

SENATE BILL 245

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2000 Regular Session  
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By: **Senators Lawlah, McFadden, Conway, Exum, Currie, Ruben, Jimeno,  
Kelley, Forehand, Della, Green, Frosh, Pinsky, Stone, Van Hollen,  
Sfikas, Collins, Hollinger, Middleton, Mitchell, Dyson, and Blount**

Introduced and read first time: January 28, 2000

Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

2 **State Personnel - Higher Education - Collective Bargaining**

3 FOR the purpose of expanding the scope of certain provisions of law governing  
4 collective bargaining to include certain employees of certain State institutions of  
5 higher education; requiring that the boards of regents and the boards of trustees  
6 of certain State institutions of higher education take certain actions in  
7 accordance with the requirements of certain laws governing collective  
8 bargaining; requiring the boards of regents and the boards of trustees to  
9 designate one or more representatives to participate as a party in collective  
10 bargaining; specifying appropriate bargaining units for certain employees of  
11 certain State institutions of higher education; authorizing the State Labor  
12 Relations Board to assign classification titles and positions to the bargaining  
13 units; requiring the negotiation of a supplemental memorandum of  
14 understanding at each constituent institution of the University System of  
15 Maryland under certain circumstances; repealing certain provisions of law that  
16 prohibit the Board of Regents of the University System of Maryland from  
17 establishing or implementing a certain collective bargaining plan; and generally  
18 relating to collective bargaining for employees of State institutions of higher  
19 education.

20 BY repealing and reenacting, with amendments,

21 Article - Education

22 Section 12-110, 12-111, 14-104(f) and (g), 14-408, and 16-505(c) and (j)

23 Annotated Code of Maryland

24 (1999 Replacement Volume)

25 BY repealing and reenacting, with amendments,

26 Article - State Personnel and Pensions

27 Section 3-102, 3-403, and 3-501

28 Annotated Code of Maryland

29 (1997 Replacement Volume and 1999 Supplement)

1 BY repealing  
2 Chapter 298 of the Acts of the General Assembly of 1999  
3 Section 6

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

6 **Article - Education**

7 12-110.

8 (a) (1) Upon the recommendation of the Chancellor who shall consult with  
9 the presidents, AND IN ACCORDANCE WITH THE REQUIREMENTS OF TITLE 3 OF THE  
10 STATE PERSONNEL AND PENSIONS ARTICLE, the Board of Regents shall establish  
11 general standards and guidelines governing the appointment, compensation,  
12 advancement, tenure, and termination of all faculty and administrative personnel in  
13 the University System of Maryland.

14 (2) These standards and guidelines shall recognize the diverse missions  
15 of the constituent institutions.

16 (3) ON THE RECOMMENDATION OF THE CHANCELLOR WHO SHALL  
17 CONSULT WITH THE PRESIDENTS, THE BOARD OF REGENTS SHALL DESIGNATE ONE  
18 OR MORE REPRESENTATIVES TO PARTICIPATE AS A PARTY IN COLLECTIVE  
19 BARGAINING ON BEHALF OF THE UNIVERSITY SYSTEM OF MARYLAND.

20 (b) The Board of Regents may establish different standards of compensation  
21 based on the size and missions of the constituent institutions.

22 (c) Subject to such standards and guidelines, AND IN ACCORDANCE WITH THE  
23 REQUIREMENTS OF TITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE, a  
24 president may:

25 (1) Prescribe additional personnel policies; and

26 (2) Approve individual personnel actions affecting the terms and  
27 conditions of academic and administrative appointments.

28 12-111.

29 (a) Except as otherwise provided by law, appointments of the University  
30 System of Maryland are not subject to or controlled by the provisions of the State  
31 Personnel and Pensions Article that govern the State Personnel Management System.

32 (b) After appointment, employees in positions designated by the University  
33 shall be regarded and treated in the same manner as skilled service or professional  
34 service employees, with the exception of special appointments, in the State Personnel  
35 Management System and:

1 (1) Have all rights and privileges of skilled service or professional service  
2 employees, with the exception of special appointments, in the State Personnel  
3 Management System;

4 (2) Have the right of appeal as provided by law, OR AS PROVIDED IN AN  
5 APPLICABLE MEMORANDUM OF UNDERSTANDING CONTAINING A GRIEVANCE AND  
6 APPEAL PROCEDURE THAT SUPERSEDES THE PROCEDURES ESTABLISHED IN TITLE  
7 13, SUBTITLE 2 OF THIS ARTICLE, in any case of alleged injustice;

8 (3) Shall be paid salaries not less than those paid in similar  
9 classifications in other State agencies; and

10 (4) Shall retain their vacation privileges, retirement status, and benefits  
11 under the State retirement systems.

