

# SENATE BILL 886

P4, F2

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CF HB 1220

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By: **Senators Klausmeier, Conway, Exum, Gladden, Madaleno, McFadden,  
Pinsky, Raskin, and Stone**

Introduced and read first time: February 15, 2008

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **State Personnel – Collective Bargaining – Procedures**

3 FOR the purpose of clarifying the application of certain provisions of law relating to  
4 the failure to comply with certain orders of the State Labor Relations Board and  
5 the State Higher Education Labor Relations Board; altering certain dates by  
6 which certain actions relating to certain collective bargaining negotiations must  
7 be taken; clarifying that certain fact finders must make certain written  
8 recommendations to certain representatives; providing that a certain  
9 memorandum of understanding is valid for more than a certain number of years  
10 under certain circumstances; providing that certain matters of agreement in a  
11 memorandum of understanding are not valid for more than a certain number of  
12 years; providing that a certain memorandum of understanding is not effective  
13 until it is ratified by a certain exclusive representative; defining a certain term;  
14 and generally relating to collective bargaining for State employees.

15 BY repealing and reenacting, with amendments,  
16 Article – State Personnel and Pensions  
17 Section 3–101, 3–209, 3–2A–09, 3–501(c), and 3–601  
18 Annotated Code of Maryland  
19 (2004 Replacement Volume and 2007 Supplement)

20 BY repealing and reenacting, without amendments,  
21 Article – State Personnel and Pensions  
22 Section 3–501(a)  
23 Annotated Code of Maryland  
24 (2004 Replacement Volume and 2007 Supplement)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – State Personnel and Pensions**

2 3–101.

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

4 (b) “Board” means:

5 (1) with regard to any matter relating to employees of any of the units  
6 of State government described in § 3–102(a)(1) through (4) of this subtitle, the State  
7 Labor Relations Board; and

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

11 (c) “Collective bargaining” means:

12 (1) good faith negotiations by authorized representatives of employees  
13 and their employer with the intention of:

14 (i) 1. reaching an agreement about wages, hours, and other  
15 terms and conditions of employment; and

16 2. incorporating the terms of the agreement in a written  
17 memorandum of understanding or other written understanding; or

18 (ii) clarifying terms and conditions of employment;

19 (2) administration of terms and conditions of employment; or

20 (3) the voluntary adjustment of a dispute or disagreement between  
21 authorized representatives of employees and their employer that arises under a  
22 memorandum of understanding or other written understanding.

23 (d) “Employee organization” means a labor or other organization in which  
24 State employees participate and that has as one of its primary purposes representing  
25 employees.

26 (e) **“EMPLOYER” MEANS:**

27 (1) **A PRINCIPAL DEPARTMENT WITHIN THE EXECUTIVE BRANCH**  
28 **OF STATE GOVERNMENT;**

29 (2) **THE MARYLAND INSURANCE ADMINISTRATION;**

30 (3) **THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION;**

1           (4)    **THE STATE LOTTERY AGENCY; AND**

2           (5)    **THE UNIVERSITY SYSTEM OF MARYLAND, MORGAN STATE**  
 3 **UNIVERSITY, ST. MARY’S COLLEGE OF MARYLAND, AND BALTIMORE CITY**  
 4 **COMMUNITY COLLEGE.**

5           (F)    “Exclusive representative” means an employee organization that has  
 6 been certified by the Board as an exclusive representative under Subtitle 4 of this title.

7           [(f)] (G)    “President” means:

8                   (1)    with regard to a constituent institution, as defined in § 12–101 of  
 9 the Education Article, the president of the constituent institution;

10                   (2)    with regard to a center or institute, as those terms are defined in §  
 11 12–101 of the Education Article, the president of the center or institute;

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

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

16           [(g)] (H)    “System institution” means:

17                   (1)    a constituent institution, as defined in § 12–101 of the Education  
 18 Article;

19                   (2)    a center or institute, as those terms are defined in § 12–101 of the  
 20 Education Article; and

21                   (3)    the University System of Maryland Office.

22 3–209.

