

**Attachment to
BCPL Board of Trustees
Testimony on SB138**

**Chapter 648
(House Bill 895)**

AN ACT concerning

Education – Howard County Library System – Collective Bargaining Ho.

Co. 3–13

FOR the purpose of authorizing employees of the Howard County Library System to form, join, and participate in an employee organization and engage in certain other activities related to collective bargaining; authorizing an employee to refrain from certain activities; specifying the responsibilities of the library system and the certified exclusive representative; specifying the collective bargaining units and the composition of the units; requiring that a certain employee organization submit a certain petition to the Director of the Howard County Library System; prohibiting a certain employee organization from discriminating with regard to terms or conditions of membership because of certain characteristics; requiring that a certain petition be submitted to the State Mediation and Conciliation Service for certain purposes; authorizing the library system or a certain employee organization to submit a certain request to the State Mediation and Conciliation Service for certain purposes; requiring that the library system and the employee organization or certified exclusive representative share equally certain costs; requiring the library system to recognize certain rights of the certified exclusive representative; requiring the certified exclusive representative to represent employees in a certain manner; requiring the library system and the certified exclusive representative to enter into a collective bargaining agreement that contains provisions regarding certain matters; requiring the library system to make certain payroll deductions under certain circumstances; requiring that certain dues be remitted to the certified exclusive representative; prohibiting certain grievance procedures from allowing an arbitrator to alter the terms of the collective bargaining agreement; specifying when a collective bargaining agreement is effective and when it expires; requiring the library system and the certified representative to reach an agreement by a certain date except under certain circumstances; specifying the procedures to be followed if an impasse is reached in the collective bargaining negotiations; requiring the library system to submit certain terms of the collective bargaining agreement to the Board of Library Trustees for Howard County for its

acceptance or rejection; requiring the Board to take certain action regarding the terms submitted to it for review; requiring the library system and the certified exclusive representative to take certain action if the Board rejects a term; requiring the Board to take certain action if it accepts a term; authorizing the Howard County Executive and Howard County Council to take certain action regarding certain requests submitted to them for

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approval; requiring the Howard County Executive to take certain action if the Howard County Executive accepts a certain request; requiring the library system and the certified exclusive representative to take certain action if the County Executive or County Council reject a certain request; providing that the library system retains certain rights and responsibilities under certain circumstances; providing for the decertification of the certified exclusive representative under certain circumstances; prohibiting the library system and an employee organization from taking certain actions regarding collective bargaining; prohibiting an employee or an employee organization from engaging in, inducing, initiating, or ratifying a strike; authorizing a court of competent jurisdiction to enjoin a strike under certain circumstances; prohibiting an employee from receiving compensation from the library system under certain circumstances; authorizing the library system to take certain action against an employee or an employee organization for violating a certain provision of this Act; providing that this Act and a collective bargaining agreement entered into under this Act supersede certain provisions of law under certain circumstances; providing for the construction of a certain provision of this Act; defining certain terms; and generally relating to collective bargaining for employees of the Howard County Library System.

BY adding to

Article – Education

Section 23–601 through 23–614 to be under the new subtitle “Subtitle 6. Howard County Library System – Collective Bargaining”

Annotated Code of Maryland

(2008 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Education

SUBTITLE 6. HOWARD COUNTY LIBRARY SYSTEM – COLLECTIVE BARGAINING. 23–601.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "BOARD" MEANS THE BOARD OF LIBRARY TRUSTEES FOR HOWARD COUNTY.

(C) "CERTIFIED EXCLUSIVE REPRESENTATIVE" MEANS THE EMPLOYEE ORGANIZATION THAT HAS BEEN CERTIFIED AS THE COLLECTIVE BARGAINING AGENT FOR A BARGAINING UNIT.

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(D) "COUNTY COUNCIL" MEANS THE HOWARD COUNTY COUNCIL.

(E) "COUNTY EXECUTIVE" MEANS THE HOWARD COUNTY EXECUTIVE. (F)

"DIRECTOR" MEANS THE PRESIDENT AND CHIEF EXECUTIVE OFFICER OF THE HOWARD COUNTY LIBRARY SYSTEM, OR THE PRESIDENT AND CHIEF EXECUTIVE OFFICER'S DESIGNEE.

(G) "EMPLOYEE" MEANS A FULL-TIME LIBRARY STAFF MEMBER WHO RECEIVES EMPLOYMENT BENEFITS.

Commented [MD1]: Although SB138 adds part time employees, BCPL is not requesting an amendment to this section.

(H) "EMPLOYEE ORGANIZATION" MEANS AN ORGANIZATION THAT INCLUDES EMPLOYEES OF THE EMPLOYER AND HAS AS A PRIMARY PURPOSE THE REPRESENTATION OF THE EMPLOYEES IN THEIR RELATIONS WITH THE EMPLOYER.

(I) "EMPLOYER" MEANS THE HOWARD COUNTY LIBRARY SYSTEM.

23-602.

