

Annotated Code of Maryland
Copyright 2012 by Matthew Bender and Company, Inc., a member of the LexisNexis
Group
All rights reserved.

*** Current through all Chapters Effective October 1, 2012, of the 2012 General
Assembly Regular Session, First Special Session, and Second Special Session ***

STATE PERSONNEL AND PENSIONS
DIVISION I. STATE PERSONNEL
TITLE 3. COLLECTIVE BARGAINING
SUBTITLE 1. DEFINITIONS AND GENERAL PROVISIONS

§ 3-101. Definitions

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

(b) Board. -- "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.

(c) Collective bargaining. -- "Collective bargaining" means:

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

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

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

(ii) clarifying terms and conditions of employment;

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

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

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

(e) Exclusive representative. -- "Exclusive representative" means an employee

organization that has been certified by the Board as an exclusive representative under Subtitle 4 of this title.

(f) President. -- "President" means:

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

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

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

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

(g) System institution. -- "System institution" means:

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

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

(3) the University System of Maryland Office.

§ 3-102. Applicability

(a) In general. -- 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;

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

(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) Inapplicable. -- 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.

§ 3-103. Construction with Article III, § 52 of Maryland Constitution

This title and any agreement under this title do not limit or otherwise interfere with the powers of the Governor or the Maryland General Assembly under Article III, § 52 of the Maryland Constitution.

SUBTITLE 2. STATE LABOR RELATIONS BOARD

§ 3-201. Established

There is a State Labor Relations Board established as an independent unit of State government.

§ 3-202. Membership

(a) Number; qualifications. -- The Board consists of the following five members:

(1) one member appointed by the Governor with the advice and consent of the Senate representing the public, who:

(i) is not an officer or employee of the State or a State employee organization; and

(ii) is not an elected official of the State or a State employee organization;

(2) two members with knowledge of labor issues chosen from a list of candidates submitted by each exclusive representative, appointed by the Governor with the advice and consent of the Senate, who:

(i) are not officers or employees of the State or a State employee organization; and

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

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

(i) are not officers or employees of the State or a State employee organization; and

(ii) are known for objective and independent judgment.

(b) Oath. -- Before taking office, each member shall take the oath required by Article I, § 9 of the Maryland Constitution.

(c) Chairman. -- From among its members, the Board shall elect a chairman.

(d) Term. --

(1) The term of a member is 6 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on July 1, 2006.

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

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

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

(e) Removal. -- The Governor may remove a member only for incompetence or misconduct.

(f) Appointment considerations. -- In making appointments to the Board, the Governor shall ensure, to the extent practicable, that:

(1) the ratio of male to female members and the racial makeup of the Board is

reflective of the general population of the State; and

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

§ 3-203. Meetings

(a) Quorum. --

(1) A majority of the voting members shall constitute a quorum for:

(i) the transaction of any business; or

(ii) the exercise of any power or the performance of any duty authorized or imposed by law.

(2) No formal action may be taken by the Board without the approval of a majority of the voting members of the Board.

(b) Time and place. -- The Board shall set the times and places of its meetings.

(c) Compensation. -- An appointed member of the Board is entitled to:

(1) the compensation provided in the State budget; and

(2) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§ 3-204. Executive Director [Amendment subject to abrogation]

(a) Appointment. --

(1) The State Labor Relations Board, the Public School Labor Relations Board, and the State Higher Education Labor Relations Board jointly shall appoint an Executive Director of the boards.

(2) The Executive Director:

(i) is responsible to and serves at the pleasure of the boards; and

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

(b) Duties. -- The Executive Director shall perform the duties that the boards assign, including:

(1) operating the office of the boards; and

(2) keeping the official records of the boards.

(c) Staff. -- The Executive Director may hire any staff necessary to carry out the

provisions of this subtitle.

(d) Professional consultants. --

(1) With approval of the boards, the Executive Director may employ professional consultants.

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

§ 3-204. Executive Director (Abrogation of amendment effective June 30, 2015.)

