
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

Committee Report: Favorable with amendments
Senate action: Adopted with floor amendments
Read second time: April 1, 2001

CHAPTER _____

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; altering a certain
6 exemption; requiring that the ~~boards of regents~~ presidents of the constituent
7 institutions of the University System of Maryland and the governing boards of
8 ~~trustees~~ of certain State institutions of higher education take certain actions in
9 accordance with the requirements of certain laws governing collective
10 bargaining; repealing certain provisions of law relating to rights and privileges
11 of certain employees of the University System of Maryland and Morgan State
12 University; establishing a State Higher Education Labor Relations Board;
13 specifying the manner of appointment, membership, duties, and responsibilities
14 of the Board; providing for staffing of the Board; authorizing the Board to adopt
15 and enforce certain regulations, guidelines, and policies; providing that certain
16 information furnished to the Board is confidential; permitting the Board to
17 petition a circuit court to seek enforcement of an order of the Board; requiring
18 the ~~boards of regents~~ presidents and the governing boards of trustees of certain
19 State institutions of higher education to designate one or more representatives
20 to participate as a party in collective bargaining; specifying appropriate
21 bargaining units for certain employees of certain State institutions of higher
22 education; authorizing the boards of regents presidents and the governing
23 boards of trustees of certain State institutions of higher education to assign
24 classification titles and positions to the bargaining units; authorizing the
25 ~~negotiation of supplemental memorandums of understanding at constituent~~

1 institutions of the University System of Maryland under certain circumstances;
 2 ~~authorizing the State Labor Relations Board to investigate and resolve certain~~
 3 ~~disputes; clarifying certain provisions; prohibiting the Board State Labor~~
 4 ~~Relations Board and the State Higher Education Labor Relations Board from~~
 5 ~~conducting certain elections within a certain period; repealing the authority of~~
 6 ~~the State Labor Relations Board to certify an exclusive representative under~~
 7 ~~certain circumstances without an election; providing for the ratification of~~
 8 ~~certain supplemental memorandums of understanding requiring certain~~
 9 ~~memoranda of understanding to be executed by certain persons; providing for~~
 10 ~~the application of the terms of certain memoranda of understanding; altering a~~
 11 ~~certain definition; defining certain terms; repealing certain provisions of law~~
 12 ~~that prohibit the Board of Regents of the University System of Maryland from~~
 13 ~~establishing or implementing a certain collective bargaining plan; and generally~~
 14 ~~relating to collective bargaining for employees of State institutions of higher~~
 15 ~~education.~~

16 BY repealing and reenacting, with amendments,
 17 Article - Education
 18 Section 12-109(e)(17) and (18), 12-110, 12-111, 14-104(f) and (g), and 14-408
 19 Annotated Code of Maryland
 20 (1999 Replacement Volume and 2000 Supplement)

21 BY adding to
 22 Article - Education
 23 Section 12-109(e)(18) and 16-505(m)
 24 Annotated Code of Maryland
 25 (1999 Replacement Volume and 2000 Supplement)

26 BY repealing and reenacting, with amendments,
 27 Article - State Personnel and Pensions
 28 Section 3-101(b), 3-102, ~~3-206~~ 3-206(a), ~~3-207~~, 3-401, 3-403, 3-406, 3-501,
 29 3-502, and 3-601
 30 Annotated Code of Maryland
 31 (1997 Replacement Volume and 2000 Supplement)

32 BY adding to
 33 Article - State Personnel and Pensions
 34 Section 3-101(f) and (g); 3-2A-01 through 3-2A-09, inclusive, to be under the
 35 new subtitle "Subtitle 2A. State Higher Education Labor Relations Board";
 36 and 3-602
 37 Annotated Code of Maryland
 38 (1997 Replacement Volume and 2000 Supplement)

39 BY repealing
 40 Chapter 298 of the Acts of the General Assembly of 1999

1 Section 6

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

4 **Article - Education**

5 12-109.

6 (e) Subject to the authority and applicable regulations and policies of the
7 Board of Regents, each president shall:

8 (17) Establish traffic regulations for the campus; [and]

9 (18) DESIGNATE ONE OR MORE REPRESENTATIVES TO PARTICIPATE AS A
10 PARTY IN COLLECTIVE BARGAINING ON BEHALF OF THE INSTITUTION IN
11 ACCORDANCE WITH TITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE;
12 AND

13 [(18)] (19) Perform any other duties assigned by the Board.

