

SENATE BILL 233

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2002 Regular Session
2lr0153
CF 2lr0154

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

Introduced and read first time: January 18, 2002

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Education - Negotiations Between Public School Employers and Employee**
3 **Organizations**

4 FOR the purpose of altering the matters which may be negotiated by a public school
5 employer or its designated representatives and certain employee organizations;
6 prohibiting a public school employer from negotiating certain matters; repealing
7 a limitation on who may be a noncertificated employee in Montgomery County;
8 altering the definition of "public school employee"; altering the definition of
9 "public school employer" to eliminate certain exceptions; repealing certain
10 exceptions to the application of certain provisions of law relating to
11 noncertificated employees; and generally relating to the representation of public
12 school employees and negotiations between public school employers and
13 employee organizations.

14 BY repealing and reenacting, with amendments,
15 Article - Education
16 Section 6-408, 6-501, and 6-510
17 Annotated Code of Maryland
18 (2001 Replacement Volume)

19 BY repealing
20 Article - Education
21 Section 6-502
22 Annotated Code of Maryland
23 (2001 Replacement Volume)

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

Article - Education

1
2 6-408.

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

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

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

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

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

14 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A
15 PUBLIC SCHOOL EMPLOYER OR AT LEAST TWO OF ITS DESIGNATED
16 REPRESENTATIVES MAY NEGOTIATE WITH AT LEAST TWO REPRESENTATIVES OF
17 THE EMPLOYEE ORGANIZATION THAT IS DESIGNATED AS THE EXCLUSIVE
18 NEGOTIATING AGENT FOR THE PUBLIC SCHOOL EMPLOYEES IN A UNIT OF THE
19 COUNTY ON OTHER MATTERS THAT ARE MUTUALLY AGREED TO BY THE EMPLOYER
20 AND THE EMPLOYEE ORGANIZATION.

21 (3) A PUBLIC SCHOOL EMPLOYER MAY NOT NEGOTIATE ANY MATTER
22 THAT IS PRECLUDED BY APPLICABLE LAW.

23 [(2)] (4) In Montgomery County, the exclusive negotiating agent for the
24 public school employees in a unit and the public school employer shall meet and
25 negotiate under this section the salaries, wages, hours, and other working conditions
26 of all persons actually employed as substitute teachers or home and hospital teachers.

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

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

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

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

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

2 (ii) The third member is to be chosen by the other two members
3 within 10 days after the request.

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

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

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

11 (7) Notwithstanding any other provision of this subtitle, the public
12 school employer shall make the final determination as to matters that have been the
13 subject of negotiation, but this final determination is subject to the other provisions of
14 this article concerning the fiscal relationship between the public school employer and
15 the county commissioners, county council, and Mayor and City Council of Baltimore
16 City.

17 6-501.

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

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

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

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

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

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

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

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

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

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

5 (i) Management personnel;

6 (ii) A confidential employee; or

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

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

11 (i) Somerset;

12 (ii) Wicomico; and

13 (iii) Worcester].

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

16 [(h)] (G) "Supervisory employee" includes any individual who responsibly
17 directs the work of other employees, as determined by the public school employer in
18 negotiation with an employee organization that requests negotiation on this issue.

19 [6-502.

20 (a) This subtitle does not apply to Caroline, Cecil, Dorchester, Kent, Queen
21 Anne's, and Talbot counties.

22 (b) This subtitle does not apply to any public employees who, as of July 1,
23 1974, were covered by a negotiated agreement lawfully made between the employees
24 and any county under local law or ordinance.]

25 6-510.

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

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

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

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

1 (b) (1) On request, a public school employer or at least two of its designated
2 representatives shall meet and negotiate with at least two representatives of the
3 employee organization that is designated as the exclusive negotiating agent for the
4 public school employees in a unit of the county on all matters that relate to salaries,
5 wages, hours, and other working conditions, INCLUDING DISCIPLINE AND DISCHARGE
6 FOR JUST CAUSE.

7 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A
8 PUBLIC SCHOOL EMPLOYER OR AT LEAST TWO OF ITS DESIGNATED
9 REPRESENTATIVES MAY NEGOTIATE WITH AT LEAST TWO REPRESENTATIVES OF
10 THE EMPLOYEE ORGANIZATION THAT IS DESIGNATED AS THE EXCLUSIVE
11 NEGOTIATING AGENT FOR THE PUBLIC SCHOOL EMPLOYEES IN A UNIT OF THE
12 COUNTY ON OTHER MATTERS THAT ARE MUTUALLY AGREED TO BY THE EMPLOYER
13 AND THE EMPLOYEE ORGANIZATION.

14 (3) A PUBLIC SCHOOL EMPLOYER MAY NOT NEGOTIATE ANY MATTER
15 THAT IS PRECLUDED BY APPLICABLE LAW.

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

19 (d) (1) If, on the request of either party, the State Superintendent
20 determines from the facts that an impasse is reached in negotiations between a public
21 school employer and an employee organization that is designated as an exclusive
22 negotiating agent, the assistance and advice of the State Board may be requested,
23 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 Board or the panel selected shall meet with the parties to
31 aid in resolving the differences, and, if the matter is not resolved, shall make a
32 written report and recommendation within 30 days after the request.

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

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

37 (7) Notwithstanding any other provision of this subtitle, the public
38 school employer shall make the final determination as to matters which have been

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 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2002.