

# HOUSE BILL 1518

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CF SB 850

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By: **Delegates Howard, Ali, Barkley, Barnes, Benson, Braveboy, Cane, G. Clagett, Costa, DeBoy, Dumais, Feldman, Frush, Gaines, Glenn, Griffith, Gutierrez, Guzzone, Healey, Heller, Holmes, Hubbard, Hucker, Ivey, Kaiser, Kirk, Lafferty, Levi, Malone, McHale, Murphy, Nathan-Pulliam, Olszewski, Pena-Melnyk, Proctor, Riley, Ross, Schuler, Stein, Stukes, F. Turner, V. Turner, Valderrama, Walker, and Weldon**

Introduced and read first time: February 20, 2008

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Education – Collective Bargaining – Public School Labor Relations Board**

3 FOR the purpose of establishing a Public School Labor Relations Board; specifying the  
4 manner of appointment, membership, duties, and responsibilities of the Board;  
5 providing for staffing of the Board; providing for the staggering of terms;  
6 authorizing the Board to adopt and enforce certain regulations, guidelines, and  
7 policies; permitting the Board to petition a circuit court to seek enforcement of  
8 an order of the Board; providing that a hearing and determination under this  
9 Act is a contested case; requiring the Board to decide any controversy or dispute  
10 involving a labor organization of certificated or noncertificated public school  
11 employees; providing that a certain decision of the Board is a final decision;  
12 requiring the Board to supervise the election of certain exclusive employee  
13 representatives; altering the determination of certain matters which may be  
14 negotiated by a certain designated representative; authorizing a certain party to  
15 petition the Board over certain matters; authorizing the Board to make a  
16 certain determination of impasse during certain negotiations under certain  
17 circumstances; authorizing the Board to provide certain assistance during a  
18 certain impasse; requiring that certain provisions are subject to certain other  
19 provisions concerning a fiscal relationship between certain parties; authorizing  
20 the Board to make a certain determination concerning bad faith bargaining and  
21 unfair labor practices; defining certain terms; altering provisions relating to the  
22 negotiation of certain matters by a public school employer; specifying certain  
23 requirements and procedures relating to the use of mediation, fact-finding, and  
24 arbitration by certain parties in certain matters subject to dispute resolution;

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 and generally relating to the Public School Labor Relations Board and collective  
2 bargaining for certificated and noncertificated public school employees.

3 BY repealing and reenacting, with amendments,  
4 Article – Education  
5 Section 2–205(e), 6–401, 6–405(f), 6–408, 6–501, 6–506(f), and 6–510  
6 Annotated Code of Maryland  
7 (2006 Replacement Volume and 2007 Supplement)

8 BY adding to  
9 Article – Education  
10 Section 6–801 through 6–807 to be under the new subtitle “Subtitle 8. Public  
11 School Labor Relations Board”  
12 Annotated Code of Maryland  
13 (2006 Replacement Volume and 2007 Supplement)

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

16 **Article – Education**

17 2–205.

18 (e) (1) Without charge and with the advice of the Attorney General, the  
19 State Board shall explain the true intent and meaning of the provisions of:

20 (i) This article that are within its jurisdiction; and

21 (ii) The bylaws, rules, and regulations adopted by the Board.

22 (2) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS**  
23 **SUBSECTION AND IN TITLE 6, SUBTITLES 4 AND 5 OF THIS ARTICLE, THE** Board  
24 shall decide all controversies and disputes under these provisions.

25 (3) The decision of the Board is final.

26 (4) (I) **THE PUBLIC SCHOOL LABOR RELATIONS BOARD**  
27 **ESTABLISHED UNDER TITLE 6, SUBTITLE 8 OF THIS ARTICLE SHALL DECIDE**  
28 **ANY CONTROVERSY OR DISPUTE ARISING UNDER TITLE 6, SUBTITLE 4 OR**  
29 **SUBTITLE 5 OF THIS ARTICLE IN ACCORDANCE WITH THE PROVISIONS OF §§**  
30 **6–401(F) AND 6–501(G) OF THIS ARTICLE.**

31 (II) **A DECISION OF THE PUBLIC SCHOOL LABOR**  
32 **RELATIONS BOARD IS FINAL.**

33 6–401.

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

2 (b) **“BOARD” MEANS THE PUBLIC SCHOOL LABOR RELATIONS BOARD**  
3 **ESTABLISHED UNDER SUBTITLE 8 OF THIS TITLE.**

4 (c) “Employee organization” means an organization that:

5 (1) Includes certificated employees of a public school employer or  
6 individuals of equivalent status in Baltimore City; and

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

9 [(c)] (D) (1) “Home and hospital teacher” means a teacher employed by a  
10 public school employer to provide instructional services to a public school student who  
11 is unable to function effectively in the classroom setting due to the student’s medical,  
12 physical, or emotional condition.

13 (2) A home and hospital teacher may teach in:

14 (i) A private home;

15 (ii) A hospital;

16 (iii) A therapeutic center;

17 (iv) A school; or

18 (v) Any other appropriate site.