14 12-110.

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

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

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

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

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

32 (1) Prescribe additional personnel policies; and

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

1 12-111.

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

5 (b) ~~After appointment, employees in positions designated by the University
6 shall be regarded and treated in the same manner as skilled service or professional
7 service employees, with the exception of special appointments, in the State Personnel
8 Management System and:~~

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

12 (2) ~~Have the right of appeal as provided by law, in any case of alleged
13 injustice;~~

14 (3) ~~Shall be paid salaries not less than those paid in similar
15 classifications in other State agencies; and~~

16 (4) ~~Shall retain their vacation privileges, retirement status, and benefits
17 under the State retirement systems.~~

18 (e) ~~Subject to subsection (b) of this section, AND IN ACCORDANCE WITH THE
19 REQUIREMENTS OF TITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE, the
20 Board of Regents shall establish general policies and guidelines governing the
21 appointment, compensation, advancement, tenure, and termination of all classified
22 personnel.~~

23 14-104.

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

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

33 1. Adopt additional personnel policies; and

34 2. Approve individual personnel actions affecting the terms
35 and conditions of academic and administrative appointments.

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

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

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

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

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

16 (4) ON THE RECOMMENDATION OF THE PRESIDENT, THE BOARD OF
 17 REGENTS SHALL DESIGNATE ONE OR MORE REPRESENTATIVES TO PARTICIPATE AS
 18 A PARTY IN COLLECTIVE BARGAINING ON BEHALF OF THE UNIVERSITY IN
 19 ACCORDANCE WITH TITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

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

24 ~~(i) Have all rights and privileges of skilled service or professional~~
 25 ~~service employees, with the exception of special appointments, in the State Personnel~~
 26 ~~Management System;~~

27 ~~(ii) Have the right of appeal as provided by law in any case of~~
 28 ~~alleged injustice;~~

29 ~~(iii) Shall be paid salaries not less than those paid in similar~~
 30 ~~classifications in other State agencies; and~~

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

33 ~~(2) Subject to paragraph (1) of this subsection, AND IN ACCORDANCE~~
 34 ~~WITH THE REQUIREMENTS OF TITLE 3 OF THE STATE PERSONNEL AND PENSIONS~~
 35 ~~ARTICLE, the Board of Regents shall establish general policies and guidelines~~
 36 ~~governing the appointment, compensation, advancement, tenure, and termination of~~
 37 ~~all classified personnel.~~

1 14-408.

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

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

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

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

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

10 (iv) [Determine] MAY DETERMINE any other matters concerning
11 employees; AND

12 (V) SHALL DESIGNATE ONE OR MORE REPRESENTATIVES TO
13 PARTICIPATE AS A PARTY IN COLLECTIVE BARGAINING ON BEHALF OF THE COLLEGE
14 IN ACCORDANCE WITH ~~THE REQUIREMENTS OF~~ TITLE 3 OF THE STATE PERSONNEL
15 AND PENSIONS ARTICLE.

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

17 (1) The redress of employee grievances; and

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

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

23 (2) An employee in a position determined by the Board to be a
24 professional or faculty position may join the optional retirement program under Title
25 30 of the State Personnel and Pensions Article.

26 16-505.

27 (M) ON THE RECOMMENDATION OF THE PRESIDENT, THE BOARD OF
28 TRUSTEES SHALL DESIGNATE ONE OR MORE REPRESENTATIVES TO PARTICIPATE AS
29 A PARTY IN COLLECTIVE BARGAINING ON BEHALF OF THE COLLEGE IN
30 ACCORDANCE WITH TITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

31 **Article - State Personnel and Pensions**

32 3-101.

33 (b) "Board" means:

1 (1) WITH REGARD TO ANY MATTER RELATING TO EMPLOYEES OF ANY OF
2 THE UNITS OF STATE GOVERNMENT DESCRIBED IN § 3-102(A)(1) THROUGH (4) OF THIS
3 SUBTITLE, the State Labor Relations Board; AND

4 (2) WITH REGARD TO ANY MATTER RELATING TO EMPLOYEES OF ANY
5 STATE INSTITUTION OF HIGHER EDUCATION DESCRIBED IN § 3-102(A)(5) OF THIS
6 SUBTITLE, THE STATE HIGHER EDUCATION LABOR RELATIONS BOARD.

