

SENATE BILL 207

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P4

2001 Regular Session  
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By: **The President (Administration) and Senators Blount, Collins, Conway, Currie, Della, Dorman, Exum, Forehand, Frosh, Green, Hollinger, Jimeno, Kelley, Lawlah, McFadden, Middleton, Mitchell, Pinsky, Ruben, Sfikas, Stone, Teitelbaum, and Van Hollen**

Introduced and read first time: January 22, 2001

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; providing for certain exemptions; requiring that the boards of  
6 regents and the boards of trustees of certain State institutions of higher  
7 education take certain actions in accordance with the requirements of certain  
8 laws governing collective bargaining; requiring the boards of regents and the  
9 boards of trustees to designate one or more representatives to participate as a  
10 party in collective bargaining; specifying appropriate bargaining units for  
11 certain employees of certain State institutions of higher education; authorizing  
12 the boards of regents and the boards of trustees of certain State institutions of  
13 higher education to assign classification titles and positions to the bargaining  
14 units; authorizing the negotiation of supplemental memorandums of  
15 understanding at constituent institutions of the University System of Maryland  
16 under certain circumstances; authorizing the State Labor Relations Board to  
17 investigate and resolve certain disputes; clarifying certain provisions;  
18 prohibiting the Board from conducting certain elections within a certain period;  
19 repealing the authority of the Board to certify an exclusive representative under  
20 certain circumstances without an election; providing for the ratification of  
21 certain supplemental memorandums of understanding; repealing certain  
22 provisions of law that prohibit the Board of Regents of the University System of  
23 Maryland from establishing or implementing a certain collective bargaining  
24 plan; and generally relating to collective bargaining for employees of State  
25 institutions of higher education.

26 BY repealing and reenacting, with amendments,  
27 Article - Education  
28 Section 12-110, 12-111, 14-104(f) and (g), and 14-408  
29 Annotated Code of Maryland  
30 (1999 Replacement Volume and 2000 Supplement)

1 BY repealing and reenacting, with amendments,  
2 Article - State Personnel and Pensions  
3 Section 3-102, 3-206, 3-207, 3-401, 3-403, 3-406, 3-501, 3-502, and 3-601  
4 Annotated Code of Maryland  
5 (1997 Replacement Volume and 2000 Supplement)

6 BY repealing  
7 Chapter 298 of the Acts of the General Assembly of 1999  
8 Section 6

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

11 **Article - Education**

12 12-110.

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

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

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

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

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

30 (1) Prescribe additional personnel policies; and

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

33 12-111.

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

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

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

8 (2) Have the right of appeal as provided by law, in any case of alleged  
9 injustice;

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

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

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

19 14-104.

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

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

29 1. Adopt additional personnel policies; and

30 2. Approve individual personnel actions affecting the terms  
31 and conditions of academic and administrative appointments.

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

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

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

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

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

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

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

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

20 (ii) Have the right of appeal as provided by law in any case of  
21 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;

- 1 (ii) [Determine] MAY DETERMINE employee qualifications;
- 2 (iii) [Establish] MAY ESTABLISH terms of employment, including  
3 compensation, benefits, holiday schedules, and leave policies; [and]
- 4 (iv) [Determine] MAY DETERMINE any other matters concerning  
5 employees; AND
- 6 (V) SHALL DESIGNATE ONE OR MORE REPRESENTATIVES TO  
7 PARTICIPATE AS A PARTY IN COLLECTIVE BARGAINING ON BEHALF OF THE COLLEGE  
8 IN ACCORDANCE WITH THE REQUIREMENTS OF TITLE 3 OF THE STATE PERSONNEL  
9 AND PENSIONS ARTICLE.

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

- 11 (1) The redress of employee grievances; and
- 12 (2) The hiring, promotion, and termination of employees in accordance  
13 with law.

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

17 (2) An employee in a position determined by the Board to be a  
18 professional or faculty position may join the optional retirement program under Title  
19 30 of the State Personnel and Pensions Article.

20 **Article - State Personnel and Pensions**

21 3-102.

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

- 24 (1) the principal departments within the Executive Branch of State  
25 government;
- 26 (2) the Maryland Insurance Administration;
- 27 (3) the State Department of Assessments and Taxation; [and]
- 28 (4) the State Lottery Agency; AND

29 (5) THE UNIVERSITY SYSTEM OF MARYLAND, MORGAN STATE  
30 UNIVERSITY, ST. MARY'S COLLEGE OF MARYLAND, AND BALTIMORE CITY  
31 COMMUNITY COLLEGE.

