

Senate Testimony of Lauren Buell.pdf

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Position: FAV



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SB 138 / HB 45 - SUPPORT

Lauren Buell

Librarian, Baltimore County Public Library /
International Association of Machinists and Aerospace Workers
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SB 138 / HB 45 - SUPPORT

Baltimore County Public Library - Collective Bargaining Finance Committee / Appropriations Committee February 4, 2021

Dear Madam Chair, Vice Chair Feldman and members of the Finance Committee,

This is my first time testifying and it is an honor to have the ability to speak with you on the importance of having a union for the Baltimore County Public Library's (BCPL) staff.

My name is Lauren Buell and I have worked for the library system for three years. I am a Part-Time Librarian and I work at the Baltimore County Public Library (BCPL) Perry Hall Branch.

As a Librarian, I assist customers with the use of print and on-line resources, including e-reader devices and I develop and maintain a portion of the Library's collection. I am also involved in library-related programs, outreach services, and handle customer complaints.

Communication is very important with any business, and when it is lacking, it can decrease staff morale throughout the entire organization. If we have a union, we will have a coalition behind us to be able to approach administration with questions, comments and concerns of library staff. Right now, we have no effective way to do that in real time. However, I believe that with a union, people will be able to have their voices heard.

One of my concerns is part-time workers who must work with the public during a pandemic. Librarians like myself, have no access to health care benefits and I worry about what will happen to me if they get sick or contract the coronavirus. I have never really thought about our lack of health care access until Covid-19 struck, but I believe if workers are expected to work during a pandemic and be treated as "essential" employees, then we deserve to breathe a little easier knowing, we have health care benefits.

I am also very aware that getting a union does not mean a guarantee of benefits, but at least we will have a seat at the table where we have an opportunity to negotiate some of these benefits.

Another problem we have is that Human Resources will only allow us administrative leave twice a year. This is a problem. For example, if your library branch closes for more than that, or if you are exposed to Covid-19, you must be tested twice and wait for those results, before you can return to work. After the second time occurs, you must use your personal leave and cannot telework. That needs to change.

We have to have a voice at work. We want respect and we our issues that are beyond our control heard. I feel the only way we will be able to achieve this, is if we have a qualified labor organization behind us. They can support us with professional representatives that know labor law.

Thank you for your time and for giving me the opportunity to voice my concerns on legislation that will allow us to have collective bargaining. I urge a favorable report on SB 138.

Thank you.

SEIU Testimony in FAVOR of SB 138 Baltimore County

Uploaded by: Cavanagh, Terry

Position: FAV



SEIU MARYLAND & DC STATE COUNCIL

1410 Bush Street, Suite F, Baltimore, Maryland 21230

Testimony in **SUPPORT of Senate Bill SB 138**
Education – Baltimore County Public Library – Collective Bargaining

Senate Finance Committee

February 4, 2021

1:30 PM

Presented to: Delores G. Kelley, Chairman

By: Terry Cavanagh, Executive Director

SEIU Maryland & DC State Council urges a **Favorable Report to SB 138.**

SEIU is the largest union in North America. We have united 2,000,000 workers in health care, public services, including public education, and property services, to improve the lives of our members and the services they provide. In the Maryland, DC, Virginia area, we have over 50,000 members.

More than 1,000,000 SEIU members are public employees who enjoy the rights and benefits of collective bargaining. We believe that the vast majority of workers, with few exceptions, should have their right to organize recognized and respected and put into law.

Across the State of Maryland over 150,000 workers in the public sector at the federal, state, county, local and school district level have the right to organize. Why do we tolerate so many exceptions to this right? Why should BCPL employees be an exception?

Many states have adopted a comprehensive public employee labor relations law, covering almost all public employees. Maryland should consider doing likewise. In the meantime, we should no longer delay or deny library workers in Baltimore County the right to organize.

We applaud Senator Hettleman for sponsoring this legislation.

