

SB 908 - Sponsor Amendments

Uploaded by: Benson, Joanne

Position: FAV



SB0908/193221/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

17 MAR 21
14:21:42

BY: Senator Benson

(To be offered in the Finance Committee and the Budget and
Taxation Committee)

AMENDMENTS TO SENATE BILL 908

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 5, strike “with” and substitute “in”; in the same line, strike “a statement showing the appropriations” and substitute “the expenditures”; in line 7, strike the first “and” and substitute “, hours, fringe benefits, pension benefits, health benefits, and other”; and in line 8, after “personnel;” insert “proposing an amendment to the Maryland Constitution to require the Governor to include with the budget bill a statement showing for the next ensuing fiscal year for each memorandum of understanding covering certain State personnel the changes in wages, hours, fringe benefits, pension benefits, health benefits, and other terms and conditions of employment; proposing an amendment to the Maryland Constitution to require each budget bill to include an estimate of certain appropriations relating to certain fringe benefits payable; proposing an amendment to the Maryland Constitution to require that, if applicable, certain laws enacted by the General Assembly provide for a certain arbitration under certain circumstances;”.

AMENDMENT NO. 2

On page 2, in line 4, after “year.” insert “EACH BUDGET SHALL ALSO CONTAIN EXPENDITURES NECESSARY TO IMPLEMENT ALL TERMS OF EACH MEMORANDUM OF UNDERSTANDING CONCLUDED WITH THE STATE, EITHER BY MUTUAL AGREEMENT OR BY ARBITRATION, TO PROVIDE TERMS AND CONDITIONS OF EMPLOYMENT FOR THE NEXT ENSUING FISCAL YEAR FOR STATE EMPLOYEES WITHIN THE VARIOUS BRANCHES AND DEPARTMENTS OF STATE GOVERNMENT, INCLUDING HIGHER EDUCATION.”; strike beginning with “THE” in line 8 down through “PERSONNEL” in line 13 and substitute “THE CHANGES IN WAGES, HOURS, FRINGE BENEFITS, PENSION BENEFITS, HEALTH BENEFITS, AND OTHER TERMS”.

(Over)

AND CONDITIONS OF EMPLOYMENT FOR THE NEXT ENSUING FISCAL YEAR FOR STATE EMPLOYEES COVERED IN EACH MEMORANDUM OF UNDERSTANDING CONCLUDED WITH THE STATE"; in line 22, after "salaries" insert "AND FRINGE BENEFITS"; and in line 23, after "State" insert ", INCLUDING THOSE COMMITTED UNDER EACH MEMORANDUM OF UNDERSTANDING COVERING STATE EMPLOYEES".

On page 4, in line 38, after "provisions." insert "IF APPLICABLE, SUCH LAWS SHALL PROVIDE THAT, IN THE EVENT OF A BARGAINING IMPASSE OVER WAGES, HOURS, FRINGE BENEFITS, PENSION, HEALTH BENEFITS, OR OTHER TERMS AND CONDITIONS OF EMPLOYMENT BETWEEN THE STATE AND AN EXCLUSIVE REPRESENTATIVE OF ANY UNIT OF THE STATE'S EMPLOYEES, AN ARBITRATION SHALL OCCUR BEFORE A NEUTRAL ARBITRATOR WHO SHALL ISSUE A DECISION TO COMPRISE A BINDING MEMORANDUM OF UNDERSTANDING FOR THE NEXT ENSUING FISCAL YEAR.".

BaltimoreCounty_FAV_SB0908.pdf

Uploaded by: Conner, Charles

Position: FAV



JOHN A. OLSZEWSKI, JR.
County Executive

CHARLES R. CONNER III, ESQ.
Director of Government Affairs

JOEL N. BELLER
Deputy Director of Government Affairs

BILL NO.: SB 908

TITLE: Budget Bill – Appropriations Statement – Memorandum of Understanding for State Personnel

SPONSOR: Senator Benson

COMMITTEE: Finance

POSITION: **SUPPORT**

DATE: March 17, 2021

Baltimore County **SUPPORTS** Senate Bill 908 – Budget Bill – Appropriations Statement – Memorandum of Understanding for State Personnel. This legislation proposes an amendment to the Maryland Constitution requiring the Governor to include with the budget bill a statement showing the appropriations necessary to fund Memoranda of Understanding and establishes binding arbitration in collective bargaining disputes.