19 [(d)] (E) (1) “Public school employee” means a certificated professional  
20 individual who is employed by a public school employer or an individual of equivalent  
21 status in Baltimore City, except for a county superintendent or an individual  
22 designated by the public school employer to act in a negotiating capacity as provided  
23 in § 6–408(b) of this subtitle.

24 (2) In Montgomery County, “public school employees” include:

25 (i) Certificated and noncertificated substitute teachers  
26 employed by the public school employer for at least 7 days before March 1 of the school  
27 fiscal year ending June 30, 1978, and each year after; and

28 (ii) Home and hospital teachers employed by the public school  
29 employer for at least 7 days before March 1 of the school fiscal year ending June 30,  
30 2000, and each year after.

31 (3) In Baltimore County, “public school employee” includes:

1 (i) A secondary school nurse, an elementary school nurse, and a  
2 special school nurse; and

3 (ii) Supervisory noncertificated employees as defined under §  
4 6–501(h) of this title.

5 (4) In Frederick County, “public school employee” includes a social  
6 worker employed by a public school employer.

7 (5) In Prince George’s County, “public school employee” includes home  
8 and hospital teachers and Junior Reserve Officer Training Corps (JROTC) instructors.

9 (6) In Charles County and Garrett County, “public school employee”  
10 includes Junior Reserve Officer Training Corps (JROTC) instructors.

11 (7) In Carroll County, “public school employee” includes supervisory  
12 noncertificated employees as defined under § 6–501(h) of this title.

13 [(e)] (F) “Public school employer” means a county board of education or the  
14 Baltimore City Board of School Commissioners.

15 6–405.

16 (f) (1) The [State] Board shall adopt rules and regulations for:

17 (i) Verifying the number of certificated employees of the public  
18 school employer or individuals of equivalent status in Baltimore City who are  
19 members in good standing of an employee organization on the date of the certification  
20 or who have signed a petition under this section; and

21 (ii) Holding elections under this section and the certification of  
22 their results.

23 (2) The [State] Board shall provide for supervision of these elections.

24 (3) The elections shall be held:

25 (i) In each school facility where public employees are assigned  
26 on a regularly scheduled school day;

27 (ii) In a manner assuring the secrecy of the ballot; and

28 (iii) On a regular working day for public school employees,  
29 between June 1 and June 15, inclusive, except in Baltimore City where the elections  
30 shall be held between November 1 and November 15 following the date on which  
31 certification of required membership enrollment is made.

1           (4) In any election held under this section, the employee organization  
2 that receives the largest number of votes cast in a unit shall be declared to be the  
3 exclusive representative of all public school employees in the unit. If the largest  
4 number of votes in the election is cast not to have exclusive representation, a  
5 representative may not be designated for the unit.

6           (5) The public school employer shall provide any assistance required  
7 in holding the elections.

8 6-408.

9           (a) (1) In this section, “negotiate” includes the duty to:

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

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

13           (2) The agreements [may] **SHALL** provide for binding arbitration of  
14 the grievances arising under the agreement that the parties have agreed to be subject  
15 to arbitration.

16           (b) (1) On request a public school employer or at least two of its  
17 designated representatives shall meet and negotiate with at least two representatives  
18 of the employee organization that is designated as the exclusive negotiating agent for  
19 the public school employees in a unit of the county on:

20                           **(I) ALL MANDATORY SUBJECTS OF BARGAINING,**  
21 **INCLUDING** all matters that relate to salaries, wages, hours, and other working  
22 conditions; **AND**

23                           **(II) ALL PERMISSIVE SUBJECTS OF BARGAINING THAT ARE**  
24 **MUTUALLY AGREED TO BY THE EMPLOYER AND THE EMPLOYEE ORGANIZATION.**

25           (2) Except as provided in paragraph (3) of this subsection, a public  
26 school employer or at least two of its designated representatives may negotiate with at  
27 least two representatives of the employee organization that is designated as the  
28 exclusive negotiating agent for the public school employees in a unit of the county on  
29 other matters that are mutually agreed to by the employer and the employee  
30 organization.

31           (3) A public school employer may not negotiate the school calendar[,  
32 the maximum number of students assigned to a class,] or any matter that is precluded  
33 by applicable statutory law.

1 [(4) A matter that is not subject to negotiation under paragraph (2) of  
2 this subsection because it has not been mutually agreed to by the employer and the  
3 employee organization may not be raised in any action taken to resolve an impasse  
4 under subsection (d) of this section.]

5 **(3) ON PETITION BY EITHER PARTY TO THE BOARD, THE BOARD**  
6 **SHALL DETERMINE IF A MATTER IS A MANDATORY SUBJECT, A PERMISSIVE**  
7 **SUBJECT, OR AN ILLEGAL SUBJECT FOR BARGAINING.**

8 **(4) ON PETITION BY EITHER PARTY, THE BOARD SHALL**  
9 **DETERMINE ISSUES CONCERNING BAD FAITH BARGAINING AND UNFAIR LABOR**  
10 **PRACTICES.**

11 (5) In Montgomery County, the exclusive negotiating agent for the  
12 public school employees in a unit and the public school employer shall meet and  
13 negotiate under this section the salaries, wages, hours, and other working conditions  
14 of all persons actually employed as substitute teachers or home and hospital teachers.

