
By: **Senators Gladden, Britt, Conway, Currie, DeGrange, Della, Exum,
Forehand, Frosh, Garagiola, Giannetti, Green, Grosfeld, Jones, Kelley,
Klausmeier, Lawlah, McFadden, Pinsky, Ruben, and Stone**

Introduced and read first time: February 10, 2005

Assigned to: Rules

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
25 Annotated Code of Maryland
26 (2004 Replacement Volume)

27 BY repealing and reenacting, with amendments,
28 Article - State Personnel and Pensions
29 Section 3-201, 3-202, 3-204, 3-206, 3-207, 3-208, 3-209, 3-210, 3-2A-04,
30 3-2A-06, 3-306, and 3-501

1 Annotated Code of Maryland
2 (2004 Replacement Volume)

3 BY repealing
4 Article - State Personnel and Pensions
5 Section 3-205
6 Annotated Code of Maryland
7 (2004 Replacement Volume)

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

10 **Article - State Personnel and Pensions**

11 3-101.

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

13 (b) "Board" means:

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

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

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

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

24 (2) incorporating the terms of the agreement in a written memorandum
25 of understanding.

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

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

31 (f) "President" means:

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

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

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

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

7 (g) "System institution" means:

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

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

12 (3) the University System of Maryland Office.

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 members:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 3-204.

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

31 (2) The Executive Director:

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

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

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

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

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

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

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

10 (2) Each professional consultant serves at the pleasure of the Executive
11 Director.

12 [3-205.

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

14 [3-206.] 3-205.

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

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

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

21 1. the effect of overfragmentation on the employer;

22 2. the administrative structures of the State employer;

23 3. the recommendations of the parties;

24 4. the recommendations of the [Secretary] EXECUTIVE
25 DIRECTOR;

26 5. the desires of the employees involved;

27 6. the communities of interest of the employees involved; and

28 7. the wages, hours, and other working conditions of the
29 employees;

30 (ii) establish standards for determining an appropriate bargaining
31 unit; and

1 (iii) investigate and resolve disputes about appropriate bargaining
2 units;

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

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

7 [3-207.] 3-206.

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

10 (1) define unfair labor practices; and

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

13 [3-208.] 3-207.

14 (a) The Board may investigate:

15 (1) a possible violation of this title or any regulation adopted under it;
16 and

17 (2) any other relevant matter.

18 (b) The Board may hold a hearing in accordance with Title 10, Subtitle 2 of the
19 State Government Article whenever necessary for a fair determination of any issue or
20 complaint arising under this title or a regulation adopted under it.

21 [3-209.] 3-208.

22 (A) ON WRITTEN REQUEST OF AN EXCLUSIVE REPRESENTATIVE, FOR EACH
23 EMPLOYEE IN THE BARGAINING UNIT REPRESENTED BY THE EXCLUSIVE
24 REPRESENTATIVE, THE BOARD SHALL ORDER THE STATE TO PROVIDE THE
25 EXCLUSIVE REPRESENTATIVE WITH THE EMPLOYEE'S:

26 (1) NAME;

27 (2) POSITION CLASSIFICATION;

28 (3) UNIT;

29 (4) WORK-SITE ADDRESS WHERE THE EMPLOYEE RECEIVES
30 INTEROFFICE OR UNITED STATES MAIL; AND

31 (5) WORK-SITE TELEPHONE NUMBER.

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

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

7 [3-210.] 3-209.

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

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

13 3-2A-01.

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

16 3-2A-04.

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

20 (2) The Executive Director:

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

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

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

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

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

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

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

32 (2) Each professional consultant serves at the pleasure of the Executive
33 Director.

1 3-2A-06.

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

4 (1) define unfair labor practices; and

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

7 3-306.

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

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

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

16 (3) GRANTING ADMINISTRATIVE LEAVE TO EMPLOYEES TO ATTEND
17 EMPLOYER SPONSORED OR SUPPORTED MEETINGS OR EVENTS RELATING TO AN
18 ELECTION OR A SPECIFIC LABOR ORGANIZATION, UNLESS THE EMPLOYER GRANTS
19 EMPLOYEES AT LEAST THE SAME AMOUNT OF ADMINISTRATIVE LEAVE TO ATTEND
20 LABOR ORGANIZATION SPONSORED OR SUPPORTED MEETINGS OR EMPLOYEE
21 MEETINGS;

22 (4) DISCRIMINATING IN HIRING, TENURE, OR ANY TERM OR CONDITION
23 OF EMPLOYMENT TO ENCOURAGE OR DISCOURAGE MEMBERSHIP IN AN EMPLOYEE
24 ORGANIZATION;

25 (5) DISCHARGING OR DISCRIMINATING AGAINST AN EMPLOYEE
26 BECAUSE OF THE SIGNING OR FILING OF AN AFFIDAVIT, PETITION, OR COMPLAINT,
27 OR GIVING INFORMATION OR TESTIMONY IN CONNECTION WITH MATTERS UNDER
28 THIS SUBTITLE;

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

32 (7) ENGAGING IN SURVEILLANCE OF UNION ACTIVITIES;

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

34 (9) ENGAGING IN A LOCKOUT.

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

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

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

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

11 (4) INTERFERING WITH THE STATUTORY DUTIES OF THE STATE OR AN
12 EMPLOYER;

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

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

17 3-501.

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

21 (i) on behalf of the State, the Governor;

22 (ii) on behalf of a system institution, the president of the system
23 institution; and

24 (iii) on behalf of Morgan State University, St. Mary's College of
25 Maryland, or Baltimore City Community College, the governing board of the
26 institution.

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

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

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

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

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

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

14 (II) A BOARD OF ARBITRATION SHALL CONSIST OF THREE NEUTRAL
15 MEMBERS APPOINTED:

16 1. BY THE FEDERAL MEDIATION AND CONCILIATION
17 SERVICE; OR

18 2. UNDER THE LABOR ARBITRATION RULES OF THE
19 AMERICAN ARBITRATION ASSOCIATION.

20 (III) THE BOARD OF ARBITRATION:

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

23 2. MAY ADMINISTER OATHS AND TAKE TESTIMONY AND
24 OTHER EVIDENCE;

25 3. MAY ISSUE SUBPOENAS; AND

26 4. BEFORE JANUARY 1, SHALL DETERMINE THE MATTERS OF
27 AGREEMENT.

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

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

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

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

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

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

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

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

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

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

25 (a) one member in 2007;

26 (b) two members in 2008; and

27 (c) two members in 2009.

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