(a) Appointment. --

(1) The State Labor Relations Board and the State Higher Education Labor Relations Board jointly shall appoint an Executive Director of the boards.

(2) The Executive Director:

(i) is responsible to and serves at the pleasure of the boards; and

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

(b) Duties. -- The Executive Director shall perform the duties that the boards assign, including:

(1) operating the office of the boards; and

(2) keeping the official records of the boards.

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

(d) Professional consultants. --

(1) With approval of the boards, the Executive Director may employ professional consultants.

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

§ 3-205. Administration and enforcement of title; guidelines for creating new bargaining unit; exclusive representation elections; unfair labor practices and lockouts

(a) In general. -- 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) Creation of new bargaining unit guidelines; monitoring of elections; investigation of unfair labor practices and lockouts. -- 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) Determination of bargaining unit. --

(1) The Board 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".

§ 3-206. Regulatory and enforcement authority of Secretary

The Board shall adopt and enforce regulations, guidelines, and policies to carry out this title, including establishing permissible labor-related activities on the work site.

§ 3-207. Investigations

(a) Scope. -- The Board shall investigate:

- (1) a possible violation of this title or any regulation adopted under it; and
- (2) any other relevant matter.

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

§ 3-208. Use of employee information; confidentiality.

(a) Disclosure of employee information to exclusive representative on request. -- On written request of an exclusive representative, for each employee in the bargaining unit represented by the exclusive representative, the Department shall provide the exclusive representative with the employee's:

- (1) name;
- (2) position classification;
- (3) unit;
- (4) home and work site addresses where the employee receives interoffice or United States mail; and
- (5) home and work site telephone numbers.

(b) Limitation on requests. -- An exclusive representative may present a request for employee information, as provided under subsection (a) of this section, twice every calendar year.

(c) Confidentiality of employee information in general. -- Names or lists of employees provided to the Board in connection with an election under this title are not subject to disclosure in accordance with Title 10, Subtitle 6 of the State Government Article.

(d) Notification of request and denial by employee. --

(1) Thirty days before providing an employee's name, addresses, telephone numbers, and work information to an exclusive representative, the employer shall notify the employee of the provisions of this section.

(2) The employee may, within 15 days of the employer's notice under paragraph (1) of this subsection, notify the employer that the employee does not want the employee's name, addresses, telephone numbers, or work information to be provided to an exclusive representative.

(3) If an employee provides timely notification to the employer under paragraph (2) of this subsection, the employer may not provide the employee's name, addresses, telephone numbers, or work information.

(4) The notification of an employee to the employer under paragraph (2) of this subsection shall remain in effect until the employee otherwise notifies the employer.

(e) Incumbent representative prohibited from making request. -- An incumbent exclusive representative for a bargaining unit that is the subject of an election under § 3-405 of this title may not request or receive any employee information as provided under subsections (a) and (b) of this section.

(f) Fees. -- An employer may charge an exclusive representative a fee not to exceed the actual cost of providing a list of employees' names, addresses, telephone numbers, and work information to the exclusive representative.

(g) Confidentiality of information provided to exclusive representative; permitted use of information. --

(1) Except as provided in paragraph (2) of this subsection, an exclusive representative shall consider the information that it receives under this section as confidential and may not release the information to any person.

(2) An exclusive representative may authorize third party contractors to use the information that it receives under this section, as directed by the exclusive representative, to carry out the exclusive representative's statutory duties under this title.

(h) Prohibited and permitted uses of information by exclusive representative. --

(1) An exclusive representative may not use the information that it receives under this section for the purpose of increasing employee membership in an employee organization.

(2) An exclusive representative may use the information that it receives under this section only to carry out its statutory duties under this title.

§ 3-209. Failure to comply with order of Board

(a) Circuit court compliance petition. -- If a person fails to comply with an order issued by the Board, a member of the Board may petition the circuit court to order

the person to comply with the Board's order.