7 (F) "PRESIDENT" MEANS:

8 (1) WITH REGARD TO A CONSTITUENT INSTITUTION, AS DEFINED IN §
9 12-101 OF THE EDUCATION ARTICLE, THE PRESIDENT OF THE CONSTITUENT
10 INSTITUTION;

11 (2) WITH REGARD TO A CENTER OR INSTITUTE, AS THOSE TERMS ARE
12 DEFINED IN § 12-101 OF THE EDUCATION ARTICLE, THE PRESIDENT OF THE CENTER
13 OR INSTITUTE;

14 (3) WITH REGARD TO THE UNIVERSITY SYSTEM OF MARYLAND OFFICE,
15 THE CHANCELLOR OF THE UNIVERSITY SYSTEM OF MARYLAND; AND

16 (4) WITH REGARD TO MORGAN STATE UNIVERSITY, ST. MARY'S COLLEGE
17 OF MARYLAND, AND BALTIMORE CITY COMMUNITY COLLEGE, THE PRESIDENT OF
18 THE INSTITUTION.

19 (G) "SYSTEM INSTITUTION" MEANS:

20 (1) A CONSTITUENT INSTITUTION, AS DEFINED IN § 12-101 OF THE
21 EDUCATION ARTICLE;

22 (2) A CENTER OR INSTITUTE, AS THOSE TERMS ARE DEFINED IN § 12-101
23 OF THE EDUCATION ARTICLE; AND

24 (3) THE UNIVERSITY SYSTEM OF MARYLAND OFFICE.

25 3-102.

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

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

30 (2) the Maryland Insurance Administration;

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

32 (4) the State Lottery Agency; AND

1 (5) THE UNIVERSITY SYSTEM OF MARYLAND, MORGAN STATE
2 UNIVERSITY, ST. MARY'S COLLEGE OF MARYLAND, AND BALTIMORE CITY
3 COMMUNITY COLLEGE.

4 (b) This title does not apply to:

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

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

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

10 (4) an employee who is:

11 (i) a special appointee in the State Personnel Management
12 System; or

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

15 2. appointed by or on the staff of the Governor or Lieutenant
16 Governor; or

17 3. assigned to the Government House or the Governor's
18 Office;

19 (5) an employee assigned to the Board or with access to records of the
20 Board;

21 (6) an employee in:

22 (i) the executive service of the State Personnel Management
23 System; or

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

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

29 2. a deputy or assistant administrator of the unit or a
30 comparable position;

31 (7) (i) a temporary or contractual employee in the State Personnel
32 Management System; or

33 (ii) a contractual, temporary, or emergency employee in a unit of
34 the Executive Branch with an independent personnel system;

1 (8) an employee who is entitled to participate in collective bargaining
2 under another law;

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

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

7 (II) A DEPUTY, ASSOCIATE, OR ASSISTANT ADMINISTRATOR OR IN A
8 COMPARABLE POSITION;

9 (III) A MEMBER OF THE FACULTY, INCLUDING A FACULTY
10 LIBRARIAN;

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

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

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

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

20 ~~(10) AN EMPLOYEE OF A COMMUNITY COLLEGE OTHER THAN~~
21 ~~BALTIMORE CITY COMMUNITY COLLEGE;~~

22 [(9)] ~~(11)~~ (10) an employee whose participation in a labor organization
23 would be contrary to the State's ethics laws; ~~or~~

24 [(10)] ~~(12)~~ (11) any supervisory, managerial, or confidential employee OF
25 A UNIT OF STATE GOVERNMENT LISTED IN SUBSECTION (A)(1) THROUGH (4) OF THIS
26 SECTION, as defined by ~~regulation~~ IN REGULATIONS ADOPTED by the Secretary; OR

27 (13) ANY SUPERVISORY, MANAGERIAL, OR CONFIDENTIAL EMPLOYEE OF
28 A STATE INSTITUTION OF HIGHER EDUCATION LISTED IN SUBSECTION (A)(5) OF THIS
29 SECTION, AS DEFINED IN REGULATIONS ADOPTED BY THE GOVERNING BOARD OF
30 THE INSTITUTION.

31 3-206.