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

18 (d) (1) (I) [If, on the request of either party, the State Superintendent  
19 determines from the facts that an impasse is reached in negotiations between a public  
20 school employer and an employee organization that is designated as an exclusive  
21 negotiating agent, the assistance and advice of the State Board may be requested,  
22 with the consent of both parties] **THE PARTIES MAY MUTUALLY AGREE TO**  
23 **COMMENCE MEDIATION AFTER A REASONABLE PERIOD FOLLOWING THE START**  
24 **OF NEGOTIATIONS.**

25 **(II) 1. IF NO COLLECTIVE BARGAINING AGREEMENT IS**  
26 **FINALIZED AFTER 30 DAYS OF NEGOTIATIONS OR 45 DAYS BEFORE THE COUNTY**  
27 **BOARD'S BUDGET SUBMISSION TO ITS COUNTY GOVERNING BODY, THE PARTIES**  
28 **SHALL NOTIFY THE BOARD.**

29 **2. ON RECEIPT OF THE NOTICE REQUIRED UNDER**  
30 **SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE BOARD SHALL INITIATE**  
31 **MEDIATION.**

32 **(III) ON REQUEST OF BOTH PARTIES, THE BOARD MAY**  
33 **DETERMINE TO DELAY MEDIATION AND PERMIT THE PARTIES TO EXTEND**  
34 **NEGOTIATIONS.**

1                   (IV) UNLESS BOTH PARTIES MUTUALLY AGREE TO EXTEND  
2 THE MEDIATION PERIOD, THE PARTIES SHALL ENGAGE IN MEDIATION FOR A  
3 PERIOD NOT TO EXCEED 2 DAYS.

4                   (V) IF NO COLLECTIVE BARGAINING AGREEMENT IS  
5 FINALIZED DURING MEDIATION, ONE OR BOTH PARTIES SHALL NOTIFY THE  
6 BOARD THAT THE PARTIES ARE MOVING TO FACT-FINDING.

7                   (VI) 1. THE MEDIATOR SHALL BE SELECTED FROM A LIST  
8 PROVIDED BY THE BOARD TO THE PARTIES.

9                                 2. IF THE PARTIES CANNOT AGREE ON A MEDIATOR  
10 FROM THE LIST, THE BOARD SHALL ASSIGN A MEDIATOR.

11                                3. IF THE PARTIES HAVE A PROVISION IN THEIR  
12 COLLECTIVE BARGAINING CONTRACT THAT INCLUDES A METHOD FOR  
13 SELECTION OF A MEDIATOR, THOSE PROVISIONS SHALL PREVAIL.

14                                4. COSTS FOR MEDIATION SHALL BE SPLIT BETWEEN  
15 THE PARTIES.

16                   (2) (I) IF NO AGREEMENT IS REACHED DURING MEDIATION,  
17 THE PARTIES SHALL PROCEED TO FACT-FINDING BEFORE THE SAME NEUTRAL  
18 THIRD PARTY WHO SERVES AS MEDIATOR, UNLESS BOTH PARTIES MUTUALLY  
19 AGREE TO REQUEST THAT THE BOARD ASSIGN A NEW PERSON TO SERVE AS  
20 FACT FINDER.

21                                (II) FACT-FINDING MAY NOT BE EXTENDED BEYOND 5  
22 BUSINESS DAYS AFTER THE PARTIES HAVE PRESENTED THEIR POSITIONS TO  
23 THE FACT FINDER.

24                                (III) 1. THE FACT FINDER SHALL HAVE THE AUTHORITY  
25 TO TAKE THE STEPS NECESSARY TO RESOLVE THE DISPUTE.

26                                2. IF THE DISPUTE IS NOT RESOLVED, THE  
27 FACT FINDER SHALL ISSUE A WRITTEN SETTLEMENT RECOMMENDATION AFTER  
28 GIVING DUE REGARD TO ANY WRITTEN STATEMENT AND TESTIMONY RECEIVED  
29 FROM THE PARTIES.

30                                3. THE FACT FINDER SHALL SEND THE WRITTEN  
31 RECOMMENDATIONS TO THE PARTIES NO LATER THAN 21 CALENDAR DAYS  
32 FOLLOWING THE CONCLUSION OF FACT-FINDING. IF NO RESOLUTION IS  
33 REACHED WITHIN 5 DAYS AFTER THE FINDINGS AND RECOMMENDATIONS ARE

1 SUBMITTED TO THE PARTIES, THE FACT FINDER'S REPORT SHALL BE MADE  
2 PUBLIC.

3 4. THE COSTS OF FACT-FINDING SHALL BE SPLIT  
4 BETWEEN THE PARTIES.

5 (3) (I) 1. FOLLOWING RECEIPT OF THE FACT FINDER'S  
6 REPORT, IF NO RESOLUTION IS REACHED WITHIN 5 DAYS, EITHER PARTY MAY  
7 REQUEST FINAL AND BINDING ARBITRATION.

8 2. A. ARBITRATION IS MANDATORY AND SHALL  
9 PROCEED WHEN THE PARTIES SELECT AN ARBITRATOR BY ALTERNATELY  
10 STRIKING NAMES FROM A LIST OF SEVEN ARBITRATORS PROVIDED BY THE  
11 AMERICAN ARBITRATION ASSOCIATION.