Currently, unresolved collective bargaining disputes between the State and the exclusive representative can only be addressed by factfinders who make nonbinding recommendations. There is no process for mediation nor is there any authority beyond that of management to implement the recommendations of these fact finders. In these circumstances, unionized employees do not have the standing necessary in negotiations to have their side considered or recommendations implemented. If the employer serves as both mediator and arbitrator, there is no guarantee that an employee has truly fair representation.

SB 908 remedies this by establishing binding arbitration in cases of collective bargaining disputes. By empowering independent fact finders, mediators, or arbitrators to enforce decisions made based on the facts of the dispute, this legislation would ensure a fair process for employees and strengthen workers' rights across the State.

Accordingly, Baltimore County requests a **FAVORABLE** report on SB 908. For more information, please contact Chuck Conner, Director of Government Affairs, at cconner@baltimorecountymd.gov.

SB908 Support - State Employees Budget Appropriat

Uploaded by: Demchuk, Pete

Position: FAV

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS - LOCAL UNION No. 24

AFFILIATED WITH:

Baltimore-D.C. Metro Building Trades Council — AFL-CIO
Baltimore Port Council
Baltimore Metro Council — AFL-CIO
Central MD Labor Council — AFL-CIO
Del-Mar-Va Labor Council — AFL-CIO
Maryland State - D.C. — AFL-CIO
National Safety Council



AFL-CIO-CLC

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Written Testimony of

Peter Demchuk, Business Manager, IBEW, LOCAL 24

Before the

Senate Finance Committee on

SB 908 Budget Bill – Appropriations Statement – Memorandum of Understanding for State Personnel

SUPPORT

March 15, 2021

Dear Madame Chair Kelley, and members of the Senate Finance Committee,

Thank you for the opportunity to submit my testimony supporting Senate Bill 908.

For the record, my name is Peter Demchuk. I am a 41-year member, and the Business Manager, of the International Brotherhood of Electrical Workers 24 located in Baltimore. Additionally, I am a lifelong resident of Maryland currently residing in District 7 of Baltimore County.

It's vital for collectively bargained agreements to have guarantees on wages and working conditions. This is one of the cornerstones for the entire labor movement. Unfortunately, some of our brothers and sisters are missing out on this critical piece of what it means to be in a union. What good is a contract if there is no money in the budget to fund it? These are tax paying Maryland residents, some of whom kept our state running during a global emergency. They deserve the contract they negotiated to be guaranteed and the only way to do that is to appropriate funds to ensure their wages and benefits.

This is why I'm asking you to give SB 908 a favorable report.

Thank you,

Peter P. Demchuk

PPD:clr
AFL-CIO
OPEIU # 2

SB 908 - MD DC AFL-CIO - SUPPORT.pdf

Uploaded by: Edwards, Donna

Position: FAV



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Secretary-Treasurer

Gerald W. Jackson

**SB 908 – Budget Bill – Appropriations Statement – Memorandum of Understanding for
State Personnel
Senate Finance Committee
March 17, 2021**

SUPPORT

**Donna S. Edwards
President
Maryland State and DC AFL-CIO**

Madam Chair and members of the Committee, thank you for the opportunity to submit testimony in support SB 908 – Budget Bill – Appropriations Statement – Memorandum of Understanding for State Personnel. My name is Donna S. Edwards, and I am the President of the Maryland State and District of Columbia AFL-CIO. On behalf of the 340,000 union members, I offer the following comments.

Under current law, when the Governor and State Workers reach an impasse in bargaining, the Governor can simply choose to ignore the process and appropriate funds for workers based on a previous contract. In theory, any Governor could completely bypass the negotiations process and leave workers in the lurch for the entirety of his/her term in office. It creates a perverse incentive for a Governor to do nothing, stalling negotiations indefinitely while workers' wages and benefits remain stagnant for years.

SB 908 addresses this glaring hole in the negotiations process by sending a referendum to the voters, to decide if state workers should be able to use binding arbitration – like millions of unionized workers currently have in their CBA's. This constitutional change, when approved by the voters, will provide balance in the negotiations process, giving both parties every incentive to work toward a timely agreement.

Workers deserve balance and timely decisions. Establishing a binding arbitration process where both the union representative and management representative are participating in the arbitration provides relatively equal bargaining power and provides an incentive for both parties to reach an agreement without invoking binding arbitration. SB 908 is a fair and balanced approach to providing effective and efficient negotiations for our state employees.

