

# HOUSE BILL 538

P4, F2

8lr2894  
CF 8lr1729

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By: **Delegate Frush**

Introduced and read first time: January 31, 2008

Assigned to: Appropriations

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## A BILL ENTITLED

1 AN ACT concerning

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

4 FOR the purpose of providing collective bargaining rights to adjunct faculty and  
5 graduate students in certain public institutions of higher education; altering  
6 certain exceptions; establishing separate collective bargaining units for certain  
7 adjunct faculty and certain graduate students; defining a certain term; and  
8 generally relating to collective bargaining for employees of public institutions of  
9 higher education.

10 BY repealing and reenacting, with amendments,  
11 Article – State Personnel and Pensions  
12 Section 3–101, 3–102, and 3–403(d)  
13 Annotated Code of Maryland  
14 (2004 Replacement Volume and 2007 Supplement)

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

17 **Article – State Personnel and Pensions**

18 3–101.

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

20 (b) “Board” means:

21 (1) with regard to any matter relating to employees of any of the units  
22 of State government described in § 3–102(a)(1) through (4) of this subtitle, the State  
23 Labor Relations Board; and

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) with regard to any matter relating to employees of any State  
2 institution of higher education described in § 3–102(a)(5) of this subtitle, the State  
3 Higher Education Labor Relations Board.

4 (c) “Collective bargaining” means:

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

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

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

11 (ii) clarifying terms and conditions of employment;

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

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

16 (d) “Employee organization” means a labor or other organization in which  
17 State employees participate and that has as one of its primary purposes representing  
18 employees.

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

21 **(F) “GRADUATE STUDENT EMPLOYEE” MEANS A GRADUATE STUDENT**  
22 **AT A SYSTEM INSTITUTION, MORGAN STATE UNIVERSITY, ST. MARY’S COLLEGE**  
23 **OF MARYLAND, OR BALTIMORE CITY COMMUNITY COLLEGE WHO IS A**  
24 **TEACHING ASSISTANT OR IN A COMPARABLE POSITION, FELLOW, OR POST**  
25 **DOCTORAL INTERN.**

26 [(f)] (G) “President” means:

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

29 (2) with regard to a center or institute, as those terms are defined in §  
30 12–101 of the Education Article, the president of the center or institute;

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

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

3 [(g)] (H) "System institution" means:

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

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

8 (3) the University System of Maryland Office.

9 3-102.

10 (a) Except as provided in this title or as otherwise provided by law, this title  
11 applies to all employees of:

12 (1) the principal departments within the Executive Branch of State  
13 government;

14 (2) the Maryland Insurance Administration;

15 (3) the State Department of Assessments and Taxation;

16 (4) the State Lottery Agency; and

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

19 (b) This title does not apply to:

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

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

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

25 (4) an employee who is:

26 (i) a special appointment in the State Personnel Management  
27 System; or

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

- 1 2. appointed by or on the staff of the Governor or  
2 Lieutenant Governor; or
- 3 3. assigned to the Government House or the Governor's  
4 Office;
- 5 (5) an employee assigned to the Board or with access to records of the  
6 Board;
- 7 (6) an employee in:
- 8 (i) the executive service of the State Personnel Management  
9 System; or
- 10 (ii) a unit of the Executive Branch with an independent  
11 personnel system who is:
- 12 1. the chief administrator of the unit or a comparable  
13 position that is not excluded under item (3) of this subsection as a constitutional or  
14 elected office; or
- 15 2. a deputy or assistant administrator of the unit or a  
16 comparable position;
- 17 (7) (i) a temporary or contractual employee in the State Personnel  
18 Management System; or
- 19 (ii) a contractual, temporary, or emergency employee in a unit of  
20 the Executive Branch with an independent personnel system;
- 21 (8) an employee who is entitled to participate in collective bargaining  
22 under another law;
- 23 (9) an employee of the University System of Maryland, Morgan State  
24 University, St. Mary's College of Maryland, or Baltimore City Community College who  
25 is:
- 26 (i) a chief administrator or in a comparable position;
- 27 (ii) a deputy, associate, or assistant administrator or in a  
28 comparable position;
- 29 (iii) a member of the **TENURED OR TENURE TRACK** faculty,  
30 including a faculty librarian;
- 31 (iv) [a] **AN UNDERGRADUATE** student employee[, including a  
32 teaching assistant or a comparable position, fellow, or post doctoral intern];

1 (v) a contingent, contractual, temporary, or emergency  
2 employee, **EXCEPT FOR ADJUNCT FACULTY AND GRADUATE STUDENT**  
3 **EMPLOYEES;**

4 (vi) a contingent, contractual, or temporary employee whose  
5 position is funded through a research or service grant or contract, or through clinical  
6 revenues, **EXCEPT FOR ADJUNCT FACULTY AND GRADUATE STUDENT**  
7 **EMPLOYEES;** or

8 (vii) an employee whose regular place of employment is outside  
9 the State of Maryland;

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

12 (11) any supervisory, managerial, or confidential employee of a unit of  
13 State government listed in subsection (a)(1) through (4) of this section, as defined in  
14 regulations adopted by the Secretary; or

15 (12) any supervisory, managerial, or confidential employee of a State  
16 institution of higher education listed in subsection (a)(5) of this section, as defined in  
17 regulations adopted by the governing board of the institution.

18 3-403.

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

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

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

25 (ii) after the certification of exclusive representatives under §  
26 3-406(a) of this subtitle.

27 (3) Appropriate bargaining units shall consist of:

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

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

32 (iii) all eligible sworn police officers;

1                   **(IV) ALL ADJUNCT FACULTY OR ANY FACULTY THAT HAS**  
2 **SIMILAR STATUS AND DUTIES AS ADJUNCT FACULTY; AND**

3                   **(V) ALL GRADUATE STUDENT EMPLOYEES.**

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