32 (b) This title does not apply to:

- 1 (1) employees of the Mass Transit Administration, as that term is  
2 defined in § 7-601(a)(2) of the Transportation Article;
- 3 (2) an employee who is elected to the position by popular vote;
- 4 (3) an employee in a position by election or appointment that is provided  
5 for by the Maryland Constitution;
- 6 (4) an employee who is:
- 7 (i) a special appointee in the State Personnel Management  
8 System; or
- 9 (ii) 1. directly appointed by the Governor by an appointment that is  
10 not provided for by the Maryland Constitution;
- 11 2. appointed by or on the staff of the Governor or Lieutenant  
12 Governor; or
- 13 3. assigned to the Government House or the Governor's  
14 Office;
- 15 (5) an employee assigned to the Board or with access to records of the  
16 Board;
- 17 (6) an employee in:
- 18 (i) the executive service of the State Personnel Management  
19 System; or
- 20 (ii) a unit of the Executive Branch with an independent personnel  
21 system who is:
- 22 1. the chief administrator of the unit or a comparable  
23 position that is not excluded under item (3) of this subsection as a constitutional or  
24 elected office; or
- 25 2. a deputy or assistant administrator of the unit or a  
26 comparable position;
- 27 (7) (i) a temporary or contractual employee in the State Personnel  
28 Management System; or
- 29 (ii) a contractual, temporary, or emergency employee in a unit of  
30 the Executive Branch with an independent personnel system;
- 31 (8) an employee who is entitled to participate in collective bargaining  
32 under another law;

1 (9) AN EMPLOYEE OF THE UNIVERSITY SYSTEM OF MARYLAND,  
2 MORGAN STATE UNIVERSITY, ST. MARY'S COLLEGE OF MARYLAND, OR BALTIMORE  
3 CITY COMMUNITY COLLEGE WHO IS:

4 (I) A CHIEF ADMINISTRATOR OR IN A COMPARABLE POSITION;

5 (II) A DEPUTY, ASSOCIATE, OR ASSISTANT ADMINISTRATOR OR IN A  
6 COMPARABLE POSITION;

7 (III) A MEMBER OF THE FACULTY, INCLUDING A FACULTY  
8 LIBRARIAN;

9 (IV) A STUDENT EMPLOYEE, INCLUDING A TEACHING ASSISTANT  
10 OR A COMPARABLE POSITION, FELLOW, OR POST DOCTORAL INTERN;

11 (V) A CONTINGENT, CONTRACTUAL, TEMPORARY, OR EMERGENCY  
12 EMPLOYEE WITH LESS THAN 2 YEARS OF CONTINUOUS SERVICE;

13 (VI) A CONTINGENT, CONTRACTUAL OR TEMPORARY EMPLOYEE  
14 WHOSE POSITION IS FUNDED THROUGH A RESEARCH OR SERVICE GRANT OR  
15 THROUGH CLINICAL REVENUES; OR

16 (VII) AN EMPLOYEE WHOSE REGULAR PLACE OF EMPLOYMENT IS  
17 OUTSIDE THE STATE OF MARYLAND;

18 (10) AN EMPLOYEE OF A COMMUNITY COLLEGE OTHER THAN  
19 BALTIMORE CITY COMMUNITY COLLEGE;

20 [(9)] (11) an employee whose participation in a labor organization would  
21 be contrary to the State's ethics laws; or

22 [(10)] (12) any supervisory, managerial, or confidential employee as  
23 defined by regulation by the Secretary.

24 3-206.

25 (a) The Board is responsible for administering and enforcing this title.

26 (b) In addition to any other powers or duties provided for elsewhere in this  
27 title, the Board may:

28 (1) (i) establish guidelines for creating new bargaining units that  
29 include a consideration of:

30 1. the effect of overfragmentation on the employer;

31 2. the administrative structures of the State employer;

32 3. the recommendations of the parties;

33 4. the recommendations of the Secretary;





1           (2)     If there is no dispute about the appropriateness of the establishment  
2 of the bargaining unit, the Board shall issue an order defining an appropriate  
3 bargaining unit.

4           (3)     If there is a dispute about the appropriateness of the establishment of  
5 the bargaining unit, the Board shall:

6                   (i)     conduct a hearing; and

7                   (ii)    issue an order defining an appropriate bargaining unit.

8       (b)     If the appropriate bargaining unit as determined by the Board differs from  
9 the bargaining unit described in the petition, the Board may:

10           (1)     dismiss the petition; or

11           (2)     direct an election in the appropriate bargaining unit if the signatures  
12 included in the petition include those of at least 30% of the employees in the  
13 appropriate bargaining unit.

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

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

19           (2)     APPROPRIATE BARGAINING UNITS SHALL CONSIST OF:

20                   (I)     ALL ELIGIBLE LABOR AND TRADES EMPLOYEES;

21                   (II)    ALL ELIGIBLE ADMINISTRATIVE, TECHNICAL, AND CLERICAL  
22 EMPLOYEES EXCEPT PROFESSIONAL EMPLOYEES, AS DEFINED BY THE BOARD;

23                   (III)   ALL ELIGIBLE PROFESSIONAL EMPLOYEES, AS DEFINED BY  
24 THE BOARD; AND

25                   (IV)   ALL ELIGIBLE SWORN POLICE OFFICERS.

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

29           (2)     THE GOVERNING BOARD OF A STATE INSTITUTION OF HIGHER  
30 EDUCATION SHALL HAVE THE AUTHORITY TO ASSIGN CLASSIFICATION TITLES AND  
31 POSITIONS TO BARGAINING UNITS IN THAT INSTITUTION AS APPROPRIATE.

