

HOUSE BILL 179

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1999 Regular Session  
9lr0228  
CF 9lr0199

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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**

Introduced and read first time: February 1, 1999  
Assigned to: Appropriations

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Committee Report: Favorable with amendments  
House action: Adopted with floor amendments  
Read second time: March 23, 1999

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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  
12 to petition a circuit court to seek enforcement of an order of the Board;  
13 establishing the respective rights of employees and employers; prohibiting  
14 strikes, lockouts, and unfair labor practices; providing for election and  
15 certification of exclusive representatives of bargaining units; specifying certain  
16 contents of a ~~collective bargaining agreement~~ memorandum of understanding;  
17 ~~authorizing the imposition of certain service fees in a collective bargaining~~  
18 ~~agreement under certain circumstances; excluding certain employees from~~  
19 ~~certain disciplinary actions under certain circumstances~~; requiring the Board to  
20 acknowledge certain bargaining units and exclusive representatives; providing  
21 that provisions of this Act are severable; repealing the requirement to establish  
22 employee/management teams; defining certain terms; providing that certain

1 definitions shall remain in effect until a certain time; requiring the Board of  
 2 Regents of the University System of Maryland to establish and implement a  
 3 certain collective bargaining plan; requiring certain reports; and generally  
 4 relating to collective bargaining for State employees.

5 BY repealing

6 Article - State Personnel and Pensions  
 7 Section 3-101 through 3-107, inclusive, and the title "Title 3.  
 8 Employee/Management Teams"  
 9 Annotated Code of Maryland  
 10 (1997 Replacement Volume and 1998 Supplement)

11 BY adding to

12 Article - State Personnel and Pensions  
 13 Section 3-101 through ~~3-701~~ 3-601, inclusive, to be under the new title "Title 3.  
 14 Collective Bargaining"  
 15 Annotated Code of Maryland  
 16 (1997 Replacement Volume and 1998 Supplement)

17 ~~BY repealing and reenacting, with amendments,~~

18 ~~Article - State Personnel and Pensions~~  
 19 ~~Section 11-102~~  
 20 ~~Annotated Code of Maryland~~  
 21 ~~(1997 Replacement Volume and 1998 Supplement)~~

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 23 MARYLAND, That Section(s) 3-101 through 3-107, inclusive, and the title "Title 3.  
 24 Employee/Management Teams" of Article - State Personnel and Pensions of the  
 25 Annotated Code of Maryland be repealed.

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

28 **Article - State Personnel and Pensions**

29 **TITLE 3. COLLECTIVE BARGAINING.**

30 **SUBTITLE 1. DEFINITIONS AND GENERAL PROVISIONS.**

31 3-101.

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

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

1 (C) "COLLECTIVE BARGAINING" MEANS GOOD FAITH NEGOTIATIONS BY  
 2 AUTHORIZED REPRESENTATIVES OF EMPLOYEES AND THEIR EMPLOYER WITH THE  
 3 INTENTION OF:

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

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

8 ~~(D) "DEPARTMENT" MEANS THE DEPARTMENT OF BUDGET AND~~  
 9 ~~MANAGEMENT.~~

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

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

16 ~~(G) "SECRETARY" MEANS THE SECRETARY OF THE DEPARTMENT OF BUDGET~~  
 17 ~~AND MANAGEMENT.~~

18 3-102.

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

21 (1) THE PRINCIPAL DEPARTMENTS WITHIN THE EXECUTIVE BRANCH OF  
 22 STATE GOVERNMENT;

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

24 ~~(3)~~ (2) THE MARYLAND INSURANCE ADMINISTRATION;

25 ~~(4)~~ (3) THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION;  
 26 AND

27 ~~(5)~~ (4) THE STATE LOTTERY AGENCY.