EMPLOYEES OF THE EMPLOYER MAY:

(1) FORM, JOIN, AND PARTICIPATE IN AN EMPLOYEE ORGANIZATION;

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(2) BARGAIN COLLECTIVELY THROUGH A CERTIFIED EXCLUSIVE REPRESENTATIVE OF THEIR CHOICE;

(3) ENGAGE IN LAWFUL CONCERTED ACTIVITIES FOR THEIR MUTUAL AID AND PROTECTION; AND

(4) REFRAIN FROM ANY ACTIVITY COVERED UNDER ITEMS (1) THROUGH (3) OF THIS SECTION. 23-603.

(A) THE EMPLOYER AND THE CERTIFIED EXCLUSIVE REPRESENTATIVE HAVE A RESPONSIBILITY TO ENGAGE IN GOOD FAITH BARGAINING OVER MATTERS REQUIRED BY LAW.

(B) THE EMPLOYER AND THE CERTIFIED EXCLUSIVE REPRESENTATIVE JOINTLY SHALL BE RESPONSIBLE FOR FOSTERING A POSITIVE LABOR

RELATIONS ENVIRONMENT BASED ON MUTUAL TRUST, RESPECT, COMMUNICATION, AND COOPERATION.

(C) THE GOAL OF COLLECTIVE BARGAINING IS THE DELIVERY OF QUALITY PUBLIC SERVICES TO THE RESIDENTS OF THE STATE IN A MANNER THAT IS CONSISTENT AND COMPLIANT WITH LAW, 23-604.

Commented [MD2]: Reference to a specific law would add clarity here

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

Commented [MD3]: This section should replace the definitions in SB138 under §23-701 G (2)

(2) "CONFIDENTIAL EMPLOYEE" MEANS AN EMPLOYEE WHO, AS A FUNCTIONAL RESPONSIBILITY, ACTS IN A CONFIDENTIAL CAPACITY TO ASSIST HOWARD COUNTY LIBRARY SYSTEM OFFICIALS WHO FORMULATE, DETERMINE, AND EFFECTUATE POLICIES IN THE FIELD OF EMPLOYEE RELATIONS.

(3) "MANAGEMENT EMPLOYEE" MEANS AN EMPLOYEE WHO, IN THE INTEREST OF THE EMPLOYER, HAS:

(I) THE AUTHORITY TO HIRE, TRANSFER, SUSPEND, LAY OFF, RECALL, PROMOTE, DISCHARGE, ASSIGN, REWARD, OR DISCIPLINE OTHER EMPLOYEES;

(II) THE RESPONSIBILITY TO DIRECT OTHER EMPLOYEES;

(III) THE AUTHORITY TO ADDRESS THE EMPLOYEE GRIEVANCES; OR

(IV) THE AUTHORITY TO RECOMMEND AN ACTION REGARDING AN EMPLOYEE IN CONNECTION WITH THE EXERCISE OF THE AUTHORITY LISTED IN ITEMS (I) THROUGH (III) OF THIS PARAGRAPH IF THE EXERCISE OF THE AUTHORITY IS NOT MERELY ROUTINE OR CLERICAL IN NATURE, BUT REQUIRES THE USE OF INDEPENDENT JUDGMENT.

(B) THERE ARE A PROFESSIONAL AND TECHNICAL UNIT AND A SERVICE AND LABOR UNIT FOR COLLECTIVE BARGAINING PURPOSES.

Commented [MD4]: The highlighted sections should be included in SB138

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE PROFESSIONAL AND TECHNICAL UNIT INCLUDES:

(I) PROFESSIONAL CLASSIFICATION TITLES UNDER WHICH EMPLOYEES HAVE SPECIAL OR THEORETICAL KNOWLEDGE THAT USUALLY IS ACQUIRED THROUGH COLLEGE TRAINING, OTHER TRAINING THAT PROVIDES COMPARABLE KNOWLEDGE, OR WORK EXPERIENCE;

(II) PARAPROFESSIONAL CLASSIFICATION TITLES UNDER WHICH EMPLOYEES PERFORM, IN A SUPPORTIVE ROLE, SOME OF THE DUTIES OF A PROFESSIONAL OR TECHNICIAN BUT THAT USUALLY REQUIRE LESS FORMAL TRAINING OR EXPERIENCE THAN THOSE DUTIES PERFORMED BY THOSE WITH PROFESSIONAL OR TECHNICAL CLASSIFICATION TITLES; AND

(III) TECHNICAL CLASSIFICATION TITLES UNDER WHICH EMPLOYEES HAVE BASIC TECHNICAL KNOWLEDGE AND MANUAL SKILLS THAT ARE USUALLY ACQUIRED THROUGH SPECIALIZED POSTSECONDARY SCHOOL EDUCATION OR THROUGH EQUIVALENT ON-THE-JOB TRAINING.

(2) THE PROFESSIONAL AND TECHNICAL UNIT DOES NOT INCLUDE MANAGEMENT EMPLOYEES OR CONFIDENTIAL EMPLOYEES.

(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE SERVICE AND LABOR UNIT INCLUDES CLASSIFICATION TITLES UNDER WHICH EMPLOYEES PERFORM SERVICE AND MAINTENANCE, MAY OPERATE SPECIALIZED MACHINERY OR HEAVY EQUIPMENT, AND CONTRIBUTE TO THE COMFORT AND CONVENIENCE OF THE PUBLIC OR TO THE UPKEEP AND CARE OF THE EMPLOYER'S BUILDINGS, FACILITIES, AND GROUNDS.

