

April 7, 2006

The Honorable Thomas V. Mike Miller, Jr.
Senate President
State House
Annapolis, MD 21401

Dear Mr. President:

In accordance with Article II, Section 17 of the Maryland Constitution, today I have vetoed Senate Bill 348 - *State Personnel- Collective Bargaining-Revisions*.

This bill makes significant revisions to the Collective Bargaining law affecting State employees. The most problematic aspect of the bill is the impact on the privacy and safety of State employees. Senate Bill 348 requires the Department of Budget and Management to provide the home address and home telephone numbers for each employee in a bargaining unit upon the request of the exclusive bargaining representative (the "union"). The information can be requested for each employee in the bargaining unit and is not limited to those who are members of the union. Each employee is to be notified that a request has been made and must affirmatively act (i.e., "opt out") to instruct the Department not to provide the requested information. The bill permits the exclusive representatives to request this information twice a year and each time, each employee must opt out if the employee does not wish the Department to provide the information.

While the bill restricts the uses of the personal information provided to the unions, there is no practical means to achieve this objective, especially because the union is authorized to share the information with third parties consistent with the provisions of the Bill. The unions would have significant personal data belonging to State employees and there are no assurances that the data would be protected from misuse or theft. Moreover, the bill contains no penalties for misuse of State employee personal information obtained by the unions. Thus, Senate Bill 348 opens the doors to identity theft as well as to an onslaught of unwanted telephone and mail solicitations to State employees.

Senate Bill 348 also reduces the ability of the State to assure the safety of its employees, citizens in the custody of the State and visitors to State facilities. The bill confers authority on the State Labor Relations Board to specify permissible labor related activities at State facilities. This provision of the bill shifts control over activities in State facilities to the State Labor Relations Board.

In addition to the significant adverse effects the bill has on the privacy of State employee information and the safety of State facilities, the changes the bill makes to the collective

bargaining process are similarly unwise. First, the bill significantly expands the definition of collective bargaining to include not only the negotiation of a memorandum of understanding but also the negotiation of other written understandings, the administration of terms and conditions of employment and the voluntary adjustment of disputes. This definition is broader than that provided by the National Labor Relations Act. This definitional change will assuredly lead to more disputes and more litigation and undermine any possibility of a collaborative effort between management and employees at all levels of State government. The costs to the State in lost productivity as well as the additional human and financial resources that will be required will be substantial.

Second, the bill provides for the appointment of a fact finder if the parties do not conclude negotiations by October 25 of each year. The most immediate effect of this provision would be a reduction in the likelihood that a Memorandum of Understanding would be reached with the unions that represent State employees. Authorizing the appointment of a fact finder by a date certain will discourage the parties from engaging in good faith negotiations in the hopes that they could secure a favorable recommendation from the fact finder. Of even greater concern is the fact that there are currently 5 unions representing State employees and that each would be entitled to ask for a separate fact finder.

Furthermore, Senate Bill 348 completely disregards the existing State processes for completion of the State budget. The State budget process is dependent on the receipt of official revenue estimates that are issued by the Board of Revenue Estimates in December of each year and the recommendations of the Spending Affordability Committee also issued in December. This information assists the Governor in allocating the State's resources among all of the needs of the citizens of Maryland, including State employees. The Spending Affordability recommendations are the General Assembly's own guidelines for establishing the appropriate level of State spending for the forthcoming fiscal year. The Governor's budget, including the amount available for employee compensation, is dependent on the receipt of these recommendations.

The process created by Senate Bill 348 requires that negotiations be completed before the information about resources and the expected limits on State spending are available. Under the bill, agreement would be required by October 25, almost 6 weeks before the necessary information is available. The fact finder's recommendations are to be made in writing before November 20, several weeks before revenue estimates and the Spending Affordability recommendations are available. The fact finder, unlike both the Governor and the General Assembly, will have no restraints in finding facts or making recommendations and will not have the facts about the State's fiscal condition or outlook.

The bill also authorizes the fact finder to issue subpoenas. Under the bill, the fact finder is not authorized to enforce the subpoenas and judicial action would be required. Since there is a likelihood that 5 fact finders could be appointed and that multiple subpoenas could be issued by each of the 5 fact finders, the State would need to increase significantly the resources dedicated

The Honorable Thomas V. Mike Miller, Jr
April 7, 2005
Page 3

to collective bargaining. This aspect of the bill, like others referenced above, assures that the State employee collective bargaining process will be litigious and expensive.

The bill also changes the composition of the State Labor Relations Board. The composition would be less conducive to impartial determinations because the bill requires that two of the members be nominated by the exclusive bargaining representatives. The change in the composition of the Board will make the Board less accountable to the taxpayers of Maryland and more accountable to the unions.

This bill will imperil State employee privacy and safety, encourage identity theft of State employees, significantly and adversely change the relationships between management and employees, and increase the costs and the bureaucracy relating to the collective bargaining process.

For the above stated reasons, I have vetoed Senate Bill 348.

Very truly yours,

Robert L. Ehrlich, Jr.
Governor