

# SENATE BILL 9

P4, F2

(PRE-FILED)

11r0829  
CF 11r1640

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By: **Senator Kramer**

Requested: October 3, 2020

Introduced and read first time: January 13, 2021

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **State Employees – Collective Bargaining – Applicability, Bargaining Processes,**  
3 **and Memorandums of Understanding**

4 FOR the purpose of requiring the Chancellor of the University System of Maryland to act  
5 on behalf of the University System of Maryland and certain system institutions for  
6 the purpose of collective bargaining; altering the application of certain collective  
7 bargaining requirements to certain employees by requiring the State Labor  
8 Relations Board and the State Higher Education Labor Relations Board to make  
9 certain determinations based on certain definitions used by a certain national board;  
10 repealing a provision of law authorizing certain presidents of certain system  
11 institutions to cooperate for the purpose of collective bargaining; specifying that  
12 certain good faith negotiations between certain parties include facilitating the  
13 meaningful use of a certain fact finder under certain provisions of law; repealing a  
14 provision of law regarding the termination of a certain cooperating agreement;  
15 providing for the negotiation of a certain consolidated memorandum of  
16 understanding between a certain exclusive representative and the Chancellor under  
17 certain circumstances; specifying certain effective dates of a certain consolidated  
18 memorandum of understanding; specifying the application of certain standards and  
19 guidelines to certain employees by the University System of Maryland and the Board  
20 of Regents under certain circumstances; providing for the application of this Act;  
21 making conforming changes; defining a certain term; and generally relating to  
22 collective bargaining for State employees.

23 BY repealing and reenacting, with amendments,

24 Article – State Personnel and Pensions

25 Section 3–101, 3–102(b)(11) through (13), 3–2A–09(a), 3–306(c), 3–403(d), 3–501(a),  
26 (b), (d), and (f), and 3–601

27 Annotated Code of Maryland

28 (2015 Replacement Volume and 2020 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing  
 2 Article – State Personnel and Pensions  
 3 Section 3–602  
 4 Annotated Code of Maryland  
 5 (2015 Replacement Volume and 2020 Supplement)

6 BY adding to  
 7 Article – State Personnel and Pensions  
 8 Section 3–602  
 9 Annotated Code of Maryland  
 10 (2015 Replacement Volume and 2020 Supplement)

11 BY repealing and reenacting, with amendments,  
 12 Article – Education  
 13 Section 12–110  
 14 Annotated Code of Maryland  
 15 (2018 Replacement Volume and 2020 Supplement)

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

18 **Article – State Personnel and Pensions**

19 3–101.

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

21 (b) “Board” means:

22 (1) with regard to any matter relating to employees of any of the units of  
 23 State government described in § 3–102(a)(1)(i) through (iv) and (vi) through (x) of this  
 24 subtitle and employees described in § 3–102(a)(2) of this subtitle, the State Labor Relations  
 25 Board; and

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

29 (c) **“CHANCELLOR” HAS THE MEANING STATED IN § 12–101 OF THE**  
 30 **EDUCATION ARTICLE.**

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

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

34 (i) 1. reaching an agreement about wages, hours, and other

1 terms and conditions of employment; and

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

4 (ii) clarifying terms and conditions of employment;

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

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

9 **[(d)] (E)** “Employee organization” means a labor or other organization in which  
10 State employees participate and that has as one of its primary purposes representing  
11 employees.

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

14 **[(f)] (G)** “President” means:

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

17 (2) with regard to a center or institute, as those terms are defined in §  
18 12–101 of the Education Article, the president of the center or institute;

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

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

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

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

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

28 (3) the University System of Maryland Office.

29 3–102.

