
By: **Delegates Hixson, Heller, Barkley, R. Baker, Barve, Benson, Bobo, Branch, Bronrott, Brown, Burns, Cane, Clagett, Cole, Conroy, D'Amato, D. Davis, Dobson, Doory, Dypski, Finifter, Franchot, Giannetti, Gladden, Glassman, Gordon, Grosfeld, Hammen, Healey, Hill, Howard, Hubbard, Hubers, Hurson, A. Jones, K. Kelly, Kirk, Klausmeier, Krysiak, Love, Malone, Mandel, McHale, McIntosh, Menes, Minnick, Moe, Mohorovic, Montague, Morhaim, Nathan-Pulliam, Oaks, Owings, Paige, Parrott, Patterson, Pendergrass, Petzold, Phillips, Pitkin, Proctor, Riley, Rosso, Sher, Shriver, Sophocleus, Stern, Swain, Turner, Valderrama, Vallario, and Zirkin**

Introduced and read first time: February 2, 2001
Assigned to: Ways and Means

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 23, 2001

CHAPTER _____

1 AN ACT concerning

2 **Education - Negotiations**

3 FOR the purpose of requiring the State Labor Relations Board to decide ~~any~~
4 ~~controversy or dispute~~ specific controversies or disputes involving a labor
5 organization of certificated or noncertificated public school employees; providing
6 that a decision of the ~~Board~~ State Labor Relations Board is a final decision,
7 ~~subject to certain provisions of law relating to the fiscal limitations of local~~
8 ~~governments~~; requiring the ~~Board~~ State Labor Relations Board to supervise the
9 election of exclusive employee representatives; altering the matters which may
10 be negotiated by a designated representative; ~~authorizing the Board, under~~
11 ~~certain circumstances, to make a certain determination~~; ~~authorizing the Board~~
12 ~~to assist, in a bargaining impasse, in resolving the differences leading to the~~
13 ~~impasse~~; ~~granting the Board certain authority in making a determination under~~
14 ~~this Act exempting certain matters pertaining to students from negotiations~~;
15 requiring the State Board of Education to make certain determinations on
16 petition by either party; prohibiting certain matters pertaining to students from
17 being petitioned by either party to the State Board of Education for
18 determination; authorizing the ~~Board~~ State Labor Relations Board to petition
19 the circuit court to order compliance with a ~~Board order~~ State Labor Relations

1 Board order; authorizing the Board the State Labor Relations Board to adopt
 2 and enforce regulations, guidelines, and policies under this Act; providing that a
 3 hearing and determination under this Act is a contested case; repealing a
 4 limitation on who may be a certificated employee in Montgomery County;
 5 altering the definition of "public school employee"; altering the definition of
 6 "public school employer" to eliminate certain exceptions; repealing certain
 7 exceptions to the application of certain provisions of law relating to
 8 noncertificated employees; defining State Labor Relations Board; and generally
 9 relating to the authority of the State Labor Relations Board over controversies
 10 and disputes arising in negotiations with certificated and noncertificated public
 11 school employees negotiations and the resolution of certain controversies and
 12 disputes involving school personnel.

13 BY repealing and reenacting, with amendments,
 14 Article - Education
 15 Section 2-205(e), 6-401, 6-405(f), 6-408, 6-501, 6-506(f), and 6-510
 16 Annotated Code of Maryland
 17 (1999 Replacement Volume and 2000 Supplement)

18 BY repealing
 19 Article - Education
 20 Section 6-502
 21 Annotated Code of Maryland
 22 (1999 Replacement Volume and 2000 Supplement)

23 BY adding to
 24 Article - Education
 25 Section 6-801 to be under the new subtitle "Subtitle 8. State Labor Relations
 26 Board"
 27 Annotated Code of Maryland
 28 (1999 Replacement Volume and 2000 Supplement)

29 BY adding to
 30 Article - State Personnel and Pensions
 31 Section 3-211
 32 Annotated Code of Maryland
 33 (1997 Replacement Volume and 2000 Supplement)

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

1

Article - Education

2 2-205.

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

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

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

7 (2) [The] EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (4) OF THIS
8 SUBSECTION AND IN TITLE 6, SUBTITLES 4 AND 5 OF THIS ARTICLE, THE Board shall
9 decide all controversies and disputes under these provisions.

10 (3) The decision of the Board is final.