(2) THE SERVICE AND LABOR UNIT DOES NOT INCLUDE MANAGEMENT EMPLOYEES OR CONFIDENTIAL EMPLOYEES.

(E) WHEN DETERMINING WHETHER AN EMPLOYEE IS A MANAGEMENT EMPLOYEE FOR THE PURPOSES OF EXCLUDING THE EMPLOYEE FROM A BARGAINING UNIT UNDER SUBSECTION (C)(2) OR SUBSECTION (D)(2) OF THIS SECTION:

(1) THE EXERCISE OF ANY SINGLE FUNCTION LISTED IN SUBSECTION (A)(3) OF THIS SECTION DOES NOT NECESSARILY REQUIRE THE CONCLUSION THAT THE EMPLOYEE IS A MANAGEMENT EMPLOYEE;

(2) JOB TITLES MAY NOT BE THE EXCLUSIVE BASIS FOR CONCLUDING THAT THE EMPLOYEE IS A MANAGEMENT EMPLOYEE; AND

(3) THE NATURE OF THE EMPLOYEE'S WORK, INCLUDING WHETHER OR NOT A MAJOR PORTION OF THE WORKING TIME OF THE EMPLOYEE

IS SPENT AS PART OF A TEAM WITH NONMANAGEMENT EMPLOYEES, MUST BE CONSIDERED.

23-605.

Commented [MD5]: This section should be added to SB138

(A) (1) AN EMPLOYEE ORGANIZATION THAT IS SEEKING CERTIFICATION AS THE EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT SHALL SUBMIT A PETITION TO THE DIRECTOR THAT INCLUDES THE SIGNATURES OF AT LEAST 30% OF THE ELIGIBLE EMPLOYEES IN THE BARGAINING UNIT INDICATING THE WISH TO BE REPRESENTED EXCLUSIVELY BY THE EMPLOYEE ORGANIZATION SPECIFIED IN THE PETITION FOR THE PURPOSE OF COLLECTIVE BARGAINING.

(2) AN EMPLOYEE ORGANIZATION THAT SUBMITS A PETITION TO THE DIRECTOR UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY NOT DISCRIMINATE WITH REGARD TO TERMS OR CONDITIONS OF MEMBERSHIP BECAUSE OF GENDER, COLOR, CREED, RACE, NATIONAL ORIGIN, RELIGION, SEXUAL PREFERENCE, GENDER IDENTITY, OR POLITICAL AFFILIATION.

(B) IF THE DIRECTOR DOES NOT CHALLENGE THE VALIDITY OF THE PETITION WITHIN 30 DAYS AFTER THE DIRECTOR RECEIVES THE PETITION, THE PETITION SHALL BE SUBMITTED TO THE STATE MEDIATION AND CONCILIATION SERVICE FOR THE PURPOSE OF HOLDING A CONSENT ELECTION AND CERTIFICATION OF THE EMPLOYEE ORGANIZATION IN ACCORDANCE WITH TITLE 4, SUBTITLE 2, PART II OF THE LABOR AND EMPLOYMENT ARTICLE.

(C) IF THE DIRECTOR CHALLENGES THE VALIDITY OF THE PETITION, EITHER THE EMPLOYER OR THE EMPLOYEE ORGANIZATION MAY SUBMIT A REQUEST TO THE STATE MEDIATION AND CONCILIATION SERVICE TO DETERMINE THE VALIDITY OF THE PETITION AND WHETHER TO CONDUCT A CONSENT ELECTION AND CERTIFY THE EMPLOYEE ORGANIZATION IN ACCORDANCE WITH TITLE 4,

**SUBTITLE 2, PART II OF THE LABOR AND EMPLOYMENT
ARTICLE.**

**(D) ANY COSTS ASSOCIATED WITH THIS SECTION SHALL BE SHARED EQUALLY
BY THE EMPLOYER AND THE EMPLOYEE ORGANIZATION SPECIFIED IN THE PETITION.**

23-606.

**(A) THE EMPLOYER SHALL RECOGNIZE THE RIGHT OF THE CERTIFIED EXCLUSIVE
REPRESENTATIVE TO REPRESENT THE EMPLOYEES IN THE UNIT IN COLLECTIVE BARGAINING
AND IN THE SETTLEMENT OF GRIEVANCES.**

(B) THE CERTIFIED EXCLUSIVE REPRESENTATIVE OF A UNIT SHALL:

**(1) SERVE AS THE SOLE AGENT FOR THE UNIT IN COLLECTIVE
BARGAINING; AND**

**(2) REPRESENT ALL EMPLOYEES IN THE UNIT FAIRLY, WITHOUT
DISCRIMINATION, AND WITHOUT REGARD TO WHETHER THE EMPLOYEE IS A MEMBER OF THE
EMPLOYEE ORGANIZATION.**

**(C) THE CERTIFIED EXCLUSIVE REPRESENTATIVE MEETS THE REQUIREMENT OF
SUBSECTION (B)(2) OF THIS SECTION IF ITS ACTIONS WITH RESPECT TO EMPLOYEES IN THE
UNIT ARE NOT ARBITRARY, DISCRIMINATORY, OR IN BAD FAITH.**

Commented [MD6]: This section should be added to SB138

23-607.

