

Chapter 582

(House Bill 537)

AN ACT concerning

State Personnel – Collective Bargaining – Applicability

FOR the purpose of providing certain collective bargaining rights to certain State employees; specifying the responsibilities of the State Labor Relations Board in administering and enforcing certain provisions of law relating to the collective bargaining rights of certain State employees; requiring the State Labor Relations Board at the request of a certain exclusive representative to ~~create~~ determine certain bargaining units for certain State employees, accrete certain State employees into certain bargaining units, and hold a self-determination election for certain accreted employees; and generally relating to the collective bargaining rights of State employees.

BY repealing and reenacting, with amendments,
 Article – State Personnel and Pensions
 Section 3–101(b), 3–102, and 3–205
 Annotated Code of Maryland
 (2009 Replacement Volume and 2011 Supplement)

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

Article – State Personnel and Pensions

3–101.

(b) “Board” means:

(1) with regard to any matter relating to employees of any of the units of State government described in § 3–102(a)(1)(i) through (iv) **AND (VI) THROUGH (IX)** of this subtitle and employees described in § 3–102(a)(2) of this subtitle, the State Labor Relations Board; and

(2) with regard to any matter relating to employees of any State institution of higher education described in § 3–102(a)(1)(v) of this subtitle, the State Higher Education Labor Relations Board.

3–102.

(a) Except as provided in this title or as otherwise provided by law, this title applies to:

(1) all employees of:

(i) the principal departments within the Executive Branch of State government;

(ii) the Maryland Insurance Administration;

(iii) the State Department of Assessments and Taxation;

(iv) the State Lottery Agency; [and]

(v) the University System of Maryland, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College; [and]

(VI) THE COMPTROLLER;

(VII) THE MARYLAND TRANSPORTATION AUTHORITY WHO ARE NOT POLICE OFFICERS;

(VIII) THE STATE RETIREMENT AGENCY; AND

(IX) THE STATE DEPARTMENT OF EDUCATION; AND

(2) all full-time Maryland Transportation Authority police officers at the rank of first sergeant and below.

(b) This title does not apply to:

(1) employees of the Maryland Transit Administration, as that term is defined in § 7-601(a)(2) of the Transportation Article;

(2) an employee who is elected to the position by popular vote;

(3) an employee in a position by election or appointment that is provided for by the Maryland Constitution;

(4) an employee who is:

(i) a special appointment in the State Personnel Management System; or

- (ii) 1. directly appointed by the Governor by an appointment that is not provided for by the Maryland Constitution;
- 2. appointed by or on the staff of the Governor or Lieutenant Governor; or
- 3. assigned to the Government House or the Governor's Office;
- (5) an employee assigned to the Board or with access to records of the Board;
- (6) an employee in:
 - (i) the executive service of the State Personnel Management System; or
 - (ii) a unit of the Executive Branch with an independent personnel system who is:
 - 1. the chief administrator of the unit or a comparable position that is not excluded under item (3) of this subsection as a constitutional or elected office; or
 - 2. a deputy or assistant administrator of the unit or a comparable position;
- (7) (i) a temporary or contractual employee in the State Personnel Management System; or
- (ii) a contractual, temporary, or emergency employee in a unit of the Executive Branch with an independent personnel system;
- (8) an employee who is entitled to participate in collective bargaining under another law;
- (9) an employee of the University System of Maryland, Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College who is:
 - (i) a chief administrator or in a comparable position;
 - (ii) a deputy, associate, or assistant administrator or in a comparable position;
 - (iii) a member of the faculty, including a faculty librarian;

(iv) a student employee, including a teaching assistant or a comparable position, fellow, or post doctoral intern;

(v) a contingent, contractual, temporary, or emergency employee;

(vi) a contingent, contractual, or temporary employee whose position is funded through a research or service grant or contract, or through clinical revenues; or

(vii) an employee whose regular place of employment is outside the State of Maryland;

(10) an employee whose participation in a labor organization would be contrary to the State's ethics laws;

(11) any supervisory, managerial, or confidential employee of a unit of State government listed in subsection (a)(1)(i) through (iv) **AND (VI) THROUGH (IX)** of this section, as defined in regulations adopted by the Secretary;

(12) any supervisory, managerial, or confidential employee of a State institution of higher education listed in subsection (a)(1)(v) of this section, as defined in regulations adopted by the governing board of the institution; or

(13) any employee described in subsection (a)(2) of this section who is a supervisory, managerial, or confidential employee, as defined in regulations adopted by the Secretary.

3-205.

(a) The Board is responsible for administering and enforcing provisions of this title relating to employees described in § 3-102(a)(1)(i) through (iv) **AND (VI) THROUGH (IX)** and (2) of this title.

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

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

1. the effect of overfragmentation on the employer;
2. the administrative structures of the State employer;
3. the recommendations of the parties;

4. the recommendations of the Executive Director;
 5. the desires of the employees involved;
 6. the communities of interest of the employees involved;
- and
7. the wages, hours, and other working conditions of the employees;

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

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

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

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

(C) (1) THE BOARD ~~SHALL~~ MAY NOT DESIGNATE A UNIQUE BARGAINING UNIT FOR EACH OF THE UNITS OF GOVERNMENT IDENTIFIED IN § 3-102(A)(1)(VI) THROUGH (IX) OF THIS TITLE.

(2) AT THE REQUEST OF THE EXCLUSIVE REPRESENTATIVE, THE BOARD SHALL:

(I) DETERMINE THE APPROPRIATE EXISTING BARGAINING UNIT INTO WHICH TO ASSIGN EACH EMPLOYEE IN THE UNITS OF GOVERNMENT IDENTIFIED IN § 3-102(A)(1)(VI) THROUGH (IX) OF THIS TITLE; AND

(II) ACCRETE ALL POSITIONS TO APPROPRIATE EXISTING BARGAINING UNITS.

(3) (I) NOTWITHSTANDING SUBTITLE 4 OF THIS TITLE, AT THE REQUEST OF THE EXCLUSIVE REPRESENTATIVE, THE BOARD SHALL CONDUCT A SELF-DETERMINATION ELECTION FOR EACH BARGAINING UNIT REPRESENTATIVE FOR THE ACCRETED EMPLOYEES IN UNITS OF GOVERNMENT IDENTIFIED IN § 3-102(A)(1)(VI) THROUGH (IX) OF THIS TITLE.

(II) ALL ELECTIONS SHALL BE CONDUCTED BY SECRET BALLOT.

(III) FOR EACH ELECTION, THE BOARD SHALL PLACE THE FOLLOWING CHOICES ON THE BALLOT:

1. THE NAME OF THE INCUMBENT EXCLUSIVE REPRESENTATIVE; AND

2. A PROVISION FOR “NO EXCLUSIVE REPRESENTATIVE”.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Approved by the Governor, May 22, 2012.