
By: **Delegates Barkley, Anderson, Barve, Benson, Bobo, Bozman, Bromwell, Bronrott, Burns, Cane, Cardin, Carter, G. Clagett, V. Clagett, Conroy, Costa, C. Davis, D. Davis, DeBoy, Donoghue, Doory, Dumais, Feldman, Franchot, Frush, Gaines, Goldwater, Gordon, Griffith, Gutierrez, Hammen, Haynes, Healey, Heller, Hixson, Holmes, Howard, Hubbard, Hurson, Jones, Kaiser, Kelley, King, Kirk, Krysiak, Kullen, Lee, Love, Madaleno, Malone, Mandel, Marriott, McHale, McIntosh, Menes, Moe, Montgomery, Murray, Nathan-Pulliam, Niemann, Paige, Parker, Patterson, Pendergrass, Petzold, Proctor, Ramirez, Rosenberg, Ross, Rudolph, Simmons, Sophocleus, Stern, Taylor, F. Turner, V. Turner, Vallario, Vaughn, Weir, and Zirkin**

Introduced and read first time: February 11, 2005

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **State Personnel - Collective Bargaining - Revisions**

3 FOR the purpose of altering certain provisions of law governing collective bargaining
 4 for certain State employees and certain employees of State institutions of higher
 5 education; specifying that the State Labor Relations Board is an independent
 6 unit of State government; altering the membership of the Board; requiring that
 7 the Board elect a chairman from among its members; altering the duties of the
 8 Board and the State Higher Education Labor Relations Board; requiring the
 9 Board and the State Higher Education Labor Relations Board to jointly appoint
 10 an Executive Director; altering the duties and powers of the Executive Director;
 11 repealing a requirement that the Department of Budget and Management
 12 provide administrative support to the State Labor Relations Board; requiring
 13 the State under certain circumstances to provide certain information to certain
 14 exclusive representatives; prohibiting the State and employee organizations
 15 from engaging in certain unfair labor practices; allowing parties in collective
 16 bargaining to request that a board of arbitration be convened under certain
 17 circumstances; specifying the manner of appointment and the powers and duties
 18 of a board of arbitration; altering the content of a certain memorandum of
 19 understanding; making certain conforming changes; and generally relating to
 20 collective bargaining for State employees and employees of State institutions of
 21 higher education.

22 BY repealing and reenacting, without amendments,
 23 Article - State Personnel and Pensions
 24 Section 3-101 and 3-2A-01

1 Annotated Code of Maryland
2 (2004 Replacement Volume)

3 BY repealing and reenacting, with amendments,
4 Article - State Personnel and Pensions
5 Section 3-201, 3-202, 3-204, 3-206, 3-207, 3-208, 3-209, 3-210, 3-2A-04,
6 3-2A-06, 3-306, and 3-501
7 Annotated Code of Maryland
8 (2004 Replacement Volume)

9 BY repealing
10 Article - State Personnel and Pensions
11 Section 3-205
12 Annotated Code of Maryland
13 (2004 Replacement Volume)

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

16 **Article - State Personnel and Pensions**

17 3-101.

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

19 (b) "Board" means:

20 (1) with regard to any matter relating to employees of any of the units of
21 State government described in § 3-102(a)(1) through (4) of this subtitle, the State
22 Labor Relations Board; and

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

26 (c) "Collective bargaining" means good faith negotiations by authorized
27 representatives of employees and their employer with the intention of:

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

30 (2) incorporating the terms of the agreement in a written memorandum
31 of understanding.

32 (d) "Employee organization" means a labor or other organization in which
33 State employees participate and that has as one of its primary purposes representing
34 employees.

1 (e) "Exclusive representative" means an employee organization that has been
2 certified by the Board as an exclusive representative under Subtitle 4 of this title.

3 (f) "President" means:

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

6 (2) with regard to a center or institute, as those terms are defined in §
7 12-101 of the Education Article, the president of the center or institute;

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

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

12 (g) "System institution" means:

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

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

17 (3) the University System of Maryland Office.