We listen to the words of President Biden who said on January 22, ***“It is also the policy of the United States to encourage union organizing and collective bargaining. The Federal Government should be a model employer.”***

Page 2 of SEIU Testimony in FAVOR of SB 138 BCPL Collective Bargaining

We believe Baltimore County Public Library and well as all public employers ought to be model employers. Supporting SB 138 would be an excellent outward sign.

We urge a Favorable Report on SB 138. Thank you.

BaltimoreCounty_FAV_SB0138.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 138**

TITLE: Education - Baltimore County Public Library - Collective Bargaining

SPONSOR: Senator Hettleman

COMMITTEE: Finance

POSITION: **SUPPORT**

DATE: February 4, 2021

Baltimore County **SUPPORTS** Senate Bill 138 – Education - Baltimore County Public Library - Collective Bargaining. This legislation would authorize employees of the Baltimore County Public Library to form, join, and participate in a union.

Baltimore County Public Library employees are responsible for maintaining one of the County’s most valuable resources. Local libraries provide knowledge to young residents and access to digital resources for those who may not be able to afford their own, they provide a communal space for residents to engage with their community and beyond. During the COVID-19 pandemic, library staff made sure that many vital resources were still available to the public even as so many businesses were shutting their doors.

The experiences of BCPL employees uniquely position them to contribute ideas for improving library operations County-wide for both staff and residents. County Executive Olszewski is a staunch supporter of collective bargaining rights, and understands that allowing BCPL employees to join a union will empower them to speak with one voice. Librarians deserve to have a say in the way their libraries function, and the community will benefit from their input.

Accordingly, Baltimore County requests a **FAVORABLE** report on SB 138. For more information, please contact Chuck Conner, Director of Government Affairs, at cconner@baltimorecountymd.gov.

SB 138 - CBA - Baltimore County Public Library.pdf

Uploaded by: Edwards, Donna

Position: FAV



MARYLAND STATE & D.C. AFL-CIO

AFFILIATED WITH NATIONAL AFL-CIO

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President

Donna S. Edwards

Secretary-Treasurer

Gerald W. Jackson

SB 138 – Education – Baltimore County Library – Collective Bargaining Senate Finance Committee February 4, 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 138 – Education – Baltimore County Library – Collective Bargaining. 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.

The freedom to form and join a union is core to the U.N. Universal Declaration on Human Rights and is an “enabling” right—a fundamental right that ensures the ability to protect other rights. SB 138 opens the door to Baltimore County Librarians, allowing them to make their own decision as to whether they want to organize and form a union, or not. Fundamentally, this is enabling legislation. It does not mandate a union. It does not force any workers to join or oppose a union. It simply affirms the human rights of workers to chart their own path, make their own decisions, and determine their own futures.

But we should go further. In a recent Executive Order, President Biden reaffirmed the position of the United States on collective bargaining rights by stating “*It is also the policy of the United States to encourage union organizing and collective bargaining.*”¹ We believe that the State of Maryland should follow the lead of the United States and do the same. SB 138 is an affirmation of our values to encourage and empower workers to decide their own fate, and not be tied solely to the decisions of the employers.

For the past two years, Baltimore County Librarians have been seeking this right, and with the enabling legislation of SB 138, they can finally realize it. **And for that reason, we ask for a favorable report.**

¹ <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/22/executive-order-protecting-the-federal-workforce/>

Senate Testimony of Laura Ewan.pdf

Uploaded by: Ewan, BCPLLaura

Position: FAV



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SB 138 / HB 45 - SUPPORT

Laura Ewan

International Association of Machinists and Aerospace Workers

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SB 138 / HB 45 - SUPPORT

Baltimore County Public Library - Collective Bargaining

Finance Committee / Appropriations Committee

February 4, 2021

Dear Madam Chair Kelley, Vice Chair Feldman and members of the Finance Committee,

My name is Laura Ewan, and I am Associate General Counsel with the International Association of Machinists and Aerospace Workers (IAM). I am honored to be here today speaking to you about S.B. 138, a crucial piece of legislation that will grant the Baltimore Public Library System's employees the right to select a representative of their choosing to bargain on their behalf for their wages, hours, and working conditions.

