

AFSCME_FAV_SB388

Uploaded by: Esty, Sue

Position: FAV



190 West Ostend St., #201
Baltimore, MD 21230
Phone: 410.547.1515
Fax: 410.837.5436

Patrick Moran - President

Testimony

SB 388 Circuit Court and District Court Employees Support

AFSCME Council 3 supports SB 388. This legislation would extend the right to collective bargaining to employees of the Circuit and District Courts. This is the largest group of state employees who have yet to be provided the right to vote on whether to have an exclusive representative for the purposes of negotiating a collective bargaining agreement. Currently they work under a personnel system designed by offices of the Chief Judge of the Judiciary with no organized input from employees.

The bill provides a labor board specific to the Judiciary. It consists of 5 members which include three appointed by the Chief Judge and two appointed by the Governor. Of those appointed by the Chief Judge two are from lists recommended by the House Speaker and Senate President, and one is a member of the State Judiciary. Of those appointed by the Governor, one is a member of the National Academy of Arbitrators and one is a member of the public.

The Judicial Labor Board would establish guidelines regarding the design of the bargaining unit, establish procedures consistent with those granted to state and higher education employees for petitioning for an election, holding an election and certifying an exclusive representative. They would also investigate unfair labor practices.

Why is this bill important? Collective bargaining provides employees the opportunity to have direct input regarding their working conditions. Often this feedback is helpful to managers and results in a more efficient workplace. Morale improves when employees are actively engaged in determining the conditions under which they work.

Other states provide collective bargaining to judicial employees. By our count, 13 states have authorized this process with some of them including court employees within state collective bargaining. It is time for Maryland to join other states in recognizing this important workforce and giving them basic democratic rights to elect a union. Please support SB 388.

Every AFSCME Maryland State and University contract guarantees a right to union representation.
An employee has the right to a union representative if requested by the employee.
800.492.1996

Find us: afscmemd.org
Like us: facebook.com/AFSCMEMD
Follow/Tweet us: [@afscmemaryland](https://twitter.com/afscmemaryland)

KSC_FAV_SB388

Uploaded by: Esty, Sue

Position: FAV



Attorneys At Law

**201 North Charles Street • Tenth Floor
Baltimore, Maryland 21201**

**410-244-1010 phone
410-244-8001 fax
877-244-1212 toll free
www.kahnsmith.com**

**Joel A. Smith
Francis J. Collins
Keith J. Zimmerman
David Gray Wright
Christopher R. Ryon
Christopher Smith
Heather Hellman
Ernie Dominguez
Trevonne Walford
David Maher**

SB 388 – Circuit Court and District Courts Employees - Collective Bargaining

As labor counsel for AFSCME Council 3, we support SB 388. This bill extends collective bargaining rights to clerical, administrative, constabulary, maintenance, and housekeeping employees of the circuit courts and the district court of Maryland. It also establishes the State Judicial Employees Labor Relations Board as an independent unit of State government to administer and enforce these rights. The bill is, of course, lawful and constitutional, and it is by all measures appropriate and routine.

The General Assembly has the power to enact legislation concerning employees of the Judiciary. The Office of the Attorney General confirmed and elaborated on that power in a 1980 opinion. That opinion remains standing. The General Assembly may enact legislation governing such matters as hiring, compensation, promotion, discipline, and establishment of a personnel system governing employees of the Judiciary. The General Assembly has routinely enacted such legislation. To do so does not violate the separation of powers clause of the Constitution because to do so "does not usurp the judicial power and permits the courts to effectively exercise the judicial power, the General Assembly is not precluded from exercising its plenary power on matters affecting the Judiciary, and the inherent powers of the courts are qualified by the exercise of this legislative power." 65 Md. Op. Atty Gen. 309 (1980).

Other states have extended collective bargaining rights to their judiciary employees. Judiciary employees in at least sixteen (16) states have a voice in their wages and terms and conditions of employment. Those states include California, Connecticut, Delaware, Illinois, Iowa, Maine, Massachusetts, Minnesota, New Jersey, New Hampshire, New York, Oregon, Pennsylvania, Rhode Island, Vermont, and Washington.

In Maryland, the General Assembly has granted collective bargaining rights to State executive branch employees and public higher education employees, as well as many public safety employees. Among those employees are sheriffs' deputies, police, and other personnel who work in courthouses alongside Judiciary employees. Collective bargaining is established and working in Maryland and there is no basis in law to exclude Judiciary employees from those rights.