12 (c) Subject to subsection (b) of this section, AND IN ACCORDANCE WITH THE  
13 REQUIREMENTS OF TITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE, the  
14 Board of Regents shall establish general policies and guidelines governing the  
15 appointment, compensation, advancement, tenure, and termination of all classified  
16 personnel.

17 14-104.

18 (f) (1) (i) On the recommendation of the President, AND IN ACCORDANCE  
19 WITH THE REQUIREMENTS OF TITLE 3 OF THE STATE PERSONNEL AND PENSIONS  
20 ARTICLE, the Board of Regents shall establish general standards and guidelines  
21 governing the appointment, compensation, advancement, tenure, and termination of  
22 all faculty, executive staff, and professional administrative personnel in the Morgan  
23 State University.

24 (ii) Subject to such standards and guidelines, AND IN ACCORDANCE  
25 WITH THE REQUIREMENTS OF TITLE 3 OF THE STATE PERSONNEL AND PENSIONS  
26 ARTICLE, the President may:

27 1. Adopt additional personnel policies; and

28 2. Approve individual personnel actions affecting the terms  
29 and conditions of academic and administrative appointments.

30 (2) Except as otherwise provided by law, appointments of Morgan State  
31 University are not subject to or controlled by the provisions of the State Personnel  
32 and Pensions Article that govern the State Personnel Management System.

33 (3) (i) Notwithstanding any other provision of law, the Board of  
34 Regents may create any position to the extent that the cost of the position, including  
35 any fringe benefit costs, is funded from existing funds.

36 (ii) Nothing in this paragraph may be construed to require any  
37 additional State General Fund support.

1 (iii) By September 1 of each year, the Board shall submit an annual  
2 position accountability report to the Department of Budget and Management, the  
3 Department of Legislative Services, and the Maryland Higher Education Commission  
4 reporting the total positions created and the cost and the funding source for any  
5 positions created by the University in the previous fiscal year.

6 (iv) The total number of positions authorized under this paragraph  
7 shall be limited as specified annually in the State budget bill.

8 (4) ON THE RECOMMENDATION OF THE PRESIDENT, THE BOARD OF  
9 REGENTS SHALL DESIGNATE ONE OR MORE REPRESENTATIVES TO PARTICIPATE AS  
10 A PARTY IN COLLECTIVE BARGAINING ON BEHALF OF THE UNIVERSITY.

11 (g) (1) After appointment, employees in positions designated by the  
12 University shall be regarded and treated in the same manner as skilled service or  
13 professional service employees, with the exception of special appointments, in the  
14 State Personnel Management System and:

15 (i) Have all rights and privileges of skilled service or professional  
16 service employees, with the exception of special appointments, in the State Personnel  
17 Management System;

18 (ii) Have the right of appeal as provided by law, OR AS PROVIDED IN  
19 AN APPLICABLE MEMORANDUM OF UNDERSTANDING CONTAINING A GRIEVANCE  
20 AND APPEAL PROCEDURE THAT SUPERSEDES THE PROCEDURES ESTABLISHED BY  
21 LAW, in any case of alleged injustice;

22 (iii) Shall be paid salaries not less than those paid in similar  
23 classifications in other State agencies; and

24 (iv) Shall retain their vacation privileges, accrued sick leave,  
25 retirement status, and benefits under the State retirement systems.

26 (2) Subject to paragraph (1) of this subsection, AND IN ACCORDANCE  
27 WITH THE REQUIREMENTS OF TITLE 3 OF THE STATE PERSONNEL AND PENSIONS  
28 ARTICLE, the Board of Regents shall establish general policies and guidelines  
29 governing the appointment, compensation, advancement, tenure, and termination of  
30 all classified personnel.

31 14-408.

32 (a) (1) On the recommendation of the President, AND IN ACCORDANCE WITH  
33 THE REQUIREMENTS OF TITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE,  
34 the Board of Trustees of St. Mary's College shall establish a personnel system.

35 (2) To carry out the requirements of this section, the Board [may]:

36 (i) [Establish] MAY ESTABLISH and abolish positions;

37 (ii) [Determine] MAY DETERMINE employee qualifications;

1 (iii) [Establish] MAY ESTABLISH terms of employment, including  
2 compensation, benefits, holiday schedules, and leave policies; [and]

3 (iv) [Determine] MAY DETERMINE any other matters concerning  
4 employees; AND

5 (V) SHALL DESIGNATE ONE OR MORE REPRESENTATIVES TO  
6 PARTICIPATE AS A PARTY IN COLLECTIVE BARGAINING ON BEHALF OF THE  
7 COLLEGE.

8 (b) The personnel system shall provide fair and equitable procedures for:

9 (1) The redress of employee grievances; and

10 (2) The hiring, promotion, and termination of employees in accordance  
11 with law.