28 (B) THIS TITLE DOES NOT APPLY TO:

29 (1) EMPLOYEES OF THE MASS TRANSIT ADMINISTRATION, AS THAT  
 30 TERM IS DEFINED IN § 7-601(A)(2) OF THE TRANSPORTATION ARTICLE;

31 (2) AN EMPLOYEE WHO IS ELECTED TO THE POSITION BY POPULAR  
 32 VOTE;

33 (3) AN EMPLOYEE IN A POSITION BY ELECTION OR APPOINTMENT THAT  
 34 IS PROVIDED FOR BY THE MARYLAND CONSTITUTION;

1 (4) AN EMPLOYEE WHO IS:

2 (I) A SPECIAL APPOINTEE IN THE STATE PERSONNEL  
3 MANAGEMENT SYSTEM; OR

4 (II) 1. DIRECTLY APPOINTED BY THE GOVERNOR BY AN  
5 APPOINTMENT THAT IS NOT PROVIDED FOR BY THE MARYLAND CONSTITUTION;

6 2. APPOINTED BY OR ON THE STAFF OF THE GOVERNOR OR  
7 LIEUTENANT GOVERNOR; OR

8 3. ASSIGNED TO THE GOVERNMENT HOUSE OR THE  
9 GOVERNOR'S OFFICE;

10 (5) AN EMPLOYEE ASSIGNED TO THE BOARD OR WITH ACCESS TO  
11 RECORDS OF THE BOARD;

12 (6) AN EMPLOYEE IN:

13 (I) THE EXECUTIVE SERVICE OF THE STATE PERSONNEL  
14 MANAGEMENT SYSTEM; OR

15 (II) A UNIT OF THE EXECUTIVE BRANCH WITH AN INDEPENDENT  
16 PERSONNEL SYSTEM WHO IS:

17 1. THE CHIEF ADMINISTRATOR OF THE UNIT OR A  
18 COMPARABLE POSITION THAT IS NOT EXCLUDED UNDER ITEM (3) OF THIS  
19 SUBSECTION AS A CONSTITUTIONAL OR ELECTED OFFICE; OR

20 2. A DEPUTY OR ASSISTANT ADMINISTRATOR OF THE UNIT  
21 OR A COMPARABLE POSITION;

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

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

26 ~~(8) A MEMBER OF THE FACULTY OF A STATE INSTITUTION OF HIGHER~~  
27 ~~EDUCATION;~~

28 ~~(9)~~ (8) AN EMPLOYEE WHO IS ENTITLED TO PARTICIPATE IN  
29 COLLECTIVE BARGAINING UNDER ANOTHER LAW;

30 ~~(10)~~ (9) AN EMPLOYEE WHOSE PARTICIPATION IN A LABOR  
31 ORGANIZATION WOULD BE CONTRARY TO THE STATE'S ETHICS LAWS; OR

32 ~~(11)~~ (10) ANY SUPERVISORY, MANAGERIAL, OR CONFIDENTIAL  
33 EMPLOYEE AS DEFINED BY REGULATION BY THE SECRETARY.

1 3-103.

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

5 SUBTITLE 2. STATE LABOR RELATIONS BOARD.

6 3-201.

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

8 3-202.

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

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

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

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

16 (II) ARE KNOWN FOR OBJECTIVE AND INDEPENDENT JUDGMENT;  
17 AND

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

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

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

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

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

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

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

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

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

6 (F) THE GOVERNOR MAY REMOVE AN APPOINTED MEMBER FOR  
7 INCOMPETENCE OR MISCONDUCT.

8 3-203.

9 (A) A MAJORITY OF THE MEMBERS IS A QUORUM FOR:

10 (1) THE TRANSACTION OF ANY BUSINESS; OR

11 (2) THE EXERCISE OF ANY POWER; OR

12 ~~(3)~~ THE PERFORMANCE OF ANY DUTY AUTHORIZED OR IMPOSED BY  
13 LAW.

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

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

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

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

19 3-204.

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

22 (2) THE EXECUTIVE DIRECTOR:

23 (I) IS RESPONSIBLE TO AND SERVES AT THE PLEASURE OF THE  
24 SECRETARY; AND

25 (II) IS ENTITLED TO THE SALARY PROVIDED IN THE STATE  
26 BUDGET.