**(A) IF AN EXCLUSIVE REPRESENTATIVE IS CERTIFIED UNDER § 23-605 OF THIS
SUBTITLE, THE EMPLOYER AND THE CERTIFIED EXCLUSIVE REPRESENTATIVE SHALL
ENTER INTO A COLLECTIVE BARGAINING AGREEMENT THAT CONTAINS PROVISIONS
REGARDING:**

(1) WAGE, HOURS, AND TERMS AND CONDITIONS OF EMPLOYMENT;

**(2) THE ORDERLY PROCESSING AND SETTLEMENT OF GRIEVANCES
REGARDING THE INTERPRETATION AND IMPLEMENTATION OF THE COLLECTIVE BARGAINING
AGREEMENT, WHICH MAY INCLUDE:**

(I) BINDING ARBITRATION; AND

Commented [MD7]: The highlighted language should be included in SB138

(II) PROVISIONS FOR THE EXCLUSIVITY OF FORUM;

AND

(3) THE TIME FOR SUBMISSION OF ITEMS TO THE COUNTY EXECUTIVE UNDER § 23-609(E)(1) OF THIS SUBTITLE.

(B) (1) THE EMPLOYER AUTOMATICALLY SHALL DEDUCT FROM THE PAYCHECK OF AN EMPLOYEE WHO IS A MEMBER OF THE CERTIFIED EXCLUSIVE REPRESENTATIVE DUES AUTHORIZED AND OWED BY THE EMPLOYEE TO THE CERTIFIED EXCLUSIVE REPRESENTATIVE IF THE EMPLOYEE SUBMITS TO THE

EMPLOYER A DUES DEDUCTION AUTHORIZATION CARD THAT HAS BEEN DULY EXECUTED BY THE EMPLOYEE.

(2) ANY DUES DEDUCTED FROM PAYCHECKS UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE REMITTED TO THE CERTIFIED EXCLUSIVE REPRESENTATIVE.

(3) THE EMPLOYER AUTOMATICALLY SHALL STOP MAKING PAYROLL DEDUCTIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION ON BEHALF OF A CERTIFIED EXCLUSIVE REPRESENTATIVE IF:

(I) THE CERTIFIED EXCLUSIVE REPRESENTATIVE IS DECERTIFIED UNDER § 23-611 OR § 23-613 OF THIS SUBTITLE;

(II) THE CERTIFIED EXCLUSIVE REPRESENTATIVE'S RIGHT TO DUES IS REVOKED UNDER § 23-613 OF THIS SUBTITLE; OR

(III) THE EMPLOYEE CEASES TO BE A MEMBER OF THE BARGAINING UNIT REPRESENTED BY THE CERTIFIED EXCLUSIVE REPRESENTATIVE.

(C) THE GRIEVANCE PROCEDURES INCLUDED IN THE COLLECTIVE BARGAINING AGREEMENT UNDER SUBSECTION (A)(2) OF THIS SECTION MAY NOT ALLOW AN ARBITRATOR TO ALTER THE TERMS OF THE COLLECTIVE BARGAINING AGREEMENT.

Commented [MD8]: This language should be added to SB138

(D) NOTHING IN THIS SECTION MAY BE CONSTRUED TO:

(1) AUTHORIZE OR OTHERWISE ALLOW AN EMPLOYEE TO ENGAGE IN A STRIKE AS DEFINED IN § 3-303 OF THE STATE PERSONNEL AND PENSIONS ARTICLE; OR

Commented [MD9]: It may be helpful to add that definition here rather than refer to another provision

(2) RESTRICT THE AUTHORITY OF THE COUNTY EXECUTIVE OR THE COUNTY COUNCIL TO DETERMINE THE BUDGET OF THE EMPLOYER.

(E) (1) A COLLECTIVE BARGAINING AGREEMENT ENTERED INTO UNDER SUBSECTION (A) OF THIS SECTION SHALL BE EFFECTIVE ON RATIFICATION BY THE MAJORITY OF VOTES CAST BY THE EMPLOYEES IN THE BARGAINING UNIT AND APPROVAL BY THE DIRECTOR.

Commented [MD10]: SB138 adds a requirement for approval by the Board, which is acceptable

(2) A SINGLE YEAR OR MULTIYEAR COLLECTIVE BARGAINING AGREEMENT SHALL EXPIRE AT THE CLOSE OF HOWARD COUNTY'S FISCAL YEAR.

23-608.

(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE EMPLOYER AND THE CERTIFIED EXCLUSIVE REPRESENTATIVE SHALL REACH AN AGREEMENT BY MARCH 1 OF THE YEAR A COLLECTIVE BARGAINING AGREEMENT WILL EXPIRE.

(2) THE EMPLOYER AND THE CERTIFIED EXCLUSIVE REPRESENTATIVE MUTUALLY MAY AGREE TO EXTEND NEGOTIATIONS FOR A PERIOD NOT TO EXTEND PAST JUNE 30 OF THE YEAR A COLLECTIVE BARGAINING AGREEMENT WILL EXPIRE.

