

2023.02.16 SB 367 KSC Testimony.pdf

Uploaded by: David Maher

Position: FAV

Testimony of David Maher
SB 367 – Public Employee Relations Act of 2023
Finance Committee
February 16, 2023
Support / Favorable

My firm represents AFSCME Maryland Council 3. We also represent firefighters, teachers, county and municipal employees, and many other public employees. We routinely practice before the three state labor boards, as well as the National Labor Relations Board for our private sector clients.

This bill reforms and modernizes the practice and procedure of labor law for public sector employees in Maryland. Maryland labor law, and the labor boards charged with administering and enforcing Maryland's public sector labor law, are unnecessarily fragmented and balkanized. As well, the labor boards are underfunded and understaffed. This unnecessary fragmentation is present in the laws as well, as employees' rights vary drastically based solely on who their employer. In some circumstances, employees of the same public sector employer have wholly different sets of collective bargaining rights depending on their job title.

As a result, the labor boards are ineffective, understaffed, and produce inconsistent interpretations of the same laws. Employees, unions, and public sector employees are unable to have timely, fair, and consistent resolution of disputes, as complaints filed with the labor boards go unresolved for over a year. The labor boards are unable to do their statutorily mandated jobs to investigate, encourage resolution of, and resolve complaints of unfair labor practices. The result is that employees must engage in organizing, bargaining, and administering contracts without the ability to enforce their rights to do so.

SB 367 fixes this problem by:

1. Labor Board reform will create a single board with the powers and resources needed to enforce existing law.

SB 367 unifies the existing boards into a single Public Employee Relations Board. This change is in line with federal and other state public sector labor laws, where a single labor board is responsible for the administering and enforcement of labor laws. The bill creates a professional, skilled staff with the tools, authority, and resources to expeditiously resolve labor disputes. It creates investigatory timelines to ensure that a party is not permitted to commit an unfair labor practice will not get resolved until a year or more after the election or collective bargaining where the unfair labor practice was committed was concluded. This structure will promote labor peace and effectively permit employees to exercise their rights through fair and timely adjudication, similar to the National Labor Relations Board

and the centralized labor boards used by other states, such as California, New York, New Jersey, Pennsylvania, Illinois, Ohio, Michigan, Wisconsin, Washington, Minnesota, Oregon, New Mexico, Hawaii, New Hampshire, Maine, Rhode Island, and Vermont, with modern public sector collective bargaining laws.

2. Labor law standardization will create a single, straightforward, and enforceable body of labor law for public sector employees

SB 367 would also end the current fragmentation of Maryland’s public sector labor law, which gives different rights to different employees without any purpose to these differences. SB 367 would create a common body of Maryland labor law, encompassing the rights of employees, unions, and public employers, election procedures, and basic standards for labor relations in the public sector. It retains common sense distinctions adapted to specific employees and public employers, such as the collective bargaining process.

Principally, this bill does not introduce anything new to Maryland labor law. With the exception the new enforcement powers and staffing of the new PERB, this bill does not extend to any employee, bargaining unit, union, or public employer a right or obligation that is not already given to another set of employees, bargaining units, unions, or public employers. Currently, card check is available to community college employees, but not to executive branch employees. Public employer neutrality and union access rights vary. Rights to information in bargaining, and the right to grieve violations of the contract, are enjoyed by some but not others.

This bill ends the unequal and inconsistent treatment of Maryland’s public sector employees. It does not give collective bargaining rights to any public employees who currently do not have it, and it does not create new rights or obligations. It simply standardizes the law to ensure equal treatment, and makes much needed reforms to ensure that the laws in place are actually enforced.

For these reasons, we urge the Committee to give SB 367 a favorable report.

SB367_AFSCME3_FAV.pdf

Uploaded by: Denise Gilmore

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Patrick Moran - President

SB 367 - Public Employee Relations Act

POSITION: FAVORABLE

AFSCME Council 3 represent nearly 30,000 public employees who work across state government and higher education in Maryland. We support SB 367 in coalition with other Maryland public sector unions including the Maryland State Education Association (MSEA), Baltimore Teachers Union (BTU, AFT Local 340), Maryland Professional Employees Council (MPEC, AFT Local 6197), State Law Enforcement Officers Labor Alliance (SLEOLA), and the Service Employees International Union (SEIU Local 500).

What does the Public Employee Relations Act do?