11 (4) (I) THE STATE LABOR RELATIONS BOARD SHALL DECIDE ANY
12 CONTROVERSY OR DISPUTE ARISING UNDER ~~TITLE 6, SUBTITLE 4 OR SUBTITLE 5 §~~
13 ~~6-405 OR § 6-506~~ OF THIS ARTICLE IN ACCORDANCE WITH THE PROVISIONS OF §§
14 6-401(F) AND 6-501(G) OF THIS ARTICLE.

15 (II) A DECISION OF THE STATE LABOR RELATIONS BOARD IS FINAL,
16 ~~SUBJECT TO THE PROVISIONS OF THIS ARTICLE RELATING TO THE FISCAL~~
17 ~~RELATIONSHIP BETWEEN A PUBLIC SCHOOL EMPLOYER AND THE GOVERNING BODY~~
18 ~~OF A LOCAL JURISDICTION.~~

19 6-401.

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

21 (b) "Employee organization" means an organization that:

22 (1) Includes certificated employees of a public school employer or
23 individuals of equivalent status in Baltimore City; and

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

26 (c) (1) "Home and hospital teacher" means a teacher employed by a public
27 school employer to provide instructional services to a public school student who is
28 unable to function effectively in the classroom setting due to the student's medical,
29 physical, or emotional condition.

30 (2) A home and hospital teacher may teach in:

31 (i) A private home;

32 (ii) A hospital;

33 (iii) A therapeutic center;

1 (iv) A school; or

2 (v) Any other appropriate site.

3 (d) (1) "Public school employee" means a certificated professional individual
4 who is employed by a public school employer or an individual of equivalent status in
5 Baltimore City, except for a county superintendent or an individual designated by the
6 public school employer to act in a negotiating capacity as provided in § 6-408(b) of
7 this subtitle.

8 (2) In Montgomery County, "public school employees" include:

9 (i) Certificated and noncertificated substitute teachers employed
10 by the public school employer for at least 7 days before March 1 of the school fiscal
11 year ending June 30, 1978, and each year after; and

12 (ii) Home and hospital teachers employed by the public school
13 employer for at least 7 days before March 1 of the school fiscal year ending June 30,
14 2000, and each year after.

15 (3) In Baltimore County, "public school employee" includes a secondary
16 school nurse, an elementary school nurse, and a special school nurse.

17 (4) In Frederick County, "public school employee" includes a social
18 worker employed by a public school employer.

19 (e) "Public school employer" means a county board of education or the New
20 Baltimore City Board of School Commissioners.

21 (F) "STATE LABOR RELATIONS BOARD" MEANS THE LABOR BOARD
22 ESTABLISHED UNDER TITLE 3, SUBTITLE 2 OF THE STATE PERSONNEL AND
23 PENSIONS ARTICLE AND HAVING THE AUTHORITY GRANTED UNDER THIS SUBTITLE
24 AND SUBTITLES 5 AND 8 OF THIS TITLE.

25 6-405.

26 (f) (1) The State LABOR RELATIONS Board shall adopt rules and regulations
27 for:

28 (i) Verifying the number of certificated employees of the public
29 school employer or individuals of equivalent status in Baltimore City who are
30 members in good standing of an employee organization on the date of the certification
31 or who have signed a petition under this section; and

32 (ii) Holding elections under this section and the certification of
33 their results.

34 (2) The State LABOR RELATIONS Board shall provide for supervision of
35 these elections.

36 (3) The elections shall be held:

1 (i) In each school facility where public employees are assigned on a
2 regularly scheduled school day;

3 (ii) In a manner assuring the secrecy of the ballot; and

4 (iii) On a regular working day for public school employees, between
5 June 1 and June 15, inclusive, except in Baltimore City where the elections shall be
6 held between November 1 and November 15 following the date on which certification
7 of required membership enrollment is made.

8 (4) In any election held under this section, the employee organization
9 that receives the largest number of votes cast in a unit shall be declared to be the
10 exclusive representative of all public school employees in the unit. If the largest
11 number of votes in the election is cast not to have exclusive representation, a
12 representative may not be designated for the unit.

13 (5) The public school employer shall provide any assistance required in
14 holding the elections.

15 6-408.

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

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

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

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

22 (b) (1) On request a public school employer or at least two of its designated
23 representatives shall meet and negotiate with at least two representatives of the
24 employee organization that is designated as the exclusive negotiating agent for the
25 public school employees in a unit of the county on:

26 (I) ALL MANDATORY SUBJECTS OF BARGAINING, WHICH ARE all
27 matters that relate to salaries, wages, hours, and other working conditions; AND

28 (II) ALL PERMISSIVE SUBJECTS OF BARGAINING, WHICH ARE ALL
29 OTHER MATTERS THAT ARE MUTUALLY AGREED TO BY THE EMPLOYER AND THE
30 EMPLOYEE ORGANIZATION, BUT MAY NOT INCLUDE MATTERS PERTAINING
31 EXCLUSIVELY TO:

32 1. STUDENT CLASS SIZE;

33 2. STUDENT CALENDAR;

34 3. STUDENT SCHOOL DAY; AND

35 4. STUDENT PLACEMENT.

