

SENATE BILL 233

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2002 Regular Session  
2lr0153  
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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

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 21, 2002

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CHAPTER \_\_\_\_\_

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";~~ providing that certain  
9 matters may not be raised in a certain action to resolve an impasse; altering the  
10 definition of "public school employer" to eliminate certain exceptions; repealing  
11 certain exceptions to the application of certain provisions of law relating to  
12 noncertificated employees; and generally relating to the representation of public  
13 school employees and negotiations between public school employers and  
14 employee organizations.

15 BY repealing and reenacting, with amendments,  
16 Article - Education  
17 Section 6-408, 6-501, and 6-510  
18 Annotated Code of Maryland  
19 (2001 Replacement Volume)

20 BY repealing  
21 Article - Education  
22 Section 6-502

1 Annotated Code of Maryland  
2 (2001 Replacement Volume)

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

5 **Article - Education**

6 6-408.

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

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

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

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

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

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

25 (3) A PUBLIC SCHOOL EMPLOYER MAY NOT NEGOTIATE THE SCHOOL  
26 CALENDAR, THE MAXIMUM NUMBER OF STUDENTS ASSIGNED TO A CLASS, OR ANY  
27 MATTER THAT IS PRECLUDED BY APPLICABLE STATUTORY LAW.

28 (4) A MATTER THAT IS NOT SUBJECT TO NEGOTIATION UNDER  
29 PARAGRAPH (2) OF THIS SUBSECTION BECAUSE IT HAS NOT BEEN MUTUALLY  
30 AGREED TO BY THE EMPLOYER AND THE EMPLOYEE ORGANIZATION MAY NOT BE  
31 RAISED IN ANY ACTION TAKEN TO RESOLVE AN IMPASSE UNDER SUBSECTION (D) OF  
32 THIS SECTION.

33 [(2)] ~~(4)~~ (5) In Montgomery County, the exclusive negotiating agent  
34 for the public school employees in a unit and the public school employer shall meet  
35 and negotiate under this section the salaries, wages, hours, and other working  
36 conditions of all persons actually employed as substitute teachers or home and  
37 hospital teachers.

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

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

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

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

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

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

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

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

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

22 (7) Notwithstanding any other provision of this subtitle, the public  
23 school employer shall make the final determination as to matters that have been the  
24 subject of negotiation, but this final determination is subject to the other provisions of  
25 this article concerning the fiscal relationship between the public school employer and  
26 the county commissioners, county council, and Mayor and City Council of Baltimore  
27 City.

28 6-501.

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

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

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

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

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

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

6 (e) {"Noncertificated employee", in Montgomery County, means only a  
7 full-time employee.

8 (f) (1) "Public school employee" means a noncertificated individual who is  
9 employed for at least 9 months a year {on a full-time basis} by a public school  
10 employer.

11 (2) "Public school employee" includes a noncertificated employee in  
12 Baltimore City ~~AND MONTGOMERY COUNTY~~ notwithstanding that the noncertificated  
13 employee does not work for at least 9 months a year {on a full-time basis}.

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

15 (i) Management personnel;

16 (ii) A confidential employee; or

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

19 {(g)} ~~(F)~~ (1) "Public school employer" means the county board in each county  
20 [except:

21 (i) Somerset;

22 (ii) Wicomico; and

23 (iii) Worcester].

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

26 {(h)} ~~(G)~~ "Supervisory employee" includes any individual who responsibly  
27 directs the work of other employees, as determined by the public school employer in  
28 negotiation with an employee organization that requests negotiation on this issue.

29 [6-502.

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

32 (b) This subtitle does not apply to any public employees who, as of July 1,  
33 1974, were covered by a negotiated agreement lawfully made between the employees  
34 and any county under local law or ordinance.]

1 6-510.

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

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

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

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

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

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, INCLUDING DUE PROCESS FOR DISCIPLINE AND  
20 DISCHARGE, THAT ARE MUTUALLY AGREED TO BY THE EMPLOYER AND THE  
21 EMPLOYEE ORGANIZATION.

22 (3) A PUBLIC SCHOOL EMPLOYER MAY NOT NEGOTIATE THE SCHOOL  
23 CALENDAR, THE MAXIMUM NUMBER OF STUDENTS ASSIGNED TO A CLASS, OR ANY  
24 MATTER THAT IS PRECLUDED BY APPLICABLE STATUTORY LAW.

25 (4) A MATTER THAT IS NOT SUBJECT TO NEGOTIATION UNDER  
26 PARAGRAPH (2) OF THIS SUBSECTION BECAUSE IT HAS NOT BEEN MUTUALLY  
27 AGREED TO BY THE EMPLOYER AND THE EMPLOYEE ORGANIZATION MAY NOT BE  
28 RAISED IN ANY ACTION TAKEN TO RESOLVE AN IMPASSE UNDER SUBSECTION (D) OF  
29 THIS SECTION.

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

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

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

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

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

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

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

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

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

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

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