30 (b) This title does not apply to:

1 (11) any supervisory, managerial, or confidential employee of a unit of State  
2 government listed in subsection (a)(1)(i) through (iv) and (vi) through (x) of this section, as  
3 defined in regulations adopted by the [Secretary] **BOARD CONSISTENT WITH SIMILAR**  
4 **DEFINITIONS ADOPTED BY THE NATIONAL LABOR RELATIONS BOARD;**

5 (12) any supervisory, managerial, or confidential employee of a State  
6 institution of higher education listed in subsection (a)(1)(v) of this section, as defined in  
7 regulations adopted by the [governing board of the institution] **BOARD CONSISTENT**  
8 **WITH SIMILAR DEFINITIONS ADOPTED BY THE NATIONAL LABOR RELATIONS**  
9 **BOARD;** or

10 (13) any employee described in subsection (a)(2) of this section who is a  
11 supervisory, managerial, or confidential employee, as defined in regulations adopted by the  
12 [Secretary] **BOARD AND SUBSTANTIALLY CONSISTENT WITH SIMILAR DEFINITIONS**  
13 **ADOPTED BY THE NATIONAL LABOR RELATIONS BOARD.**

14 3-2A-09.

15 (a) If **THE CHANCELLOR**, a president, a system institution, an exclusive  
16 representative, or a person fails to comply with an order issued by the Board, a member of  
17 the Board may petition the circuit court to order **THE CHANCELLOR**, the president, **THE**  
18 system institution, an exclusive representative, or **A** person to comply with the Board's  
19 order.

20 3-306.

21 (c) (1) This subsection applies to [a system institution] **THE CHANCELLOR**,  
22 an employee organization for employees of a system institution, and its officers, employees,  
23 agents, or representatives.

24 (2) In addition to the unfair labor practices in subsections (a) and (b) of this  
25 section, [a system institution] **THE CHANCELLOR** and an employee organization are  
26 prohibited from failing to meet an established negotiation deadline, unless a written  
27 agreement between the [system institution] **CHANCELLOR**, or [its] **THE CHANCELLOR'S**  
28 officers, employees, agents, or representatives, and the exclusive representative provides  
29 otherwise.

30 3-403.

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

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

1 (i) before the election of exclusive representatives; or

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

4 (3)] Appropriate bargaining units shall consist of:

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

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

9 (iii) all eligible sworn police officers.

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] **THE UNIVERSITY SYSTEM OF MARYLAND, THE CHANCELLOR**; 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, **INCLUDING FACILITATING THE MEANINGFUL USE OF A FACT FINDER**  
24 **UNDER SUBSECTION (C)(3) OF THIS SECTION, AND** to conclude a written memorandum  
25 of understanding or other written understanding as defined under [§ 3–101(c)(1)(ii)] §  
26 **3–101(D)(1)(II)** of this title.

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

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

31 (ii) for a memorandum of understanding relating to a system

1 institution, [the president of the system institution or the president's] **THE CHANCELLOR**  
2 **OR THE CHANCELLOR'S** designee; and

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

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

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

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

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

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, the  
28 Governor or the Governor's designee;

29 (ii) for a memorandum of understanding relating to a system  
30 institution **OR THE UNIVERSITY SYSTEM OF MARYLAND**, [the president of the system  
31 institution or the president's designee] **THE CHANCELLOR OR THE CHANCELLOR'S**  
32 **DESIGNEE**; and

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

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

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

6 (2) In the case of a State institution of higher education **OR THE**  
7 **UNIVERSITY SYSTEM OF MARYLAND**, a memorandum of understanding is not effective  
8 until it is ratified by the institution's governing board **OR THE UNIVERSITY SYSTEM OF**  
9 **MARYLAND BOARD OF REGENTS** and a majority of the votes cast by the employees in  
10 the bargaining unit.

11 [3-602.