1 3-406.

2 (a) The Board shall certify as exclusive representative the employee  
3 organization receiving the votes in an election from a majority of the employees  
4 voting in the election.

5 [(b) Without conducting an election, the Board shall certify as exclusive  
6 representative the employee organization designated in the petition filed under §  
7 3-402 of this subtitle, if:

8 (1) that organization is the only employee organization that would be  
9 named on a ballot in an election; and

10 (2) the organization files with the Board a certification that a majority of  
11 the employees in the bargaining unit want to be represented by that organization.]

12 [(c)] (B) After notice and an opportunity for a hearing, the Board may deny or  
13 revoke certification as exclusive representative of an employee organization for  
14 willful failure to comply with:

15 (1) this title; or

16 (2) the governing documents of the organization.

17 3-501.

18 (a) (1) The Governor OR THE GOVERNING BOARD OF A STATE INSTITUTION  
19 OF HIGHER EDUCATION shall designate one or more representatives to participate as  
20 a party in collective bargaining on behalf of the State OR THE STATE INSTITUTION OF  
21 HIGHER EDUCATION.

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

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

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

30 (d) (1) The parties, the Governor's designee OR THE DESIGNEE OF THE  
31 GOVERNING BOARD OF A STATE INSTITUTION OF HIGHER EDUCATION, and the  
32 exclusive representative shall execute a memorandum of understanding  
33 incorporating all matters of agreement reached.

34 (2) To the extent these matters require legislative approval or the  
35 appropriation of funds, the matters shall be recommended to the General Assembly  
36 for approval or for the appropriation of funds.

1 (3) TO THE EXTENT MATTERS INVOLVING A STATE INSTITUTION OF  
2 HIGHER EDUCATION REQUIRE THE APPROPRIATION OF FUNDS, SUCH FUNDS SHALL  
3 BE INCLUDED IN THE GOVERNING BOARD'S BUDGET REQUEST TO THE GOVERNOR.

4 (4) TO THE EXTENT MATTERS INVOLVING A STATE INSTITUTION OF  
5 HIGHER EDUCATION REQUIRE LEGISLATIVE APPROVAL, THE LEGISLATION SHALL BE  
6 RECOMMENDED TO THE GOVERNOR FOR SUBMISSION TO THE GENERAL ASSEMBLY.

7 (E) AT THE REQUEST OF EITHER THE EXCLUSIVE REPRESENTATIVE OR THE  
8 BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF MARYLAND, THE PARTIES  
9 SHALL NEGOTIATE A SUPPLEMENTAL MEMORANDUM OF UNDERSTANDING ON ANY  
10 ISSUE AT INSTITUTIONS OF THE UNIVERSITY SYSTEM OF MARYLAND.

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

13 3-502.

14 (a) Collective bargaining shall include all matters relating to wages, hours,  
15 and other terms and conditions of employment.

16 (b) Collective bargaining may not include negotiations relating to the right of  
17 an employee organization to receive service fees from nonmembers.

18 (c) Notwithstanding subsection (a) of this section, the Governor or the  
19 Governor's designee AND THE GOVERNING BOARD OF A STATE INSTITUTION OF  
20 HIGHER EDUCATION OR ITS DESIGNEE:

21 (1) shall not be required to negotiate over any matter that is inconsistent  
22 with applicable law; and

23 (2) may negotiate and reach agreement with regard to any such matter  
24 only if it is understood that the agreement with respect to such matter cannot become  
25 effective unless the applicable law is amended by the General Assembly.

26 3-601.

27 (a) (1) A memorandum of understanding shall contain all matters of  
28 agreement reached in the collective bargaining process.

29 (2) The memorandum shall be in writing and signed by the designated  
30 representatives of the Governor OR THE GOVERNING BOARD OF A STATE  
31 INSTITUTION OF HIGHER EDUCATION and the exclusive representative involved in  
32 the collective bargaining negotiations.

33 (b) No memorandum of understanding is valid if it extends for less than 1 year  
34 or for more than 3 years.

35 (c) (1) A memorandum of understanding is not effective until it is ratified by  
36 the Governor and a majority of the votes cast by the employees in the bargaining unit.

1           (2)     IN THE CASE OF A STATE INSTITUTION OF HIGHER EDUCATION, A  
2 MEMORANDUM OF UNDERSTANDING IS NOT EFFECTIVE UNTIL IT IS RATIFIED BY  
3 THE INSTITUTION'S GOVERNING BOARD AND:

4                   (I)     A MAJORITY OF THE VOTES CAST BY THE EMPLOYEES IN THE  
5 BARGAINING UNIT; OR

6                   (II)    FOR A SUPPLEMENTAL MEMORANDUM OF UNDERSTANDING  
7 UNDER § 3-501(E) OF THIS TITLE, A MAJORITY OF VOTES CAST BY THE AFFECTED  
8 EMPLOYEES IN THE BARGAINING UNIT AT THE INSTITUTION INVOLVED.

9                                   **Chapter 298 of the Acts of 1999**

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

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