27 (B) THE EXECUTIVE DIRECTOR SHALL PERFORM THE DUTIES THAT THE  
28 SECRETARY ASSIGNS, INCLUDING:

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

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

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

3 (2) EACH PROFESSIONAL CONSULTANT SERVES AT THE PLEASURE OF  
4 THE EXECUTIVE DIRECTOR.

5 3-205.

6 THE DEPARTMENT SHALL PROVIDE ADMINISTRATIVE SUPPORT TO THE BOARD.  
7 3-206.

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

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

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

14 1. THE EFFECT OF OVERFRAGMENTATION ON THE  
15 EMPLOYER;

16 2. THE ADMINISTRATIVE STRUCTURES OF THE STATE  
17 EMPLOYER;

18 3. ~~THE RECOMMENDATION~~ RECOMMENDATIONS OF THE  
19 PARTIES;

20 4. THE RECOMMENDATIONS OF THE SECRETARY ~~AND THE~~  
21 ~~STATE INSTITUTIONS OF HIGHER EDUCATION OR THEIR DESIGNEES;~~

22 5. THE DESIRES OF THE EMPLOYEES INVOLVED;

23 6. THE COMMUNITIES OF INTEREST OF THE EMPLOYEES  
24 INVOLVED; AND

25 7. THE WAGES, HOURS, AND OTHER WORKING CONDITIONS  
26 OF THE EMPLOYEES;

27 (II) ESTABLISH STANDARDS FOR DETERMINING AN APPROPRIATE  
28 BARGAINING UNIT; AND

29 (III) INVESTIGATE AND RESOLVE DISPUTES ABOUT APPROPRIATE  
30 BARGAINING UNITS;

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

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

1                   (⊕)    COMPLAINTS OF UNFAIR LABOR PRACTICES AND LOCKOUTS;  
2 AND

3                   (⊖)    ~~IMPASSES IN COLLECTIVE BARGAINING.~~

4 3-207.

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

7                   (1)    DEFINE UNFAIR LABOR PRACTICES; AND

8                   (2)    ESTABLISH PERMISSIBLE LABOR-RELATED ACTIVITIES ON THE  
9 WORK SITE.

10 3-208.

11       (A)     THE BOARD MAY INVESTIGATE:

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

14                   (2)    ANY OTHER RELEVANT MATTER.

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

19 3-209.

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

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

24                   ~~(2)    A MEMBER OF THE BOARD MAY ISSUE SUBPOENAS FOR THE BOARD,  
25 FOR A NEUTRAL MEMBER OF A FACT FINDING PANEL, OR FOR ANY PARTY TO BOARD  
26 PROCEEDINGS OR FACT FINDING PROCEEDINGS, TO COMPEL THE ATTENDANCE AND  
27 TESTIMONY OF WITNESSES OR TO COMPEL THE PRODUCTION FOR EXAMINATION OF  
28 ANY DOCUMENTS.~~

29       ~~(B)     IF A PERSON FAILS TO COMPLY WITH A SUBPOENA OR REFUSES TO BE  
30 SWORN OR TO TESTIFY THEN, ON COMPLAINT OF A MEMBER OF THE BOARD, THE  
31 CIRCUIT COURT MAY ORDER THE PERSON TO COMPLY WITH THE SUBPOENA, TO BE  
32 SWORN, OR TO TESTIFY.~~



1 ~~3-210.~~

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

5 ~~3-211.~~ 3-210.

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

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

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

13 3-301.

