

HOUSE BILL 972

P4, F2

2lr2708

By: **Delegates Mizeur, Frush, Hixson, Barkley, Barnes, Barve, Bobo, Carr, Clagett, Davis, Donoghue, Frick, Gilchrist, Glenn, Gutierrez, Harrison, Haynes, Healey, Holmes, Howard, Hubbard, Huckler, Kaiser, A. Kelly, Lafferty, Lee, Love, Luedtke, McHale, A. Miller, Reznik, Rosenberg, Stukes, Vallario, Waldstreicher, and Washington**

Introduced and read first time: February 10, 2012

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Higher Education Workforce Equity Act**

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

11 BY repealing and reenacting, with amendments,
12 Article – State Personnel and Pensions
13 Section 3–101, 3–102, and 3–403(d)
14 Annotated Code of Maryland
15 (2009 Replacement Volume and 2011 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, 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.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) “ADJUNCT FACULTY” MEANS AN EMPLOYEE:

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

6 (2) WHO SERVES IN ANY NONPERMANENT POSITION IN WHICH
7 STUDENT INSTRUCTION IS A PRIMARY DUTY.

8 (c) “Board” means:

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

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

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

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

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

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

23 (ii) clarifying terms and conditions of employment;

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

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

28 [(d)] (E) “Employee organization” means a labor or other organization in
29 which State employees, **TENURED OR TENURE–TRACK FACULTY, ADJUNCT**
30 **FACULTY, OR GRADUATE STUDENT EMPLOYEES** participate and that has as one of
31 its primary purposes representing employees.

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

4 **(G)** “**GRADUATE STUDENT EMPLOYEE**” MEANS A GRADUATE STUDENT
5 AT A SYSTEM INSTITUTION, MORGAN STATE UNIVERSITY, ST. MARY’S COLLEGE
6 OF MARYLAND, OR BALTIMORE CITY COMMUNITY COLLEGE WHO IS A
7 TEACHING ASSISTANT OR IN A COMPARABLE POSITION, FELLOW, OR
8 POSTDOCTORAL INTERN.

9 **[(f)] (H)** “President” means:

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

12 (2) with regard to a center or institute, as those terms are defined in §
13 12–101 of the Education Article, the president of the center or institute;

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

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

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

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

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

23 (3) the University System of Maryland Office.

24 **(J)** “**TENURED OR TENURE–TRACK FACULTY**” MEANS AN EMPLOYEE AT
25 A SYSTEM INSTITUTION, MORGAN STATE UNIVERSITY, ST. MARY’S COLLEGE OF
26 MARYLAND, OR BALTIMORE CITY COMMUNITY COLLEGE WHO SERVES IN A
27 POSITION INTENDED TO RECEIVE, OR IN THE PROCESS OF EARNING, THE
28 BENEFITS OF TENURE.

29 3–102.

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

32 (1) all employees of:

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

3 (ii) the Maryland Insurance Administration;

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

5 (iv) the State Lottery Agency; and

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

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

11 (b) This title does not apply to:

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

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

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

17 (4) an employee who is:

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

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

22 2. appointed by or on the staff of the Governor or
23 Lieutenant Governor; or

24 3. assigned to the Government House or the Governor's
25 Office;

26 (5) an employee assigned to the Board or with access to records of the
27 Board;

28 (6) an employee in:

1 (i) the executive service of the State Personnel Management
2 System; or

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

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

8 2. a deputy or assistant administrator of the unit or a
9 comparable position;

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

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

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

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

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

20 (ii) a deputy, associate, or assistant administrator or in a
21 comparable position;

22 (iii) [a member of the faculty, including a faculty librarian;

23 (iv) a] AN UNDERGRADUATE student employee[, including a
24 teaching assistant or a comparable position, fellow, or post doctoral intern];

25 [(v)] (IV) a contingent, contractual, temporary, or emergency
26 employee, EXCEPT FOR ADJUNCT FACULTY AND GRADUATE STUDENT
27 EMPLOYEES;

28 [(vi)] (V) a contingent, contractual, or temporary employee
29 whose position is funded through a research or service grant or contract, or through
30 clinical revenues, EXCEPT FOR ADJUNCT FACULTY AND GRADUATE STUDENT
31 EMPLOYEES; or

1 [(vii)] **(VI)** an employee whose regular place of employment is
2 outside the State of Maryland;

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

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

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

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

14 3-403.

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

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

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

21 (ii) after the certification of exclusive representatives under §
22 3-406(a) of this subtitle.

23 (3) Appropriate bargaining units shall consist of:

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

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

28 (iii) all eligible sworn police officers;

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

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

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

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