

HOUSE BILL 904

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P4
SB 607/03 - FIN

2004 Regular Session
4lr2780
CF 4lr2153

By: **Delegate C. Davis**

Introduced and read first time: February 11, 2004

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **State Employees - Collective Bargaining - Judicial Branch Employees**

3 FOR the purpose of expanding the scope of certain provisions of law governing
4 collective bargaining to include certain employees of the Judicial Branch of
5 State government; specifying that the State Labor Relations Board is an
6 independent unit of State government; altering the membership of the Board;
7 altering the responsibilities of the Board; requiring the Board to appoint an
8 Executive Director; requiring the Chief Judge of the Court of Appeals to
9 designate certain representatives for the purpose of collective bargaining;
10 requiring the Chief Judge to enter into a memorandum of understanding;
11 requiring the ratification of a certain memorandum of understanding; defining a
12 certain term; altering a certain definition; making certain conforming changes;
13 and generally relating to collective bargaining for employees of the Judicial
14 Branch of State government and the State Labor Relations Board.

15 BY repealing and reenacting, with amendments,
16 Article - State Personnel and Pensions
17 Section 3-101, 3-102(a), 3-201, 3-202, 3-204, 3-206, 3-207, 3-306, 3-403(c)
18 and (e), 3-501, and 3-601
19 Annotated Code of Maryland
20 (1997 Replacement Volume and 2003 Supplement)

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

23 **Article - State Personnel and Pensions**

24 3-101.

25 (a) In this title the following words have the meanings indicated.

26 (b) "Board" means:

27 (1) with regard to any matter relating to employees of any of the units of
28 State government described in § 3-102(a)(1) through (4) of this subtitle, OR TO

1 EMPLOYEES DESCRIBED IN § 3-102(A)(5) OF THIS SUBTITLE, the State Labor Relations
2 Board; and

3 (2) with regard to any matter relating to employees of any State
4 institution of higher education described in [§ 3-102(a)(5)] § 3-102(A)(6) of this
5 subtitle, the State Higher Education Labor Relations Board.

6 (C) "CHIEF JUDGE" MEANS THE CHIEF JUDGE OF THE COURT OF APPEALS.

7 [(c)] (D) "Collective bargaining" means good faith negotiations by authorized
8 representatives of employees and their employer with the intention of:

9 (1) reaching an agreement about wages, hours, and other terms and
10 conditions of employment; and

11 (2) incorporating the terms of the agreement in a written memorandum
12 of understanding.

13 [(d)] (E) "Employee organization" means a labor or other organization in
14 which State employees participate and that has as one of its primary purposes
15 representing employees.

16 [(e)] (F) "Exclusive representative" means an employee organization that has
17 been certified by the Board as an exclusive representative under Subtitle 4 of this
18 title.

19 [(f)] (G) "President" means:

20 (1) with regard to a constituent institution, as defined in § 12-101 of the
21 Education Article, the president of the constituent institution;

22 (2) with regard to a center or institute, as those terms are defined in §
23 12-101 of the Education Article, the president of the center or institute;

24 (3) with regard to the University System of Maryland Office, the
25 Chancellor of the University System of Maryland; and

26 (4) with regard to Morgan State University, St. Mary's College of
27 Maryland, and Baltimore City Community College, the president of the institution.

28 [(g)] (H) "System institution" means:

29 (1) a constituent institution, as defined in § 12-101 of the Education
30 Article;

31 (2) a center or institute, as those terms are defined in § 12-101 of the
32 Education Article; and

33 (3) the University System of Maryland Office.

1 3-102.

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

4 (1) the principal departments within the Executive Branch of State
5 government;

6 (2) the Maryland Insurance Administration;

7 (3) the State Department of Assessments and Taxation;

8 (4) the State Lottery Agency; [and]

9 (5) STATE EMPLOYEES OF THE JUDICIAL BRANCH OF STATE
10 GOVERNMENT; AND

11 [(5)] (6) the University System of Maryland, Morgan State University,
12 St. Mary's College of Maryland, and Baltimore City Community College.

13 3-201.

14 There is a State Labor Relations Board [in the Department] ESTABLISHED AS
15 AN INDEPENDENT UNIT OF STATE GOVERNMENT.

16 3-202.

17 (a) The Board consists of the following [five] SEVEN members:

18 (1) the Secretary or a designee of the Secretary;

19 (2) two members with knowledge of labor issues appointed by the
20 Governor with the advice and consent of the Senate, who:

21 (i) are not officers or employees of the State or an employee
22 organization; and

23 (ii) are known for objective and independent judgment; [and]

24 (3) two members of the business community, appointed by the Governor
25 with the advice and consent of the Senate, who are known for objective and
26 independent judgment; AND

27 (4) TWO MEMBERS WITH KNOWLEDGE OF LABOR ISSUES APPOINTED BY
28 THE CHIEF JUDGE.

29 (b) Before taking office, each appointed member shall take the oath required
30 by Article I, § 9 of the Maryland Constitution.