Many of you already understand the importance that unions play in our society. Unions have fought throughout our Nation's history to give workers across the country many of the benefits they enjoy at work, whether it is the notion of a weekend for rest or child labor laws. Working people turn to unions not only to protect their rights, but to improve their working conditions, pay and benefits, and to give them security on the job. Union representation means having someone who will stand up for your interests at work. It means having a voice, a way to communicate to your employer your concerns about the workplace without fear of retaliation or reprisals. Workers today need a union voice more than they ever have. Between productivity expectations skyrocketing without much else in return, and the demands placed on workers due to the unprecedented nature of COVID-19 and the global pandemic it sparked, workers providing crucial community services see more asked of them than ever before. But by coming together and working collectively, workers who choose to form a union have the strength to improve their wages, hours, and working conditions, and to secure protections and provide stability in these uncertain times.

That brings us to why we are here. In Maryland, each county library system exists as a creature of state statute. When we first undertook this endeavor, we did our research and found out that while the state laws allow for boards of trustees or county governments to operate library systems, the state laws do not automatically grant these entities the right to enter into binding collective bargaining agreements absent a grant of the legislature. But Prince Georges County, Montgomery County, and Howard County have undertaken steps to allow for their library employees to be represented for purposes of collective bargaining. They came before this Body and got legislation passed to allow them to seek out representation if they so wished. Two of those three counties' library systems have done just that, and have established relationships with unions for their employees.

We talked to the county executive's office, and we read the laws and county codes that applied to the respective counties who had already gone down this road. And we applied that to the specific circumstances here. No part of our law was written, borrowed, or mirrored from any other law without careful consideration of the rationale and the intent behind its inclusion.

Now, BCPL and the Board of Trustees have proposed some language to submit as amendments to the bill we have submitted through our sponsors. But these edits, if applied across-the-board, are entirely problematic. First, there seems to be a desire to make this law identical to Howard County's, without any

context for the independent culture and circumstances of Baltimore County Public Libraries' employees and bargaining unit. It also presupposes that if something was included in Howard County's law, it **must** exist in Baltimore County's law—without understanding **why**. Was it excluded for a reason? Might it be redundant or inapplicable? Those questions were not asked, as far as we can tell. In fact, the suggested edits were literally submitted as Howard County's law marked-up.

For example, they flagged the Howard County law section outlining separate bargaining units as something that “should” be included in the Baltimore County law. In the Howard County law, they spelled out multiple bargaining units under the definition of employee—because the drafters of that law, for whatever reason, wanted to have distinct bargaining units of library employees. But here, there is no such need or desire for distinct bargaining units. The employees want to bargain as **one** bargaining unit. So the definition that already exists within the bill before you is sufficient. In addition, the exact scope of the bargaining unit would be included on the petition for an election, and would need to show a community of interest with each other. Adding it to the law here is not necessary. We would also note that Prince George's County's law does not do this at all. But these are the consequences of presenting the Howard County law as the template for **this** law without engaging in a careful review of the circumstances of Baltimore County.

The suggested revisions also show what seems to be a misunderstanding of S.B. 138, and of state and county labor law and how they would all interact in these circumstances. For example, one proposed amendment requires the employees to submit a petition for representation directly to the Director of BCPL—clearly not a neutral party—to determine if an election may proceed, and then turn to the State mediation and conciliation service for those proceedings. While we do not oppose the State service as a possible venue, there is already a system within Baltimore County's Code, at Title 5: Employee Relations Act, which allows for the County Clerk to handle the election (which has been done before). All of the procedural issues here are addressed within the Act and would be able to apply to BCPL if the Employees so wish.