23           (a)    If [a person] **AN EMPLOYER, EMPLOYEE ORGANIZATION, OR**  
 24 **COVERED EMPLOYEE** fails to comply with an order issued by the Board, a member of  
 25 the Board may petition the circuit court to order the [person] **EMPLOYER, EMPLOYEE**  
 26 **ORGANIZATION, OR COVERED EMPLOYEE** to comply with the Board’s order.

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

29 3–2A–09.

1 (a) If [a person] **AN EMPLOYER, EMPLOYEE ORGANIZATION, OR**  
2 **COVERED EMPLOYEE** fails to comply with an order issued by the Board, a member of  
3 the Board may petition the circuit court to order the [person] **EMPLOYER, EMPLOYEE**  
4 **ORGANIZATION, OR COVERED EMPLOYEE** to comply with the Board's order.

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

7 3-501.

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

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

12 (ii) on behalf of a system institution, the president of the system  
13 institution; and

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

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

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

23 (2) (i) The parties shall conclude negotiations before [January 1]  
24 **JANUARY 8** for any item requiring an appropriation of funds for the fiscal year that  
25 begins on the following July 1.

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

33 (3) (i) If the parties do not conclude negotiations for the next fiscal  
34 year before October 25, either party may request that a fact finder be employed to  
35 resolve the issues.

1 (ii) The fact finder shall be [employed] **SELECTED** no later than  
2 [November 1] **NOVEMBER 4**.

3 (iii) A fact finder shall be a neutral party appointed by alternate  
4 striking from a list by the parties provided:

- 5 1. by the Federal Mediation and Conciliation Service; or
- 6 2. under the Labor Arbitration Rules of the American  
7 Arbitration Association.

8 (iv) The fact finder:

- 9 1. may give notice and hold hearings in accordance with  
10 the Administrative Procedure Act;
- 11 2. may administer oaths and take testimony and other  
12 evidence;
- 13 3. may issue subpoenas; and
- 14 4. before [November 20] **DECEMBER 5**, shall make  
15 written recommendations **TO THE REPRESENTATIVES, DESIGNATED UNDER**  
16 **SUBSECTION (A) OF THIS SECTION**, regarding wages, hours, and working conditions,  
17 and any other terms or conditions of employment that may be in dispute.

18 (v) The written recommendations of the fact finder shall be  
19 delivered to the Governor, the exclusive representative, the President of the Senate,  
20 and the Speaker of the House of Delegates by the Secretary on or before [December 1]  
21 **DECEMBER 15**.

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 State,  
28 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

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

4 (b) (1) [No] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
5 **SUBSECTION, NO** memorandum of understanding is valid if it extends for less than 1  
6 year or for more than 3 years.

7 (2) (I) **A MEMORANDUM OF UNDERSTANDING IS VALID FOR**  
8 **MORE THAN 3 YEARS IF A SUCCESSOR MEMORANDUM OF UNDERSTANDING IS**  
9 **NOT RATIFIED BEFORE THE EXPIRATION OF THE MEMORANDUM OF**  
10 **UNDERSTANDING.**

11 (II) **NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS**  
12 **PARAGRAPH, A MATTER OF AGREEMENT IN A MEMORANDUM OF**  
13 **UNDERSTANDING THAT REQUIRES AN APPROPRIATION OF FUNDS IS NOT VALID**  
14 **FOR MORE THAN 3 YEARS.**

15 (c) (1) Except as provided in paragraph (2) of this subsection, a  
16 memorandum of understanding is not effective until it is ratified by the Governor and  
17 [a majority of the votes cast by the employees in the bargaining unit] **THE EXCLUSIVE**  
18 **REPRESENTATIVE INVOLVED IN THE COLLECTIVE BARGAINING NEGOTIATIONS.**

19 (2) In the case of a State institution of higher education, a  
20 memorandum of understanding is not effective until it is ratified by the institution's  
21 governing board and [a majority of the votes cast by the employees in the bargaining  
22 unit] **THE EXCLUSIVE REPRESENTATIVE INVOLVED IN THE COLLECTIVE**  
23 **BARGAINING NEGOTIATIONS.**

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 October 1, 2008.