18 3-201.

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

21 3-202.

22 (a) The Board consists of the following five members:

23 (1) [the Secretary or a designee of the Secretary] ONE MEMBER
24 APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE
25 REPRESENTING THE PUBLIC, WHO:

26 (I) IS NOT AN OFFICER OR EMPLOYEE OF THE STATE OR A STATE
27 EMPLOYEE ORGANIZATION; AND

28 (II) IS NOT AN ELECTED OFFICIAL OF THE STATE OR A STATE
29 EMPLOYEE ORGANIZATION;

30 (2) two members [with knowledge of labor issues] RECOMMENDED BY
31 THE MARYLAND AFL-CIO, appointed by the Governor with the advice and consent of
32 the Senate, who:

1 (i) are not officers or employees of the State or [an] A STATE
2 employee organization; and

3 (ii) are known for objective and independent judgment; and

4 (3) two members of the business community, appointed by the Governor
5 with the advice and consent of the Senate, who:

6 (I) ARE NOT OFFICERS OR EMPLOYEES OF THE STATE OR A STATE
7 EMPLOYEE ORGANIZATION; AND

8 (II) are known for objective and independent judgment.

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

11 (c) [With the advice of the Secretary, the Governor shall designate a chairman
12 from among the appointed members of the Board] FROM AMONG ITS MEMBERS, THE
13 BOARD SHALL ELECT A CHAIRMAN.

14 (d) [The Secretary or the Secretary's designee shall serve as a continuing
15 member.

16 (e) (1) The term of [an appointed] A member is 6 years.

17 (2) The terms of [appointed] members are staggered as required by the
18 terms provided for [appointed] members of the Board on July 1, [1999] 2005.

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

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

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

25 [(f)] (E) The Governor may remove [an appointed] A member ONLY for
26 incompetence or misconduct.

27 [(g)] (F) In making appointments to the Board, the Governor shall ensure, to
28 the extent practicable, that:

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

31 (2) each major geographic area of the State is represented on the Board.

1 3-204.

2 (a) (1) [With approval of the] THE STATE LABOR RELATIONS Board[, the
3 Secretary] AND THE STATE HIGHER EDUCATION LABOR RELATIONS BOARD JOINTLY
4 shall appoint an Executive Director of the [Board] BOARDS.

5 (2) The Executive Director:

6 (i) is responsible to and serves at the pleasure of the [Secretary]
7 BOARDS; and

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

9 (b) The Executive Director shall perform the duties that the [Secretary
10 assigns] BOARDS ASSIGN, including:

11 (1) operating the office of the [Board] BOARDS; and

12 (2) keeping the official records of the [Board] BOARDS.

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

15 [(c)] (D) (1) With approval of the [Secretary] BOARDS, the Executive
16 Director may employ professional consultants.

17 (2) Each professional consultant serves at the pleasure of the Executive
18 Director.

19 [3-205.

20 The Department shall provide administrative support to the Board.]

21 [3-206.] 3-205.

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

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

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

28 1. the effect of overfragmentation on the employer;

29 2. the administrative structures of the State employer;

30 3. the recommendations of the parties;

- 1 (1) NAME;
- 2 (2) POSITION CLASSIFICATION;
- 3 (3) UNIT;
- 4 (4) WORK-SITE ADDRESS WHERE THE EMPLOYEE RECEIVES
5 INTEROFFICE OR UNITED STATES MAIL; AND
- 6 (5) WORK-SITE TELEPHONE NUMBER.

7 (B) AN EXCLUSIVE REPRESENTATIVE MAY REQUEST EMPLOYEE
8 INFORMATION, AS PROVIDED UNDER SUBSECTION (A) OF THIS SECTION, ONCE
9 EVERY 3 MONTHS.

10 (C) Names or lists of employees provided to the Board in connection with an
11 election under this title are not subject to disclosure in accordance with Title 10,
12 Subtitle 6 of the State Government Article.

13 [3-210.] 3-209.