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

SUBTITLE 2A. STATE HIGHER EDUCATION LABOR RELATIONS BOARD

§ 3-2A-01. Established

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

§ 3-2A-02. Membership

(a) Number; qualifications. -- The Board consists of the following five members:

(1) four members with expertise in higher education, appointed by the Governor with the advice and consent of the Senate from a list provided by the Maryland Higher Education Commission:

(i) who are not officers or employees of a State institution of higher education or an employee organization;

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

(iii) two of whom have knowledge of labor issues; and

(2) one member of the general public, appointed by the Governor with the advice and consent of the Senate from a list provided by the Maryland Higher Education Commission, who is known for objective and independent judgment.

(b) Oath of office. -- Before taking office, each member shall take the oath required by Article I, § 9 of the Maryland Constitution.

(c) Chairman. -- With the advice of the governing boards of State institutions of higher education, the Governor shall designate a chairman from among the members of the Board.

(d) Term. --

(1) The term of a member is 6 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on July 1, 2001.

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

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

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

(e) Removal. -- The Governor may remove a member for incompetence or misconduct.

(f) Appointment considerations. -- In making appointments to the Board, the Governor shall ensure, to the extent practicable, that:

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

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

§ 3-2A-03. Meetings; quorum; compensation

(a) Quorum. --

(1) A majority of the voting members shall constitute a quorum for:

(i) the transaction of any business; or

(ii) the exercise of any power or the performance of any duty authorized or imposed by law.

(2) No formal action may be taken by the Board without the approval of a majority of the voting members of the Board.

(b) Meetings. -- The Board shall set the times and places of its meetings.

(c) Compensation. -- A member of the Board is entitled to:

(1) the compensation provided in the State budget; and

(2) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§ 3-2A-04. Executive Director

(a) Appointment. --

(1) The State Higher Education Labor Relations Board and the State Labor Relations Board jointly shall appoint an Executive Director of the boards.

(2) The Executive Director:

(i) is responsible to and serves at the pleasure of the boards; and

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

(b) Duties. -- The Executive Director shall perform the duties that the boards assign, including:

(1) operating the office of the boards; and

(2) keeping the official records of the boards.

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

(d) Professional consultants. --

(1) With approval of the boards, the Executive Director may employ professional consultants.

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

§ 3-2A-05. Additional duties

(a) Enforcement of provisions relating to certain employees. -- The Board is responsible for administering and enforcing provisions of this title relating to employees described in § 3-102(a)(1)(v) of this title.

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

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

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

§ 3-2A-06. Regulatory and enforcement authority of Board

The Board shall adopt and enforce regulations, guidelines, and policies to carry out this title, including establishing permissible labor-related activities on the work site.

§ 3-2A-07. Investigations

(a) Scope. -- The Board may investigate:

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

(2) any other relevant matter.

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

§ 3-2A-08. Disclosure of employee information to exclusive representative; notice

(a) Written request by exclusive representative. -- On written request of an exclusive representative, for each employee in the bargaining unit represented by the exclusive representative, the University System of Maryland system institutions, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College shall provide the exclusive representative with the employee's:

(1) name;

(2) position classification;

(3) unit;

(4) home and work site addresses where the employee receives interoffice or United States mail; and

(5) home and work site telephone numbers.

(b) Timing of request. -- An exclusive representative may present a request for employee information, as provided under subsection (a) of this section, twice every calendar year.

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

(d) Notification to employee; objection by employee. --

(1) Thirty days before providing an employee's name, addresses, telephone numbers, and work information to an exclusive representative, the employer shall notify the employee of the provisions of this section.

(2) The employee may, within 15 days of the employer's notice under paragraph (1) of this subsection, notify the employer that the employee does not want the employee's name, addresses, telephone numbers, or work information to be provided to an exclusive representative.

(3) If an employee provides timely notification to the employer under paragraph (2) of this subsection, the employer may not provide the employee's name, addresses, telephone numbers, or work information.

(4) The notification of an employee to the employer under paragraph (2) of this subsection shall remain in effect until the employee otherwise notifies the employer.