We urge a favorable vote on SB 908.

AFSCME3675_FAV_SB908.pdf

Uploaded by: Hawkins, Don

Position: FAV

Testimony
SB 908 – Budget Bill – Appropriations Statement – Memorandum of Understanding for State
Personnel
Finance
March 17, 2021
Support

Good afternoon, my name is Don Hawkins and I am the President of AFSCME Local 3675. We represent the Maryland State Police Civilian Employees.

I personally work in the Aviation Command for the MSP. While we work side by side with our sworn colleagues keeping Maryland safe, my members and co-workers feel the injustice on how our pay and benefits are determined based upon ineffective negotiations.

To put this testimony in context, this is my retirement job, and my way to continue serving my community. I have spent all of my working life (when not in a Marine Corps uniform), on the opposite side of the bargaining table. I have worked companies out of Chapter 11, built and sold three companies, including a defense contracting company. I am quite familiar with the negotiating table, and I am also very familiar with the purpose and value of a union within a large workforce. I have benefitted by fostering and maintaining professional working relationships with the unions that represented my employees.

With the understanding of what can be accomplished through mutual respect, I accepted my position as a Union Local President. I also recently served on AFSCME's bargaining team with the State over the latest contract negotiations. I was shocked, and disappointed to discover that we do not have a professional working relationship between Management and Labor in the State of Maryland.

The relationship that currently exists does not foster a climate for successful negotiations. It starts late, it drags out with an inordinate amount of time focused on petty issues, leaving little time to focus on serious hour, wages, terms and conditions issues.

The current negotiation process has no sense of urgency for either party to reach compromises. The current system simply wastes the time of the people tasked to be a part of the effort because it quickly breaks down into emotional exchanges. One side is pleading, with increasing emotions, for the benefit of the workers, and the other side is simply advancing a policy dictated by people who are not sitting at the negotiating table.

This system is not good for management, it's not good for the state workforce, and it's not good for Marylander taxpayers. Management, labor and Maryland taxpayers deserve a process that compels compromise and finality – that's why I am here today in support of binding arbitration and SB 908.

AFSCME-FAV-SB908.pdf

Uploaded by: Kilpatrick, Lance

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Patrick Moran - President

Testimony
SB 908 – Budget Bill – Appropriations Statement – Memorandum of
Understanding for State Personnel
Finance
March 17, 2021
Support

AFSCME Council 3 strongly supports SB 908. This proposed amendment to the Maryland Constitution would require the Governor to include with the budget bill a statement showing the appropriations necessary to implement and fund each memorandum of understanding reached by agreement or through binding interest arbitration. Each memorandum incorporates wages and terms and conditions of employment for Executive Department, higher education, and other State personnel.

May of this year will mark the 25th anniversary of collective bargaining for Maryland's state employees. In the years since Governor Parris Glendening's executive order, Maryland has continued to improve its collective bargaining practices to have in place processes that are fair, balanced, efficient, and conclusive. This proposal adheres to that path.

The concept behind collective bargaining is to establish a forum for management and labor to periodically sit down at the table to formally discuss issues including equitable compensation, leave, and benefits; processes for employee input and participation; and myriad other terms and conditions of employment. The linchpin of collective bargaining is a mutual understanding and respect for the process itself, where finding common ground through deliberation and compromise is acknowledged by all parties.

Unfortunately, compromise is not always the case, and under present Maryland law an employer within state collective bargaining can effectively refuse to move from their initial positions and thus create a stalemate that has no resolution. Without incentive to work toward agreement through compromise, there is no concern for the consequences of inaction.

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

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This legislation would create a mutual incentive to compel parties to reach an agreement around collective bargaining negotiations by instilling a binding interest arbitration process, whereby if the two sides cannot come to agreement through negotiations by a specified deadline the proposals from the two sides would be presented to a professional, neutral third-party arbitrator – hearing from witnesses and experts, with data and evidence – for consideration of all of the facts involved with the purpose of determining which proposal is most appropriate to implement. The choice by the arbitrator would then be considered a binding resolution to be implemented by the Governor and exclusive bargaining representative, as well as the General Assembly for whatever appropriations are necessary to implement and fund the memorandum of understanding.