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

15 (1) TAKE PART OR REFRAIN FROM TAKING PART IN FORMING, JOINING,  
16 SUPPORTING, OR PARTICIPATING IN ANY EMPLOYEE ORGANIZATION OR ITS LAWFUL  
17 ACTIVITIES;

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

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

23 (B) ~~(+)~~ AN EMPLOYEE WHO IS A MEMBER OF A BARGAINING UNIT WITH AN  
24 EXCLUSIVE REPRESENTATIVE MAY, WITHOUT THE INTERVENTION OF AN EMPLOYEE  
25 ORGANIZATION, DISCUSS ANY MATTER WITH THE EMPLOYER ~~AND PRESENT A~~  
26 ~~GRIEVANCE AND HAVE THE GRIEVANCE RESOLVED.~~

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

29 ~~(f)~~ ~~THE RESOLUTION MAY NOT BE INCONSISTENT WITH THE~~  
30 ~~TERMS OF THE COLLECTIVE BARGAINING AGREEMENT THEN IN EFFECT BETWEEN~~  
31 ~~THE EMPLOYER AND THE EXCLUSIVE AGENT; AND~~

32 ~~(H)~~ ~~THE EXCLUSIVE REPRESENTATIVE SHALL BE NOTIFIED~~  
33 ~~PROMPTLY OF THE RESOLUTION.~~

1 3-302.

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

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

9 (II) MAINTAIN AND IMPROVE THE EFFICIENCY AND  
10 EFFECTIVENESS OF GOVERNMENTAL OPERATIONS;

11 (2) DETERMINE THE:

12 (I) SERVICES TO BE RENDERED, OPERATIONS TO BE PERFORMED,  
13 AND TECHNOLOGY TO BE UTILIZED; AND

14 (II) OVERALL METHODS, PROCESSES, MEANS, AND CLASSES OF  
15 WORK OR PERSONNEL BY WHICH GOVERNMENTAL OPERATIONS ARE TO BE  
16 CONDUCTED;

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

18 (4) (I) PROMOTE, DEMOTE, DISCIPLINE, DISCHARGE, RETAIN, AND  
19 LAY OFF EMPLOYEES; AND

20 (II) TERMINATE EMPLOYMENT BECAUSE OF LACK OF FUNDS, LACK  
21 OF WORK, UNDER CONDITIONS WHERE THE EMPLOYER DETERMINES CONTINUED  
22 WORK WOULD BE INEFFICIENT OR NONPRODUCTIVE, OR FOR OTHER LEGITIMATE  
23 REASONS;

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

26 (6) PROMULGATE STATE OR DEPARTMENT RULES, REGULATIONS, OR  
27 PROCEDURES;

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

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

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

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

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

3 3-303.

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

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

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

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

12                   (III)   WITHDRAWAL FROM WORK;

13                   (IV)   WORK STOPPAGE; OR

14                   (V)     WORK SLOWDOWN.

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

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

19       (C)     AN APPOINTING AUTHORITY MAY TAKE DISCIPLINARY ACTION,  
20 INCLUDING TERMINATION OF EMPLOYMENT, AGAINST AN EMPLOYEE WHO  
21 PARTICIPATES IN A STRIKE.

22       (D)     THE BOARD SHALL REVOKE THE CERTIFICATION OF AN EXCLUSIVE  
23 REPRESENTATIVE WHO ENGAGES IN ANY STRIKE ACTIVITY IN VIOLATION OF THIS  
24 SECTION.

25 3-304.

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

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

31                   (2)     BRING ECONOMIC PRESSURE ON EMPLOYEES FOR THE PURPOSE OF  
32 SECURING THE AGREEMENT OF THEIR EXCLUSIVE REPRESENTATIVE TO CERTAIN  
33 COLLECTIVE BARGAINING AGREEMENT TERMS.

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

1 3-305.

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

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

7 3-306.

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

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

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

16 SUBTITLE 4. ELECTION AND CERTIFICATION OF EXCLUSIVE REPRESENTATIVE.

17 3-401.

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

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

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

25 (B) ~~(1)~~ THE BOARD MAY NOT CONDUCT AN ELECTION FOR AN EXCLUSIVE  
26 REPRESENTATIVE ~~IN~~ OF A BARGAINING UNIT IF:

27 ~~(1)~~ THE BOARD HAS CERTIFIED AN EXCLUSIVE REPRESENTATIVE  
28 FOR THAT BARGAINING UNIT WITHIN THE PRECEDING 2 YEARS; ~~OR~~

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

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

1 3-402.

