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March 7, 2023

The Honorable Ben Barnes  
Chair, House Appropriations Committee  
Room 121, House Office Building  
Annapolis MD 21401

***RE: Letter of Information – House Bill 984 – Public Employee Relations Act***

Dear Chair Griffith and Committee Members:

The Maryland Department of Transportation (MDOT) takes no position on House Bill 984 but offers the following information for the Committee’s consideration.

House Bill 984 includes a definition of “public employee” and the only group excluded from that definition are confidential employees. “Confidential employee” is narrowly defined, allowing an employee without direct knowledge of management’s position in negotiations to unionize. This conflicts with exclusions in State Personnel and Pensions Article § 3-102(b), which are in place because certain employees (e.g., MTA union employees, appointed employees, temporary and contractual employees, supervisory/managerial employees, etc.) should not, for various reasons, be eligible to participate in collective bargaining.

Next, House Bill 984 states that Maryland’s collective bargaining law should “follow” the federal National Labor Relations Act (NLRA), the law for private employers. The MDOT seeks clarification on how to avoid confusion and contradiction between this and Maryland law. For example, the NLRA allows employees to strike under certain conditions; under Maryland law and House Bill 984, State employees are not permitted to strike. Further, it is important to note the difference in the operations between government employers and private employers. For these reasons, and others, the federal government has its own distinct collective bargaining law that does not defer to the NLRA.

There is a provision outlined in House Bill 984 that gives employee organizations that are involved in an election unlimited access to MDOT grounds and facilities without limitations. This could result in disruptions and higher costs, especially due to the annual elections permitted in House Bill 984, which is more frequent than current law. To comply, MDOT would need to increase staff and extend operating hours at affected buildings and facilities. After an election, House Bill 984 requires MDOT to provide certain information to the newly elected representative; however, not all the information required in the bill is on file with MDOT and this could result in confidential information needing to be shared.

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House Bill 984 gives the exclusive representative standing to bring a grievance without requiring employee involvement. Under current law, only an employee has standing to file a grievance. Allowing the union to file a grievance contradicts collective bargaining laws and circumvents the collaborative process of clarifying issues and resolving disputes at Labor/Management Committee meetings and negotiations. Further, if the union utilizes the adversarial process and pursues a grievance to the final level of administrative appeal, it allows an Administrative Law Judge to make broad policy decisions for MDOT. Additionally, because the Department bears the cost throughout the grievance process, there would be nothing to prevent the union from filing a grievance any time it disagrees with a management decision.

Finally, the bill creates an imbalance by eliminating the management rights section of the State Personnel and Pensions Article (§3-302) while maintaining the employees' rights section of the collective bargaining law.

The Maryland Department of Transportation respectfully requests that the Committee consider this information when deliberating House Bill 984.

Respectfully Submitted,

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Maryland Department of Transportation  
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