SB 908 is a strong and positive step toward enhancing fairness, balance, efficiency and resolution. It follows a model that is well-established in other states and among Maryland counties. We thank you, and urge a favorable report.

DGW Testimony 3.17.21.pdf

Uploaded by: Wright, David

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Testimony of David Gray Wright
SB 908 – Budget Bill – Appropriations Statement –
Memorandum of Understanding for State Personnel
Finance Committee
March 17, 2021
Support / Favorable

My firm represents AFSCME Maryland Council 3. We also represent firefighters, teachers, county and municipal employees, and other public employees throughout Maryland, through their collective bargaining representatives. We routinely negotiate in the context of binding interest arbitration.

Binding interest arbitration has emerged as a crucial tool for successful and cooperative labor relations in the public sector. That is so because arbitration (i) **motivates negotiating parties to reach an agreement** and, when they cannot, (ii) it provides **a final result with reason and purpose that both parties have faith in**. On this basis, several counties, Baltimore City, and Ocean City have adopted arbitration; as have several states with mature labor relations.

Arbitration is a dispute resolution tool to break an impasse. When parties bargain in good faith but cannot reach agreement on all the subjects before them, they may reach impasse – a sticking point over the last few unresolved subjects. Arbitration allows **a professional neutral to hear the positions and reasoning from both sides** and break the impasse by choosing the more appropriate resolution of those final disputed subjects.

Although both sides can take an impasse to arbitration, both sides ordinarily work hard to avoid arbitration. Collective bargaining favors a negotiated agreement and resolution, and parties to collective bargaining disfavor “winning” and “losing.” Thus, **parties that can resort to arbitration are nonetheless more rational and more compromising, and more likely to reach agreement because they are motivated to avoid “losing.”**

When parties resort to arbitration, if they wish to succeed, they must present positions supported by evidence and founded in fairness. **The arbitrator is dispassionate – proceeding without the emotion and politics that may have caused impasse. The arbitrator must make a decision based on established standards about fiscal considerations of the employer and considerations for employees.** As a result, both parties get an opportunity to be fully heard and then a complete and reasoned assessment of their positions from the arbitrator. **Like judicial decisions, the parties necessarily have faith in the process and result, because of the involvement of a neutral.**

Many additional questions are addressed in the following pages.

Testimony of David Gray Wright - SB 908 – Budget Bill – Appropriations Statement –
Memorandum of Understanding for State Personnel
Finance Committee - March 17, 2021 - Support / Favorable

What is Binding Arbitration?

Arbitration before a neutral third party is the preferred way to resolve differences between labor and management over terms and conditions of employment. Binding Arbitration produces a final decision that defines the rights and obligations of the parties. Arbitration Awards are subject to judicial review under standards that are well defined in Maryland law.

What collective bargaining rights do State employees have?

- The State and each exclusive representative (employee union) are to meet, exchange information and negotiate within an annual bargaining window.
- The representatives are to negotiate within sufficient time to conclude a written memorandum of understanding before January 1 for any item requiring an appropriation of funds or other legislation for the next fiscal year, i.e., the fiscal year that begins on the following July 1.
- A memorandum of understanding is to include the terms and conditions that are to be adopted and implemented for the next fiscal year.
- The State's annual budget bill submitted to the General Assembly is to include amounts required to accommodate any additional cost resulting from the negotiations as reflected in each memorandum of understanding.

What happens if a memorandum of understanding is not concluded between the State and an exclusive representative?

- If negotiations do not conclude for the next fiscal year before October 25, either party may request appointment of a fact finder.
- The fact finder may issue subpoenas, hold hearings, administer oaths, take testimony, and receive other evidence on the issues in dispute.
- The fact finder is to make written recommendations regarding wages, hours, and working conditions, and any other terms or conditions of employment in dispute before November 20.
- The fact finder is to release the written recommendations to the Governor, the President of the Senate, and the Speaker of the House of Delegates on or before December 1.
- The fact finder's written recommendations are not binding.

Testimony of David Gray Wright - SB 908 – Budget Bill – Appropriations Statement –
Memorandum of Understanding for State Personnel
Finance Committee - March 17, 2021 - Support / Favorable

Why propose Binding Arbitration?

- The written recommendations of a fact finder do not have to be accepted however worthy the fact finder's written recommendations may be.
- Even after it is ratified and concluded, a memorandum of understanding is not enforceable unless its new terms either are included in the State's budget or confirmed by legislative action of the General Assembly.