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

4 (1) AN EMPLOYEE ORGANIZATION SEEKING CERTIFICATION AS  
5 EXCLUSIVE REPRESENTATIVE; OR

6 (2) AN EMPLOYEE, A GROUP OF EMPLOYEES, OR AN EMPLOYEE  
7 ORGANIZATION SEEKING A NEW ELECTION TO DETERMINE AN EXCLUSIVE  
8 REPRESENTATIVE.

9 (B) A PETITION SHALL:

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

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

15 3-403.

16 (A) (1) THE BOARD SHALL DETERMINE THE APPROPRIATENESS OF EACH  
17 BARGAINING UNIT.

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

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

23 (I) CONDUCT A HEARING; AND

24 (II) ISSUE AN ORDER DEFINING AN APPROPRIATE BARGAINING  
25 UNIT.

26 (B) IF THE APPROPRIATE BARGAINING UNIT AS DETERMINED BY THE BOARD  
27 DIFFERS FROM THE BARGAINING UNIT DESCRIBED IN THE PETITION, THE BOARD  
28 MAY:

29 (1) DISMISS THE PETITION; OR

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

33 (C) A BARGAINING UNIT SHALL CONSIST ONLY OF EMPLOYEES DEFINED IN  
34 REGULATIONS ADOPTED BY THE SECRETARY AND NOT SPECIFICALLY EXCLUDED BY  
35 § 3-102(B) OF THIS TITLE.

1 (D) THE SECRETARY OR THE SECRETARY'S DESIGNEE SHALL HAVE THE  
2 AUTHORITY TO ASSIGN CLASSIFICATION TITLES AND POSITIONS TO BARGAINING  
3 UNITS AS APPROPRIATE.

4 3-404.

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

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

9 (I) GIVE INDIVIDUAL MEMBERS THE RIGHT TO PARTICIPATE IN  
10 ACTIVITIES OF THE ORGANIZATION;

11 ~~(II)~~ ~~PROVIDE FAIR AND EQUITABLE PROCEDURES IN DISCIPLINARY~~  
12 ~~ACTIONS;~~

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

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

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

20 (2) A CERTIFICATION THAT THE ORGANIZATION:

21 (I) ACCEPTS MEMBERS WITHOUT REGARD TO ANY FACTOR IN §  
22 2-302(B) OF THIS ARTICLE; AND

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

25 3-405.

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

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

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

33 (2) THE BOARD SHALL PLACE THE FOLLOWING CHOICES ON THE  
34 BALLOT:

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

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

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

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

10 (D) IF NONE OF THE CHOICES ON A BALLOT RECEIVES A MAJORITY OF THE  
11 VOTES CAST IN AN ELECTION, THE BOARD SHALL CONDUCT A RUNOFF ELECTION  
12 BETWEEN THE CHOICES THAT RECEIVED THE TWO HIGHEST NUMBER OF VOTES IN  
13 THE ELECTION.

14 3-406.

15 (A) THE BOARD SHALL CERTIFY AS EXCLUSIVE REPRESENTATIVE THE  
16 EMPLOYEE ORGANIZATION RECEIVING THE VOTES IN AN ELECTION FROM A  
17 MAJORITY OF THE EMPLOYEES VOTING IN THE ELECTION.

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

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

23 (2) THE ORGANIZATION FILES WITH THE BOARD A CERTIFICATION THAT  
24 A MAJORITY OF THE EMPLOYEES IN THE BARGAINING UNIT WANT TO BE  
25 REPRESENTED BY THAT ORGANIZATION.

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

29 (1) THIS TITLE; OR

30 (2) THE GOVERNING DOCUMENTS OF THE ORGANIZATION.

31 3-407.

