

SENATE BILL 569

F1, P4

9lr2617

By: **Senators Pugh, Frosh, Lenett, Muse, Raskin, and Stone**

Introduced and read first time: February 6, 2009

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 28, 2009

CHAPTER _____

1 AN ACT concerning

2 **Education – Collective Bargaining – Topics of Negotiation**

3 FOR the purpose of including the discipline and discharge of an employee for just
4 cause ~~and employee transfers and assignments~~ among the matters a public
5 school employer must meet and negotiate with a certain employee organization
6 on request; repealing the public school employer's authority to negotiate due
7 process for discipline and discharge with a certain employee organization under
8 certain circumstances; providing for the application of this Act; and generally
9 relating to collective bargaining for public school employees.

10 BY repealing and reenacting, without amendments,
11 Article – Education
12 Section 6–501
13 Annotated Code of Maryland
14 (2008 Replacement Volume)

15 BY repealing and reenacting, with amendments,
16 Article – Education
17 Section 6–510
18 Annotated Code of Maryland
19 (2008 Replacement Volume)

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

22 **Article – Education**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 6–501.

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

3 (b) “Confidential employee” includes an individual whose employment
4 responsibilities require knowledge of the public school employer’s posture in the
5 collective negotiation process, as determined by the public school employer in
6 negotiations with an employee organization that requests negotiation on this issue.

7 (c) “Employee organization” means an organization that:

8 (1) Includes noncertificated employees of a public school employer; and

9 (2) Has as one of its main purposes the representation of the
10 employees in their relations with that public school employer.

11 (d) “Management personnel” includes an individual who is engaged mainly
12 in executive and managerial functions, as determined by the public school employer in
13 negotiation with an employee organization that requests negotiation on this issue.

14 (e) “Noncertificated employee”, in Montgomery County, means only a
15 full–time employee.

16 (f) (1) “Public school employee” means a noncertificated individual who is
17 employed for at least 9 months a year on a full–time basis by a public school employer.

18 (2) “Public school employee” includes a noncertificated employee in
19 Baltimore City notwithstanding that the noncertificated employee does not work for at
20 least 9 months a year on a full–time basis.

21 (3) “Public school employee” does not include:

22 (i) Management personnel;

23 (ii) A confidential employee; or

24 (iii) Any individual designated by the public school employer to
25 act in a negotiating capacity as provided in § 6–510(b) of this subtitle.

26 (g) (1) “Public school employer” means the county board in each county.

27 (2) “Public school employer” includes the Baltimore City Board of
28 School Commissioners.

29 (h) “Supervisory employee” includes any individual who responsibly directs
30 the work of other employees, as determined by the public school employer in
31 negotiation with an employee organization that requests negotiation on this issue.

1 6-510.

2 (a) (1) In this section, “negotiate” includes the duty to:

3 (i) Confer in good faith, at all reasonable times; and

4 (ii) Reduce to writing the matters agreed on as a result of the
5 negotiations.

6 (2) The agreements may provide for binding arbitration of the
7 grievances arising under the agreement that the parties have agreed to be subject to
8 arbitration.

9 (b) (1) On request, a public school employer or at least two of its
10 designated representatives shall meet and negotiate with at least two representatives
11 of the employee organization that is designated as the exclusive negotiating agent for
12 the public school employees in a unit of the county on all matters that relate to
13 salaries, wages, hours, and other working conditions, **INCLUDING THE DISCIPLINE**
14 **AND DISCHARGE OF AN EMPLOYEE FOR JUST CAUSE, ~~AND EMPLOYEE~~**
15 **~~TRANSFERS AND ASSIGNMENTS.~~**

16 (2) Except as provided in paragraph (3) of this subsection, a public
17 school employer or at least two of its designated representatives may negotiate with at
18 least two representatives of the employee organization that is designated as the
19 exclusive negotiating agent for the public school employees in a unit of the county on
20 other matters[, including due process for discipline and discharge,] that are mutually
21 agreed to by the employer and the employee organization.

22 (3) A public school employer may not negotiate the school calendar,
23 the maximum number of students assigned to a class, or any matter that is precluded
24 by applicable statutory law.

25 (4) A matter that is not subject to negotiation under paragraph (2) of
26 this subsection because it has not been mutually agreed to by the employer and the
27 employee organization may not be raised in any action taken to resolve an impasse
28 under subsection (d) of this section.

29 (c) The designation of representatives by the employer under this section
30 does not prevent an employee organization from appearing before or making proposals
31 to the public school employer at a public meeting or hearing.

32 (d) (1) If, on the request of either party, the State Superintendent
33 determines from the facts that an impasse is reached in negotiations between a public
34 school employer and an employee organization that is designated as an exclusive
35 negotiating agent, the assistance and advice of the State Board may be requested,
36 with the consent of both parties.

1 (2) If consent is not given and at the request of either party, a panel
2 shall be named to aid in resolving the differences.

3 (3) The panel shall contain three individuals chosen as follows:

4 (i) One member is to be named by each party within 3 days;
5 and

6 (ii) The third member is to be chosen by the other two members
7 within 10 days after the request.

8 (4) The State Board or the panel selected shall meet with the parties
9 to aid in resolving the differences, and, if the matter is not resolved, shall make a
10 written report and recommendation within 30 days after the request.

11 (5) A copy of the report shall be sent to representatives of the public
12 school employer and the employee organization.

13 (6) All costs of the impasse proceedings, including mediation, shall be
14 shared equally by the public school employer and the employee organization.

15 (7) Notwithstanding any other provision of this subtitle, the public
16 school employer shall make the final determination as to matters which have been the
17 subject of negotiation, but this final determination is subject to the other provisions of
18 this article concerning the fiscal relationship between the public school employer and
19 the county commissioners and county council.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
21 construed to apply only prospectively and may not be applied or interpreted to have
22 any effect on or application to any negotiations regarding the discipline and discharge
23 of an employee for just cause requested or entered into before the effective date of this
24 Act.

25 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
26 effect October 1, 2009.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.