Why should Binding Arbitration for State employees be authorized by constitutional amendment?

- Under the Maryland Constitution, the Governor has sole authority to prepare and submit a budget for the next fiscal year to the General Assembly.
- The Governor's sole authority permits the Governor to disregard both a fact finder's written recommendations and new terms included in a memorandum of understanding.
- If authorized, Binding Arbitration would permit an experienced, neutral third party to balance the needs of State employees against the mission and means of the State, and to adopt a fair outcome for all to follow.

Will implementation legislation be needed should this pass?

- Yes. The purpose of the proposed amendment is to simply authorize Binding Arbitration.
- As a second step, if the amendment is adopted, the General Assembly will need to enact statutory material to define the mechanics of the arbitration process and implement the Constitutional authorization.

Which other states permit Binding Arbitration?

- Connecticut, Delaware and Hawaii permit Binding Arbitration for non-public safety state employees. Many more states permit Binding Arbitration for public safety workers, including fire fighters, emergency medical services personnel and police officers.

Is Binding Arbitration authorized for any public employees in Maryland?

- Yes, for some State employees: Maryland Transportation Code § 7-602 states "(i)f, in a labor dispute between the Administration and any employees described in § 7-601 of this subtitle, collective bargaining does not result in agreement, the Administration shall submit the dispute to an arbitration board."
- Yes, for some County and Municipal employees: Eight Maryland jurisdictions: Anne Arundel County, Baltimore City, Baltimore County, Frederick County, Howard County, Montgomery County, Prince George's County and the Town of Ocean City have authorized Binding Arbitration for fire and EMS bargaining units through Charter and Code-level legislation.
- The Maryland Court of Appeals has approved of Binding Arbitration.

SB 908 Budget Bill-MOU CA (Benson) OPPOSE FIN 3.17

Uploaded by: Wilkins, Barbara

Position: UNF

LARRY HOGAN
Governor

BOYD K. RUTHERFORD
Lieutenant Governor



DAVID R. BRINKLEY
Secretary

MARC L. NICOLE
Deputy Secretary

SENATE BILL 908 Budget Bill – Appropriations Statement – Memorandum of Understanding for State Personnel ((Benson))

POSITION: OPPOSE

DATE: March 17, 2021

COMMITTEE: Senate Finance

SUMMARY OF BILL: SB 908 proposes an amendment to the Maryland Constitution to require the Governor to include with the budget bill a statement showing the appropriations necessary to implement and fund for the next ensuing fiscal year each memorandum of understanding, whether reached through negotiations or binding arbitration, that is binding on the State and incorporates wages and terms and conditions of employment for executive department, higher education and other State personnel. Specifically, the Bill proposes to amend Article III, Section 52(3) of the Maryland Constitution, which is a provision that addresses certain informational requirements that the Governor must include with the submission of the annual Budget Bill. The Constitutional Amendment would be submitted to the voters of the State for their adoption or rejection at the November 2022 general election.

EXPLANATION: The Department of Budget and Management (DBM) opposes SB 908 as unnecessary and ambiguous. The Bill appears to propose a constitutional amendment for the purpose of imposing an additional reporting requirement on the Governor. A constitutional amendment is not needed for this purpose. The type of reporting requirement addressed in the proposed constitutional amendment could likely be done through regular legislation. But even that is not necessary, because the information being sought regarding appropriations necessary to fund each collective bargaining agreement (memorandum of understanding) is routinely provided by DBM.

Not only is the Bill unnecessary, it also potentially introduces ambiguity and uncertainty into the State's budget process that should cause pause. The language characterizing MOUs as "binding on the State" might call into question the General Assembly's constitutional authority to strike or reduce items of appropriations related to MOUs, and it unclear why the Bill uses the term "binding arbitration", since the State's collective bargaining law under Title 3 of the Personnel and Pensions Article does not include binding arbitration.

Asking Maryland voters to consider an ambiguous Constitutional Amendment that is not needed and has no real effect, diminishes the importance of statewide electoral issues. Voters will have many important choices to consider in the November 2022 election and an unnecessary Constitutional Amendment with the potential to introduce ambiguity and uncertainty into the State's budget process, should not be one of them.

**For additional information, contact Barbara Wilkins at
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