12 (c) (1) Except as provided in paragraph (2) of this subsection, an employee of  
13 the College qualifies for and shall participate in the Employees' Pension System of the  
14 State of Maryland or the Teachers' Pension System of the State of Maryland.

15 (2) An employee in a position determined by the Board to be a  
16 professional or faculty position may join the optional retirement program under Title  
17 30 of the State Personnel and Pensions Article.

18 16-505.

19 (c) (1) The Board of Trustees shall:

20 (i) Adopt reasonable rules, regulations, and bylaws to carry out the  
21 provisions of this subtitle and §§ 10-204 and 10-211 of this article; and

22 (ii) Keep separate records and minutes.

23 (2) Except with respect to skilled service employee grievance appeals, OR  
24 AS PROVIDED IN AN APPLICABLE MEMORANDUM OF UNDERSTANDING CONTAINING  
25 A GRIEVANCE AND APPEAL PROCEDURE THAT SUPERSEDES THE PROCEDURES  
26 ESTABLISHED BY LAW, Title 10, Subtitles 1 and 2 of the State Government Article  
27 ("Administrative Procedure Act") does not apply to the Board of Trustees.

28 (j) The Board of Trustees may fix the salaries and terms of employment of the  
29 President, faculty, and officers of the College IN ACCORDANCE WITH THE  
30 REQUIREMENTS OF TITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

31 **Article - State Personnel and Pensions**

32 3-102.

33 (a) Except as provided in this title or as otherwise provided by law, this title  
34 applies to all employees of:

1 (1) the principal departments within the Executive Branch of State  
2 government;

3 (2) the Maryland Insurance Administration;

4 (3) the State Department of Assessments and Taxation; [and]

5 (4) the State Lottery Agency; AND

6 (5) THE UNIVERSITY SYSTEM OF MARYLAND, MORGAN STATE  
7 UNIVERSITY, ST. MARY'S COLLEGE OF MARYLAND, AND BALTIMORE CITY  
8 COMMUNITY COLLEGE.

9 (b) This title does not apply to:

10 (1) employees of the Mass Transit Administration, as that term is  
11 defined in § 7-601(a)(2) of the Transportation Article;

12 (2) an employee who is elected to the position by popular vote;

13 (3) an employee in a position by election or appointment that is provided  
14 for by the Maryland Constitution;

15 (4) an employee who is:

16 (i) a special appointee in the State Personnel Management  
17 System; or

18 (ii) 1. directly appointed by the Governor by an appointment  
19 that is not provided for by the Maryland Constitution;

20 2. appointed by or on the staff of the Governor or Lieutenant  
21 Governor; or

22 3. assigned to the Government House or the Governor's  
23 Office;

24 (5) an employee assigned to the Board or with access to records of the  
25 Board;

26 (6) an employee in:

27 (i) the executive service of the State Personnel Management  
28 System; or

29 (ii) a unit of the Executive Branch with an independent personnel  
30 system who is:

31 1. the chief administrator of the unit or a comparable  
32 position that is not excluded under item (3) of this subsection as a constitutional or  
33 elected office; or

- 1 a deputy or assistant administrator of the unit or a  
2 comparable position;
- 3 (7) (i) a temporary or contractual employee in the State Personnel  
4 Management System; or
- 5 (ii) a contractual, temporary, or emergency employee in a unit of  
6 the Executive Branch with an independent personnel system OTHER THAN A  
7 CONTRACTUAL, TEMPORARY, OR CONTINGENT EMPLOYEE OF THE UNIVERSITY  
8 SYSTEM OF MARYLAND, MORGAN STATE UNIVERSITY, ST. MARY'S COLLEGE OF  
9 MARYLAND, OR BALTIMORE CITY COMMUNITY COLLEGE;
- 10 (8) an employee who is entitled to participate in collective bargaining  
11 under another law;
- 12 (9) A MEMBER OF THE FACULTY OF A STATE INSTITUTION OF HIGHER  
13 EDUCATION;
- 14 (10) AN EMPLOYEE OF A COMMUNITY COLLEGE OTHER THAN  
15 BALTIMORE CITY COMMUNITY COLLEGE;
- 16 [(9)] (11) an employee whose participation in a labor organization would  
17 be contrary to the State's ethics laws; or
- 18 [(10)] (12) any supervisory, managerial, or confidential employee as  
19 defined by regulation by the Secretary.
- 20 3-403.
- 21 (a) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, THE [The] Board  
22 shall determine the appropriateness of each bargaining unit.
- 23 (2) If there is no dispute about the appropriateness of the establishment  
24 of the bargaining unit, the Board shall issue an order defining an appropriate  
25 bargaining unit.
- 26 (3) If there is a dispute about the appropriateness of the establishment of  
27 the bargaining unit, the Board shall:
- 28 (i) conduct a hearing; and
- 29 (ii) issue an order defining an appropriate bargaining unit.
- 30 (b) If the appropriate bargaining unit as determined by the Board differs from  
31 the bargaining unit described in the petition, the Board may:
- 32 (1) dismiss the petition; or
- 33 (2) direct an election in the appropriate bargaining unit if the signatures  
34 included in the petition include those of at least 30% of the employees in the  
35 appropriate bargaining unit.