(e) Incumbent exclusive representative may not request or receive employee information. -- An incumbent exclusive representative for a bargaining unit that is the subject of an election under § 3-405 of this title may not request or receive any employee information as provided under subsections (a) and (b) of this section.

(f) Fee. -- An employer may charge an exclusive representative a fee not to exceed the actual cost of providing a list of employees' names, addresses, telephone numbers, and work information to the exclusive representative.

(g) Confidentiality. --

(1) Except as provided in paragraph (2) of this subsection, an exclusive representative shall consider the information that it receives under this section as confidential and may not release the information to any person.

(2) An exclusive representative may authorize third party contractors to use the information that it receives under this section, as directed by the exclusive representative, to carry out the exclusive representative's statutory duties under this title.

(h) Use of information. --

(1) An exclusive representative may not use the information that it receives under this section for the purpose of increasing employee membership in an employee organization.

(2) An exclusive representative may use the information that it receives under this section only to carry out its statutory duties under this title.

§ 3-2A-09. Failure to comply with order of Board

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

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

SUBTITLE 3. RIGHTS OF EMPLOYEES AND EMPLOYERS; STRIKES, LOCKOUTS, AND UNFAIR LABOR PRACTICES PROHIBITED.

§ 3-301. Rights of employee

(a) In general. -- Employees subject to this title have the right to:

(1) take part or refrain from taking part in forming, joining, supporting, or participating in any employee organization or its lawful activities;

(2) be fairly represented by their exclusive representative, if any, in collective

bargaining; and

(3) except as provided in §§ 3-303 and 3-305 of this subtitle, engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) Direct discussions with employer. -- An employee who is a member of a bargaining unit with an exclusive representative may, without the intervention of an employee organization, discuss any matter with the employer.

§ 3-302. Rights of the State

The State, through its appropriate officers and employees, has the right to:

(1) (i) determine the mission, budget, organization, numbers, types and grades of employees assigned, the work projects, tours of duty, methods, means, and personnel by which its operations are to be conducted, technology needed, internal security practices, and relocation of its facilities; and

(ii) maintain and improve the efficiency and effectiveness of governmental operations;

(2) determine the:

(i) services to be rendered, operations to be performed, and technology to be utilized; and

(ii) overall methods, processes, means, and classes of work or personnel by which governmental operations are to be conducted;

(3) hire, direct, supervise, and assign employees;

(4) (i) promote, demote, discipline, discharge, retain, and lay off employees; and

(ii) terminate employment because of lack of funds, lack of work, under conditions where the employer determines continued work would be inefficient or nonproductive, or for other legitimate reasons;

(5) set the qualifications of employees for appointment and promotion, and set standards of conduct;

(6) promulgate State or Department rules, regulations, or procedures;

(7) provide a system of merit employment according to the standard of business efficiency; and

(8) take actions, not otherwise specified in this section to carry out the mission of the employer.

§ 3-303. Strikes

(a) "Strike" defined. --

(1) In this section, "strike" means any concerted action to impede the full and proper performance of employment duties in order to induce, influence, coerce, or enforce demands for a change in wages, hours, terms, or other conditions of employment.

(2) "Strike" includes a total or partial:

- (i) refusal or failure to report to work;
- (ii) refusal or failure to perform employment duties;
- (iii) withdrawal from work;
- (iv) work stoppage; or
- (v) work slowdown.

(b) Prohibition. -- State employees are prohibited from engaging in any strike.

(c) Disciplinary action. -- An appointing authority may take disciplinary action, including termination of employment, against an employee who participates in a strike.

(d) Revocation of certification. -- The Board shall revoke the certification of an exclusive representative who engages in any strike activity in violation of this section.

§ 3-304. Lockouts

(a) "Lockout" defined. -- In this section, "lockout" means action taken by an employer to:

(1) interrupt or prevent the continuity of the employees' usual work for the purpose and with the intent of coercing the employees into relinquishing rights guaranteed by this title; or

(2) bring economic pressure on employees for the purpose of securing the agreement of their exclusive representative to certain collective bargaining agreement terms.