(B) AN IMPASSE IS REACHED DURING THE NEGOTIATIONS BETWEEN THE EMPLOYER AND THE CERTIFIED EXCLUSIVE REPRESENTATIVE IF THE EMPLOYER AND THE CERTIFIED EXCLUSIVE REPRESENTATIVE DO NOT REACH AN AGREEMENT BY:

(1) MARCH 1 OF THE YEAR A COLLECTIVE BARGAINING AGREEMENT WILL EXPIRE; OR

(2) THE DATE TO WHICH NEGOTIATIONS WERE EXTENDED UNDER SUBSECTION (A)(2) OF THIS SECTION.

(C) (1) IF AN IMPASSE IS REACHED UNDER SUBSECTION (B) OF THIS SECTION, THE EMPLOYER AND THE CERTIFIED EXCLUSIVE REPRESENTATIVE SHALL SUBMIT A FINAL OFFER TO THE OTHER PARTY WITHIN 24 HOURS OF THE IMPASSE BEING REACHED.

(2) UNLESS THE IMPASSE REACHED UNDER SUBSECTION (B) OF THIS SECTION HAS BEEN RESOLVED, THE DISPUTE AND THE FINAL OFFERS SHALL BE SUBMITTED TO THE FEDERAL MEDIATION AND CONCILIATION SERVICE WITHIN 5 DAYS AFTER THE IMPASSE IS REACHED.

(D) (1) WITHIN 30 DAYS AFTER THE DISPUTE IS SUBMITTED TO THE FEDERAL MEDIATION AND CONCILIATION SERVICE UNDER SUBSECTION (C)(2) OF THIS SECTION, A MEDIATOR APPOINTED BY THE FEDERAL MEDIATION AND CONCILIATION SERVICE SHALL:

(I) MEET WITH THE DIRECTOR AND THE CERTIFIED EXCLUSIVE REPRESENTATIVE; AND

(II) MAKE WRITTEN FINDINGS OF FACT AND RECOMMENDATIONS FOR THE RESOLUTION OF THE DISPUTE.

(2) COPIES OF THE MEDIATOR'S WRITTEN FINDINGS AND RECOMMENDATIONS SHALL BE SUBMITTED TO THE DIRECTOR AND THE CERTIFIED EXCLUSIVE REPRESENTATIVE.

(3) ANY COSTS ASSOCIATED WITH THIS SUBSECTION SHALL BE SHARED EQUALLY BY THE EMPLOYER AND THE CERTIFIED EXCLUSIVE REPRESENTATIVE.

(E) (1) THE DIRECTOR AND CERTIFIED EXCLUSIVE REPRESENTATIVE SHALL MEET WITHIN 5 DAYS AFTER THE CONCLUSION OF MEDIATION HELD UNDER SUBSECTION (D) OF THIS SECTION TO REACH A VOLUNTARY RESOLUTION OF THE DISPUTE.

(2) IF THE DIRECTOR AND THE CERTIFIED EXCLUSIVE REPRESENTATIVE DO NOT REACH A VOLUNTARY RESOLUTION OF THE DISPUTE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DIRECTOR SHALL SUBMIT TO THE BOARD;

(I) THE FINAL OFFER OF THE DIRECTOR;

Commented [MD11]: This language should be included in SB138, replacing the proposed §23-706(E)(2)

(II) THE FINAL OFFER OF THE CERTIFIED EXCLUSIVE REPRESENTATIVE; AND

(III) THE WRITTEN FINDINGS AND RECOMMENDATIONS OF THE MEDIATOR.

(3) THE BOARD MAY:

(I) SELECT ONE OF THE PROPOSALS SUBMITTED UNDER PARAGRAPH (2) OF THIS SUBSECTION; OR

(II) REJECT ALL PROPOSALS SUBMITTED UNDER PARAGRAPH (2) OF THIS SUBSECTION AND REQUIRE THE DISPUTE TO BE SUBMITTED FOR MEDIATION IN ACCORDANCE WITH THIS SECTION.

23-609.

(A) THE EMPLOYER SHALL SUBMIT TO THE BOARD A TERM OF A COLLECTIVE BARGAINING AGREEMENT ENTERED INTO UNDER § 23-607 OF THIS SUBTITLE IF THE TERM:

- (1) REQUIRES AN APPROPRIATION OF FUNDS; OR
- (2) HAS OR MAY HAVE A FISCAL IMPACT ON THE EMPLOYER.

(B) THE EMPLOYER SHALL MAKE A GOOD FAITH EFFORT TO HAVE THE BOARD APPROVE ALL TERMS OF A COLLECTIVE BARGAINING AGREEMENT THAT THE EMPLOYER IS REQUIRED TO SUBMIT TO THE BOARD FOR REVIEW.