12 B. IF THE PARTIES HAVE AN ALTERNATIVE METHOD  
13 IN THEIR COLLECTIVE BARGAINING CONTRACT FOR THE SELECTION OF AN  
14 ARBITRATOR, THOSE PROVISIONS SHALL PREVAIL.

15 (II) 1. THE FINAL OFFER METHOD SHALL BE USED IN  
16 WHICH BOTH PARTIES SHALL SUBMIT THEIR FINAL BEST OFFER IN WRITING TO  
17 THE ARBITRATOR.

18 2. FOLLOWING A HEARING OF THE PARTIES' CASE,  
19 THE ARBITRATOR SHALL SELECT ONE POSITION ON EACH ISSUE AS THE  
20 BINDING AWARD.

21 (III) 1. FOLLOWING THE SELECTIONS BY THE  
22 ARBITRATOR IN PARAGRAPH (3) OF THIS SUBSECTION, ARBITRATION SHALL  
23 PROCEED BEFORE THE NEUTRAL THIRD PARTY. COSTS OF ARBITRATION SHALL  
24 BE SPLIT BETWEEN THE PARTIES.

25 2. DURING THIS PHASE, THE ARBITRATOR IS  
26 LIMITED TO CONSIDERING UNRESOLVED ISSUES, INCLUDING ISSUES NOT  
27 AGREED TO IN WRITING BY THE PARTIES BEFORE THE START OF ARBITRATION.  
28 ON CONCLUSION, THE ARBITRATOR SHALL ISSUE A WRITTEN DECISION WHICH  
29 SHALL BE FINAL AND BINDING ON THE PARTIES.

30 3. ARBITRATION OF A NEGOTIATED AGREEMENT  
31 SHALL BE BETWEEN THE PUBLIC SCHOOL EMPLOYEE ORGANIZATION  
32 DESIGNATED AS THE EXCLUSIVE REPRESENTATIVE AND THE COUNTY BOARD.

33 4. AN ARBITRATION AWARD ISSUED PURSUANT TO  
34 THIS SECTION IS SUBJECT TO PROVISIONS OF THIS ARTICLE GOVERNING THE

1 **FISCAL RELATIONSHIP BETWEEN THE PUBLIC SCHOOL EMPLOYER AND THE**  
2 **GOVERNING BODY FOR THAT COUNTY.**

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

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

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

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

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

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

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

17 (7) Notwithstanding any other provision of this subtitle, the public  
18 school employer shall make the final determination as to matters that have been the  
19 subject of negotiation, but this final determination]

20 (E) **ANY NEGOTIATED PROVISION UNDER THIS SECTION** is subject to the  
21 other provisions of this article concerning the fiscal relationship between the public  
22 school employer and the county commissioners, county council, and Mayor and City  
23 Council of Baltimore City.

24 6-501.

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

26 (b) **“BOARD” MEANS THE PUBLIC SCHOOL LABOR RELATIONS BOARD**  
27 **ESTABLISHED UNDER SUBTITLE 8 OF THIS TITLE.**

28 (C) “Confidential employee” includes an individual whose employment  
29 responsibilities require knowledge of the public school employer’s posture in the  
30 collective negotiation process, as determined by the public school employer in  
31 negotiations with an employee organization that requests negotiation on this issue.

32 [(c)] (D) “Employee organization” means an organization that:

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

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

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

8 [(e)] (F) “Noncertificated employee”, in Montgomery County, means only a  
9 full-time employee.

10 [(f)] (G) (1) “Public school employee” means a noncertificated individual  
11 who is employed for at least 9 months a year on a full-time basis by a public school  
12 employer.

13 (2) “Public school employee” includes a noncertificated employee in  
14 Baltimore City notwithstanding that the noncertificated employee does not work for at  
15 least 9 months a year on a full-time basis.

16 (3) “Public school employee” does not include:

17 (i) Management personnel;

18 (ii) A confidential employee; or

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

21 [(g)] (H) (1) “Public school employer” means the county board in each  
22 county.

23 (2) “Public school employer” includes the Baltimore City Board of  
24 School Commissioners.

25 [(h)] (I) “Supervisory employee” includes any individual who responsibly  
26 directs the work of other employees, as determined by the public school employer in  
27 negotiation with an employee organization that requests negotiation on this issue.

28 6-506.

29 (f) (1) The [State] Board shall adopt rules and regulations for:

30 (i) Verifying the number of public school employees who are  
31 members in good standing of an employee organization on the date of the certification  
32 or who have signed a petition under this section; and

1 (ii) Holding elections under this section and the certification of  
2 their results.

3 (2) The [State] Board shall provide for supervision of these elections.

4 (3) The elections shall be held:

5 (i) In each school facility where public school employees are  
6 assigned on a regularly scheduled school day;

7 (ii) In a manner assuring the secrecy of the ballot; and

8 (iii) On a regular working day for public school employees,  
9 between June 1 and June 15, inclusive.

