

HOUSE BILL 1143

P4, F2

9lr2005

By: **Delegates Acevero, Crutchfield, W. Fisher, Haynes, Ivey, Lehman, R. Lewis, Love, Moon, Palakovich Carr, Solomon, Stewart, Sydnor, Wells, and Wilkins**
Introduced and read first time: February 8, 2019
Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Higher Education – Collective Bargaining – Tenured Faculty, Adjunct Faculty,**
3 **and Graduate Student Employees**

4 FOR the purpose of providing collective bargaining rights to certain tenured or
5 tenure–track faculty, adjunct faculty, and graduate student employees at certain
6 public institutions of higher education; altering certain exceptions to the
7 applicability of provisions of law governing collective bargaining for State employees;
8 establishing separate collective bargaining units for certain tenured or tenure–track
9 faculty, adjunct faculty, and graduate student employees; defining certain terms;
10 altering a certain definition; making conforming changes; and generally relating to
11 collective bargaining for employees of public institutions of higher education.

12 BY repealing and reenacting, with amendments,
13 Article – State Personnel and Pensions
14 Section 3–101, 3–102, 3–403(d), and 3–501(b)
15 Annotated Code of Maryland
16 (2015 Replacement Volume and 2018 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article – State Personnel and Pensions
19 Section 3–501(a)
20 Annotated Code of Maryland
21 (2015 Replacement Volume and 2018 Supplement)

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

24 **Article – State Personnel and Pensions**

25 3–101.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

2 (b) **“ADJUNCT FACULTY” MEANS AN EMPLOYEE:**

3 (1) **AT A SYSTEM INSTITUTION, MORGAN STATE UNIVERSITY, ST.**
4 **MARY’S COLLEGE OF MARYLAND, OR BALTIMORE CITY COMMUNITY COLLEGE WHO**
5 **IS NOT A TENURED OR TENURE-TRACK FACULTY OR GRADUATE STUDENT**
6 **EMPLOYEE; AND**

7 (2) **WHO SERVES IN ANY PERMANENT POSITION IN WHICH STUDENT**
8 **INSTRUCTION IS A PRIMARY DUTY.**

9 (c) **“Board” means:**

10 (1) with regard to any matter relating to employees of any of the units of
11 State government described in § 3-102(a)(1)(i) through (iv) and (vi) through (x) of this
12 subtitle and employees described in § 3-102(a)(2) of this subtitle, the State Labor Relations
13 Board; and

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

17 [(c)] (D) **“Collective bargaining” means:**

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

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

22 2. incorporating the terms of the agreement in a written
23 memorandum of understanding or other written understanding; or

24 (ii) clarifying terms and conditions of employment;

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

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

29 [(d)] (E) **“Employee organization” means a labor or other organization in which**
30 **State employees, TENURED OR TENURE-TRACK FACULTY, ADJUNCT FACULTY, OR**

1 **GRADUATE STUDENT EMPLOYEES** participate and that has as one of its primary purposes
2 representing employees.

3 **[(e)] (F)** “Exclusive representative” means an employee organization that has
4 been certified by the Board as an exclusive representative under Subtitle 4 of this title.

5 **(G) “GRADUATE STUDENT EMPLOYEE” MEANS A GRADUATE STUDENT AT A**
6 **SYSTEM INSTITUTION, MORGAN STATE UNIVERSITY, ST. MARY’S COLLEGE OF**
7 **MARYLAND, OR BALTIMORE CITY COMMUNITY COLLEGE WHO IS:**

8 **(1) A TEACHING, ADMINISTRATIVE, OR RESEARCH ASSISTANT, OR IN**
9 **A COMPARABLE POSITION;**

10 **(2) A FELLOW; OR**

11 **(3) A POSTDOCTORAL INTERN.**

12 **[(f)] (H)** “President” means:

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

15 (2) with regard to a center or institute, as those terms are defined in §
16 12–101 of the Education Article, the president of the center or institute;

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

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

21 **[(g)] (I)** “System institution” means:

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

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

26 (3) the University System of Maryland Office.

27 **(J) “TENURED OR TENURE–TRACK FACULTY” MEANS AN EMPLOYEE AT A**
28 **SYSTEM INSTITUTION, MORGAN STATE UNIVERSITY, ST. MARY’S COLLEGE OF**
29 **MARYLAND, OR BALTIMORE CITY COMMUNITY COLLEGE WHO SERVES IN A**

1 POSITION INTENDED TO RECEIVE, OR IS IN THE PROCESS OF EARNING, THE
2 BENEFITS OF TENURE.

3 3–102.

