



PSSAM
Public School Superintendents' Association
OF MARYLAND

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BILL: SB 1043

TITLE: Education – Public School Employers and Employees –
Subcontracting for Services

DATE: March 6, 2024

POSITION: Unfavorable

COMMITTEE: Senate Education, Energy, and the Environment Committee

CONTACT: Mary Pat Fannon, Executive Director, PSSAM

The Public School Superintendents' Association of Maryland (PSSAM), on behalf of all twenty-four public school superintendents, **opposes** Senate Bill 1043.

This bill prohibits a public school employer from entering into a subcontracting agreement that replaces or supplements any work performed by bargaining unit employees or following the expiration of an existing collective bargaining agreement, except under specified circumstances. The bill establishes a process that must be followed for a local school system to hire subcontractors. Public school employee or exclusive representative affected by a violation of a local school system following the process may file an unfair labor practice with the Public Employee Relations Board (PERB) and may be entitled to a remedy that may include reinstatement, back pay and benefits, tenure and seniority credit, attorney's fees, expert witness fees and related costs, and any other relief PERB deems appropriate. The bill does not apply to publicly funded full-day prekindergarten programs or the delivery of coordinated community supports, as specified.

It is the intention, and public policy of every local school system in Maryland to use public school employees to perform instructional and non instructional functions to the greatest extent possible, rather than contracting with the private sector. However, the reality of workforce shortages in many school operations require private vendors for fully functioning of the system, including bus drivers, food workers, social workers, occupational and physical therapists, speech and language pathologists, psychiatrists, and somatic and behavioral health providers. Unfortunately, some districts have also had significant vacancies in instructional categories,

specifically Special Education, and have tried to use private companies to fulfill the educational needs of those vulnerable students.

While not prominently explained in the Fiscal Note under “Local Effect,” further in the narrative are important details regarding two large systems - Baltimore City and Montgomery County. The examples provided address direct financial implications of increased service costs. Also, the Fiscal Note acknowledges the costs due to violations of unfair labor practices proposed in this bill are very difficult to estimate.

Baltimore City Public Schools (BCPS) are bracing for significant financial consequences. The bill's broad language encompasses a wide array of services BCPS routinely contracts out millions of dollars annually impacting facilities, capital projects, community schools, academic programming, and legal support. Furthermore, under the bill, local school systems must negotiate with relevant unions regarding the impact of proposed contracts on their members and can only endorse contracts that demonstrably yield cost savings, which cannot be achieved through underpaying service providers compared to district employees. However, it remains uncertain how substantial savings could be realized in human services contracts without reducing labor costs. They estimate this legislation would impact every one of their offices and divisions.

While we have not had an opportunity to survey all school systems, it is likely that many current teacher contracts already include provisions limiting subcontracting without financial or operational justification. For instance in Montgomery County, work typically handled by union members cannot be subcontracted to entities or workers not covered by the agreement without valid rationale. Additionally, their contract mandates that the Montgomery County Education Association be informed in advance of any subcontracting plans, providing an opportunity for discussion before implementation.

Lastly, the operational costs of this legislation are overly burdensome and onerous with additional notifications, negotiations, legal review, and public forums. Overall this bill would severely limit our ability to meet the needs of students and staff when we have vacancies in any school building operations or education needs. While the goals of this bill are laudable, they are in no way based in the realities of running a functional school district, and will lead to a substantial increase in expenditures for most school systems.

For these reasons, PSSAM **opposes** Senate Bill 1043 and requests an **unfavorable report**..