



HOUSE APPROPRIATIONS COMMITTEE

House Bill 528

State Personnel – Teleworking Programs, Policies, and Guidelines – Requirements

March 7, 2023

Unfavorable

Chair Barnes, Vice-Chair Chang, and members of the committee, thank you for the opportunity to testify on House Bill 528. The bill substantially revises the recently amended current laws governing (1) collective bargaining negotiations for the University System of Maryland (USM) institutions and (2) telework for all state employees.

Last year, the General Assembly amended the law governing collective bargaining at USM institutions to allow “consolidated” bargaining on an exclusive employee representative’s demand. This means that a union can require all institution bargaining units it represents at any of the twelve USM institutions to negotiate, through the USM Chancellor, a consolidated memorandum of understanding covering all of those units. (For example, consolidated negotiations are currently underway with AFSCME on behalf of nine bargaining units representing exempt, nonexempt, and sworn police officer employees.)

However, the law states that certain issues, including telework, may not be included in a consolidated memorandum, but instead shall be negotiated locally by the president of the institution and memorialized in a separate institutional agreement. This law reflects an understanding that certain issues are best handled at the institution level, not the System level. The USM is concerned that House Bill 528 would dilute an institution president’s statutory authority and right to make key operational determinations to carry out their institution’s unique mission and needs.

Each USM institution has implemented a telework policy and procedure under the authority of the institution’s president. Telework is widely available at all USM institutions, but is not appropriate for all positions, particularly certain student-facing positions. The requirement that telework be negotiated as a consolidated matter ignores the key distinctions that exist between the USM’s institutions, their diverse missions, their operations and the students they serve. For example, not all institutions have undergraduate students who live on-campus. Not all institutions have students who attend classes on-campus each day. Telework is best negotiated locally at the institution, under the authority of the institution’s president, as current law provides.

A second concern about House Bill 528 is that it largely removes a USM institution’s authority to determine the most efficient, effective way to manage its workforce by making individualized decisions about whether a particular position should be eligible for telework.

The bill prohibits the university from denying an employee’s application to telework if another eligible employee “in the same job position or classification” is found eligible for telework. It is noteworthy that this bill does not apply such prohibition to employees in the same department or job, but rather, the same job position or classification.

This means that an institution may be required to approve telework requests for countless employees merely because a single employee in the same job classification has been deemed telework eligible. There may be hundreds of employees who share the same job classification, but they may work in units as distinct as Student Affairs, the Bursar’s Office, the History Department, Human Resources or Dining Services. A “coordinator” in those different units would likely have quite different duties and quite different obligations regarding interacting with students. An “assistant professor” might teach an on-line course, while most assistant professors teach courses that meet in person.

Moreover, the bill would require consideration of whether a position has been performed via telework in the past, which may include telework arrangements during the height of the global pandemic when operations were vastly different from current university operations – all USM institutions shifted to on-line virtual classes, rather than in-person classes, at different points during the pandemic. These provisions would limit the University’s ability to ensure that there is adequate staffing and coverage to support faculty, staff and students throughout the varying operations on campus and would hamstring a university’s right to make innovative changes in operations.

Finally, this bill provides an employee the right to grieve termination of a telework agreement and provides an outside hearing officer the authority to reinstate the employee’s agreement based on that individual’s judgment, without regard for the institution’s right to determine the best way to manage its operations and serve its students and the citizens of the State of Maryland.

For these reasons, we respectfully urge an unfavorable report on House Bill 528.



About the University System of Maryland

The University System of Maryland (USM)—one system made up of 12 institutions, three regional centers, and a central office—awards 8 out of every 10 bachelor's degrees in the State of Maryland. The USM is governed by a Board of Regents, comprised of 21 members from diverse professional and personal backgrounds. The chancellor, Dr. Jay Perman, oversees and manages the operations of USM. However, each constituent institution is run by its own president who has authority over that university. Each of USM's 12 institutions has a distinct and unique approach to the mission of educating students and promoting the economic, intellectual, and cultural growth of its surrounding community. These institutions are located throughout the state, from western Maryland to the Eastern Shore, with the flagship campus in the Washington suburbs. The USM includes Historically Black Colleges and Universities, comprehensive institutions, research universities, and the country's largest public online institution.

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