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Patrick Moran - President

HB 380 - Arbitration Reform for State Employees Act of 2023

POSITION: FAVORABLE

AFSCME Council 3 supports HB 380. This legislation and proposed amendment to the Maryland Constitution alters the collective bargaining process for State and Higher Education employees, including by requiring the selection of a neutral arbitrator to oversee all aspects of collective bargaining; establishing a process of arbitration in the event of impasse; and providing that the decisions of a neutral arbitrator are binding. It also requires that each budget bill submitted by the Governor contain the appropriations necessary to implement all terms and conditions of employment in collectively bargained memoranda of understanding for the next ensuing fiscal year.

In Maryland, some state employees in the Maryland Transit Administration have binding arbitration already and the process works well. County and municipal employees in eight jurisdictions also have binding arbitration through their charters and local laws: Anne Arundel County, Baltimore City, Baltimore County, Frederick County, Howard County, Montgomery County, Prince George's County, and the Town of Ocean City. The following states that have collective bargaining for state employees, AK, CA, CT, DC, DE, HI, IL, ME, MN, NE, NJ, OH, OR, PA, MT, RI, WA have a terminal point for negotiations, either through binding interest arbitration, the right to strike, or a legislative process. These processes create a level playing field for both parties.

Currently, Maryland state and higher education collective bargaining negotiations are limited in their effectiveness since there is no fruitful process for breaking an impasse when it occurs. Both sides can just continue saying "no" to each other's proposals and then management, because they control the budget, can choose to implement their proposal without reaching an agreement. This goes against the spirit of collective bargaining which 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 employees input and participation; and a myriad of 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.

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.
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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 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.

HB 380 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 urge a favorable report.