This is comparable to two other counties who have adopted similar approaches:

- **Prince George's County:** Prince George's County authorized its County Memorial Library System employees to organize and bargain collectively through representatives of their choosing in the Prince George's County Charter, Section 908, as of July 1, 1986. These employees are covered by the Prince George's County Labor Code, which is contained in Subtitle 13A of the County Code.
- **Montgomery County:** Montgomery County authorized its public employees—including library employees—to organize and bargain collectively in 1984. It is codified in Sec. 511 of the Charter (Collective Bargaining—County Employees.). It is also codified in Chapter 33, Article VII of the County Code, where employees subject to collective bargaining are defined as all employees except those excluded in 33-102(4).

In sum, many of the proposed changes would create real problems if included. Some are minor, but many are not, for the reasons outlined above.

We need S.B.138 passed just to have the opportunity for BCPL employees to go through the unionization process. What we seek here has been reviewed by the House Appropriations review process, which indicates state revenues will not be affected; the County Library system can handle things like payroll deductions for union and service fees using existing resources; and any increases in expenditures for BCPL would only occur if outside mediators were to be needed or if the parties bargain for items requiring increases in funding.

Every single BCPL employee we have spoken to sees this as an opportunity to make the job they love even better. These workers provide critical services to county residents, and all they ask is for the opportunity to have a collective voice at the table. We ask you to vote in favor of this bill as written so BCPL employees can move forward and determine whether they wish to be represented by a union.

Thank you.

Senate Testimony of Bridget Fitzgerald.pdf

Uploaded by: Fitzgerald, Bridget

Position: FAV



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SB 138 / HB 45 - SUPPORT

Bridget Fitzgerald

International Association of Machinists and Aerospace Workers

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SB 138 / HB 45 - SUPPORT

Baltimore County Public Library - Collective Bargaining

Finance Committee / Appropriations Committee

February 4, 2021

Dear Madam Chair Kelley, Vice Chair Feldman and members of the Finance Committee,

My name is Bridget Fitzgerald and I am an organizer with the International Association of Machinists and Aerospace Workers (IAM). In April, I will celebrate 24 years with the IAM.

The campaign to organize a union started nearly two years ago when I first met with a few employees from the Baltimore County Public Library System (BCPL). Many of you might be wondering how the library staff employees came to work with the Machinists Union. That answer can be found in who the IAM is as a union and knowing what employees want from union representation.

The IAM is more than 130 years old. We may have been borne from a secret meeting of railroad workers in Atlanta, Georgia, but we have evolved into an organization that represents workers in just about every imaginable sector in the U.S. and Canada. We still represent railroad workers, but we also represent employees in the airlines, manufacturing, aerospace, federal government as well as state, county and municipal employees working in the public sector.

When employees look for a union to represent them, they want an organization that is committed to the process; an organization that will negotiate stellar contracts, protect them and their agreement; and an organization dedicated to educating their members to work together in unity and solidarity. There are many good unions in the Labor Movement, but I believe the IAM is second to none, when it comes to what workers want. The BCPL employees looked into other unions, but came to us because they found we were the best fit for them.

It is not easy for any group of workers to unionize. Even if this legislature passes the bill, it is not a done deal. There must still be enough interest to justify holding an election, and winning it. With BCPL, there is an additional challenge. State statute created the library system. We need S.B.138 passed just to have the opportunity for BCPL employees to go through the unionization process.

Every BCPL employee I have spoken to loves his or her job. They take pride in serving the community and hope to make the Baltimore County Public Library System their career. However, nothing is perfect. These employees know that having a union will provide an opportunity to negotiate a contract that preserves the best things about their jobs and improves conditions that are not necessarily working well.

Essentially, BCPL employees want what I presume every employee wants, and that is the best work environment possible so they can realize their full potential for themselves and the community they serve. We ask you to vote in favor of this bill so BCPL employees can move forward toward the next steps in forming a union.