10 (4) In all elections held under this section, the employee organization  
11 that receives a majority of the votes cast in a unit shall be declared to be the exclusive  
12 representative of all public school employees in the unit. If a majority of the votes in  
13 the election are cast not to have exclusive representation, a representative may not be  
14 designated for the unit.

15 (5) The two choices on the ballot that receive the most votes shall be  
16 placed on a ballot for a runoff election that shall be held in the same manner as the  
17 original election if:

18 (i) More than one employee organization is on the ballot;

19 (ii) No employee organization obtains a majority of the votes;  
20 and

21 (iii) A majority of the votes is not for “not to have exclusive  
22 representation”.

23 (6) The public school employer shall provide any assistance required  
24 in conducting the elections.

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.

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

4           (b) (1) On request, a public school employer or at least two of its  
5 designated representatives shall meet and negotiate with at least two representatives  
6 of the employee organization that is designated as the exclusive negotiating agent for  
7 the public school employees in a unit of the county on:

8                           **(I) ALL MANDATORY SUBJECTS OF BARGAINING,**  
9 **INCLUDING** all matters that relate to salaries, wages, hours, and other working  
10 conditions, **INCLUDING DISCIPLINE AND DISCHARGE FOR JUST CAUSE; AND**

11                           **(II) ALL PERMISSIVE SUBJECTS OF BARGAINING THAT ARE**  
12 **MUTUALLY AGREED TO BY THE EMPLOYER AND THE EMPLOYEE ORGANIZATION.**

13           (2) Except as provided in paragraph (3) of this subsection, a public  
14 school employer or at least two of its designated representatives may negotiate with at  
15 least two representatives of the employee organization that is designated as the  
16 exclusive negotiating agent for the public school employees in a unit of the county on  
17 other matters[, including due process for discipline and discharge,] that are mutually  
18 agreed to by the employer and the employee organization.

19           (3) A public school employer may not negotiate the school calendar[,  
20 the maximum number of students assigned to a class,] or any matter that is precluded  
21 by applicable statutory law.

22                           [(4) A matter that is not subject to negotiation under paragraph (2) of  
23 this subsection because it has not been mutually agreed to by the employer and the  
24 employee organization may not be raised in any action taken to resolve an impasse  
25 under subsection (d) of this section.]

26                           **(3) ON PETITION BY EITHER PARTY TO THE BOARD, THE BOARD**  
27 **SHALL DETERMINE IF A MATTER IS A MANDATORY SUBJECT, A PERMISSIVE**  
28 **SUBJECT, OR AN ILLEGAL SUBJECT FOR BARGAINING.**

29                           **(4) ON PETITION BY EITHER PARTY, THE BOARD SHALL**  
30 **DETERMINE ISSUES CONCERNING BAD FAITH BARGAINING AND UNFAIR LABOR**  
31 **PRACTICES.**

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

1           (d)   (1)   (I)   **THE PARTIES MAY MUTUALLY AGREE TO COMMENCE**  
2 **MEDIATION AFTER A REASONABLE PERIOD FOLLOWING THE START OF**  
3 **NEGOTIATIONS.**

4                           (II)   1.   **IF NO COLLECTIVE BARGAINING AGREEMENT IS**  
5 **FINALIZED AFTER 30 DAYS OF NEGOTIATIONS OR 45 DAYS PRIOR TO THE**  
6 **COUNTY BOARD'S BUDGET SUBMISSION TO THE COUNTY GOVERNING BODY, THE**  
7 **PARTIES SHALL NOTIFY THE BOARD.**

8   2.   **ON RECEIPT OF THE NOTICE REQUIRED UNDER**  
9 **SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE BOARD SHALL INITIATE**  
10 **MEDIATION.**

11   (III)   **ON REQUEST OF BOTH PARTIES, THE BOARD MAY**  
12 **DETERMINE TO DELAY MEDIATION AND PERMIT THE PARTIES TO EXTEND**  
13 **NEGOTIATIONS.**

14   (IV)   **UNLESS THE PARTIES MUTUALLY AGREE TO EXTEND**  
15 **THE MEDIATION PERIOD, THE PARTIES SHALL ENGAGE IN MEDIATION FOR A**  
16 **PERIOD NOT TO EXCEED 2 DAYS.**

17   (V)   **IF NO COLLECTIVE BARGAINING AGREEMENT IS**  
18 **FINALIZED DURING MEDIATION, ONE OR BOTH PARTIES SHALL NOTIFY THE**  
19 **BOARD THAT THE PARTIES ARE MOVING TO FACT-FINDING.**

20   (VI)   1.   **THE MEDIATOR SHALL BE SELECTED FROM A LIST**  
21 **PROVIDED BY THE BOARD TO THE PARTIES.**

22   2.   **IF THE PARTIES CANNOT AGREE ON A MEDIATOR**  
23 **FROM THE LIST, THE BOARD SHALL ASSIGN A MEDIATOR.**

24   3.   **IF THE PARTIES HAVE A PROVISION IN THEIR**  
25 **COLLECTIVE BARGAINING CONTRACT AGREEING TO USE THE AMERICAN**  
26 **ARBITRATION ASSOCIATION OR THE FEDERAL CONCILIATION AND MEDIATION**  
27 **SERVICE FOR THE SELECTION OF A MEDIATOR, THOSE PROVISIONS SHALL**  
28 **PREVAIL.**