(C) (1) THE BOARD SHALL STATE IN WRITING WHETHER IT WILL REQUEST THAT THE COUNTY EXECUTIVE APPROPRIATE FUNDS FOR OR OTHERWISE IMPLEMENT THE ITEMS THAT REQUIRE BOARD REVIEW:

(I) ON OR BEFORE MAY 1 OF THE YEAR IN WHICH A COLLECTIVE BARGAINING AGREEMENT WILL EXPIRE; OR

(II) WITHIN 30 DAYS OF RECEIVING THE TERMS SUBMITTED FOR

REVIEW UNDER SUBSECTION (A) OF THIS SECTION IF NEGOTIATIONS ARE EXTENDED BEYOND MAY 1 UNDER § 23-608(A)(2) OF THIS SUBTITLE.

(2) IF THE BOARD INTENDS NOT TO REQUEST AN APPROPRIATION OF FUNDS FOR OR OTHERWISE IMPLEMENT A TERM, OR PART OF A TERM, THE BOARD SHALL INCLUDE THE REASON FOR THE REJECTION IN THE WRITTEN STATEMENT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(D) (1) IF THE BOARD REJECTS A TERM SUBMITTED FOR BOARD REVIEW, THE EMPLOYER AND THE CERTIFIED EXCLUSIVE REPRESENTATIVE SHALL:

(I) MEET AS SOON AS POSSIBLE TO NEGOTIATE AN AGREEMENT ACCEPTABLE TO THE BOARD; AND

(II) SUBMIT TO THE BOARD THE RESULTS OF THE NEGOTIATION ON OR BEFORE MAY 15 OF THE YEAR IN WHICH A COLLECTIVE BARGAINING AGREEMENT WILL EXPIRE.

(2) THE BOARD SHALL CONSIDER THE AGREEMENT SUBMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION AND ISSUE A STATEMENT AS

REQUIRED UNDER SUBSECTION (C) OF THIS SECTION REGARDING THE NEW TERM.

(3) IF THE EMPLOYER OR THE CERTIFIED EXCLUSIVE REPRESENTATIVE DECLARE THAT AN IMPASSE EXISTS, THE DISPUTE SHALL BE SUBMITTED FOR MEDIATION IN ACCORDANCE WITH § 23-608 OF THIS SUBTITLE.

(E) (1) (i) IF THE BOARD ACCEPTS A TERM SUBMITTED FOR BOARD REVIEW THAT REQUIRES ADDITIONAL FUNDING, THE BOARD SHALL SUBMIT A REQUEST TO THE COUNTY EXECUTIVE WITHIN THE TIME PERIOD PROVIDED IN THE COLLECTIVE BARGAINING AGREEMENT.

(ii) THE COUNTY EXECUTIVE MAY APPROVE OR REJECT A REQUEST FOR ADDITIONAL FUNDING, IN WHOLE OR IN PART.

(iii) IF THE COUNTY EXECUTIVE APPROVES A REQUEST UNDER

SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE COUNTY EXECUTIVE SHALL SUBMIT THE REQUEST TO THE COUNTY COUNCIL.

(2) THE COUNTY COUNCIL MAY APPROVE OR REJECT A REQUEST FOR ADDITIONAL FUNDING, IN WHOLE OR IN PART.

(3) (I) IF ANY PART OF A REQUEST FOR ADDITIONAL FUNDING SUBMITTED TO THE COUNTY EXECUTIVE OR COUNTY COUNCIL UNDER THIS SUBSECTION IS REJECTED, THE ENTIRE COLLECTIVE BARGAINING AGREEMENT SHALL BE RETURNED TO THE EMPLOYER AND THE CERTIFIED EXCLUSIVE REPRESENTATIVE FOR RENEGOTIATION WITHIN THE LIMITS OF THE FUNDING ALLOCATED BY THE COUNTY EXECUTIVE AND COUNTY COUNCIL.

(II) THE RENEGOTIATION SHALL BE COMPLETED WITHIN A TIMETABLE ESTABLISHED BY THE COUNTY EXECUTIVE.

(III) 1. IF AN IMPASSE IS REACHED, THE EMPLOYER AND THE CERTIFIED EXCLUSIVE REPRESENTATIVE SHALL SUBMIT A FINAL OFFER, WITHIN THE LIMITS OF THE FUNDING ALLOCATED BY THE COUNTY EXECUTIVE AND COUNTY COUNCIL, FOR THE REVIEW OF THE COUNTY EXECUTIVE.

2. THE COUNTY EXECUTIVE SHALL SELECT ONE OF THE OFFERS SUBMITTED UNDER SUBPARAGRAPH 1 OF THIS PARAGRAPH.

3. THE SELECTION OF THE COUNTY EXECUTIVE IS BINDING.

23-610.

Commented [MD12]: This section should be included in SB138

(A) (1) EXCEPT WHERE ABRIDGED BY AN EXPRESS PROVISION OF A COLLECTIVE BARGAINING AGREEMENT, THE EMPLOYER SHALL RETAIN THE EXCLUSIVE RIGHT AND AUTHORITY, AT ITS DISCRETION, TO MAINTAIN THE ORDER AND EFFICIENCY OF THE PUBLIC SERVICE ENTRUSTED TO IT AND TO OPERATE AND MANAGE THE AFFAIRS OF THE EMPLOYER IN ALL ASPECTS, INCLUDING ALL RIGHTS AND AUTHORITY HELD BY THE EMPLOYER BEFORE ENTERING INTO A COLLECTIVE BARGAINING AGREEMENT UNDER § 23-607 OF THIS SUBTITLE.

