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Morgan State University Testimony
Dr. David K. Wilson, President

Senate Bill 0218 (Senators McCray, Jackson, Benson, and Hettleman)
Arbitration Reform for State Employees Act of 2023
Committees: Budget and Taxation Committee
and Finance Committee
February 1, 2023

Unfavorable

Chair Guzzone, Vice Chair Rosapepe, members of the Budget and Taxation Committee; Chair Griffith, Vice Chair Klausmeier, and members of the Finance Committee. We, at Morgan, thank you for the opportunity to share our position on Senate Bill 218. The summary of the Bill states the following: *Altering the collective bargaining process for State 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 certain decisions of a neutral arbitrator are advisory; requiring that each budget bill contain the appropriations necessary to implement all terms and conditions of employment in certain memoranda of understanding for the next ensuing fiscal year; etc.*

Morgan State University is the premier public urban research university in Maryland, known for its excellence in teaching, intensive research, effective public service and community engagement. Morgan prepares diverse and competitive graduates for success in a global interdependent society.

Morgan State University opposes this bill for the reasons below. Morgan has been involved in collective bargaining since 2001 and the process has gone well without the mandatory involvement of an arbitrator, even in the absence of reaching impasse.

As stated, this bill requires the parties to select an arbitrator who will act as a "proctor," overseeing all aspects of the collective bargaining process. This does not mean that an arbitrator will be assigned only when there is an impasse, but will have involvement throughout the entire process. The bill gives the arbitrator extensive involvement and authority over the parties and many issues in the collective bargaining process. The bill extends collective bargaining to include fringe benefits, health benefits and pension benefits. This would interfere with the authorities of the State of Maryland that oversee fringe benefits, health benefits and pension benefits for State employees.

Among other problematic provisions, the bill states:

A. *May mediate or aid in the resolution of any dispute between the parties regarding the conduct of negotiations, including whether the conduct of a party is in good faith.*

This gives the arbitrator the ability to determine if the conduct of the parties is considered to be in good faith. What happens if the parties believe they are conducting negotiations in good faith, but the arbitrator does not? Currently, if a party believes that another party is not bargaining in good faith, they can file an Unfair Labor Practice (ULP) with the State Higher Education Labor Relations Board (SHELRB). Thus, there is already an established mechanism to address such concerns, with an agency that has been in existence for years and has specialized expertise to address these issues. Moreover, the parties would be required to pay the arbitrator's fees, which is unnecessary given the existence of SHELRB.

B. *May receive from the parties copies of information requests presented and responses received, to mediate or aid in the resolution of disputes over the timeliness and sufficiency of information demands and production.*

This appears to give the arbitrator the authority to judge whether information requests are within reason, not understanding the work required to produce the information or whether the parties have access to such information. This also may have the impact of taking the parties focus off the negotiations to devote substantial resources to filing and defending claims before the arbitrator.

C. *May issue opinions in order to help to resolve disputes over requests for information or promote bargaining in good faith.*

Again, this gives the arbitrator authority over a matter for which they would have no or little knowledge. Once more, there is no reason to deviate from the agency already in place, SHELRB.

In addition to potentially becoming overly embroiled in the negotiation process, the arbitrator has unfettered authority to resolve a bargaining impasse. The arbitrator, after a hearing, has the authority to sustain the "entirety" of either party's Last, Best and Final Offer. In reaching such decision, the arbitrator is empowered to consider wages, hours and conditions of employment of employees performing similar services in public employment in adjacent states. The arbitrator can also look to collective bargaining patterns in other states and among county employees in Maryland.

The arbitrator's decision is "final and binding."

It should be noted that once there is interest arbitration, it is highly unlikely that the parties will reach agreement without it. Both sides will be inclined to hold back their best offer, so they have a cushion in case the negotiation goes to arbitration.

Moreover, interest arbitration for public employees is fundamentally anti-democratic. It takes budget/management responsibility away from elected officials, or appointed officials who report to elected officials and gives it to arbitrators, who have no responsibility to the voters/taxpayers and whose decisions are unreviewable.

In addition to the extensive authority of the arbitrator, there will be extensive costs associated with this bill. Arbitration fees can be quite high, with many labor arbitrators charging $2,000 or more per day. Moreover, it is quite possible that an arbitrator will award wage rates and benefits well beyond what has historically been affordable based on funding that the Legislature has approved and authorized since collective bargaining in higher education became the law.

Again, Morgan State University opposes this bill for the reasons outlined.

Respectfully Submitted,

Dr. David K. Wilson
President, Morgan State University