29   4.   **COSTS FOR MEDIATION SHALL BE SPLIT BETWEEN**  
30 **THE PARTIES.**

31   (2)   (I)   **UNLESS BOTH PARTIES AGREE TO REQUEST A NEW**  
32 **PERSON TO BE ASSIGNED BY THE BOARD TO SERVE AS FACT FINDER, IF NO**  
33 **AGREEMENT IS REACHED DURING MEDIATION, THE PARTIES SHALL PROCEED**

1 TO FACT-FINDING BEFORE THE SAME NEUTRAL THIRD PARTY SERVING AS  
2 MEDIATOR.

3 (II) FACT-FINDING MAY NOT EXTEND BEYOND 5 BUSINESS  
4 DAYS AFTER THE PARTIES HAVE PRESENTED THEIR POSITIONS TO THE FACT  
5 FINDER.

6 (III) 1. A. THE FACT FINDER SHALL HAVE THE  
7 AUTHORITY TO TAKE STEPS AS NECESSARY TO RESOLVE THE DISPUTE.

8 B. IF THE DISPUTE IS NOT RESOLVED, THE  
9 FACT FINDER SHALL ISSUE A WRITTEN SETTLEMENT RECOMMENDATION AFTER  
10 GIVING DUE REGARD TO ANY WRITTEN STATEMENT AND TESTIMONY RECEIVED  
11 FROM THE PARTIES.

12 2. THE FACT FINDER'S WRITTEN RECOMMENDATION  
13 SHALL BE SENT TO THE PARTIES NO LATER THAN 21 CALENDAR DAYS  
14 FOLLOWING THE CONCLUSION OF FACT-FINDING.

15 3. IF NO RESOLUTION IS REACHED WITHIN 5 DAYS  
16 AFTER THE FINDINGS AND RECOMMENDATIONS ARE SUBMITTED TO THE  
17 PARTIES, THE FACT FINDER'S REPORT SHALL BE MADE PUBLIC.

18 4. THE COSTS OF FACT-FINDING SHALL BE SPLIT  
19 BETWEEN THE PARTIES.

20 (3) (I) 1. FOLLOWING RECEIPT OF THE FACT FINDER'S  
21 REPORT, IF NO RESOLUTION IS REACHED WITHIN 5 DAYS EITHER PARTY MAY  
22 REQUEST FINAL AND BINDING ARBITRATION.

23 2. A. ARBITRATION IS MANDATORY AND SHALL  
24 PROCEED WHEN THE PARTIES SELECT AN ARBITRATOR BY ALTERNATELY  
25 STRIKING NAMES FROM A LIST OF SEVEN ARBITRATORS PROVIDED BY THE  
26 AMERICAN ARBITRATION ASSOCIATION.

27 B. IF THE PARTIES HAVE A METHOD IN THEIR  
28 COLLECTIVE BARGAINING CONTRACT FOR SELECTION OF AN ARBITRATOR,  
29 THOSE PROVISIONS SHALL PREVAIL.

30 (II) 1. THE FINAL OFFER METHOD SHALL BE USED FOR  
31 ARBITRATION.

32 2. BOTH PARTIES SHALL SUBMIT THEIR FINAL BEST  
33 OFFER TO THE ARBITRATOR IN WRITING AND, FOLLOWING A HEARING OF THE

1 PARTIES' CASES, THE ARBITRATOR SHALL SELECT ONE POSITION ON EACH  
2 ISSUE AS THE BINDING AWARD.

3 **3. COSTS OF ARBITRATION SHALL BE SPLIT**  
4 **BETWEEN THE PARTIES.**

5 (III) THE ARBITRATOR IS LIMITED TO CONSIDERING THE  
6 UNRESOLVED ISSUES THAT WERE NOT AGREED TO IN WRITING BY THE PARTIES  
7 BEFORE THE START OF ARBITRATION.

8 (IV) THE ARBITRATOR SHALL ISSUE A WRITTEN DECISION  
9 WHICH SHALL BE FINAL AND BINDING ON THE PARTIES.

10 (V) ARBITRATION OF A NEGOTIATED AGREEMENT SHALL BE  
11 BETWEEN THE PUBLIC SCHOOL EMPLOYEE ORGANIZATION DESIGNATED AS THE  
12 EXCLUSIVE REPRESENTATIVE AND THE COUNTY BOARD.

13 (VI) AN ARBITRATION AWARD ISSUED IN ACCORDANCE WITH  
14 THIS SECTION IS SUBJECT TO THE OTHER PROVISIONS OF THIS ARTICLE  
15 GOVERNING THE FISCAL RELATIONSHIP BETWEEN THE PUBLIC SCHOOL  
16 EMPLOYER AND THE GOVERNING BODY OF THE COUNTY.

17 [(1) If, on the request of either party, the State Superintendent  
18 determines from the facts that an impasse is reached in negotiations between a public  
19 school employer and an employee organization that is designated as an exclusive  
20 negotiating agent, the assistance and advice of the State Board may be requested,  
21 with the consent of both parties.