32 (a) The Board is responsible for administering and enforcing ~~this title~~
33 PROVISIONS OF THIS TITLE RELATING TO EMPLOYEES DESCRIBED IN § 3-102(A)(1)
34 THROUGH (4) OF THIS TITLE.

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

1 3-2A-02.

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

3 (1) FOUR MEMBERS WITH EXPERTISE IN HIGHER EDUCATION,
4 APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE
5 FROM A LIST PROVIDED BY THE MARYLAND HIGHER EDUCATION COMMISSION:

6 (I) WHO ARE NOT OFFICERS OR EMPLOYEES OF A STATE
7 INSTITUTION OF HIGHER EDUCATION OR AN EMPLOYEE ORGANIZATION;

8 (II) WHO ARE KNOWN FOR OBJECTIVE AND INDEPENDENT
9 JUDGMENT; AND

10 (III) TWO OF WHOM HAVE KNOWLEDGE OF LABOR ISSUES; AND

11 (2) ONE MEMBER OF THE GENERAL PUBLIC, APPOINTED BY THE
12 GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE FROM A LIST
13 PROVIDED BY THE MARYLAND HIGHER EDUCATION COMMISSION, WHO IS KNOWN
14 FOR OBJECTIVE AND INDEPENDENT JUDGMENT.

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

17 (C) WITH THE ADVICE OF THE GOVERNING BOARDS OF STATE INSTITUTIONS
18 OF HIGHER EDUCATION, THE GOVERNOR SHALL DESIGNATE A CHAIRMAN FROM
19 AMONG THE MEMBERS OF THE BOARD.

20 (D) (1) THE TERM OF A MEMBER IS 6 YEARS.

21 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE
22 TERMS PROVIDED FOR MEMBERS OF THE BOARD ON JULY 1, 2001.

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

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

27 (5) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
28 ONLY FOR THE REMAINDER OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED
29 AND QUALIFIES.

30 (E) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR
31 MISCONDUCT.

32 (F) IN MAKING APPOINTMENTS TO THE BOARD, THE GOVERNOR SHALL
33 ENSURE, TO THE EXTENT PRACTICABLE, THAT:

1 (1) THE RATIO OF MALE AND FEMALE MEMBERS AND THE RACIAL
2 MAKEUP OF THE BOARD IS REFLECTIVE OF THE GENERAL POPULATION OF THE
3 STATE; AND

4 (2) EACH MAJOR GEOGRAPHIC AREA OF THE STATE IS REPRESENTED ON
5 THE BOARD.

6 3-2A-03.

7 (A) (1) A MAJORITY OF THE VOTING MEMBERS SHALL CONSTITUTE A
8 QUORUM FOR:

9 (I) THE TRANSACTION OF ANY BUSINESS; OR

10 (II) THE EXERCISE OF ANY POWER OR THE PERFORMANCE OF ANY
11 DUTY AUTHORIZED OR IMPOSED BY LAW.

12 (2) NO FORMAL ACTION MAY BE TAKEN BY THE BOARD WITHOUT THE
13 APPROVAL OF A MAJORITY OF THE VOTING MEMBERS OF THE BOARD.

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

15 (C) A 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 3-2A-04.

20 (A) (1) THE BOARD SHALL APPOINT AN EXECUTIVE DIRECTOR OF THE
21 BOARD.

22 (2) THE EXECUTIVE DIRECTOR:

23 (I) IS RESPONSIBLE TO AND SERVES AT THE PLEASURE OF THE
24 BOARD; 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 BOARD ASSIGNS, INCLUDING:

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

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

31 (C) THE EXECUTIVE DIRECTOR MAY HIRE ANY STAFF NECESSARY TO CARRY
32 OUT THE PROVISIONS OF THIS SUBTITLE.

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

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

5 3-2A-05.

6 (A) THE BOARD IS RESPONSIBLE FOR ADMINISTERING AND ENFORCING
7 PROVISIONS OF THIS TITLE RELATING TO EMPLOYEES DESCRIBED IN § 3-102(A)(5) OF
8 THIS TITLE.

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

11 (1) ESTABLISH PROCEDURES FOR, SUPERVISE THE CONDUCT OF, AND
12 RESOLVE DISPUTES ABOUT ELECTIONS FOR EXCLUSIVE REPRESENTATIVES; AND

13 (2) INVESTIGATE AND TAKE APPROPRIATE ACTION IN RESPONSE TO
14 COMPLAINTS OF UNFAIR LABOR PRACTICES AND LOCKOUTS.

