HOUSE BILL 1220

By: Delegates G. Clagett, Barkley, Benson, Gaines, Heller, Jones, Manno, Montgomery, Nathan-Pulliam, Proctor, Ramirez, Rosenberg, F. Turner, and Valderrama

Introduced and read first time: February 8, 2008
Assigned to: Appropriations

A BILL ENTITLED

AN ACT concerning

State Personnel – Collective Bargaining – Procedures

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

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

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Article – State Personnel and Pensions


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

(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) through (4) 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)(5) of this subtitle, the State Higher Education Labor Relations Board.

(c) “Collective bargaining” means:

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

   a. reaching an agreement about wages, hours, and other terms and conditions of employment; and

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

   c. 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” means a labor or other organization in which State employees participate and that has as one of its primary purposes representing employees.

(e) “EMPLOYER” MEANS:

1. A PRINCIPAL DEPARTMENT WITHIN THE EXECUTIVE BRANCH OF STATE GOVERNMENT;

2. THE MARYLAND INSURANCE ADMINISTRATION;
(3) the State Department of Assessments and Taxation;

(4) the State Lottery Agency; and

(5) the University System of Maryland, Morgan State University, St. Mary’s College of Maryland, and Baltimore City Community College.

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

[(f)] (G) “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)] (H) “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.

3–209.

(a) If [a person] an employer, employee organization, or covered employee fails to comply with an order issued by the Board, a member of the Board may petition the circuit court to order the [person] employer, employee organization, or covered employee to comply with the Board’s order.

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

3–2A–09.
(a) If [a person] AN EMPLOYER, EMPLOYEE ORGANIZATION, OR COVERED EMPLOYEE fails to comply with an order issued by the Board, a member of the Board may petition the circuit court to order the [person] EMPLOYER, EMPLOYEE ORGANIZATION, OR COVERED EMPLOYEE to comply with the Board’s order.

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

3–501.

(a) (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.

(c) (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] JANUARY 8 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] **SELECTED** no later than [November 1] **NOVEMBER 4**.

(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


(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] **DECEMBER 5**, shall make written recommendations **TO THE REPRESENTATIVES, DESIGNATED UNDER SUBSECTION (A) OF THIS SECTION**, 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] **DECEMBER 15**.

3–601.

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

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

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

(c) (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] THE EXCLUSIVE REPRESENTATIVE INVOLVED IN THE COLLECTIVE BARGAINING NEGOTIATIONS.

(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] THE EXCLUSIVE REPRESENTATIVE INVOLVED IN THE COLLECTIVE BARGAINING NEGOTIATIONS.

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