While the General Assembly has the power enact this legislation, SB 388 was structured and drafted to address concerns raised in the past by Chief Judges of the Court of Appeals in testimony and letters. In particular, SB 388 grants the Judiciary control in the make-up of the State Judicial Employees Labor Relations Board. Past bills seeking to establish collective bargaining for employees of the Judiciary gave the Governor the appointment power over members of the Board. While such a structure would have been lawful, SB 388 addresses this issue by making three members of the Board—a voting majority—appointed by the Chief Judge of the Court of Appeals. Allowing the Judiciary to retain control over membership of the Board accommodate the concern stated in relation to prior bills.

SB 388 is a wholly lawful exercise of the General Assembly's power to give more State employees a voice in the workplace and to help ensure those working in the administration of justice have a just and fair workplace.

MSEA_FAV_SB 388

Uploaded by: Johnson, Sean

Position: FAV

**Testimony in Support of Senate Bill 388
Circuit Courts and District Court of Maryland Employees –
Collective Bargaining**

**Senate Finance Committee
February 20, 2020
1:00 PM**

**Sean Johnson
Government Relations**

The Maryland State Education Association supports Senate Bill 388, authorizing clerical, administrative, and maintenance and housekeeping employees of the circuit and district court of Maryland to collectively bargain.

MSEA represents 75,000 educators and school employees who work in Maryland's public schools, teaching and preparing our 896,837 students for careers and jobs of the future. MSEA also represents 39 local affiliates in every county across the state of Maryland, and our parent affiliate is the 3 million-member National Education Association (NEA).

Maryland has long celebrated the freedom of association and the role of organized labor. The strength of organized labor is critical to protecting workers, ensuring quality, and maintaining fairness, safety, and competitive wages in the workplace. Strong employee associations are able to solve problems and represent the needs and concerns of employees and the community to benefit everyone.

Because MSEA members know that good government comes from fair and just employment practices and advocacy by and for employees, **we urge a favorable report on Senate Bill 388.**

Senator Benson_FAV_SB388

Uploaded by: Senator Benson, Senator Benson

Position: FAV

JOANNE C. BENSON
Legislative District 24
Prince George's County

Finance Committee
Chair, Rules Committee

Joint Committees

Children, Youth, and Families
Ending Homelessness
Fair Practices and State Personnel Oversight
Management of Public Funds



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

James Senate Office Building
11 Bladen Street, Room 214
Annapolis, Maryland 21401
301-858-3148 • 410-841-3148
800-492-7122 Ext. 3148
Fax 301-858-3149 • 410-841-3149
Joanne.Benson@senate.state.md.us

Chair, Prince George's County
Senate Delegation

Testimony of Senator Joanne C. Benson
**SB 388 – Circuit Court and District Court of Maryland Employees-
Collective Bargaining**

Good afternoon Madame Chair, Chairman Smith and esteemed members of the Finance Committee and Judicial Proceedings Committee. SB 388 would provide the choice of collective bargaining to the largest group of state employees that do not have that opportunity – employees in the court system of Maryland. This bill would allow an employee in the Circuit and District Courts to file a petition for an election of a union to represent them. If a sufficient number of employees sign up, then an election would be authorized. All eligible employees would be entitled to a vote.

This legislation specifically addresses clerical, administrative, constabulary, maintenance and housekeeping employees – it does not include judges. These are all employees who could actually help improve not only working conditions, but also make organized suggestions of ways to improve services. This is critical because these employees are on the front lines of interacting with the public and carrying out the policies of the courts.

There are already thirteen states that allow collective bargaining for court employees. In some cases, they are included with other state employees in contract negotiations and in several States they have a separate agreement for court employees.

The bill also creates a Judicial Labor Relations Board. The Chief Judge appoints three of the members and the Governor appoints two. Of those appointed by the Chief Judge, one is a member of the Judiciary, and one is recommended respectively by the President of the Senate and the Speaker of the House. The Governor appoints one member of the public and one from the National Academy of Arbitrators.

I also want to note that we are drafting an amendment to take out a provision in the bill regarding the service fee provision due to the U.S. Supreme Court 2018 decision.

This bill is fair. SB 388 grants employees the opportunity to have a voice in determining their working conditions. It is modeled after a process that has worked well for state employees. I urge you to support this bill by giving these employees the right to have a democratic vote on whether they want to negotiate, and if they want to negotiate, who will represent them.