15 3-2A-06.

16 THE BOARD MAY ADOPT AND ENFORCE REGULATIONS, GUIDELINES, AND
17 POLICIES TO CARRY OUT THIS TITLE WHICH:

18 (1) DEFINE UNFAIR LABOR PRACTICES; AND

19 (2) ESTABLISH PERMISSIBLE LABOR-RELATED ACTIVITIES ON THE
20 WORK SITE.

21 3-2A-07.

22 (A) THE BOARD MAY INVESTIGATE:

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

25 (2) ANY OTHER RELEVANT MATTER.

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

30 3-2A-08.

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

1 3-2A-09.

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

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

7 3-401.

8 (a) Except as otherwise provided in this subtitle, the Board shall conduct an
9 election for an exclusive representative of a bargaining unit if:

10 (1) a valid petition is filed in accordance with § 3-402 of this subtitle;
11 and

12 (2) the bargaining unit involved in the petition is determined to be an
13 appropriate bargaining unit under § 3-403 of this subtitle.

14 (b) The Board may not conduct an election for an exclusive representative of a
15 bargaining unit if the Board has CONDUCTED AN ELECTION OR certified an exclusive
16 representative for that bargaining unit within the preceding 2 years.

17 3-403.

18 (a) (1) [The] EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, THE Board
19 shall determine the appropriateness of each bargaining unit.

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

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

25 (i) conduct a hearing; and

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

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

29 (1) dismiss the petition; or

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

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

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

5 (2) (I) THE PRESIDENTS OF THE SYSTEM INSTITUTIONS MAY AGREE
 6 TO COOPERATE FOR THE PURPOSE OF COLLECTIVE BARGAINING:

7 1. BEFORE THE ELECTION OF EXCLUSIVE
 8 REPRESENTATIVES; OR

9 2. AFTER THE CERTIFICATION OF EXCLUSIVE
 10 REPRESENTATIVES UNDER § 3-406(A) OF THIS TITLE.

11 ~~(2)~~ (3) APPROPRIATE BARGAINING UNITS SHALL CONSIST OF:

12 (I) ALL ELIGIBLE LABOR AND TRADES EMPLOYEES; NONEXEMPT
 13 EMPLOYEES, AS DESCRIBED IN THE FEDERAL FAIR LABOR STANDARDS ACT, EXCEPT
 14 ELIGIBLE SWORN POLICE OFFICERS;

15 (II) ALL ELIGIBLE EXEMPT EMPLOYEES, AS DESCRIBED IN THE
 16 FEDERAL FAIR LABOR STANDARDS ACT; AND

17 ~~(II)~~ (IV) ALL ELIGIBLE ADMINISTRATIVE, TECHNICAL, AND CLERICAL
 18 EMPLOYEES EXCEPT PROFESSIONAL EMPLOYEES, AS DEFINED BY THE BOARD;

19 ~~(III)~~ (III) ALL ELIGIBLE PROFESSIONAL EMPLOYEES, AS DEFINED BY
 20 THE BOARD; AND

21 ~~(IV)~~ (III) ALL ELIGIBLE SWORN POLICE OFFICERS.

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

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

28 (2) THE FOLLOWING INDIVIDUALS AND ENTITIES SHALL ASSIGN
 29 CLASSIFICATION TITLES AND POSITIONS TO BARGAINING UNITS AT THE FOLLOWING
 30 INSTITUTIONS:

31 (I) AT A SYSTEM INSTITUTION, THE PRESIDENT OF THE SYSTEM
 32 INSTITUTION; AND

33 (II) AT MORGAN STATE UNIVERSITY, ST. MARY'S COLLEGE OF
 34 MARYLAND, OR BALTIMORE CITY COMMUNITY COLLEGE, THE GOVERNING BOARD OF
 35 THE INSTITUTION.