32 AN EMPLOYEE ORGANIZATION CERTIFIED AS THE EXCLUSIVE  
33 REPRESENTATIVE SHALL:

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

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

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

7 SUBTITLE 5. COLLECTIVE BARGAINING PROCESS.

8 3-501.

9 ~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS~~  
10 ~~INDICATED:~~

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

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

18 ~~(D) "FACT FINDING" MEANS AN INVESTIGATION OF AN UNRESOLVED~~  
19 ~~DISPUTE ARISING OUT OF COLLECTIVE BARGAINING, SUBMITTING A REPORT~~  
20 ~~DEFINING THE UNRESOLVED ISSUES, REPORTING AND ANALYZING THE FACTS~~  
21 ~~RELATING TO THOSE ISSUES, AND MAKING RECOMMENDATIONS TO RESOLVE THE~~  
22 ~~DISPUTE.~~

23 ~~3-502.~~

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

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

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

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

35 (D) (1) THE PARTIES, THE GOVERNOR'S DESIGNEE, AND THE EXCLUSIVE  
36 REPRESENTATIVE SHALL EXECUTE A WRITTEN AGREEMENT MEMORANDUM OF  
37 UNDERSTANDING INCORPORATING ALL MATTERS OF AGREEMENT REACHED.



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

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

7 ~~3-503; 3-502.~~

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

9           (+)     WAGES, HOURS, AND OTHER TERMS AND CONDITIONS OF  
10 EMPLOYMENT; ~~AND.~~

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

13     (B)     NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, THE GOVERNOR  
14 OR THE GOVERNOR'S DESIGNEE:

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

17           (2)     MAY NEGOTIATE AND REACH AGREEMENT WITH REGARD TO ANY  
18 SUCH MATTER ONLY IF IT IS UNDERSTOOD THAT THE AGREEMENT WITH RESPECT  
19 TO SUCH MATTER CANNOT BECOME EFFECTIVE UNLESS THE APPLICABLE LAW IS  
20 AMENDED BY THE GENERAL ASSEMBLY.

21 ~~3-504.~~

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

24     (B)     (+)     ~~IF THE BOARD DETERMINES THAT AN IMPASSE EXISTS, THE BOARD~~  
25 ~~SHALL GIVE THE PARTIES A NOTICE THAT:~~

26           (+)     ~~ADVISES THE PARTIES THAT MEDIATION WILL BE INSTITUTED;~~  
27 ~~AND~~

28           (H)     ~~REQUESTS THE PARTIES TO MUTUALLY ENGAGE A MEDIATOR~~  
29 ~~WITHIN 5 DAYS AFTER RECEIVING THE NOTICE.~~

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

32     (C)     ~~THE COSTS OF MEDIATION SHALL BE SHARED EQUALLY BY THE PARTIES.~~

1 ~~3-505.~~

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

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

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

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

9 (III) ~~ORDER THAT FACT-FINDING BEGIN; AND~~

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

13 1. ~~EACH PARTY SHALL SELECT ONE FACT FINDER; AND~~

14 2. ~~THE PARTIES JOINTLY SHALL SELECT THE THIRD FACT~~  
 15 ~~FINDER.~~

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

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

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

23 (2) (I) ~~AFTER CONDUCTING HEARINGS, THE FACT FINDING PANEL~~  
 24 ~~SHALL MAKE WRITTEN FINDINGS OF FACT AND RECOMMENDATIONS FOR~~  
 25 ~~RESOLUTION OF THE IMPASSE.~~

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

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

31 (4) ~~THE FACT FINDING PANEL SHALL BASE ITS FINDINGS AND~~  
 32 ~~RECOMMENDATIONS ON THE FOLLOWING FACTORS:~~

33 (I) ~~PAST COLLECTIVE BARGAINING CONTRACTS BETWEEN THE~~  
 34 ~~PARTIES INCLUDING THE BARGAINING HISTORY THAT LED TO THOSE CONTRACTS;~~

