

SB0367/133820/1

BY: Finance Committee

AMENDMENTS TO SENATE BILL 367
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “requiring” in line 13 through “circumstances;” in line 15.

On page 2, in line 22, strike “6–406(c)(3) and (e),” and substitute “6–405.”; and in the same line, strike “6–507(c)(3) and (e).”.

AMENDMENT NO. 2

On page 8, after line 9, insert:

“6–405.

(a) (1) (i) Each public school employer shall provide the exclusive representative access to new employee processing.

(ii) Except as provided in subparagraph (iii) of this paragraph, the public school employer shall provide the exclusive representative at least 10 days’ notice in advance of a new employee processing.

(iii) The public school employer may provide the exclusive representative with less than 10 days’ notice if there is an urgent need critical to the public school employer’s new employee processing that was not reasonably foreseeable.

(2) (i) The structure, time, and manner of the access required in paragraph (1) of this subsection shall be determined through negotiations between the public school employer and the exclusive representative in accordance with [§ 6–408] § 6–406 of this subtitle.

(ii) When negotiating access to new employee processing under subparagraph (i) of this paragraph, if any dispute has not been resolved within 45 days after the first meeting of the public school employer and the exclusive representative, or within 60 days after an initial request to negotiate, whichever occurs first, either party may request that the Board declare an impasse under [§ 6–408(e)] § 6–406(E) of this subtitle.

(iii) In an impasse proceeding under [§ 6–408(e)] § 6–406(E) of this subtitle, the mediator or Board shall consider:

1. The ability of the exclusive representative to communicate with the public school employees it represents;
2. The legal obligations of the exclusive representative to the public school employees;
3. Applicable State, federal, and local laws;
4. Any stipulations of the parties;
5. The interests and welfare of the public school employees and the financial condition of the public school employer;
6. The structure, time, and manner of access of an exclusive representative to new employee processing in comparable public school employers, including the access provisions in other memoranda of understanding or collective bargaining agreements; and
7. Any other facts routinely considered in establishing the structure, time, and manner of access of an exclusive representative to new employee processing.

(3) (i) A request to negotiate under paragraph (2) of this subsection made between July 1, 2018, and the expiration date of an existing collective bargaining agreement between the parties shall reopen the existing collective bargaining agreement only for the purpose of negotiating the access of the exclusive representative to the public school employer’s new employee processing.

(ii) Either party may elect to negotiate a separate agreement on the access of the exclusive representative to the public school employer’s new employee processing in lieu of reopening the existing collective bargaining agreement.

(b) This section does not prohibit a public school employer and an exclusive representative from negotiating access to new employee processing that varies from the requirements of this section.

(c) Nothing in this section shall abrogate existing collective bargaining agreements between public school employers and exclusive representatives.”.

AMENDMENT NO. 3

On pages 8 through 10, strike in their entirety the lines beginning with line 10 on page 8 through line 22 on page 10, inclusive.

On page 14, in lines 7 and 8, in each instance, strike “§ 6–510(e)” and substitute “**§ 6–507(E)**”; in line 9, strike the brackets; and in the same line, strike “**ARBITRATOR**”.

On pages 15 through 17, strike in their entirety the lines beginning with line 3 on page 15 through line 16 on page 17, inclusive.

On page 18, in line 3, strike “§ 3–101(c)” and substitute “**§ 3–101(D)**”.

On page 26, in line 26, after “**EMPLOYEE**” insert “**ORGANIZATION**”.

On page 31, in line 9, strike “, AS DEFINED IN § 21–205 OF THIS SUBTITLE”.

On page 33, in line 16, strike “EXECUTIVE” and substitute “EXCLUSIVE”.

On page 39, in line 18, strike “OR” and substitute “AND”.

On page 40, in line 10, strike “EXCLUSIVE REPRESENTATIVE” and substitute “EMPLOYEE ORGANIZATION”; and in line 16, strike “§§ 6–408, 6–510, AND 16–711” and substitute “§§ 6–406, 6–507, AND 16–707”.

On page 42, in line 15, strike “(1)”; strike beginning with “PROSECUTE” in line 15 down through “BEFORE” in line 16 and substitute “PROVIDE RELEVANT INFORMATION GATHERED IN THE INVESTIGATION OF A CHARGE OR COMPLAINT OF UNFAIR LABOR PRACTICES TO”; in line 17, strike “OR” and substitute “AND”; in line 18, strike “(2)” and substitute “(G)”; in line 20, strike “(G)” and substitute “(H)”; and in line 29, strike “ACTION, OPINION, OR DECISION” and substitute “OR ACTION”.

On page 43, after line 2, insert:

“(B) THE BOARD IS BOUND BY PRIOR OPINIONS AND DECISIONS OF A LABOR BOARD LISTED UNDER SUBSECTION (A) OF THIS SECTION.”;

in lines 3 and 6, strike “(B)” and “(C)”, respectively, and substitute “(C)” and “(D)”, respectively; and in line 3, strike “, ACTION, OPINION, OR DECISION” and substitute “OR ACTION”.