(b) Prohibition. -- The State is prohibited from engaging in any lockout.

§ 3-305. Remedies

(a) State. -- In the event a strike occurs or appears imminent, the State may petition the circuit court for appropriate relief, including injunction.

(b) Employee organization. -- In the event a lockout occurs or appears imminent, the employee organization involved may petition the circuit court for appropriate relief, including injunction.

§ 3-306. Unfair labor practices prohibited

(a) State. -- The State and its officers, employees, agents, or representatives are prohibited from engaging in any unfair labor practice, including:

(1) interfering with, restraining, or coercing employees in the exercise of their rights under this title;

(2) dominating, interfering with, contributing financial or other support to, or assisting in the formation, existence, or administration of any labor organization;

(3) granting administrative leave to employees to attend employer sponsored or supported meetings or events relating to an election under § 3-405 of this title, unless the employer grants employees at least the same amount of administrative leave to attend labor organization sponsored or supported meetings or employee meetings;

(4) discriminating in hiring, tenure, or any term or condition of employment to encourage or discourage membership in an employee organization;

(5) discharging or discriminating against an employee because of the signing or filing of an affidavit, petition, or complaint, or giving information or testimony in connection with matters under this subtitle;

(6) failing to provide all employee organizations involved in an election the same rights of access as prescribed by the Board through regulation;

(7) engaging in surveillance of union activities;

(8) refusing to bargain in good faith; or

(9) engaging in a lockout.

(b) Employee organizations. -- Employee organizations and their agents or representatives are prohibited from engaging in any unfair labor practice, including:

(1) interfering with, restraining, or coercing employees in the exercise of their rights under this title;

(2) causing or attempting to cause an employer to discriminate in hiring, tenure, or any term or condition of employment to encourage or discourage membership in an employee organization;

(3) engaging in, inducing, or encouraging any person to engage in a strike, as defined in § 3-303(a) of this subtitle;

- (4) interfering with the statutory duties of the State or an employer;
- (5) refusing to bargain in good faith; or
- (6) not fairly representing employees in collective bargaining or in any other matter in which the employee organization has the duty of fair representation.

SUBTITLE 4. ELECTION AND CERTIFICATION OF EXCLUSIVE REPRESENTATIVE

§ 3-401. Election of exclusive representative of bargaining unit

(a) Conducted by Board. -- Except as otherwise provided in this subtitle, the Board shall conduct an election for an exclusive representative of a bargaining unit if:

- (1) a valid petition is filed in accordance with § 3-402 of this subtitle; and
- (2) the bargaining unit involved in the petition is determined to be an appropriate bargaining unit under § 3-403 of this subtitle.

(b) Limitation. -- The Board may not conduct an election for an exclusive representative of a bargaining unit if the Board has conducted an election or certified an exclusive representative for that bargaining unit within the preceding 2 years.

§ 3-402. Petitions for election of exclusive representative

(a) Who may file. -- A petition for the election of an exclusive representative of a bargaining unit may be filed with the Board by:

- (1) an employee organization seeking certification as an exclusive representative; or
- (2) an employee, a group of employees, or an employee organization seeking a new election to determine an exclusive representative.

(b) Contents; required employee support. -- A petition shall:

- (1) contain the information the Board requires; and
- (2) be accompanied by a showing of interest supported by 30% of the employees in the appropriate unit indicating their desire to be exclusively represented by the petitioner for the purpose of collective bargaining.

§ 3-403. Determination of appropriateness of bargaining units

(a) In general. --

(1) Except as otherwise provided in this title, the Board shall determine the appropriateness of each bargaining unit.

(2) If there is no dispute about the appropriateness of the establishment of the bargaining unit, the Board shall issue an order defining an appropriate bargaining unit.

(3) If there is a dispute about the appropriateness of the establishment of the bargaining unit, the Board shall:

- (i) conduct a hearing; and
- (ii) issue an order defining an appropriate bargaining unit.