1 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
 2 PARAGRAPH, ON PETITION BY EITHER PARTY TO THE STATE LABOR RELATIONS
 3 BOARD, THE STATE LABOR RELATIONS BOARD SHALL DETERMINE IF A MATTER IS A
 4 MANDATORY SUBJECT, A PERMISSIVE SUBJECT, OR AN ILLEGAL SUBJECT FOR
 5 BARGAINING.

6 (II) EITHER PARTY IS PROHIBITED FROM PETITIONING THE STATE
 7 BOARD ON MATTERS PERTAINING EXCLUSIVELY TO:

- 8 1. STUDENT CLASS SIZE;
 9 2. STUDENT CALENDAR;
 10 3. STUDENT SCHOOL DAY; AND
 11 4. STUDENT PLACEMENT.

12 [(2)] (3) In Montgomery County, the exclusive negotiating agent for the
 13 public school employees in a unit and the public school employer shall meet and
 14 negotiate under this section the salaries, wages, hours, and other working conditions
 15 of all persons actually employed as substitute teachers or home and hospital teachers.

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

19 (d) (1) If, on the request of either party, the State {Superintendent} ~~LABOR~~
 20 ~~RELATIONS BOARD~~ determines from the facts that an impasse is reached in
 21 negotiations between a public school employer and an employee organization that is
 22 designated as an exclusive negotiating agent, the assistance and advice of the State
 23 ~~LABOR RELATIONS~~ Board may be requested, with the consent of both parties.

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

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

- 27 (i) One member is to be named by each party within 3 days; and
 28 (ii) The third member is to be chosen by the other two members
 29 within 10 days after the request.

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

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

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

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

7 6-501.

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

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

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

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

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

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

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

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

25 (2) "Public school employee" includes a noncertificated employee in
26 Baltimore City AND MONTGOMERY COUNTY notwithstanding that the noncertificated
27 employee does not work for at least 9 months a year [on a full-time basis].

28 (3) "Public school employee" does not include:

29 (i) Management personnel;

30 (ii) A confidential employee; or

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

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

35 (i) Somerset;

1 (ii) Wicomico; and

2 (iii) Worcester].

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

5 (G) "STATE LABOR RELATIONS BOARD" MEANS THE LABOR BOARD
6 ESTABLISHED UNDER TITLE 3, SUBTITLE 2 OF THE STATE PERSONNEL AND
7 PENSIONS ARTICLE AND HAVING THE AUTHORITY GRANTED UNDER THIS SUBTITLE
8 AND SUBTITLES 5 AND 8 OF THIS TITLE.

9 (h) "Supervisory employee" includes any individual who responsibly directs
10 the work of other employees, as determined by the public school employer in
11 negotiation with an employee organization that requests negotiation on this issue.

12 [6-502.

13 (a) This subtitle does not apply to Caroline, Cecil, Dorchester, Kent, Queen
14 Anne's, and Talbot Counties.

15 (b) This subtitle does not apply to any public employees who, as of July 1,
16 1974, were covered by a negotiated agreement lawfully made between the employees
17 and any county under local law or ordinance.]

18 6-506.

19 (f) (1) The State LABOR RELATIONS Board shall adopt rules and regulations
20 for:

21 (i) Verifying the number of public school employees who are
22 members in good standing of an employee organization on the date of the certification
23 or who have signed a petition under this section; and

24 (ii) Holding elections under this section and the certification of
25 their results.

26 (2) The State LABOR RELATIONS Board shall provide for supervision of
27 these elections.

28 (3) The elections shall be held:

29 (i) In each school facility where public school employees are
30 assigned on a regularly scheduled school day;

31 (ii) In a manner assuring the secrecy of the ballot; and

32 (iii) On a regular working day for public school employees, between
33 June 1 and June 15, inclusive.

1 (4) In all elections held under this section, the employee organization
 2 that receives a majority of the votes cast in a unit shall be declared to be the exclusive
 3 representative of all public school employees in the unit. If a majority of the votes in
 4 the election are cast not to have exclusive representation, a representative may not be
 5 designated for the unit.