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 THE FOLLOWING INDIVIDUALS OR ENTITIES~~ shall designate
20 one or more representatives to participate as a party in collective bargaining on
21 behalf of the State ~~OR THE STATE INSTITUTION OF HIGHER EDUCATION~~ FOLLOWING
22 INSTITUTIONS:

23 (I) ON BEHALF OF THE STATE, THE GOVERNOR;

24 (II) ON BEHALF OF A SYSTEM INSTITUTION, THE PRESIDENT OF
25 THE SYSTEM INSTITUTION; AND

26 (III) ON BEHALF OF MORGAN STATE UNIVERSITY, ST. MARY'S
27 COLLEGE OF MARYLAND, OR BALTIMORE CITY COMMUNITY COLLEGE, THE
28 GOVERNING BOARD OF THE INSTITUTION.

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

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

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

1 (d) (1) ~~The parties, the Governor's designee OR THE DESIGNEE OF THE~~
 2 ~~GOVERNING BOARD OF A STATE INSTITUTION OF HIGHER EDUCATION, and the~~
 3 ~~exclusive representative shall execute a memorandum of understanding~~
 4 ~~incorporating all matters of agreement reached. A MEMORANDUM OF~~
 5 ~~UNDERSTANDING THAT INCORPORATES ALL MATTERS OF AGREEMENT REACHED BY~~
 6 ~~THE PARTIES SHALL BE EXECUTED BY THE EXCLUSIVE REPRESENTATIVE AND:~~

7 (I) FOR A MEMORANDUM OF UNDERSTANDING RELATING TO THE
 8 STATE, THE GOVERNOR OR THE GOVERNOR'S DESIGNEE;

9 (II) FOR A MEMORANDUM OF UNDERSTANDING RELATING TO A
 10 SYSTEM INSTITUTION, THE PRESIDENT OF THE SYSTEM INSTITUTION OR THE
 11 PRESIDENT'S DESIGNEE; AND

12 (III) FOR A MEMORANDUM OF UNDERSTANDING RELATING TO
 13 MORGAN STATE UNIVERSITY, ST. MARY'S COLLEGE OF MARYLAND, OR BALTIMORE
 14 CITY COMMUNITY COLLEGE, THE GOVERNING BOARD OF THE INSTITUTION OR THE
 15 GOVERNING BOARD'S DESIGNEE.

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

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

22 ~~(4)~~ (3) TO THE EXTENT MATTERS INVOLVING A STATE INSTITUTION OF
 23 HIGHER EDUCATION REQUIRE LEGISLATIVE APPROVAL, THE LEGISLATION SHALL BE
 24 RECOMMENDED TO THE GOVERNOR FOR SUBMISSION TO THE GENERAL ASSEMBLY.

25 ~~(E) AT THE REQUEST OF EITHER THE EXCLUSIVE REPRESENTATIVE OR THE~~
 26 ~~BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF MARYLAND, THE PARTIES~~
 27 ~~SHALL NEGOTIATE A SUPPLEMENTAL MEMORANDUM OF UNDERSTANDING ON ANY~~
 28 ~~ISSUE AT INSTITUTIONS OF THE UNIVERSITY SYSTEM OF MARYLAND.~~

29 ~~{e}~~ ~~(F)~~ Negotiations or matters relating to negotiations shall be considered
 30 closed sessions under § 10-508 of the State Government Article.

31 (F) (1) THE TERMS OF A MEMORANDUM OF UNDERSTANDING EXECUTED BY
 32 THE GOVERNOR OR THE GOVERNOR'S DESIGNEE AND AN EXCLUSIVE
 33 REPRESENTATIVE OF A BARGAINING UNIT FOR SKILLED SERVICE OR PROFESSIONAL
 34 SERVICE EMPLOYEES IN THE STATE PERSONNEL MANAGEMENT SYSTEM ARE NOT
 35 APPLICABLE TO EMPLOYEES OF A STATE INSTITUTION OF HIGHER EDUCATION.

36 (2) THE TERMS OF A MEMORANDUM OF UNDERSTANDING EXECUTED BY
 37 A PRESIDENT OF A SYSTEM INSTITUTION OR THE GOVERNING BOARD OF MORGAN
 38 STATE UNIVERSITY, ST. MARY'S COLLEGE OF MARYLAND, OR BALTIMORE CITY
 39 COMMUNITY COLLEGE, OR THEIR RESPECTIVE DESIGNEES, AND THE EXCLUSIVE
 40 REPRESENTATIVE OF A BARGAINING UNIT FOR EMPLOYEES OF A STATE

1 INSTITUTION OF HIGHER EDUCATION ARE NOT APPLICABLE TO SKILLED SERVICE OR
 2 PROFESSIONAL SERVICE EMPLOYEES IN THE STATE PERSONNEL MANAGEMENT
 3 SYSTEM.