1                   (II)     ~~STIPULATIONS OF THE PARTIES;~~

2                   (III)    ~~THE INTERESTS AND WELFARE OF THE PUBLIC;~~

3                   (IV)    ~~THE FINANCIAL ABILITY OF THE STATE OR A UNIT OF STATE~~  
4 ~~GOVERNMENT TO FINANCE ECONOMIC ADJUSTMENTS AND THE EFFECT OF THOSE~~  
5 ~~ADJUSTMENTS ON THE NORMAL STANDARD OF PUBLIC SERVICES PROVIDED BY THE~~  
6 ~~STATE;~~

7                   (V)     ~~THE OVERALL COMPENSATION PRESENTLY RECEIVED BY~~  
8 ~~EMPLOYEES IN THE BARGAINING UNIT, INCLUDING DIRECT WAGES, PAID LEAVE AND~~  
9 ~~HOLIDAYS, HEALTH AND WELFARE BENEFITS, PENSIONS, THE CONTINUITY AND~~  
10 ~~STABILITY OF EMPLOYMENT, AND ALL OTHER BENEFITS RECEIVED;~~

11                  (VI)    ~~COMPARISONS OF WAGES, HOURS, AND CONDITIONS OF~~  
12 ~~EMPLOYMENT RECEIVED BY:~~

13                           1.     ~~EMPLOYEES IN THE BARGAINING UNIT;~~

14                           2.     ~~EMPLOYEES PERFORMING SIMILAR DUTIES; AND~~

15                           3.     ~~EMPLOYEES GENERALLY IN PUBLIC OR PRIVATE~~  
16 ~~EMPLOYMENT IN COMPARABLE COMMUNITIES;~~

17                  (VII)   ~~THE AVERAGE CONSUMER PRICES FOR GOODS AND SERVICES,~~  
18 ~~COMMONLY KNOWN AS THE COST OF LIVING, AND OTHER FACTORS THAT~~  
19 ~~GENERALLY OR TRADITIONALLY ARE TAKEN INTO CONSIDERATION IN THE~~  
20 ~~DETERMINATION OF WAGES, HOURS, AND CONDITIONS OF EMPLOYMENT THROUGH~~  
21 ~~VOLUNTARY COLLECTIVE BARGAINING, MEDIATION, FACT FINDING, OR OTHERWISE~~  
22 ~~BETWEEN PARTIES IN PUBLIC OR PRIVATE EMPLOYMENT; AND~~

23                  (VIII)   ~~ANY CHANGES IN ITEMS (I) THROUGH (VII) OF THIS PARAGRAPH~~  
24 ~~DURING THE PENDENCY OF THE PROCEEDINGS.~~

25                  (5)    (†)     ~~THE PRESIDENT OF THE SENATE MAY DESIGNATE A~~  
26 ~~REPRESENTATIVE TO ATTEND FACT FINDING PROCEEDINGS AND TO PRESENT~~  
27 ~~TESTIMONY ON ISSUES OF INTEREST.~~

28                  (II)     ~~THE SPEAKER OF THE HOUSE OF DELEGATES MAY DESIGNATE~~  
29 ~~A REPRESENTATIVE TO ATTEND FACT FINDING PROCEEDINGS AND TO PRESENT~~  
30 ~~TESTIMONY ON ISSUES OF INTEREST.~~

31                  (D)     ~~PAYMENT OF THE COSTS OF FACT FINDING SHALL BE DETERMINED BY~~  
32 ~~THE BOARD.~~

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

1 ~~(F) THE ORDER CAN BE OVERTURNED BY THE GOVERNOR OR THE~~  
2 ~~GOVERNOR'S DESIGNEE.~~

3 ~~SUBTITLE 6. COLLECTIVE BARGAINING AGREEMENT MEMORANDUM OF~~  
4 ~~UNDERSTANDING.~~

5 ~~3-601.~~

6 (A) (1) ~~A COLLECTIVE BARGAINING AGREEMENT MEMORANDUM OF~~  
7 ~~UNDERSTANDING SHALL CONTAIN ALL MATTERS OF AGREEMENT REACHED IN THE~~  
8 ~~COLLECTIVE BARGAINING PROCESS.~~