Thank you.

SB138_FAV_Hettleman.pdf

Uploaded by: Hettleman, Shelly

Position: FAV



The Senate of Maryland
ANNAPOLIS, MARYLAND 21401

TESTIMONY OF SENATOR SHELLY HETTLEMAN

SB 138 – EDUCATION BALTIMORE COUNTY PUBLIC LIBRARY COLLECTIVE
BARGAINING

This bill allows employees of Baltimore County Public Library system to organize and establish a collective bargaining process. The Baltimore County Public Library plays a vital role in the community with 19 branches, over 5 million visitors annually, and provides computer access to nearly 1.1 million people. While performing this crucial role, Baltimore County Library employees need a work environment that ensures their voices are heard in making decisions. This bill would give the opportunity for labor professionals to represent their interests and open the door to better communication, greater transparency, and a more equitable workplace.

Two other library systems in the state, Montgomery and Prince George's County already have the power of collective bargaining through their union, and in 2013, legislation was passed for the Howard County library to do the same.

This bill is supported through favorable testimony from the Baltimore County Administration. The library's new director and the board of trustees also support this bill with amendments.

Throughout this pandemic, much our community has relied on the Baltimore County Public Library to stay connected and that have responded with in full – with services to ensure children without access to broadband could still learn, and with creative programming that connects and educates the public.

Forty six percent of their employees are part time and do not receive access to a pension program- which is strictly based on employee contributions, nor are they eligible for dental or health care coverage through the library system. Collective bargaining would give these front line workers the opportunity to organize and relay their concerns.

While our library continues to be a driving force in providing educational, cultural and enrichment activities to the citizens of Baltimore County, it is time to give its employees a voice on issues that matter most to them and that is why I ask for a favorable report of SB 138.

Senate Testimony of Rachael Medina.pdf

Uploaded by: Medina, BCPLRachael

Position: FAV



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SB 138 / HB 45 - SUPPORT

Rachael Medina
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SB 138 /HB 45 - SUPPORT

Baltimore County Public Library - Collective Bargaining Finance Committee / Appropriations Committee February 4, 2021

Dear Madam Chair, Vice Chair Feldman and members of the Finance Committee,

My name is Lauren Buell and I have worked for the library system for three years. I am a Part-Time Librarian and I work at the Baltimore County Public Library (BCPL) Perry Hall Branch.

As a Librarian, I assist customers with the use of print and on-line resources, including e-reader devices and I develop and maintain a portion of the Library's collection. I am also involved in library-related programs, outreach services, and handle customer complaints.

Good afternoon, Madam Chair and the distinguished members of the committee. Thank you for allowing my colleagues and me from Baltimore County Public Library the honor of speaking to you today. A special thank you also to Senator Hettleman, our bill sponsor and the Senator for my District, for bringing this to the committee's attention.

My name is Rachael Medina, and I am a librarian working full-time at the Parkville-Carney Branch. I have worked at BCPL for my entire 10-year career, starting part-time in the circulation department and working up to my current position as a Librarian III. I have worked at several of BCPL's 19 branches, and gotten to know our organization, staff, and customers well. I love my work and am proud to serve the residents of Baltimore County every day.

Through the years, I have seen the strengths and weaknesses of BCPL. Our full-time workers have access to a generous benefits package, but those benefits are not extended to our part-time staff. We have a forward-looking Strategic Plan that focuses on inclusion, diversity, and equity, but we struggle to put those ideals into practice. I believe that by forming a union, BCPL's staff can negotiate for policies that will help us work together to sustain our strengths and mitigate our weaknesses.