14 (a) If a person fails to comply with an order issued by the Board, a member of
15 the Board may petition the circuit court to order the person to comply with the
16 Board's order.

17 (b) The Board shall not be required to post bond in an action under subsection
18 (a) of this section.

19 3-2A-01.

20 There is a State Higher Education Labor Relations Board established as an
21 independent unit of State government.

22 3-2A-04.

23 (a) (1) The STATE HIGHER EDUCATION LABOR RELATIONS Board AND THE
24 STATE LABOR RELATIONS BOARD JOINTLY shall appoint an Executive Director of the
25 [Board] BOARDS.

26 (2) The Executive Director:

27 (i) is responsible to and serves at the pleasure of the [Board]
28 BOARDS; and

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

30 (b) The Executive Director shall perform the duties that the [Board assigns]
31 BOARDS ASSIGN, including:

32 (1) operating the office of the [Board] BOARDS; and

1 (2) keeping the official records of the [Board] BOARDS.

2 (c) The Executive Director may hire any staff necessary to carry out the
3 provisions of this subtitle.

4 (d) (1) With approval of the [Board] BOARDS, the Executive Director may
5 employ professional consultants.

6 (2) Each professional consultant serves at the pleasure of the Executive
7 Director.

8 3-2A-06.

9 The Board may adopt and enforce regulations, guidelines, and policies to carry
10 out this title [which:

11 (1) define unfair labor practices; and

12 (2) establish], INCLUDING ESTABLISHING permissible labor-related
13 activities on the work site.

14 3-306.

15 (a) The State and its officers, employees, agents, or representatives are
16 prohibited from engaging in any unfair labor practice, [as defined by the Secretary]
17 INCLUDING:

18 (1) INTERFERING WITH, RESTRAINING, OR COERCING EMPLOYEES IN
19 THE EXERCISE OF THEIR RIGHTS UNDER THIS TITLE;

20 (2) DOMINATING, INTERFERING WITH, CONTRIBUTING FINANCIAL OR
21 OTHER SUPPORT TO, OR ASSISTING IN THE FORMATION, EXISTENCE, OR
22 ADMINISTRATION OF ANY LABOR ORGANIZATION;

23 (3) GRANTING ADMINISTRATIVE LEAVE TO EMPLOYEES TO ATTEND
24 EMPLOYER SPONSORED OR SUPPORTED MEETINGS OR EVENTS RELATING TO AN
25 ELECTION OR A SPECIFIC LABOR ORGANIZATION, UNLESS THE EMPLOYER GRANTS
26 EMPLOYEES AT LEAST THE SAME AMOUNT OF ADMINISTRATIVE LEAVE TO ATTEND
27 LABOR ORGANIZATION SPONSORED OR SUPPORTED MEETINGS OR EMPLOYEE
28 MEETINGS;

29 (4) DISCRIMINATING IN HIRING, TENURE, OR ANY TERM OR CONDITION
30 OF EMPLOYMENT TO ENCOURAGE OR DISCOURAGE MEMBERSHIP IN AN EMPLOYEE
31 ORGANIZATION;

32 (5) DISCHARGING OR DISCRIMINATING AGAINST AN EMPLOYEE
33 BECAUSE OF THE SIGNING OR FILING OF AN AFFIDAVIT, PETITION, OR COMPLAINT,
34 OR GIVING INFORMATION OR TESTIMONY IN CONNECTION WITH MATTERS UNDER
35 THIS SUBTITLE;

1 (6) FAILING TO PROVIDE ALL EMPLOYEE ORGANIZATIONS INVOLVED IN
2 AN ELECTION THE SAME RIGHTS OF ACCESS AS PRESCRIBED BY THE BOARD
3 THROUGH REGULATION;

4 (7) ENGAGING IN SURVEILLANCE OF UNION ACTIVITIES;

5 (8) REFUSING TO BARGAIN IN GOOD FAITH; OR

6 (9) ENGAGING IN A LOCKOUT.

