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Patrick Moran - President

Testimony HB 73 – State and Local Government and Private Employers – Teleworking Support with Amendments

AFSCME Council 3 represents 30,000 state and higher education employees in Maryland. Whether telework is mitigating the potential exposure to a deadly virus, assisting in reducing pollution, or aiding in the recruitment and retention of workers during a staffing crisis, allowing employees the flexibility of choosing their work location has proven to be an important tool in improving quality of life. HB 73 makes improvements to existing law by including local government, judiciary, legislative, and private employees under the telework program mandate. It also provides much needed guidelines for cybersecurity in state government. The COVID-19 pandemic, however, has also forced the discussion of *who* can telework into the forefront.

A September 2020 survey of AFSCME members working in State Government, Higher Education, and the Judiciary found that out of 1000 employees, 80% were teleworking for the first time. The other 20% of the survey respondents, who often had the same or similar job duties as those in the survey who were allowed to telework, were still being denied the option to work remotely by their manager despite the public health crisis. Some were teleworking for the first time because they ordinarily have public-facing jobs and the pandemic forced office closures, while others finally received the necessary equipment enabling them to work from home. However, for many, nothing had previously prevented telework—the option to telework was just being extended to them for the first time. Among the survey respondents being denied telework, it was far too common to have two workers carrying the same job classification and daily responsibilities but who were working in different state agencies, to be able to telework in one agency but not the other.

While existing state law established a telework program for state employees – and in 2013 the Maryland General Assembly placed a 15% participation goal among eligible employees – changes are necessary to ensure that all employees who are capable of working remotely have equitable access to participate in the state telework program.

As such, AFSCME Council 3 proposes the following amendments to HB 73:

1. Include Maryland’s Higher Education employees under the Bill.

- We’ve had difficulty in the past getting the Universities and Colleges to follow personnel legislation if they aren’t specifically referenced.
- The same issues that exist for employees in the state agencies with teleworking also exist with higher education employees.

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

2. **Require telework policies to be negotiated where there is an exclusive bargaining representative.**
 - The Department of Budget and Management has taken the position that telework policies do not need to be negotiated and are the sole prerogative of management.
 - This is simply untrue. In the memorandum of understanding between AFSCME and the State of Maryland, similar terms of employment like flexible schedules and alternate work schedules have been negotiated.
 - Telework policies have been negotiated in multiple other states by AFSCME affiliates and here in Maryland, AFSCME has negotiated telework policies in some of our higher education institutions.

3. **Require that participation in telework is voluntary and that those who do choose to telework are treated the same as non-teleworkers for the purposes of performance evaluations, access to trainings, assignments, promotions, and discipline.**
 - This amendment is important for ensuring that those who choose to telework aren't forced into a second tier of employment. Teleworkers should have the same rights on the job as non-teleworkers.

4. **Require that telework can only be terminated for cause and that state employees may grieve disputes.**
 - Requiring cause to terminate telework agreements and allowing state employees to grieve disputes are important for ensuring that the option to telework is equitable. When Gov. Hogan announced mandatory telework for eligible state employees and managers failed to comply, employees had little to no recourse.

5. **Set a minimum threshold for what telework programs must cover, including:**
 - Office supplies
 - Hours of work
 - Equipment (both employers supplied and personal)
 - Expenses incurred by the employee
 - Mileage and travel
 - Training for employees and managers
 - Discipline and performance

This amendment codifies many of the terms that are already included in the Department of Budget and Management's telework policy.

6. **HB 73 requires the State to produce an annual report to the General Assembly on the number of state employees who are eligible to telework. Include in this report information on the savings realized through the telework program and demographical information of who is participating in the telework program by race, gender, location, and job grade.**
 - The reporting mechanism in HB 73 is important for legislative oversight. Expanding this oversight to include information on savings incurred and who is actually participating, and not just eligible to participate, will hopefully promote a long-term and equitable telework program within state government.

We urge the committee to provide a favorable report with these amendments on HB 73. Thank you.