
By: **Delegate C. Davis**
Introduced and read first time: February 21, 2000
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Schools - Collective Bargaining - Organizations of Certificated**
3 **Employees**

4 FOR the purpose of allowing collective bargaining by a public school employer with
5 certificated employees over educational policy and the administration of public
6 schools; providing that a public school employer may not prohibit collective
7 bargaining with certificated employees over certain matters; providing for the
8 selection, composition, and use of an arbitration panel in collective bargaining
9 with certificated employees; requiring the arbitration panel to meet with the
10 parties and submit a report within a certain period; authorizing the arbitration
11 panel to conduct a trial or hearing; requiring the report of the arbitration panel
12 to decide each issue before the panel; providing that the report of the panel and
13 its contents is final and binding and may not be appealed; requiring the public
14 school employer to carry out the report and its recommendations within a
15 certain period; requiring the costs of mediation to be shared by the parties;
16 repealing a provision of law requiring the public school employer to make the
17 final determination on matters subject to negotiation; and generally relating to
18 collective bargaining and arbitration between a public school employer and
19 certificated employees.

20 BY repealing and reenacting, with amendments,
21 Article - Education
22 Section 6-408
23 Annotated Code of Maryland
24 (1999 Replacement Volume)

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

27 **Article - Education**

28 6-408.

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

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

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

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

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

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

17 (3) (I) COLLECTIVE BARGAINING ON A SUBJECT MATTER SHALL BE
18 ILLEGAL ONLY IF IT IS EXPRESSLY PROHIBITED BY STATUTE UNDER THIS SUBTITLE.

19 (II) A PUBLIC SCHOOL EMPLOYER MAY ALLOW COLLECTIVE
20 BARGAINING ON SUBJECT MATTERS THAT PREDOMINANTLY CONCERN
21 EDUCATIONAL POLICY OR THE ADMINISTRATION OF THE PUBLIC SCHOOLS.

22 (III) COLLECTIVE BARGAINING UNDER THIS PARAGRAPH SHALL BE
23 CONSIDERED PERMISSIVE.

24 (IV) THE STATE BOARD MAY NOT PROHIBIT COLLECTIVE
25 BARGAINING ON SUBJECT MATTERS THAT ARE PERMISSIVE OR MANDATORY
26 SUBJECTS FOR BARGAINING.

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

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

35 (2) If consent TO INTERVENTION BY THE STATE BOARD is not [given
36 and] GIVEN, at the request of either party, [a] AN ARBITRATION panel shall be
37 named to aid in resolving the differences.

1 (3) The ARBITRATION panel shall contain three individuals chosen as
2 follows:

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

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

6 2. IF THE TWO MEMBERS FAIL TO SELECT A THIRD MEMBER
7 WITHIN 10 DAYS, A THIRD-PARTY, NEUTRAL INDIVIDUAL SHALL BE SELECTED BY A
8 PROCESS IN WHICH THE TWO MEMBERS ALTERNATIVELY STRIKE NAMES FROM A
9 PANEL OF PROFESSIONAL ARBITRATORS FURNISHED BY THE FEDERAL MEDIATION
10 AND CONCILIATION SERVICE OR THE AMERICAN ARBITRATION ASSOCIATION.

11 (4) THE ARBITRATION PANEL SHALL HAVE THE AUTHORITY TO
12 ADMINISTER OATHS, COMPEL THE ATTENDANCE OF WITNESSES, AND REQUIRE THE
13 PRODUCTION OF EVIDENCE BY SUBPOENA.

14 [(4)] (5) (I) The State Board or the ARBITRATION panel selected shall
15 meet with the parties to aid in resolving the differences, and, if the matter is not
16 resolved, shall make a written report and recommendation within 30 days after the
17 request.

18 (II) THE ARBITRATION PANEL MAY, IF IT CONSIDERS IT
19 APPROPRIATE, CONDUCT A TRIAL OR HEARING ON SOME OR ALL OF THE ISSUES
20 BEFORE THE PANEL.

21 (III) THE REPORT AND RECOMMENDATION OF THE ARBITRATION
22 PANEL SHALL DECIDE EACH ISSUE OR SUBJECT MATTER PRESENTED TO THE PANEL.

23 (IV) THE ARBITRATION PANEL'S REPORT AND ITS
24 RECOMMENDATIONS:

25 1. MAY NOT BE APPEALED AS TO THE SUBSTANCE OR
26 FINDINGS OF THE REPORT OR ITS RECOMMENDATIONS; AND

27 2. SHALL:

28 A. BE FINAL AND BINDING ON THE PUBLIC SCHOOL
29 EMPLOYER AND ON THE DULY CONSTITUTED FISCAL AUTHORITY FOR THE COUNTY,
30 INCLUDING THE COUNTY COMMISSIONERS, COUNTY COUNCIL, OR CITY COUNCIL;

31 B. CONSTITUTE A MANDATE TO THE PUBLIC SCHOOL
32 EMPLOYER AND THE DULY CONSTITUTED FISCAL AUTHORITY FOR THE COUNTY;
33 AND

34 C. BE CARRIED OUT BY THE PUBLIC SCHOOL EMPLOYER
35 WITHIN 45 DAYS AFTER THE ARBITRATION PANEL ISSUES THE REPORT AND
36 RECOMMENDATIONS.

1 [(5)] (6) A copy of the report shall be sent to the representatives of the
2 public school employer and the employee organization.

3 [(6)] (7) All costs of mediation OR ARBITRATION shall be shared by the
4 public school employer and the employee organization.

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

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2000.