Thus, I urge a favorable vote for SB 388.

MACo_UNF_SB388

Uploaded by: Mehu, Natasha

Position: UNF



MARYLAND
Association of
COUNTIES

Senate Bill 388

Circuit Courts and District Court of Maryland Employees – Collective Bargaining

MACo Position: **OPPOSE**

To: Finance and Judicial Proceedings Committees

Date: February 20, 2020

From: Natasha Mehu

The Maryland Association of Counties (MACo) **OPPOSES** SB 388 as it would have a substantial and uncontrollable impact on county government budgets.

SB 388 would establish collective bargaining for Circuit Court and District Court clerical, administrative, constabulary, maintenance, and housekeeping staff. It also creates a state judicial employees labor relations board as an independent unit of state government that is responsible for administering and enforcing the provisions of the bill.

The move to collective bargaining outlined in this bill will lead to unknown and potentially significant cost increases to counties who share funding responsibilities with the State for the Circuit Courts. There is one circuit court in each county and according to a 2018 annual report, counties fund approximately 937 Circuit Court personnel. Additionally, despite counties' role in supporting Circuit Courts, this bill would not provide any opportunity for county governments to participate in collective bargaining negotiations.

SB 388 would lead to unknown and unmanageable costs to counties. As partners in funding the Circuit Courts, county governments reserve the ability to have input in potentially costly shifts to their operations. For these reasons, MACo urges an **UNFAVORABLE** report on SB 388.

MDJudiciary_UNF_SB388

Uploaded by: Morrissey, Chief Judge

Position: UNF



MARY ELLEN BARBERA
Chief Judge

Court of Appeals of Maryland
Robert C. Murphy Courts of Appeal Building
361 Rowe Boulevard
Annapolis, Maryland 21401-1699

February 20, 2020

Senator Delores G. Kelley
Chair, Senate Finance Committee
3 East Miller, Senate Office Building
Annapolis, MD 21401

Senator William C. Smith, Jr.
Chair, Senate Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, MD 21401

Re: Senate Bill 388 – Circuit Courts and District Court of Maryland Employees -
Collective Bargaining

Dear Senator Kelley and Senator Smith:

The Maryland Judiciary strongly opposes Senate Bill 388. This bill establishes collective bargaining rights for clerical, administrative, constabulary, maintenance and housekeeping employees of the Circuit Courts and the District Court. It also establishes a State Judicial Employees Labor Relations Board as an independent unit of State government.

Senate Bill 388 raises fundamental constitutional and separation of powers concerns. The Maryland Constitution provides for the Chief Judge of the Court of Appeals to serve as the administrative head of the judicial system of the State. The Executive Branch and the Legislative Branch have no mandate to interfere with that authority. *See* Maryland Constitution, Article IV, §18(b)(1). Under the specific framework of this proposal, the Chief Judge's administrative decisions regarding personnel would be subject to the control of the State Judicial Employees Labor Relations Board. The Board, which would exist as an "independent unit of State Government," would be vested with authority to hold hearings and order positions and recommendations contrary to the Chief Judge in matters concerning wages, hours, and other disputes regarding terms and conditions of employment.

The bill limits the control the Chief Judge would have over the board and grants significant authority to both the Executive Branch and Legislative Branch. For example, the Governor would select two board members. The President of the Senate and the Speaker of the House would each prepare a list of five from which the Chief Judge would choose one member each. The Chief Judge, in contrast, would be permitted unfettered discretion only to select a single board member. Further, the Chief Judge would not have the sole authority to remove any of the five members of the board for incompetence, misconduct, or willful neglect of duty. The Chief Judge would share that authority with the Governor, who would be able to act independent of the Chief Judge. For the Executive Branch, in contrast, the Governor selects the entire membership of the State Labor Relations Board—and only the Governor may remove a member. State Personnel and Pensions Article § 3-202.

This legislation also contravenes the Maryland historical precedents that created public sector collective bargaining in the Executive Branch. Present-day collective bargaining for limited Executive Branch employees took root in Executive Order Executive Order 01.01.1996.13, issued by Governor Glendening in 1996. The General Assembly subsequently enacted statutory collective bargaining for Executive Branch employees, **but only** through legislation directly sponsored and signed by the Governor. *See* 1999 Maryland Laws Ch. 298 (H.B. 179). The proposed bill directly undercuts the administrative powers that the Constitution grants the Chief Judge as head of the Judicial Branch. The Executive Branch explicitly ordered collective bargaining, directly sponsored supporting legislation, and has retained broad control over collective bargaining. In contrast, under the proposed legislation, the Judicial Branch has been accorded no such deference.