6 (5) The two choices on the ballot that receive the most votes shall be
 7 placed on a ballot for a runoff election that shall be held in the same manner as the
 8 original election if:

- 9 (i) More than one employee organization is on the ballot;
 10 (ii) No employee organization obtains a majority of the votes; and
 11 (iii) A majority of the votes is not for "not to have exclusive
 12 representation".

13 (6) The public school employer shall provide any assistance required in
 14 conducting the elections.

15 6-510.

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

- 17 (i) Confer in good faith, at all reasonable times; and
 18 (ii) Reduce to writing the matters agreed on as a result of the
 19 negotiations.

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

22 (b) (1) On request, a public school employer or at least two of its designated
 23 representatives shall meet and negotiate with at least two representatives of the
 24 employee organization that is designated as the exclusive negotiating agent for the
 25 public school employees in a unit of the county on:

26 (I) ALL MANDATORY SUBJECTS OF BARGAINING, WHICH ARE all
 27 matters that relate to salaries, wages, hours, and other working conditions,
 28 INCLUDING DISCIPLINE AND DISCHARGE FOR JUST CAUSE; AND

29 (II) ALL PERMISSIVE SUBJECTS OF BARGAINING, WHICH ARE ALL
 30 OTHER MATTERS THAT ARE MUTUALLY AGREED TO BY THE EMPLOYER AND THE
 31 EMPLOYEE ORGANIZATION, BUT MAY NOT INCLUDE MATTERS PERTAINING
 32 EXCLUSIVELY TO:

- 33 1. STUDENT CLASS SIZE;
 34 2. STUDENT CALENDAR;
 35 3. STUDENT SCHOOL DAY; AND

1 the subject of negotiation, but this final determination is subject to the other
2 provisions of this article concerning the fiscal relationship between the public school
3 employer and the county commissioners and county council.

4 SUBTITLE 8. STATE LABOR RELATIONS BOARD.

5 6-801.

6 (A) IN THIS SUBTITLE, "STATE LABOR RELATIONS BOARD" MEANS THE LABOR
7 BOARD ESTABLISHED UNDER TITLE 3, SUBTITLE 2 OF THE STATE PERSONNEL AND
8 PENSIONS ARTICLE.

9 (B) IN DECIDING MATTERS COVERED UNDER THE PROVISIONS OF SUBTITLES
10 4 AND 5 OF THIS TITLE, THE STATE LABOR RELATIONS BOARD:

11 (1) MAY:

12 (I) CONDUCT HEARINGS;

13 (II) SUBPOENA WITNESSES AND DOCUMENTS;

14 (III) ADMINISTER OATHS;

15 (IV) TAKE THE TESTIMONY OR DEPOSITION OF A PERSON UNDER
16 OATH; AND

17 (V) CONDUCT INVESTIGATIONS; AND

18 (2) SHALL DECIDE CONTROVERSIES AND DISPUTES.

19 (C) (1) IF A PERSON FAILS TO COMPLY WITH AN ORDER ISSUED BY THE
20 STATE LABOR RELATIONS BOARD, A MEMBER OF THE BOARD MAY PETITION THE
21 CIRCUIT COURT TO ORDER THE PERSON TO COMPLY WITH THE BOARD'S ORDER.

22 (2) THE STATE LABOR RELATIONS BOARD SHALL NOT BE REQUIRED TO
23 POST BOND IN AN ACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION.

24 (D) EACH HEARING AND DETERMINATION OF AN APPEAL OR COMPLAINT BY
25 THE STATE LABOR RELATIONS BOARD IS A CONTESTED CASE, SUBJECT TO THE
26 PROVISIONS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

27 (E) THE STATE LABOR RELATIONS BOARD MAY:

28 (1) ADOPT AND ENFORCE REGULATIONS, GUIDELINES, AND POLICIES
29 TO CARRY OUT ITS RIGHTS AND RESPONSIBILITIES UNDER THIS ARTICLE; AND

30 (2) MAKE RECOMMENDATIONS FOR LEGISLATIVE ACTION REGARDING
31 THE OPERATION OF THIS SUBTITLE.

1

Article - State Personnel and Pensions

2 3-211.

3 (A) THE BOARD SHALL ADMINISTER AND ENFORCE THE LABOR RELATIONS
4 PROVISIONS OF TITLE 6, SUBTITLES 4 AND 5 OF THE EDUCATION ARTICLE.

5 (B) THE AUTHORITY OF THE BOARD WITH REGARD TO LABOR RELATIONS
6 MATTERS IS SET OUT IN TITLE 6, SUBTITLE 8 OF THE EDUCATION ARTICLE.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2001.