1 (c) A bargaining unit shall consist only of employees defined in regulations  
2 adopted by the Secretary and not specifically excluded by § 3-102(b) of this title.

3 (D) (1) THE UNIVERSITY SYSTEM OF MARYLAND, MORGAN STATE  
4 UNIVERSITY, ST. MARY'S COLLEGE OF MARYLAND, AND BALTIMORE CITY  
5 COMMUNITY COLLEGE EACH SHALL HAVE SEPARATE BARGAINING UNITS.

6 (2) APPROPRIATE BARGAINING UNITS SHALL CONSIST OF:

7 (I) ALL ELIGIBLE LABOR AND TRADES EMPLOYEES;

8 (II) ALL ELIGIBLE ADMINISTRATIVE, TECHNICAL, AND CLERICAL  
9 EMPLOYEES EXCEPT PROFESSIONAL EMPLOYEES, AS DEFINED BY THE FEDERAL  
10 FAIR LABOR STANDARDS ACT;

11 (III) ALL ELIGIBLE PROFESSIONAL EMPLOYEES, AS DEFINED BY  
12 THE FEDERAL FAIR LABOR STANDARDS ACT; AND

13 (IV) ALL ELIGIBLE PUBLIC SAFETY EMPLOYEES.

14 [(d)] (E) (1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
15 SUBSECTION, THE secretary or the secretary's designee shall have the authority to  
16 assign classification titles and positions to bargaining units as appropriate.

17 (2) THE BOARD MAY ASSIGN CLASSIFICATION TITLES AND POSITIONS  
18 TO BARGAINING UNITS FOR EMPLOYEES OF THE UNIVERSITY SYSTEM OF  
19 MARYLAND, MORGAN STATE UNIVERSITY, ST. MARY'S COLLEGE OF MARYLAND, AND  
20 BALTIMORE CITY COMMUNITY COLLEGE.

21 3-501.

22 (a) (1) The Governor OR THE GOVERNING BOARD OF A STATE INSTITUTION  
23 OF HIGHER EDUCATION FOR BARGAINING UNITS WITHIN THE INSTITUTION shall  
24 designate one or more representatives to participate as a party in collective  
25 bargaining on behalf of the State OR THE STATE INSTITUTION OF HIGHER  
26 EDUCATION.

27 (2) The exclusive representative shall designate one or more  
28 representatives to participate as a party in collective bargaining on behalf of the  
29 exclusive representative.

30 (b) The parties shall meet at reasonable times and engage in collective  
31 bargaining in good faith.

32 (c) The parties shall make every reasonable effort to conclude negotiations in  
33 a timely manner for inclusion by the principal unit in its budget request to the  
34 Governor.

35 (d) (1) The parties, the Governor's designee OR THE DESIGNEE OF THE  
36 GOVERNING BOARD OF A STATE INSTITUTION OF HIGHER EDUCATION, and the



1 exclusive representative shall execute a memorandum of understanding  
2 incorporating all matters of agreement reached.

3 (2) To the extent these matters require legislative approval or the  
4 appropriation of funds, the matters shall be recommended to the General Assembly  
5 OR GOVERNING BOARD for approval or for the appropriation of funds.

6 (E) AT THE REQUEST OF EITHER PARTY, THE PARTIES SHALL NEGOTIATE A  
7 SUPPLEMENTAL MEMORANDUM OF UNDERSTANDING AT EACH CONSTITUENT  
8 INSTITUTION OF THE UNIVERSITY SYSTEM OF MARYLAND.

9 [(e)] (F) Negotiations or matters relating to negotiations shall be considered  
10 closed sessions under § 10-508 of the State Government Article.

11 **Chapter 298 of the Acts of 1999**

12 [SECTION 6. AND BE IT FURTHER ENACTED, That the Board of Regents of  
13 the University System of Maryland may not establish or implement a collective  
14 bargaining plan for the system's nonfaculty employees. The prohibition established  
15 under this Section supersedes any provision of law relating to the requirement for the  
16 establishment and implementation of a collective bargaining plan as set forth in  
17 Chapter(s) 515 (S.B. 682/H.B. 1026) of the Acts of the General Assembly of 1999.]

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
19 July 1, 2000.