(b) Settlement of differing criteria. -- If the appropriate bargaining unit as determined by the Board differs from the bargaining unit described in the petition, the Board may:

(1) dismiss the petition; or

(2) direct an election in the appropriate bargaining unit if the signatures included in the petition include those of at least 30% of the employees in the appropriate bargaining unit.

(c) Eligibility for bargaining units. -- A bargaining unit shall consist only of employees defined in regulations adopted by the Secretary and not specifically excluded by § 3-102(b) of this title.

(d) Separate bargaining units of system institutions. --

(1) Each system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College shall have separate bargaining units.

(2) The presidents of the system institutions may agree to cooperate for the purpose of collective bargaining:

(i) before the election of exclusive representatives; or

(ii) after the certification of exclusive representatives under § 3-406(a) of this subtitle.

(3) Appropriate bargaining units shall consist of:

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

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

(iii) all eligible sworn police officers.

(e) Assignment of classification titles. --

(1) Except as provided in paragraph (2) of this subsection, the Secretary or the Secretary's designee shall have the authority to assign classification titles and positions to bargaining units as appropriate.

(2) The following individuals and entities shall assign classification titles and positions to bargaining units at the following institutions:

(i) at a system institution, the President of the system institution; and

(ii) at Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College, the governing board of the institution.

(f) Separate bargaining unit for certain Maryland Transportation Authority police officers. -- Notwithstanding any other provision of law, Maryland Transportation Authority police officers at the rank of first sergeant and below shall have a separate bargaining unit.

§ 3-404. Certification filing requirements

Each employee organization that seeks certification as an exclusive representative shall file with the Board:

(1) a copy of the employee organization's governing documents, which:

(i) give individual members the right to participate in activities of the organization;

(ii) require periodic elections by secret ballot that are conducted with recognized safeguards to ensure the equal rights of all members to nominate, seek office, and vote in the elections;

(iii) direct full and accurate accounting of all income and expenses using standard accounting methods; and

(iv) require an annual report that is made available to all members of the appropriate bargaining unit; and

(2) a certification that the organization:

(i) accepts members without regard to any factor in § 2-302(b) of this article; and

(ii) will deny membership only to an employee for a reason that is acceptable to the Board.

§ 3-405. Elections

(a) Notice. --

(1) Within 5 days of determination that a valid petition has been submitted, the Board shall notify interested employee organizations of the pending election petition.

(2) Within 10 days of determination that a valid petition has been submitted under § 3-402 of this subtitle or subsection (c)(2)(iii) of this section, the Department shall make available to all interested employee organizations reasonable and equivalent means to communicate by mail and in person with each employee in the appropriate bargaining unit for the purpose of soliciting the employee's vote in an election held under this section.

(b) Time. -- An election shall be held in any unit within 90 days after the filing of a valid petition for election in such unit in accordance with guidelines established by the Board.

(c) Procedure. --

(1) All elections shall be conducted by secret ballot.

(2) The Board shall place the following choices on the ballot:

(i) the name of the exclusive representative, if any;

(ii) the name of the employee organization designated in the petition filed under § 3-402 of this subtitle with respect to an appropriate bargaining unit;

(iii) the name of each employee organization designated in a petition filed with the Board, within 15 days of notice of the pending election petition, that includes the signatures of at least 10% of the employees in the appropriate bargaining unit; and

(iv) a provision for "no exclusive representative".

(d) Runoff. -- If none of the choices on a ballot receives a majority of the votes cast in an election, the Board shall conduct a runoff election between the choices that received the two highest number of votes in the election.

§ 3-406. Certification

(a) Determination by election. -- The Board shall certify as exclusive representative the employee organization receiving the votes in an election from a majority of the employees voting in the election.

(b) Denial or revocation of certification. -- After notice and an opportunity for a hearing, the Board may deny or revoke certification as exclusive representative of an employee organization for willful failure to comply with:

(1) this title; or

(2) the governing documents of the organization.