(2) THE RIGHTS AND AUTHORITY RETAINED BY THE EMPLOYER UNDER PARAGRAPH (1) OF THIS SUBSECTION INCLUDE THOSE PROVIDED BY STATE OR LOCAL LAW.

(B) SPECIFIC RIGHTS AND RESPONSIBILITIES RETAINED BY THE EMPLOYER UNDER SUBSECTION (A) OF THIS SECTION INCLUDE THE RIGHT AND RESPONSIBILITY TO:

(1) DETERMINE THE PURPOSES AND OBJECTIVES OF EACH OF THE EMPLOYER'S OFFICES AND DEPARTMENTS;

(2) SET STANDARDS OF SERVICES TO BE OFFERED TO THE PUBLIC;

(3) DETERMINE THE METHODS, MEANS, PERSONNEL, BUDGET, AND OTHER RESOURCES BY WHICH THE EMPLOYER'S OPERATIONS ARE TO BE CONDUCTED;

(4) EXERCISE CONTROL AND DISCRETION OVER THE EMPLOYER'S ORGANIZATION AND OPERATIONS;

(5) DIRECT ITS EMPLOYEES;

(6) HIRE, PROMOTE, TRANSFER, ASSIGN, OR RETAIN EMPLOYEES;

(7) ESTABLISH WORK RULES;

(8) DEMOTE, SUSPEND, DISCHARGE, OR TAKE ANY OTHER APPROPRIATE DISCIPLINARY ACTION AGAINST ITS EMPLOYEES FOR JUST CAUSE IN ACCORDANCE WITH APPLICABLE LAWS;

(9) RELIEVE EMPLOYEES FROM DUTY BECAUSE OF LACK OF WORK OR OTHER LEGITIMATE REASONS;

(10) DETERMINE:

(I) THE MISSION, BUDGET, ORGANIZATION, AND NUMBER OF EMPLOYEES OF THE EMPLOYER;

(II) THE NUMBER, TYPE, AND GRADE OF EMPLOYEES ASSIGNED;

(III) THE WORK PROJECT, TOUR OF DUTY, AND METHODS AND PROCESSES BY WHICH THE WORK HAS TO BE PERFORMED;

(IV) THE TECHNOLOGY NEEDED BY THE EMPLOYER;

(V) THE INTERNAL SECURITY PRACTICES OF THE EMPLOYER; AND

(VI) THE RELOCATION OF FACILITIES NEEDED BY THE EMPLOYER;

(11) DETERMINE THE QUALIFICATIONS OF EMPLOYEES FOR APPOINTMENT, PROMOTION, AND STEP INCREASES AND TO SET STANDARDS OF PERFORMANCE, APPEARANCE, AND CONDUCT OF EMPLOYEES;

(12) JUDGE SKILL, ABILITY, AND PHYSICAL FITNESS OF EMPLOYEES AND TO CREATE, ELIMINATE, OR CONSOLIDATE JOB CLASSIFICATIONS, DEPARTMENTS, OR OPERATIONS OF THE EMPLOYEE;

(13) CONTROL AND REGULATE THE USE OF ALL EQUIPMENT AND OTHER PROPERTY OF THE EMPLOYER;

(14) SET AND CHANGE WORK HOURS;

(15) CREATE, ALTER, COMBINE, CONTRACT OUT, OR ABOLISH ANY JOB CLASSIFICATION, DEPARTMENT, OPERATION, UNIT, OR OTHER DIVISION OR SERVICE OF THE EMPLOYER;

(16) SUSPEND, DISCHARGE, OR OTHERWISE DISCIPLINE EMPLOYEES FOR CAUSE, EXCEPT THAT ANY ACTION MAY BE SUBJECT TO THE GRIEVANCE PROCEDURE AGREED TO IN THE COLLECTIVE BARGAINING AGREEMENT;

(17) ISSUE AND ENFORCE RULES, POLICIES, AND REGULATIONS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SECTION AND OTHER MANAGERIAL FUNCTIONS; AND

(18) RECRUIT, RETAIN, ASSIGN, MANAGE, OR LIMIT THE ROLES OR RESPONSIBILITIES OF VOLUNTEERS AND DEVELOP GUIDELINES FOR VOLUNTEERS UNDER § 23-407 OF THE EDUCATION ARTICLE.

23-611.

Commented [MD13]: This section should be included in SB138

AN EMPLOYEE ORGANIZATION SHALL BE DEEMED DECERTIFIED IF A PETITION IS SUBMITTED TO THE DIRECTOR THAT INCLUDES THE SIGNATURES OF MORE THAN 50% OF THE EMPLOYEES IN THE BARGAINING UNIT INDICATING THE WISH TO DECERTIFY THE EMPLOYEE ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE FOR COLLECTIVE BARGAINING PURPOSES.

23-612.