Furthermore, this bill, like its previous incarnation, would add an unnecessary and costly redundancy to the Judicial Branch's existing personnel system. Currently, Judiciary employees enjoy similar pay, benefits, and protections as their Executive Branch counterparts. This includes the same provisions of federal and State employment as well as occupational health and safety laws. Additionally, the Judiciary's compensation system for State-paid employees allows for step increases, cost of living increases, and use of paid leave.

Most significantly for your current consideration, Judiciary employees have received increases in pay and benefits without any of the added financial or personnel costs that would be imposed by this legislation. The Judiciary has been conducting an on-going evaluation of its classification and compensation structure since 2014, resulting in incremental adjustments to classifications and compensation that have been beneficial to employees. In terms of benefits, the Judicial Branch proactively has provided the same or similar protections and benefits enjoyed by employees in the Executive Branch. For instance, in 2019, the General Assembly made paid parental leave a statutory obligation for the Executive Branch to provide to its employees. Acts 2018, c. 752, § 1,

eff. Oct. 1, 2018. Without any negotiating or other unnecessary expenditure of taxpayer funds, the Judicial Branch provided equivalent benefits beginning January 2, 2019.

The Judicial Branch has worked hard and succeeded in ensuring that Judicial Branch employees enjoy the same or similar protections and benefits enjoyed by employees in the Executive Branch, without any of the cost burdens placed upon State finances by collective bargaining. These benefits include paid holidays and leave, state retirement benefits, membership in supplemental retirement programs, workplace mediation, progressive discipline, grievance and termination appeal rights, whistleblower and EEO/harassment protections with the assistance of the Fair Practices Department, a leave bank, flexible work schedules, educational assistance, employee assistance programs, telework, court certificate programs, and other education programs through the Judiciary's own nationally recognized Judicial College. New policies are widely vetted throughout the Judicial Branch, and employees are given an opportunity to provide input. Employees are allowed union representation at grievance conferences and termination hearings. With certain exceptions, Judiciary employees may be discharged only "for cause" and do not serve at the pleasure of a manager or an elected official.

Finally, this bill would place wide-reaching fiscal burdens on the Judiciary. The financial impact associated with collective bargaining falls into two major categories:

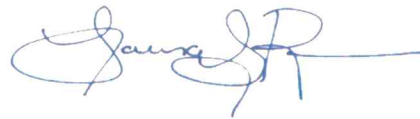
- (1) Start-up costs associated with hiring additional personnel to handle labor relations responsibilities, personnel participating in the negotiation process, preliminary and post-collective bargaining preparation, travel expenses; pre-conference meetings, supplying employee data via letters, fax, paper copies, etc., and the costs of elections;
- (2) On-going operational costs associated with the administration of the collective bargaining agreement, contesting decisions reached by the board, assisting the board in making determinations, salaries and fringe benefits for additional labor relations staff, lost productivity from representatives dedicating an estimated 15% to 20% of their time to labor relations/union activities, additional supplies, postage, equipment, etc., and additional maintenance costs for State vehicles used to support labor relations activities.

For all the reasons above, the Maryland Judiciary asks that you give Senate Bill 388 an unfavorable report. Thank you for your consideration of this matter of vital importance to the Maryland Judicial Branch.

Sincerely,

A handwritten signature in blue ink, reading "Mary Ellen Barbera". The signature is fluid and cursive, with the first name "Mary" and last name "Barbera" clearly legible.

Mary Ellen Barbera
Chief Judge, Court of Appeals

A handwritten signature in blue ink, reading "Laura S. Ripken". The signature is stylized and cursive, with the first name "Laura" and last name "Ripken" clearly legible.

Laura S. Ripken
Circuit Administrative Judge,
Fifth Judicial Circuit
Chair, Conference of Circuit Judges

A handwritten signature in blue ink, reading "John P. Morrissey". The signature is stylized and cursive, with the first name "John" and last name "Morrissey" clearly legible.

John P. Morrissey
Chief Judge, District Court

cc: Honorable Bill Ferguson, President of the Maryland Senate
Senate Finance and Judicial Proceedings Committees