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

17 **3-602.**

18 (A) **WITH REGARD TO THE UNIVERSITY SYSTEM OF MARYLAND, IF AN**  
19 **EXCLUSIVE REPRESENTATIVE REPRESENTS MORE THAN ONE BARGAINING UNIT OF**  
20 **EMPLOYEES AND REQUESTS TO BARGAIN A CONSOLIDATED MEMORANDUM OF**  
21 **UNDERSTANDING:**

22 (1) **THE CHANCELLOR AND THE EXCLUSIVE REPRESENTATIVE SHALL**  
23 **NEGOTIATE THE TERMS OF ONE CONSOLIDATED MEMORANDUM OF**  
24 **UNDERSTANDING TO APPLY TO ALL BARGAINING UNITS FOR EMPLOYEES OF ALL**  
25 **SYSTEM INSTITUTIONS REPRESENTED BY THE EXCLUSIVE REPRESENTATIVE; AND**

26 (2) **ON MUTUAL AGREEMENT AND IN WRITING, THE PARTIES MAY**  
27 **DESIGNATE A MATTER PARTICULAR TO A SYSTEM INSTITUTION TO BE NEGOTIATED**  
28 **BY THE EXCLUSIVE REPRESENTATIVE AND THE PRESIDENT OF THE SYSTEM**  
29 **INSTITUTION OR THE PRESIDENT'S DESIGNEE.**

30 (B) **ON CONCLUSION OF NEGOTIATIONS UNDER SUBSECTION (A) OF THIS**  
31 **SECTION, ALL MATTERS OF AGREEMENT, INCLUDING THOSE AGREEMENTS**  
32 **REACHED UNDER SUBSECTION (A)(2) OF THIS SECTION, SHALL BE INCLUDED IN THE**  
33 **CONSOLIDATED MEMORANDUM OF UNDERSTANDING.**

1 (C) SUBJECT TO § 3-603 OF THIS SUBTITLE, THE EFFECTIVE DATE OF A  
 2 CONSOLIDATED MEMORANDUM OF UNDERSTANDING UNDER THIS SECTION SHALL  
 3 BE JULY 1 TO ALIGN WITH THE FISCAL YEAR OF THE UNIVERSITY SYSTEM OF  
 4 MARYLAND AND SHALL CONTINUE IN EFFECT UNTIL A SUBSEQUENT JUNE 30.

5 **Article – Education**

6 12-110.

7 (a) (1) Upon the recommendation of the Chancellor who shall consult with the  
 8 presidents, and in accordance with the requirements of Title 3 of the State Personnel and  
 9 Pensions Article, the Board of Regents shall establish general standards and guidelines  
 10 governing the appointment, compensation, advancement, tenure, and termination of all  
 11 faculty and [administrative personnel] **UNREPRESENTED EMPLOYEES** in the University  
 12 System of Maryland **AND SHALL APPLY THE STANDARDS AND GUIDELINES IN A**  
 13 **NEGOTIATED MEMORANDUM OF UNDERSTANDING TO ALL REPRESENTED**  
 14 **EMPLOYEES COVERED BY THE MEMORANDUM OF UNDERSTANDING.**

15 (2) These standards and guidelines shall recognize the diverse missions of  
 16 the constituent institutions.

17 (b) The Board of Regents may establish **FOR UNREPRESENTED EMPLOYEES,**  
 18 **AND THE CHANCELLOR MAY NEGOTIATE FOR REPRESENTED EMPLOYEES,** different  
 19 standards of compensation based on the size and missions of the constituent institutions.

20 (c) Subject to such standards and guidelines, and in accordance with the  
 21 requirements of Title 3 of the State Personnel and Pensions Article, a president may:

22 (1) Prescribe additional personnel policies; and

23 (2) Approve individual personnel actions affecting the terms and  
 24 conditions of academic and administrative appointments.

25 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any other  
 26 provision of law or any stated or negotiated expiration date, all terms of a presently existing  
 27 memorandum of understanding under Title 3, Subtitle 6 of the State Personnel and  
 28 Pensions Article may not be impaired in any way by this Act and shall remain in full force  
 29 and effect until a successor memorandum of understanding is agreed to and ratified.

30 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
 31 1, 2021.