4 3-502.

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

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

9 (c) Notwithstanding subsection (a) of this section, the ~~Governor or the~~
 10 ~~Governor's designee~~ AND THE GOVERNING BOARD OF A STATE INSTITUTION OF
 11 HIGHER EDUCATION OR ITS DESIGNEE REPRESENTATIVES OF THE STATE, A SYSTEM
 12 INSTITUTION, MORGAN STATE UNIVERSITY, ST. MARY'S COLLEGE OF MARYLAND,
 13 AND BALTIMORE CITY COMMUNITY COLLEGE:

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

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

19 3-601.

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

22 (2) The memorandum shall be in writing and signed by ~~the designated~~
 23 ~~representatives of the Governor~~ OR THE GOVERNING BOARD OF A STATE
 24 INSTITUTION OF HIGHER EDUCATION and the exclusive representative involved in
 25 the collective bargaining negotiations AND:

26 (I) FOR A MEMORANDUM OF UNDERSTANDING RELATING TO THE
 27 STATE, THE GOVERNOR OR THE GOVERNOR'S DESIGNEE;

28 (II) FOR A MEMORANDUM OF UNDERSTANDING RELATING TO A
 29 SYSTEM INSTITUTION, THE PRESIDENT OF THE SYSTEM INSTITUTION OR THE
 30 PRESIDENT'S DESIGNEE; AND

31 (III) FOR A MEMORANDUM OF UNDERSTANDING RELATING TO
 32 MORGAN STATE UNIVERSITY, ST. MARY'S COLLEGE OF MARYLAND, OR BALTIMORE
 33 CITY COMMUNITY COLLEGE, THE GOVERNING BOARD OF THE INSTITUTION OR THE
 34 GOVERNING BOARD'S DESIGNEE.

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

1 (c) (1) ~~A- EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A~~
 2 memorandum of understanding is not effective until it is ratified by the Governor and
 3 a majority of the votes cast by the employees in the bargaining unit.

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

7 ~~(I) A MAJORITY OF THE VOTES CAST BY THE EMPLOYEES IN THE~~
 8 BARGAINING UNIT; ~~OR~~

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

12 3-602.

13 THE PRESIDENT OF A SYSTEM INSTITUTION MAY ELECT TO TERMINATE A
 14 COOPERATION AGREEMENT WITH ANOTHER SYSTEM INSTITUTION, ENTERED INTO
 15 FOR THE PURPOSE OF COLLECTIVE BARGAINING WITH EXCLUSIVE
 16 REPRESENTATIVES, EFFECTIVE ON THE TERMINATION DATE OF THE MEMORANDUM
 17 OF UNDERSTANDING BETWEEN THE EXCLUSIVE REPRESENTATIVES AND THE
 18 SYSTEM INSTITUTIONS THAT ARE PARTIES TO THE COOPERATION AGREEMENT.

19 **Chapter 298 of the Acts of 1999**

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

26 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial
 27 members of the State Higher Education Labor Relations Board shall expire as
 28 follows:

29 (a) one member in 2003;

30 (b) two members in 2004; and

31 (c) two members in 2005.

32 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December
 33 31, 2001, the Baltimore City Community College, Morgan State University, St. Mary's
 34 College of Maryland, and each system institution, as defined in § 3-101(g) of the State
 35 Personnel and Pensions Article as enacted by Section 1 of this Act, shall submit to the
 36 Governor and, subject to § 2-1246 of the State Government Article, the General
 37 Assembly, a report that:

1 (a) states the institution's policy regarding conversion of contingent,
2 contractual, temporary, and emergency positions to regular positions;

3 (b) provides for each contingent, contractual, temporary, and emergency
4 employee of the institution the following information:

5 (1) the nature of the employee's position;

6 (2) the length of service of the employee currently filling the position;

7 and

8 (3) the status of any conversion or planned conversion of the position to a
9 regular position;

10 (c) identifies the number of contingent, contractual, temporary, and
11 emergency positions that have been converted to regular positions in the previous 5
12 years; and

13 (d) provides an explanation of any plan to add contingent, contractual,
14 temporary, or emergency positions in the future.

15 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
16 effect ~~October 1~~ July 1, 2001.