SB 367 merges Maryland's 3 separate public sector labor boards, into one singular board for Maryland public employees. This legislation would create a core staff of 5 (an executive director, three deputy directors, and an assistant attorney general) and make the Chair of the Board a full-time position, with the ability to hire additional staff based on caseload.

For this new single labor board to have a standard framework to base its work on, this legislation also seeks to merge Maryland's existing collective bargaining laws for public employees which are spread throughout the Education and State Pensions and Personnel Articles into one place - the State Government Article.

Finally, this legislation modernizes existing collective bargaining law in select areas to bring them into line with best practices, as seen in federal law and proposed legislation, as well as states with modernized public sector collective bargaining schemes. These areas include expanding the grievance procedure jurisdiction to allow for unions to file grievances on behalf of members, allows for the new Board to grant remedies for Unfair Labor Practice charges, and makes class size a permissive subject of bargaining.

Maryland Needs the Public Employee Relations Act

Compared to other states with public sector unions, Maryland is an unfortunate outlier for its ineffective and inefficient handling of labor relations. Maryland has three different labor boards: the State Labor Relations Board, the State Higher Education Labor Relations Board, and

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.
800.492.1996

Find us: afscmemd.org
Like us: facebook.com/AFSCMEMD
Follow/Tweet us: [@afscmemaryland](https://twitter.com/afscmemaryland)

the Public School Labor Relations Board. These Boards are ineffective, understaffed, and unduly divided. The total staff that the state employs for these three labor boards is just two people. Maryland's labor boards have a total budget of about \$440,000, which pales in comparison to states like Washington and Ohio, who have budgets of nearly \$5.3 million and \$4.18 million respectively. Our current set up, means that Maryland public employees can wait years at times to get decisions on unfair labor practice charges or on disputes with their employer related to the negotiated contract. Maryland state employees are particularly sensitive to this after 8 years of an anti-union administration that blatantly violated our existing labor laws with virtually no check on their power or remedy for employees to seek.

Please support Maryland's Public Sector Employees

Hailed as heroes during the COVID-19 pandemic, our public sector employees continue to do critical work for our communities. We are thrilled that the trend in the Maryland General Assembly in recent years has been to extend collective bargaining rights to public employees in the state, but we must have a meaningful way to enforce these collective bargaining laws once they are enacted. SB 367 aligns with what states like Washington, California, Michigan, Ohio, Pennsylvania, New York, and New Jersey all do – that is having a one single public employee labor relations board that covers all public employees in the state and has the necessary staff to provide some teeth to the laws that govern collective bargaining for the state's public employees.

SB 367 will provide for a more efficient and effective way to do Labor Relations in Maryland. It is a good and important bill, and we urge the committee to provide a favorable report.

SB 367 - Public Employees Relations Act.pdf

Uploaded by: Donna Edwards

Position: FAV



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**SB 367 - Public Employees Relations Act
Senate Education, Energy, and the Environment Committee
February 16, 2023**

SUPPORT

**Donna S. Edwards
President**

Maryland State and DC AFL-CIO

Chairman and members of the Committee, thank you for the opportunity to submit testimony in support of SB 367. My name is Donna S. Edwards, and I am the President of the Maryland State and District of Columbia AFL-CIO. On behalf of Maryland's 300,000 union members, I offer the following comments.

SB 367 consolidates the state's three different labor boards into a single entity known as the Public Employee Relations Board. The state's labor boards are under-resourced and do not have the support they need to process disputes like grievances, unit clarifications, bargaining issues, or charges of unfair labor practices in an effective manner. Maryland's state workers are currently assigned to either the State Labor Relations Board, the State Higher Education Labor Relations Board, or the Public Schools Labor Relations Board. Between all three of these labor boards the state only employs two full-time staff. For a collective bargaining system that covers tens of thousands of workers, this is not enough. The combined budgets of these three boards is less than 10% of what Ohio spends on administering their state employee collective bargaining system.

Maryland's public sector employees deserve better than the current fragmented and untimely system. SB 367 follows the precedent established by Pennsylvania, Washington, Michigan, California, Ohio, New York, and New Jersey that all have a single state public sector labor relations board.

We urge the committee to issue a favorable report to SB 367.