(A) THE EMPLOYER MAY NOT:

(1) INTERFERE WITH, COERCE, OR RESTRAIN AN EMPLOYEE IN THE EXERCISE OF ANY RIGHT GIVEN TO THE EMPLOYEE UNDER THIS SUBTITLE;

(2) INTERFERE WITH OR ASSIST IN THE FORMATION, ADMINISTRATION, OR EXISTENCE OF AN EMPLOYEE ORGANIZATION;

(3) PROVIDE FINANCIAL ASSISTANCE OR OTHER SUPPORT TO AN EMPLOYEE ORGANIZATION;

(4) ENCOURAGE OR DISCOURAGE MEMBERSHIP IN AN EMPLOYEE ORGANIZATION BY DISCRIMINATING AGAINST AN EMPLOYEE THROUGH HIRING, TENURE, PROMOTION, OR OTHER CONDITIONS OF EMPLOYMENT;

(5) DISCHARGE OR DISCRIMINATE AGAINST AN EMPLOYEE BECAUSE THE EMPLOYEE HAS SIGNED OR FILED AN AFFIDAVIT, A PETITION, OR A COMPLAINT OR HAS GIVEN ANY INFORMATION OR TESTIMONY IN A PROCEEDING HELD UNDER THIS SUBTITLE;

(6) REFUSE TO BARGAIN IN GOOD FAITH WITH AN EMPLOYEE ORGANIZATION THAT IS CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE OF A BARGAINING UNIT OVER A SUBJECT OF BARGAINING; OR

(7) REFUSE TO PARTICIPATE IN GOOD FAITH IN THE MEDIATION, FACT-FINDING, OR GRIEVANCE PROCEDURE UNDER THIS SUBTITLE.

(B) AN EMPLOYEE ORGANIZATION OR ITS AGENT MAY NOT:

(1) INTERFERE WITH, RESTRAIN, OR COERCE AN EMPLOYEE IN THE EXERCISE BY THE EMPLOYEE OF ANY RIGHT GIVEN TO THE EMPLOYEE UNDER THIS SUBTITLE;

(2) CAUSE OR ATTEMPT TO CAUSE THE EMPLOYER TO DISCRIMINATE AGAINST AN EMPLOYEE IN THE EXERCISE BY THE EMPLOYEE OF ANY RIGHT GIVEN UNDER THIS SUBTITLE;

(3) COERCE, DISCIPLINE, FINE, OR ATTEMPT TO COERCE A MEMBER OF THE EMPLOYEE ORGANIZATION AS PUNISHMENT OR REPRISAL;

(4) COERCE, DISCIPLINE, FINE, OR ATTEMPT TO COERCE A MEMBER OF THE EMPLOYEE ORGANIZATION FOR THE PURPOSE OF IMPEDING THE MEMBER'S WORK PERFORMANCE;

Commented [MD14]: This language should be included in SB138

(5) REFUSE TO NEGOTIATE IN GOOD FAITH WITH THE EMPLOYER AS REQUIRED BY THIS SUBTITLE; OR

(6) FAIL OR REFUSE TO COOPERATE IN IMPASSE PROCEDURES UNDER § 23-608 OF THIS SUBTITLE OR DECISIONS THAT RESULT FROM THOSE PROCEDURES.

23-613.

Commented [MD15]: The language in this section should be added to SB138

(A) IN THIS SECTION, "STRIKE" HAS THE MEANING STATED IN § 3-303 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(B) AN EMPLOYEE OR AN EMPLOYEE ORGANIZATION MAY NOT ENGAGE IN, INDUCE, INITIATE, DIRECT, SUPPORT, OR RATIFY A STRIKE.

(C) IF A STRIKE OCCURS, ON REQUEST OF THE EMPLOYER, A COURT OF COMPETENT JURISDICTION MAY ENJOIN THE STRIKE.

(D) AN EMPLOYEE MAY NOT RECEIVE COMPENSATION FROM THE EMPLOYER WHILE THE EMPLOYEE IS ENGAGED IN A STRIKE.

(E) IF AN EMPLOYEE ORGANIZATION VIOLATES THIS SECTION, THE EMPLOYER MAY:

(1) IMPOSE DISCIPLINARY ACTION, INCLUDING DISMISSAL, ON EMPLOYEES ENGAGED IN THE PROHIBITED CONDUCT;

(2) REVOKE THE CERTIFICATION OF AND DISQUALIFY THE EMPLOYEE ORGANIZATION FROM REPRESENTING EMPLOYEES FOR A PERIOD NOT TO EXCEED 2 YEARS; OR

(3) REVOKE THE EMPLOYEE ORGANIZATION'S RIGHT TO DUES AND SERVICE FEES.

(F) THE EMPLOYER MAY NOT ENGAGE IN, INITIATE, OR DIRECT A LOCKOUT OF EMPLOYEES.

23-614.

EXCEPT AS OTHERWISE PROVIDED BY LAW, IF EMPLOYEES HAVE ENTERED INTO A COLLECTIVE BARGAINING AGREEMENT WITH THE EMPLOYER UNDER THIS SUBTITLE, THE COLLECTIVE BARGAINING AGREEMENT ENTERED INTO UNDER § 23-607 OF THIS SUBTITLE SUPERSEDES ANY CONFLICTING REGULATION OR ADMINISTRATIVE POLICY OF THE EMPLOYER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 16, 2013.