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

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

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

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

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

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

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

3 (7) Notwithstanding any other provision of this subtitle, the public  
4 school employer shall make the final determination as to matters which have been the  
5 subject of negotiation, but this final determination]

6 (E) ANY NEGOTIATED PROVISION is subject to the other provisions of this  
7 article concerning the fiscal relationship between the public school employer and the  
8 county commissioners and county council.

9 **SUBTITLE 8. PUBLIC SCHOOL LABOR RELATIONS BOARD.**

10 **6-801.**

11 **IN THIS SUBTITLE, "BOARD" MEANS THE PUBLIC SCHOOL LABOR**  
12 **RELATIONS BOARD ESTABLISHED UNDER § 6-802 OF THIS SUBTITLE.**

13 **6-802.**

14 **THERE IS A PUBLIC SCHOOL LABOR RELATIONS BOARD ESTABLISHED AS**  
15 **AN INDEPENDENT UNIT OF STATE GOVERNMENT.**

16 **6-803.**

17 (A) **THE BOARD SHALL CONSIST OF THE FOLLOWING FIVE MEMBERS:**

18 (1) **ONE MEMBER APPOINTED BY THE GOVERNOR, WITH THE**  
19 **ADVICE AND CONSENT OF THE SENATE, REPRESENTING THE PUBLIC AND WHO:**

20 (I) **HAS EXPERIENCE IN LABOR RELATIONS;**

21 (II) **IS NOT AN OFFICER OR EMPLOYEE OF A BOARD OF**  
22 **EDUCATION OR EMPLOYEE ORGANIZATION REPRESENTING PUBLIC SCHOOL**  
23 **SYSTEM EMPLOYEES; AND**

24 (III) **IS NOT AN ELECTED OFFICIAL OF THE STATE OR A**  
25 **COUNTY;**

26 (2) **TWO MEMBERS CHOSEN FROM A LIST OF CANDIDATES**  
27 **SUBMITTED BY EACH DESIGNATED EXCLUSIVE REPRESENTATIVE**  
28 **ORGANIZATION REPRESENTING CERTIFICATED AND NONCERTIFICATED**  
29 **EMPLOYEES, UNDER SUBTITLES 4 AND 5 OF THIS TITLE, APPOINTED BY THE**  
30 **GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE WHO:**

1                   (I) ARE NOT OFFICERS OR EMPLOYEES OF THE STATE, A  
2 COUNTY, A COUNTY BOARD, OR A PUBLIC SCHOOL EMPLOYEE ORGANIZATION;  
3 AND

4                   (II) ARE KNOWN FOR OBJECTIVE AND INDEPENDENT  
5 JUDGMENT; AND

6                   (3) TWO MEMBERS OF THE EDUCATION OR BUSINESS  
7 COMMUNITY, APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT  
8 OF THE SENATE WHO:

9                   (I) ARE NOT OFFICERS OR EMPLOYEES OF THE STATE OR A  
10 COUNTY, THE STATE BOARD OR A LOCAL BOARD, OR AN EMPLOYEE  
11 ORGANIZATION REPRESENTING EMPLOYEES OF PUBLIC SCHOOL SYSTEMS IN  
12 THE STATE; AND

13                   (II) ARE KNOWN FOR OBJECTIVE AND INDEPENDENT  
14 JUDGMENT.

15                   (B) BEFORE TAKING OFFICE EACH MEMBER SHALL TAKE THE OATH  
16 REQUIRED BY ARTICLE I, SECTION 9 OF THE MARYLAND CONSTITUTION.

17                   (C) THE PUBLIC SCHOOL LABOR RELATIONS BOARD SHALL ELECT A  
18 CHAIR FROM AMONG ITS MEMBERS.

19                   (D) (1) THE TERM OF A MEMBER IS 6 YEARS.

20                   (2) THE TERMS OF MEMBERS WILL BE STAGGERED AS REQUIRED  
21 BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD ON OCTOBER 1, 2008.

22                   (3) (I) AT THE END OF A TERM A MEMBER CONTINUES TO  
23 SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

24                   (II) A MEMBER IS ELIGIBLE FOR REAPPOINTMENT FOR A  
25 SECOND TERM.

26                   (4) (I) A MEMBER WHO IS APPOINTED AFTER A TERM HAS  
27 BEGUN SERVES ONLY FOR THE REMAINDER OF THAT TERM.

28                   (II) A MEMBER APPOINTED UNDER SUBPARAGRAPH (I) OF  
29 THIS PARAGRAPH IS ELIGIBLE FOR APPOINTMENT BY THE GOVERNOR TO SERVE  
30 FOR A SECOND TERM.