31 (c) With the advice of the Secretary AND THE CHIEF JUDGE, the Governor
32 shall designate a chairman from among the appointed members of the Board.

1 (d) The Secretary or the Secretary's designee shall serve as a continuing
2 member.

3 (e) (1) The term of an appointed member is 6 years.

4 (2) The terms of appointed members are staggered as required by the
5 terms provided for appointed members of the Board on July 1, 1999.

6 (3) A vacancy shall be filled for an unexpired term in the same manner
7 as an original appointment.

8 (4) At the end of a term, a member continues to serve until a successor is
9 appointed and qualifies.

10 (5) A member who is appointed after a term has begun serves only for
11 the rest of the term and until a successor is appointed and qualifies.

12 (f) The Governor may remove [an appointed] A member APPOINTED BY THE
13 GOVERNOR for incompetence or misconduct.

14 (G) THE CHIEF JUDGE MAY REMOVE A MEMBER APPOINTED BY THE CHIEF
15 JUDGE FOR INCOMPETENCE OR MISCONDUCT.

16 [(g)] (H) In making appointments to the Board, the Governor AND CHIEF
17 JUDGE shall ensure, to the extent practicable, that:

18 (1) the ratio of male and female members and the racial makeup of the
19 Board is reflective of the general population of the State; and

20 (2) each major geographic area of the State is represented on the Board.
21 3-204.

22 (a) (1) [With approval of the] THE Board[, the Secretary] shall appoint an
23 Executive Director [of the Board].

24 (2) The Executive Director:

25 (i) is responsible to and serves at the pleasure of the [Secretary]
26 BOARD; and

27 (ii) is entitled to the salary provided in the State budget.

28 (b) The Executive Director shall perform the duties that the [Secretary]
29 BOARD assigns, including:

30 (1) operating the office of the Board; and

31 (2) keeping the official records of the Board.

1 (c) (1) With approval of the [Secretary] BOARD, the Executive Director may
2 employ professional consultants.

3 (2) Each professional consultant serves at the pleasure of the Executive
4 Director.

5 3-206.

6 (a) The Board is responsible for administering and enforcing provisions of this
7 title relating to employees described in § 3-102(a)(1) through [(4)] (5) of this title.

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

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

12 1. the effect of overfragmentation on the employer;

13 2. the administrative structures of the State employer;

14 3. the recommendations of the parties;

15 4. the recommendations of the Secretary;

16 5. THE RECOMMENDATIONS OF THE CHIEF JUDGE;

17 [5.] 6. the desires of the employees involved;

18 [6.] 7. the communities of interest of the employees
19 involved; and

20 [7.] 8. the wages, hours, and other working conditions of
21 the employees;

22 (ii) establish standards for determining an appropriate bargaining
23 unit; and

24 (iii) investigate and resolve disputes about appropriate bargaining
25 units;

26 (2) establish procedures for, supervise the conduct of, and resolve
27 disputes about elections for exclusive representatives; and

28 (3) investigate and take appropriate action in response to complaints of
29 unfair labor practices and lockouts.

30 3-207.

31 The [Secretary] BOARD may adopt and enforce regulations, guidelines, and
32 policies to carry out this title which:

1 (1) define unfair labor practices; and

2 (2) establish permissible labor-related activities on the work site.

3 3-306.

4 (a) The State and its officers, employees, agents, or representatives are
5 prohibited from engaging in any unfair labor practice, as defined by the [Secretary]
6 BOARD.

7 (b) Employee organizations and their agents or representatives are prohibited
8 from engaging in any unfair labor practice, as defined by the [Secretary] BOARD.

9 3-403.

10 (c) A bargaining unit shall consist only of employees defined in regulations
11 adopted by the [Secretary] BOARD and not specifically excluded by § 3-102(b) of this
12 title.

13 (e) (1) Except as provided in paragraph (2) of this subsection, the [Secretary
14 or the Secretary's designee] BOARD shall have the authority to assign classification
15 titles and positions to bargaining units as appropriate.

16 (2) The following individuals and entities shall assign classification
17 titles and positions to bargaining units at the following institutions:

18 (i) at a system institution, the President of the system institution;
19 and

20 (ii) at Morgan State University, St. Mary's College of Maryland, or
21 Baltimore City Community College, the governing board of the institution.

22 3-501.

23 (a) (1) The following individuals or entities shall designate one or more
24 representatives to participate as a party in collective bargaining on behalf of the State
25 or the following institutions:

26 (i) on behalf of the EXECUTIVE BRANCH OF State GOVERNMENT,
27 the Governor;

28 (ii) on behalf of a system institution, the president of the system
29 institution; [and]

30 (iii) on behalf of Morgan State University, St. Mary's College of
31 Maryland, or Baltimore City Community College, the governing board of the
32 institution; AND

33 (IV) ON BEHALF OF STATE EMPLOYEES OF THE JUDICIAL BRANCH
34 OF STATE GOVERNMENT, THE CHIEF JUDGE.

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

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

6 (c) (1) The parties shall make every reasonable effort to conclude
7 negotiations in a timely manner for inclusion by the principal unit OR THE JUDICIARY
8 in its budget request to the Governor.