On page 44, in line 16, strike “A”.

On page 50, in line 9, strike “(A)”; strike in their entirety lines 16 through 21, inclusive.

On pages 50 and 51, strike in their entirety the lines beginning with line 22 on page 50 through line 18 on page 51, inclusive.

On page 54, in line 10, after “**REPRESENTATIVES**” insert “**SUBJECT TO THIS TITLE**”.

AMENDMENT NO. 4

On page 18, in lines 5 and 10, in each instance, strike the bracket; and strike beginning with “**HAS**” in line 10 through “**ARTICLE**” in line 11.

On page 23, strike in their entirety lines 26 through 28, inclusive; and in line 29, strike “**(D)**” and substitute “**(C)**”.

On page 24, in lines 1, 4, 7, and 28, strike “**(E)**”, “**(F)**”, “**(G)**”, and “**(J)**”, respectively, and substitute “**(D)**”, “**(E)**”, “**(F)**”, and “**(I)**”, respectively; after line 13, insert:

“(G) “PUBLIC EMPLOYEE” MEANS AN INDIVIDUAL WHO HOLDS A POSITION BY APPOINTMENT OR EMPLOYMENT IN THE SERVICE OF A PUBLIC EMPLOYER WITH COLLECTIVE BARGAINING RIGHTS UNDER TITLE 3 OF THE STATE PERSONNEL AND PENSIONS ARTICLE OR TITLE 6, SUBTITLE 4 OR 5 OR TITLE 16, SUBTITLE 7 OF THE EDUCATION ARTICLE.”;

and strike in their entirety lines 21 through 27, inclusive.

On page 25, strike in their entirety lines 4 through 6, inclusive, and substitute:

“(J) (1) “STRIKE” MEANS ANY CONCERTED ACTION TO IMPEDE THE FULL AND PROPER PERFORMANCE OF EMPLOYMENT DUTIES IN ORDER TO

INDUCE, INFLUENCE, COERCE, OR ENFORCE DEMANDS FOR A CHANGE IN WAGES, HOURS, TERMS, OR OTHER CONDITIONS OF EMPLOYMENT.

(2) “STRIKE” INCLUDES A TOTAL OR PARTIAL:

(I) REFUSAL OR FAILURE TO REPORT TO WORK;

(II) REFUSAL OR FAILURE TO PERFORM EMPLOYMENT DUTIES;

(III) WITHDRAWAL FROM WORK;

(IV) WORK STOPPAGE; OR

(V) WORK SLOWDOWN.”.

AMENDMENT NO. 5

On page 26, in line 1, strike “SHALL” and substitute “MAY”.

On page 29, in line 14, strike “A” and substitute “**(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A**”; and after line 19, insert:

“(B) THE STATE, THROUGH ITS APPROPRIATE OFFICERS AND EMPLOYEES, HAS THE RIGHT TO:

(1) (I) DETERMINE THE MISSION, BUDGET, ORGANIZATION, NUMBERS, TYPES AND GRADES OF EMPLOYEES ASSIGNED, THE WORK PROJECTS, TOURS OF DUTY, METHODS, MEANS, AND PERSONNEL BY WHICH ITS OPERATIONS ARE TO BE CONDUCTED, TECHNOLOGY NEEDED, INTERNAL SECURITY PRACTICES, AND RELOCATION OF ITS FACILITIES; AND

(II) MAINTAIN AND IMPROVE THE EFFICIENCY AND EFFECTIVENESS OF GOVERNMENTAL OPERATIONS;

(2) DETERMINE THE:

(I) SERVICES TO BE RENDERED, OPERATIONS TO BE PERFORMED, AND TECHNOLOGY TO BE USED; AND

(II) OVERALL METHODS, PROCESSES, MEANS, AND CLASSES OF WORK OR PERSONNEL BY WHICH GOVERNMENTAL OPERATIONS ARE TO BE CONDUCTED;

(3) HIRE, DIRECT, SUPERVISE, AND ASSIGN EMPLOYEES;

(I) PROMOTE, DEMOTE, DISCIPLINE, DISCHARGE, RETAIN, AND LAY OFF EMPLOYEES; AND

(II) TERMINATE EMPLOYMENT BECAUSE OF LACK OF FUNDS, LACK OF WORK, UNDER CONDITIONS WHERE THE EMPLOYER DETERMINES CONTINUED WORK WOULD BE INEFFICIENT OR NONPRODUCTIVE, OR FOR OTHER LEGITIMATE REASONS;

(5) SET THE QUALIFICATIONS OF EMPLOYEES FOR APPOINTMENT AND PROMOTION, AND SET STANDARDS OF CONDUCT;

(6) ADOPT STATE OR DEPARTMENT RULES, REGULATIONS, OR PROCEDURES;

(7) PROVIDE A SYSTEM OF MERIT EMPLOYMENT ACCORDING TO THE STANDARD OF BUSINESS EFFICIENCY; AND

(8) TAKE ACTIONS NOT OTHERWISE SPECIFIED IN THIS SECTION TO CARRY OUT THE MISSION OF THE EMPLOYER.”.