9 (2) ~~THE AGREEMENT MEMORANDUM SHALL BE IN WRITING AND~~  
10 ~~SIGNED BY THE DESIGNATED REPRESENTATIVES OF THE GOVERNOR AND THE~~  
11 ~~EXCLUSIVE REPRESENTATIVE INVOLVED IN THE COLLECTIVE BARGAINING~~  
12 ~~NEGOTIATIONS.~~

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

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

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

23 ~~SUBTITLE 7. SERVICE FEES.~~

24 ~~3-701.~~

25 (A) ~~NOTWITHSTANDING THE PROVISIONS OF § 3-301 OF THIS TITLE, A~~  
26 ~~COLLECTIVE BARGAINING AGREEMENT BETWEEN THE STATE AND AN EMPLOYEE~~  
27 ~~ORGANIZATION THAT IS THE EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT~~  
28 ~~MAY REQUIRE, AS A CONDITION OF EMPLOYMENT, THE PAYMENT OF A SERVICE FEE~~  
29 ~~BY NONMEMBERS IN LIEU OF, AND IN AN AMOUNT NOT GREATER THAN, THE DUES~~  
30 ~~WHICH ARE PAYABLE BY MEMBERS OF THE EMPLOYEE ORGANIZATION WHICH ARE~~  
31 ~~GERMANE TO ITS FUNCTIONS AS EXCLUSIVE BARGAINING REPRESENTATIVE.~~

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

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

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

3                   (II)    ~~THE BASIS UPON WHICH THE EXCLUSIVE REPRESENTATIVE~~  
4 ~~HAS DETERMINED THE FEE; AND~~

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

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

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

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

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

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

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

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

25 ~~11-102.~~

26     This subtitle applies to all employees in the State Personnel Management  
27 System within the Executive Branch except:

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

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

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

33                   (1)     one member in 2000;

34                   (2)     one member in 2002; and

1 (3) two members in 2004.

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

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

11 SECTION 5. AND BE IT FURTHER ENACTED, That the definitions of  
12 "supervisor", "managerial employee", and "confidential employee" under Executive  
13 Order 01.01.1996.13 shall remain in effect until new regulations defining supervisory  
14 employee, managerial employee, and confidential employee are adopted by the  
15 Secretary of Budget and Management, as provided for under Section 2 of this Act.

16 SECTION 6. AND BE IT FURTHER ENACTED, That the Board of Regents of  
17 the University System of Maryland shall establish and implement a collective  
18 bargaining plan, consistent with the principles and goals of Executive Order  
19 01.01.1996.13, for the system's nonfaculty employees. The collective bargaining plan  
20 shall be developed and submitted to the Senate Budget and Taxation Committee, the  
21 Senate Finance Committee, and the House Appropriations Committee, on or before  
22 September 1, 1999. The committees will have 30 days to review and comment on the  
23 plan, with the intent that the plan take effect on October 1, 1999. Two years after the  
24 implementation of the collective bargaining plan, the Board of Regents shall study the  
25 outcomes of the collective bargaining plan. The study shall assess the plan's effect on  
26 the relationship between nonfaculty employees and the Board of Regents, and  
27 determine the fiscal impact of the plan on the University System of Maryland's  
28 operations. The Board of Regents shall report on or before December 1, 2001, subject  
29 to § 2-1246 of the State Government Article, to the Senate Budget and Taxation  
30 Committee, the Senate Finance Committee, and the House Appropriations  
31 Committee on the findings of the study. The Committees shall evaluate the report  
32 findings with the intent of possibly codifying the collective bargaining plan.

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

39 SECTION 7. 8. AND BE IT FURTHER ENACTED, That this Act shall take  
40 effect July 1, 1999.