1           **(E) THE GOVERNOR MAY REMOVE A MEMBER ONLY FOR**  
2 **INCOMPETENCE OR MISCONDUCT.**

3 **6-804.**

4           **(A) (1) A MAJORITY OF THE VOTING MEMBERS SHALL CONSTITUTE A**  
5 **QUORUM FOR:**

6                           **(I) THE TRANSACTION OF ANY BUSINESS; OR**

7                           **(II) THE EXERCISE OF ANY POWER OR THE PERFORMANCE**  
8 **OF ANY DUTY AUTHORIZED OR IMPOSED BY LAW.**

9                           **(2) THE BOARD MAY NOT TAKE ANY FORMAL ACTION WITHOUT**  
10 **THE APPROVAL OF A MAJORITY OF THE VOTING MEMBERS OF THE BOARD.**

11           **(B) THE BOARD SHALL SET THE TIMES AND PLACES OF ITS MEETINGS.**

12           **(C) A MEMBER OF THE BOARD SHALL BE ENTITLED TO:**

13                           **(1) A SALARY PROVIDED IN THE STATE BUDGET; AND**

14                           **(2) REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD**  
15 **STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.**

16 **6-805.**

17           **(A) (1) JOINTLY WITH THE STATE LABOR RELATIONS BOARD AND**  
18 **THE STATE HIGHER EDUCATION LABOR RELATIONS BOARD UNDER § 3-2A-04**  
19 **OF THE STATE PERSONNEL AND PENSIONS ARTICLE, THE BOARD SHALL**  
20 **APPOINT AN EXECUTIVE DIRECTOR TO ACT FOR THE LABOR RELATIONS BOARDS**  
21 **AND THE BOARD.**

22                           **(2) THE EXECUTIVE DIRECTOR:**

23                           **(I) IS RESPONSIBLE TO AND SERVES AT THE PLEASURE OF**  
24 **THE LABOR RELATIONS BOARDS AND THE BOARD; AND**

25                           **(II) IS ENTITLED TO SALARY AS PROVIDED IN THE STATE**  
26 **BUDGET.**

27           **(B) THE EXECUTIVE DIRECTOR SHALL PERFORM THE DUTIES THAT THE**  
28 **BOARD ASSIGNS, INCLUDING:**

1           (1)   **OPERATING THE OFFICE FOR THE LABOR RELATIONS BOARDS**  
2 **AND THE BOARD; AND**

3           (2)   **KEEPING THE OFFICIAL RECORDS OF THE LABOR RELATIONS**  
4 **BOARDS AND THE BOARD.**

5           (C)   (1)   **THE BOARD SHALL EMPLOY THE SERVICES OF INDEPENDENT**  
6 **LEGAL COUNSEL.**

7           (2)   **THE EXECUTIVE DIRECTOR MAY HIRE ANY OTHER STAFF**  
8 **NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.**

9           (D)   (1)   **WITH THE APPROVAL OF THE BOARD, THE EXECUTIVE**  
10 **DIRECTOR MAY EMPLOY PROFESSIONAL CONSULTANTS.**

11           (2)   **A PROFESSIONAL CONSULTANT SERVES AT THE PLEASURE OF**  
12 **THE EXECUTIVE DIRECTOR.**

13 **6-806.**

14           (A)   **THE BOARD SHALL ADMINISTER AND ENFORCE THE LABOR**  
15 **RELATIONS PROVISIONS OF SUBTITLES 4 AND 5 OF THIS TITLE.**

16           (B)   **THE BOARD MAY:**

17           (1)   **ADOPT AND ENFORCE REGULATIONS, GUIDELINES, AND**  
18 **POLICIES TO CARRY OUT ITS RIGHTS AND RESPONSIBILITIES UNDER THIS**  
19 **TITLE; AND**

20           (2)   **MAKE RECOMMENDATIONS FOR LEGISLATIVE ACTION**  
21 **REGARDING THE OPERATION OF THIS TITLE.**

22 **6-807.**

23           (A)   **IN DECIDING MATTERS COVERED UNDER THE PROVISIONS OF**  
24 **SUBTITLES 4 AND 5 OF THIS TITLE, THE BOARD:**

25           (1)   **MAY:**

26                   (I)   **CONDUCT HEARINGS;**

27                   (II)   **SUBPOENA WITNESSES AND DOCUMENTS;**

28                   (III)   **ADMINISTER OATHS;**

1                   (IV) TAKE THE TESTIMONY OR DEPOSITION OF A PERSON  
2 UNDER OATH; AND

3                   (V) CONDUCT INVESTIGATIONS; AND

4                   (2) SHALL DECIDE CONTROVERSIES AND DISPUTES.

5           (B) (1) IF A PERSON OR A GOVERNMENTAL UNIT FAILS TO COMPLY  
6 WITH AN ORDER ISSUED BY THE BOARD, A MEMBER OF THE BOARD MAY  
7 PETITION THE CIRCUIT COURT TO ORDER THE PERSON OR GOVERNMENTAL  
8 UNIT TO COMPLY WITH THE BOARD'S ORDER.

9                   (2) THE BOARD MAY NOT BE REQUIRED TO POST BOND IN AN  
10 ACTION UNDER PARAGRAPH (1) OF THIS SUBSECTION.

11           (C) EACH HEARING AND DETERMINATION OF AN APPEAL OR  
12 COMPLAINT BY THE BOARD IS A CONTESTED CASE, SUBJECT TO THE  
13 PROVISIONS OF TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

14           SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the  
15 members of the Public School Labor Relations Board shall expire as follows:

16           (a) one member in 2011;

17           (b) two members in 2012; and

18           (c) two members in 2013.

19           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
20 October 1, 2008.