

Appropriations Committee
Hearing: Tuesday, January 24, 2023, 1pm

Dear Chair Barnes and Members of the Appropriations Committee,

I submit this letter as a Trustee of the Walters Art Museum, but also as the former City Solicitor for the City of Baltimore, and a former United States Circuit Judge of the United States Court of Appeals for the Fourth Circuit. It is my hope that you will reconsider the need for House Bill 116, “Trustees of the Walters Art Gallery - Collective Bargaining,” filed by Delegate Robbyn Lewis.

There are some “facts,” loosely defined, that people use to talk about the Walters. For instance, some people think the museum was “created” by the City of Baltimore, or that it is “owned” by the City of Baltimore. But these “facts” elide crucial detail that is relevant to the issues posed by HB 116. The Walters was *created* by the bequest of Henry Walters to the City of Baltimore. While the City therefore owns the portions of the museum that were part of Henry Walters’ bequest, it does not own the significant assets—one third of the collection, two-fifths of the buildings, and a major endowment fund—that were assembled separately from the bequest by the Trustees of the Walters Art Gallery, Inc.

Even more relevant for the issues at hand in HB 116: **the employees of the Walters Art Museum are not Baltimore City employees.** This has been affirmed by repeated statements from the City Solicitor’s office over several decades, including as recently as October 2021. Nor are the museum’s employees paid by the City, directly or indirectly.

Yet HB 116 seems to be an effort to convert the museum’s employees into City employees for **the benefit of a desired labor outcome—but with none of the attendant responsibilities of being an employer.** Among other concerns, the bill does not provide funds for employee salaries, nor does it address how the Walters should compensate employees when there is a distinction between the museum’s higher wage scale versus the City’s lower scale. The bill also does not add the museum’s employees back into the City’s pension plan. And the bill does not address how labor disputes would be resolved: would the Trustees retain liability for issues that might arise, or does the museum now enjoy the kind of legal services and protections available to municipal agencies through the City Solicitor’s office?

Additionally, this law suffers from several Constitutional infirmities:

1. HB 116 is so vague, and perhaps unconstitutionally so, that it could be misconstrued as a taking of private property in violation of the U.S. and Maryland Constitutions.
2. HB 116 constitutes a Special Law, prohibited by the Maryland Constitution, because it is designed to confer a benefit upon a small group of individuals specifically named in the Bill.
3. The General Assembly lacks the authority to carve the Walters Art Museum out of the jurisdiction of the National Labor Relations Board, and HB 116 is preempted by the National Labor Relations Act under the Supremacy Clause of the U.S. Constitution.

I deeply appreciate Delegate Lewis’ desire to support a group of employees who wish to form a union. But there are several pathways that exist for this purpose—and the leadership of the Walters is not blocking employees from moving forward. HB 116, on the other hand, creates more problems than it can possibly solve, and I urge the Committee to reject the bill.

Judge Andre M. Davis (ret.)
Vice President, Board of Trustees
The Walters Art Museum