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

10 (1) INTERFERING WITH, RESTRAINING, OR COERCING EMPLOYEES IN
11 THE EXERCISE OF THEIR RIGHTS UNDER THIS TITLE;

12 (2) CAUSING OR ATTEMPTING TO CAUSE AN EMPLOYER TO
13 DISCRIMINATE IN HIRING, TENURE, OR ANY TERM OR CONDITION OF EMPLOYMENT
14 TO ENCOURAGE OR DISCOURAGE MEMBERSHIP IN AN EMPLOYEE ORGANIZATION;

15 (3) ENGAGING IN, INDUCING, OR ENCOURAGING ANY PERSON TO
16 ENGAGE IN A STRIKE, AS DEFINED IN § 3-303(A) OF THIS SUBTITLE;

17 (4) INTERFERING WITH THE STATUTORY DUTIES OF THE STATE OR AN
18 EMPLOYER;

19 (5) REFUSING TO BARGAIN IN GOOD FAITH; OR

20 (6) NOT FAIRLY REPRESENTING EMPLOYEES IN COLLECTIVE
21 BARGAINING OR IN ANY OTHER MATTER IN WHICH THE EMPLOYEE ORGANIZATION
22 HAS THE DUTY OF FAIR REPRESENTATION.

23 3-501.

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

27 (i) on behalf of the State, 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.

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

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

3 (c) (1) The parties shall make every reasonable effort to conclude
4 negotiations in a timely manner for inclusion by the principal unit in its budget
5 request to the Governor.

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

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

16 (3) (I) IF THE PARTIES DO NOT CONCLUDE NEGOTIATIONS BEFORE
17 NOVEMBER 1, EITHER PARTY MAY REQUEST THAT A BOARD OF ARBITRATION BE
18 CONVENED.

19 (II) A BOARD OF ARBITRATION SHALL CONSIST OF THREE NEUTRAL
20 MEMBERS APPOINTED:

21 1. BY THE FEDERAL MEDIATION AND CONCILIATION
22 SERVICE; OR

23 2. UNDER THE LABOR ARBITRATION RULES OF THE
24 AMERICAN ARBITRATION ASSOCIATION.

25 (III) THE BOARD OF ARBITRATION:

26 1. MAY GIVE NOTICE AND HOLD HEARINGS IN ACCORDANCE
27 WITH THE ADMINISTRATIVE PROCEDURE ACT;

28 2. MAY ADMINISTER OATHS AND TAKE TESTIMONY AND
29 OTHER EVIDENCE;

30 3. MAY ISSUE SUBPOENAS; AND

31 4. BEFORE JANUARY 1, SHALL DETERMINE THE MATTERS OF
32 AGREEMENT.

33 (d) (1) A memorandum of understanding that incorporates all matters of
34 agreement reached by the parties, OR AS DETERMINED BY A BOARD OF ARBITRATION,
35 shall be executed by the exclusive representative and:

1 (i) for a memorandum of understanding relating to the State, the
2 Governor or the Governor's designee;

3 (ii) for a memorandum of understanding relating to a system
4 institution, the president of the system institution or the president's designee; and

5 (iii) for a memorandum of understanding relating to Morgan State
6 University, St. Mary's College of Maryland, or Baltimore City Community College, the
7 governing board of the institution or the governing board's designee.

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

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

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

16 (f) (1) The terms of a memorandum of understanding executed by the
17 Governor or the Governor's designee and an exclusive representative of a bargaining
18 unit for skilled service or professional service employees in the State Personnel
19 Management System are not applicable to employees of a State institution of higher
20 education.

21 (2) The terms of a memorandum of understanding executed by a
22 president of a system institution or the governing board of Morgan State University,
23 St. Mary's College of Maryland, or Baltimore City Community College, or their
24 respective designees, and the exclusive representative of a bargaining unit for
25 employees of a State institution of higher education are not applicable to skilled
26 service or professional service employees in the State Personnel Management System.

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

29 (a) one member in 2007;

30 (b) two members in 2008; and

31 (c) two members in 2009.

32 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 July 1, 2005.