One issue that particularly concerns me relates to BCPL's hiring and promotional process. I have often mentored and supervised talented staff who end up walking away from a career at BCPL because they cannot successfully navigate our confusing and opaque promotional system. Our staff often perform duties well beyond their job description, sometimes for years at a time and are never compensated for that additional level of work, in the hopes that this extra effort will lead to promotion. I have participated in multiple hiring panels and seen first-hand how vulnerable our interview process is to racial and economic bias, groupthink, and favoritism. Our staff is our greatest asset. A more transparent and structured hiring process with clear paths to successful promotion can help BCPL retain and attract better qualified, more diverse staff, leading to better service for the residents of Baltimore County.

I strongly believe that having access to union representation is our staff's best hope to have a voice in shaping how BCPL responds to this and other important issues. Passing this bill, SB 138, is the first step. Help us to make our voices heard, and to have the opportunity to work together with our management and administration in pursuit of a better BCPL, both for our staff and our customers.

Thank you again for your time and attention. I urge a favorable report on SB 138.

Thank you.

BCPL BOT SB138.pdf

Uploaded by: David, Maureen

Position: FWA

Employee Organization as punishment or to impede work performance or from failing or refusing to cooperate in impasse procedures.

Other similar legislation, such as Education Article 16-403, allows collective bargaining for community college employees while preserving the role of the governing board to adopt rules and regulations relating to the process. Our amendments, which we have shared with the bill sponsor, would alleviate these concerns and allow our employees to organize under clear procedures already adapted by this body for one of our sister jurisdictions.

We have reached out to the sponsor of this legislation, who understands our concerns. We look forward to working together to create a workable solution so that our employees can pursue the collective bargaining rights they seek. We would be happy to discuss this further.

If there are any further questions regarding this legislation, please feel free to contact Sonia Alcantara-Antoine at 410-887-6121 or the undersigned at 410-218-0307. We would encourage a favorable report on SB138 with the amendments to make it consistent with other jurisdictions.

Sincerely,



Maureen Walsh David

President, Board of Library Trustees for Baltimore County

Board of Library Trustees
for Baltimore County

RE: SUPPORT WITH AMENDMENTS OF SB138

Dear Madam Chair and Members of the Appropriations Committee:

We are writing to express support of SB138 provided it is amended to be consistent with other jurisdictions around the State. The Baltimore County Public Library Board of Trustees is committed to the mission and vision of the Baltimore County Public Library to provide opportunities to explore, learn, create, and connect individuals to support a more inclusive and engaged Baltimore County community. We understand that our staff is the most important asset in our library and support the right of the Baltimore County Public Library employees to seek collective bargaining rights.

We can support SB138 if it is amended to reflect consistency with collective bargaining laws for other library systems and county institutions. SB138 should be amended to be consistent with legislation passed by the General Assembly in 2013 for the Howard County Library System (HB895), codified in subtitle 6 of title 23 of the Education Article (attached and highlighted to show significant differences.). There are substantive differences in SB138 from the legislation already passed and considered by this body and those differences would create the following challenges for our Library system:

- The definition of employee is unclear. Bargaining units are not defined.
- SB138 lacks clarity related to a number of important procedural questions, such as certification, decertification and strikes. Rather, the legislation references "law" and "Baltimore County collective bargaining law" which do not set clear procedures or reference clear provisions.
- Baltimore County Public Library employees are not County employees and are not covered by Baltimore County collective bargaining code provisions. Currently, under existing law, Education Article 23-406, the Board of Trustees approves policies that concern Baltimore County Public Library employees and are the final step in the grievance procedure.
- SB138 forces Board approval or acceptance of a mediator's recommendation if the Director and Certified Exclusive Representative do not reach a voluntary resolution after impasse.
- There is no section on employer rights and authority in the Baltimore County Public Library bill.
- There is language missing that prohibits an Employee Organization from coercing, disciplining, fining, or attempting to coerce a member of the

Ch. 648.pdf. annotated.sb138hearing.pdf

Uploaded by: David, Maureen

Position: FWA

**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

- 1 -

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.

- 10 -

(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;

- 11 -

(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.

(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.

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

(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.