§ 3-407. Responsibilities of certified exclusive employee representative

An employee organization certified as the exclusive representative shall:

- (1) serve as the sole and exclusive bargaining agent for all employees in the bargaining unit;
- (2) represent fairly and without discrimination all employees in the bargaining unit, whether or not the employees are members of the employee organization or are paying dues or other contributions to it or participating in its affairs; and
- (3) promptly file with the Board all changes and amendments to the organization's governing documents.

SUBTITLE 5. COLLECTIVE BARGAINING PROCESS

§ 3-501. Bargaining process

(a) Designation of representatives. --

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

- (i) on behalf of the State, the Governor;
- (ii) on behalf of a system institution, the president of the system institution; and
- (iii) on behalf of Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College, the governing board of the institution.

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

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

(c) Conclusion of negotiations; inclusion in budget request. --

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

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

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

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

(ii) The fact finder shall be employed no later than November 1.

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

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

(iv) The fact finder:

1. may give notice and hold hearings in accordance with the Administrative Procedure Act;
2. may administer oaths and take testimony and other evidence;
3. may issue subpoenas; and
4. before November 20, shall make written recommendations regarding wages, hours, and working conditions, and any other terms or conditions of employment that may be in dispute.

(v) The written recommendations of the fact finder shall be delivered to the Governor, the exclusive representative, the President of the Senate, and the Speaker of the House of Delegates by the Secretary on or before December 1.

(d) Memorandum of understanding. --

(1) A memorandum of understanding that incorporates all matters of agreement reached by the parties shall be executed by the exclusive representative and:

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

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

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

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

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

(e) Closed session negotiations. -- Negotiations for a memorandum of understanding shall be considered closed sessions under § 10-508 of the State Government Article.

(f) Exemption for employees of higher education institution. --

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

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

§ 3-502. Matters to be negotiated

(a) Permissible matters. -- Collective bargaining shall include all matters relating to wages, hours, and other terms and conditions of employment.

(b) Negotiations permissible; exceptions. --

(1) Except as provided in paragraph (3) of this subsection, collective bargaining may include negotiations relating to the right of an employee organization to receive service fees from nonmembers.

(2) An employee whose religious beliefs are opposed to joining or financially supporting any collective bargaining organization is:

(i) not required to pay a service fee; and

(ii) required to pay an amount of money as determined in collective bargaining negotiations, not to exceed any service fee negotiated under paragraph (1) of this subsection, to any charitable organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code and to furnish to the Department and the exclusive representative written proof of such payment.

(3) Collective bargaining between an employee organization and a system institution, Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College may not include negotiations relating to the right of an employee organization to receive service fees from nonmembers.

(c) Matters inconsistent with applicable law. -- Notwithstanding subsection (a) of this section, the representatives of the State, a system institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College:

(1) shall not be required to negotiate over any matter that is inconsistent with applicable law; and

(2) may negotiate and reach agreement with regard to any such matter only if it is understood that the agreement with respect to such matter cannot become effective unless the applicable law is amended by the General Assembly.

SUBTITLE 6. MEMORANDUM OF UNDERSTANDING

§ 3-601. Contents; signatures; length; ratification

(a) Contents; signatures. --

(1) A memorandum of understanding shall contain all matters of agreement reached in the collective bargaining process.

(2) The memorandum shall be in writing and signed by the exclusive representative involved in the collective bargaining negotiations and:

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

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

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

(b) Length. -- No memorandum of understanding is valid if it extends for less than 1 year or for more than 3 years.

(c) Ratification. --

(1) Except as provided in paragraph (2) of this subsection, a memorandum of understanding is not effective until it is ratified by the Governor and a majority of the votes cast by the employees in the bargaining unit.

(2) In the case of a State institution of higher education, a memorandum of understanding is not effective until it is ratified by the institution's governing board and a majority of the votes cast by the employees in the bargaining unit.

§ 3-602. Termination of collective bargaining agreement

The president of a system institution may elect to terminate a cooperation agreement with another system institution, entered into for the purpose of collective bargaining with exclusive representatives, effective on the termination date of the memorandum of understanding between the exclusive representatives and the system institutions that are parties to the cooperation agreement.