYABLE BY MEMBERS OF THE EMPLOYEE ORGANIZATION WHICH ARE
21 GERMANE TO ITS FUNCTIONS AS EXCLUSIVE BARGAINING REPRESENTATIVE.~~

22 (B) ~~THE EXCLUSIVE REPRESENTATIVE SHALL, AS A CONDITION OF
23 RECEIVING SERVICE FEES AUTHORIZED UNDER THIS SECTION, ESTABLISH
24 PROCEDURES THAT PROVIDE THE FOLLOWING RIGHTS TO NONMEMBERS:~~

25 (1) ~~A NOTICE IN WRITING OF THE FEE WHICH WILL BE PAYABLE,
26 INCLUDING:~~

27 (I) ~~THE AMOUNT OF THE FEE, EXPRESSED IN MONETARY TERMS
28 OR AS A PERCENTAGE OF THE DUES PAYABLE BY MEMBERS;~~

29 (II) ~~THE BASIS UPON WHICH THE EXCLUSIVE REPRESENTATIVE
30 HAS DETERMINED THE FEE; AND~~

31 (III) ~~NOTICE OF THE PROCEDURES TO BE FOLLOWED IF A
32 NONMEMBER WISHES TO CHALLENGE THE DETERMINATION OF THE FEE;~~

33 (2) ~~AN OPPORTUNITY TO CHALLENGE THE DETERMINATION OF THE FEE
34 AND RECEIVE A PROMPT DECISION FROM AN IMPARTIAL ARBITRATOR; AND~~

35 (3) ~~THE ESCROWING OF ANY PORTION OF THE SERVICE FEE PAID BY A
36 CHALLENGING EMPLOYEE WHICH IS REASONABLY IN DISPUTE PENDING THE
37 ARBITRATOR'S DECISION.~~

1 ~~(C) A COLLECTIVE BARGAINING AGREEMENT MAY REQUIRE THE PAYMENT OF~~
2 ~~A SERVICE FEE AUTHORIZED UNDER THIS SECTION TO COMMENCE 30 DAYS AFTER:~~

3 ~~(1) THE BEGINNING OF EMPLOYMENT IN THE BARGAINING UNIT; AND~~

4 ~~(2) THE EFFECTIVE DATE OF AN AGREEMENT REQUIRING THE PAYMENT~~
5 ~~OF A SERVICE FEE.~~

6 ~~(D) WHEN PROVIDED IN THE COLLECTIVE BARGAINING AGREEMENT, THE~~
7 ~~BOARD SHALL CERTIFY TO THE COMPTROLLER THAT AN EMPLOYEE ORGANIZATION~~
8 ~~CERTIFIED AS AN EXCLUSIVE REPRESENTATIVE SHALL BE EXCLUSIVELY ENTITLED~~
9 ~~TO RECEIVE PAYMENT OF A SERVICE FEE THROUGH PAYROLL DEDUCTIONS FROM~~
10 ~~EMPLOYEES.~~

11 ~~(E) THE STATE SHALL HAVE NO LIABILITY AND SHALL NOT BE MADE A PARTY~~
12 ~~TO ANY CASE OR DISPUTE INVOLVING THE IMPOSITION OF SERVICE FEES UNDER A~~
13 ~~COLLECTIVE BARGAINING AGREEMENT AUTHORIZED UNDER THIS TITLE.~~

14 ~~11-102.~~

15 ~~This subtitle applies to all employees in the State Personnel Management~~
16 ~~System within the Executive Branch except:~~

17 ~~(1) temporary employees; AND~~

18 ~~(2) EMPLOYEES WHO ARE SUBJECT TO A COLLECTIVE BARGAINING~~
19 ~~AGREEMENT THAT CONTAINS ANOTHER DISCIPLINARY PROCEDURE.~~

20 SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial
21 members of the State Labor Relations Board shall expire as follows:

22 (1) one member in 2000;

23 (2) one member in 2002; and

24 (3) two members in 2004.

25 SECTION 4. AND BE IT FURTHER ENACTED, That the Board shall
26 acknowledge existing bargaining units and exclusive representatives as certified by
27 the State under Executive Order 01.01.1996.13 and shall, with oversight from the
28 Secretary of the Department of Budget and Management ~~and a representative of the~~
29 ~~State Institutions of Higher Education~~, place newly covered employees in such units
30 as appropriate.

31 ~~SECTION 5. AND BE IT FURTHER ENACTED, That in case of any conflict~~
32 ~~between provisions of this Act and any other law, executive order, or administrative~~
33 ~~regulation, the provisions of this Act shall prevail and control.~~

34 SECTION 5. AND BE IT FURTHER ENACTED, That the definitions of
35 "supervisor", "managerial employee", and "confidential employee" under Executive
36 Order 01.01.1996.13 shall remain in effect until new regulations defining supervisory

1 employee, managerial employee, and confidential employee are adopted by the
2 Secretary of Budget and Management, as provided for under Section 2 of this Act.

3 SECTION 6. AND BE IT FURTHER ENACTED, That the Board of Regents of
4 the University System of Maryland shall establish and implement a collective
5 bargaining plan, consistent with the principles and goals of Executive Order
6 01.01.1996.13, for the system's nonfaculty employees. The collective bargaining plan
7 shall be developed and submitted to the Senate Budget and Taxation Committee, the
8 Senate Finance Committee, and the House Appropriations Committee, on or before
9 September 1, 1999. The committees will have 30 days to review and comment on the
10 plan, with the intent that the plan take effect on October 1, 1999. Two years after the
11 implementation of the collective bargaining plan, the Board of Regents shall study the
12 outcomes of the collective bargaining plan. The study shall assess the plan's effect on
13 the relationship between nonfaculty employees and the Board of Regents, and
14 determine the fiscal impact of the plan on the University System of Maryland's
15 operations. The Board of Regents shall report on or before December 1, 2001, subject
16 to § 2-1246 of the State Government Article, to the Senate Budget and Taxation
17 Committee, the Senate Finance Committee, and the House Appropriations
18 Committee on the findings of the study. The Committees shall evaluate the report
19 findings with the intent of possibly codifying the collective bargaining plan may not
20 establish or implement a collective bargaining plan for the system's nonfaculty
21 employees. The prohibition established under this Section supersedes any provision of
22 law relating to the requirement for the establishment and implementation of a
23 collective bargaining plan as set forth in Chapter(s) _____ (S.B. 682/H.B. 1026) of the
24 Acts of the General Assembly of 1999.

25 SECTION 7. AND BE IT FURTHER ENACTED, That the General Assembly
26 reserves the right to change or modify the law with regard to any matter that is the
27 subject of a memorandum of understanding executed in accordance with Section 2 of
28 this Act, regardless of whether the change or modification would become effective
29 during the term of the memorandum of understanding.

30 SECTION 6. ~~7. 8.~~ AND BE IT FURTHER ENACTED, That if any provision of
31 this Act or the application thereof to any person or circumstance is held invalid for
32 any reason in a court of competent jurisdiction, the invalidity does not affect other
33 provisions or any other application of this Act which can be given effect without the
34 invalid provision or application, and for this purpose the provisions of this Act are
35 declared severable.

36 SECTION 7. ~~8. 9.~~ AND BE IT FURTHER ENACTED, That this Act shall take
37 effect July 1, 1999.