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

6 (1) all employees of:

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

9 (ii) the Maryland Insurance Administration;

10 (iii) the State Department of Assessments and Taxation;

11 (iv) the State Lottery and Gaming Control Agency;

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

14 (vi) the Comptroller;

15 (vii) the Maryland Transportation Authority who are not police
16 officers;

17 (viii) the State Retirement Agency;

18 (ix) the State Department of Education; and

19 (x) firefighters for the Martin State Airport at the rank of captain or
20 below who are employed by the Military Department; and

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

23 (b) This title does not apply to:

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

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

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

1 (4) an employee who is:

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

4 (ii) 1. directly appointed by the Governor by an appointment
5 that is not provided for by the Maryland Constitution;

6 2. appointed by or on the staff of the Governor or Lieutenant
7 Governor; or

8 3. assigned to the Government House or the Governor's
9 Office;

10 (5) an employee assigned to the Board or with access to records of the
11 Board;

12 (6) an employee in:

13 (i) the executive service of the State Personnel Management
14 System; or

15 (ii) a unit of the Executive Branch with an independent personnel
16 system who is:

17 1. the chief administrator of the unit or a comparable
18 position that is not excluded under item (3) of this subsection as a constitutional or elected
19 office; or

20 2. a deputy or assistant administrator of the unit or a
21 comparable position;

22 (7) (i) a temporary or contractual employee in the State Personnel
23 Management System; or

24 (ii) a contractual, temporary, or emergency employee in a unit of the
25 Executive Branch with an independent personnel system;

26 (8) an employee who is entitled to participate in collective bargaining
27 under another law;

28 (9) an employee of the University System of Maryland, Morgan State
29 University, St. Mary's College of Maryland, or Baltimore City Community College who is:

30 (i) a chief administrator or in a comparable position;

- 1 (ii) a deputy, associate, or assistant administrator or in a
2 comparable position;
- 3 (iii) [a member of the faculty, including a faculty librarian;
- 4 (iv) a] **AN UNDERGRADUATE** student employee[, including a
5 teaching assistant or a comparable position, fellow, or post doctoral intern];
- 6 [(v)] **(IV)** a contingent, contractual, temporary, or emergency
7 employee, **EXCEPT FOR ADJUNCT FACULTY AND GRADUATE STUDENT EMPLOYEES**;
- 8 [(vi)] **(V)** a contingent, contractual, or temporary employee whose
9 position is funded through a research or service grant or contract, or through clinical
10 revenues, **EXCEPT FOR ADJUNCT FACULTY AND GRADUATE STUDENT EMPLOYEES**; or
- 11 [(vii)] **(VI)** an employee whose regular place of employment is outside
12 the State of Maryland;
- 13 (10) an employee whose participation in a labor organization would be
14 contrary to the State's ethics laws;
- 15 (11) any supervisory, managerial, or confidential employee of a unit of State
16 government listed in subsection (a)(1)(i) through (iv) and (vi) through (x) of this section, as
17 defined in regulations adopted by the Secretary;
- 18 (12) any supervisory, managerial, or confidential employee of a State
19 institution of higher education listed in subsection (a)(1)(v) of this section, as defined in
20 regulations adopted by the governing board of the institution; or
- 21 (13) any employee described in subsection (a)(2) of this section who is a
22 supervisory, managerial, or confidential employee, as defined in regulations adopted by the
23 Secretary.
- 24 3-403.
- 25 (d) (1) Each system institution, Morgan State University, St. Mary's College
26 of Maryland, and Baltimore City Community College shall have separate bargaining units.
- 27 (2) The presidents of the system institutions may agree to cooperate for the
28 purpose of collective bargaining:
- 29 (i) before the election of exclusive representatives; or
- 30 (ii) after the certification of exclusive representatives under §
31 3-406(a) of this subtitle.

1 (3) Appropriate bargaining units shall consist of:

2 (i) all eligible nonexempt employees, as described in the federal Fair
3 Labor Standards Act, except eligible sworn police officers;

4 (ii) all eligible exempt employees, as described in the federal Fair
5 Labor Standards Act; [and]

6 (iii) all eligible sworn police officers;

7 (IV) **ALL TENURED OR TENURE-TRACK FACULTY;**

8 (V) **ALL ADJUNCT FACULTY; AND**

9 (VI) **ALL GRADUATE STUDENT EMPLOYEES.**

10 3-501.

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

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

15 (ii) on behalf of a system institution, the president of the system
16 institution; and

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

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

22 (b) The parties shall meet at reasonable times and engage in collective bargaining
23 in good faith to conclude a written memorandum of understanding or other written
24 understanding as defined under [§ 3-101(c)(1)(ii)] **§ 3-101** of this title.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
26 1, 2019.