9 (2) (i) The parties shall conclude negotiations before January 1 for any
10 item requiring an appropriation of funds for the fiscal year that begins on the
11 following July 1.

12 (ii) In the budget bill submitted to the General Assembly, the
13 Governor shall include any amounts in the budgets of the principal units AND THE
14 JUDICIARY required to accommodate any additional cost resulting from the
15 negotiations, including the actuarial impact of any legislative changes to any of the
16 State pension or retirement systems that are required, as a result of the negotiations,
17 for the fiscal year beginning the following July 1 if the legislative changes have been
18 negotiated to become effective in that fiscal year.

19 (d) (1) A memorandum of understanding that incorporates all matters of
20 agreement reached by the parties shall be executed by the exclusive representative
21 and:

22 (i) for a memorandum of understanding relating to the EXECUTIVE
23 BRANCH OF State GOVERNMENT, the Governor or the Governor's designee;

24 (ii) for a memorandum of understanding relating to a system
25 institution, the president of the system institution or the president's designee; [and]

26 (iii) for a memorandum of understanding relating to Morgan State
27 University, St. Mary's College of Maryland, or Baltimore City Community College, the
28 governing board of the institution or the governing board's designee; AND

29 (IV) FOR A MEMORANDUM OF UNDERSTANDING RELATING TO
30 STATE EMPLOYEES OF THE JUDICIAL BRANCH OF STATE GOVERNMENT, THE CHIEF
31 JUDGE OR THE CHIEF JUDGE'S DESIGNEE.

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

35 (3) To the extent matters involving a State institution of higher
36 education require legislative approval, the legislation shall be recommended to the
37 Governor for submission to the General Assembly.

1 (e) Negotiations or matters relating to negotiations shall be considered closed
2 sessions under § 10-508 of the State Government Article.

3 (f) (1) The terms of a memorandum of understanding executed by the
4 Governor or the Governor's designee and an exclusive representative of a bargaining
5 unit for skilled service or professional service employees in the State Personnel
6 Management System are not applicable to employees of a State institution of higher
7 education OR STATE EMPLOYEES OF THE JUDICIAL BRANCH OF STATE
8 GOVERNMENT.

9 (2) The terms of a memorandum of understanding executed by a
10 president of a system institution or the governing board of Morgan State University,
11 St. Mary's College of Maryland, or Baltimore City Community College, or their
12 respective designees, and the exclusive representative of a bargaining unit for
13 employees of a State institution of higher education are not applicable to skilled
14 service or professional service employees in the State Personnel Management System
15 OR STATE EMPLOYEES OF THE JUDICIAL BRANCH OF STATE GOVERNMENT.

16 (3) THE TERMS OF A MEMORANDUM OF UNDERSTANDING EXECUTED BY
17 THE CHIEF JUDGE OR THE CHIEF JUDGE'S DESIGNEE AND EXCLUSIVE BARGAINING
18 REPRESENTATIVES OF STATE EMPLOYEES OF THE JUDICIAL BRANCH OF STATE
19 GOVERNMENT ARE NOT APPLICABLE TO SKILLED SERVICE OR PROFESSIONAL
20 SERVICE EMPLOYEES IN THE STATE PERSONNEL MANAGEMENT SYSTEM OR
21 EMPLOYEES OF A STATE INSTITUTION OF HIGHER EDUCATION.

22 3-601.

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

25 (2) The memorandum shall be in writing and signed by the exclusive
26 representative involved in the collective bargaining negotiations and:

27 (i) for a memorandum of understanding relating to the EXECUTIVE
28 BRANCH OF State GOVERNMENT, the Governor or the Governor's designee;

29 (ii) for a memorandum of understanding relating to a system
30 institution, the president of the system institution or the president's designee; [and]

31 (iii) for a memorandum of understanding relating to Morgan State
32 University, St. Mary's College of Maryland, or Baltimore City Community College, the
33 governing board of the institution or the governing board's designee; AND

34 (IV) FOR A MEMORANDUM OF UNDERSTANDING RELATING TO
35 STATE EMPLOYEES OF THE JUDICIAL BRANCH OF STATE GOVERNMENT, THE CHIEF
36 JUDGE OR THE CHIEF JUDGE'S DESIGNEE.

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

1 (c) (1) Except as provided in [paragraph] PARAGRAPHS (2) AND (3) of this
2 subsection, a memorandum of understanding is not effective until it is ratified by the
3 Governor and 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 memorandum
5 of understanding is not effective until it is ratified by the institution's governing
6 board and a majority of the votes cast by the employees in the bargaining unit.

7 (3) IN THE CASE OF THE JUDICIAL BRANCH OF STATE GOVERNMENT, A
8 MEMORANDUM OF UNDERSTANDING IS NOT EFFECTIVE UNTIL IT IS RATIFIED BY
9 THE CHIEF JUDGE AND A MAJORITY OF THE VOTES CAST BY THE EMPLOYEES IN THE
10 BARGAINING UNIT.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2004.