SB367_MSEA_Anderson_FAV.pdf

Uploaded by: Kristy Anderson

Position: FAV

**Testimony in Support of Senate Bill 367
Public Employee Relations Act**

**Finance Committee
February 16, 2023**

**Kristy Anderson
General Counsel**

The Maryland State Education Association supports Senate Bill 367 and the sponsor's amendments to the bill. Senate Bill 367 is a commonsense piece of legislation that is designed to streamline and create efficiencies among Maryland's various public sector labor relations statutes. Additionally, the legislation would ensure that the new agency responsible for administering and enforcing Maryland's public sector labor relations statutes are staffed with individuals who possess the necessary knowledge and expertise to make certain that decisions impacting workers, unions, and employers are issued in a timely and well-reasoned manner.

MSEA represents 75,000 educators and school employees who work in Maryland's public schools, teaching and preparing our almost 900,000 students so they can pursue their dreams. MSEA also represents 39 local affiliates in every county across the state of Maryland, and our parent affiliate is the 3-million-member National Education Association (NEA).

Currently, Maryland utilizes three different public sector labor boards to administer and enforce various public sector labor relations statutes. The State Labor Relations Board, the Higher Education Labor Relations Board, and the Public-School Labor Relations Board are all vested with jurisdiction to resolve labor disputes and administer elections for certification of exclusive representation for different categories of public employees.¹ Unfortunately, this design has created an inefficient, understaffed, and under-resourced system that fails to meet the needs of workers, unions, and employers to resolve questions of representation and labor disputes in a timely manner. Senate Bill 367 would consolidate all three different public sector labor

¹ See generally, Maryland State Labor Relations Boards, <https://laborboards.maryland.gov/> (last accessed 2/14/23).



boards into a new Public Employee Relations Board (“PERB” or “Board”). Members of the newly constituted PERB would be required to have knowledge and experience with labor law, labor mediations, or labor negotiations. Additionally, the bill requires the Board to appoint deputy directors who possess subject matter expertise and knowledge in public school labor relations, executive branch labor relations, or higher education labor relations. These measures will ensure the PERB has the expertise to address specific subject matter issues that come before the Board for dispute resolution.

Utilizing a single labor relations agency to administer and enforce public sector collective bargaining statutes is consistent with the practices of most states, including neighboring jurisdictions. For example, Pennsylvania,² New Jersey,³ and the District of Columbia⁴ all utilize one public sector labor relations board to administer and enforce their public sector collective bargaining laws. Having one Board to administer and enforce the public sector collective bargaining statutes will allow the government to focus its funding and resources on one agency to ensure its proper functioning, and it will make certain there are no conflicting decisions on similar matters of labor law.

Finally, the bill builds on its goal of efficiency by establishing a single set of unfair labor practices and election procedures that will apply to all public employees, unions, and public employers rather than our current system which has differing provisions depending on which group of employees and employers are at issue. By enacting this legislation, lawmakers can guarantee employees, unions, and employers are being served fairly and efficiently in the peaceful settlement of labor disputes and questions of representation.

We urge the committee to issue a Favorable Report on Senate Bill 367.

² See, Pennsylvania Dep’t. of Labor and Industry, *Pennsylvania Labor Relations Board*, <https://www.dli.pa.gov/Businesses/Labor-Management-Relations/Pages/PennsylvaniaLaborRelationsBoard.aspx> (last accessed 2/14/2023).

³ See, State of New Jersey, *Public Employment Relations Commission*, <https://www.state.nj.us/perc/> (last accessed 2/14/2023).

⁴ See, District of Columbia, *Public Employee Relations Board*, <https://perb.dc.gov/page/about-perb> (last accessed 2/14/2023).

BTU Testimony in Support of SB 367.pdf

Uploaded by: Timothy Ferrell

Position: FAV



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Testimony in Support of Senate Bill 367

Public Employee Relations Act

Senate Finance Committee

February 16, 2023

1:00pm

The Baltimore Teachers Union supports Senate Bill 367, and urges a favorable report on this bill.

The Baltimore Teachers Union represents 8,280 teachers, paraprofessionals, counselors, clinicians, librarians, secretaries, community school site specialists, bus transportation aides, and many more school-based and central office support staff. We are 4 out of 5 workers in Baltimore City Public Schools, serving 75,595 students and their families. Our national union, the American Federation of Teachers, has over 1.7 million members in the United States and its territories.

Senate Bill 367 is a long overdue bill that ensures the members of the Baltimore Teachers Union could have unfair labor practices quickly and fairly resolved, and would make sure that Maryland's labor law was enforced by a labor board with the tools and remedies needed to ensure that we are able to retain our valued educators by providing them equitable access to fair labor standards.

This bill would standardize collective bargaining laws. It helps to clarify, strengthen and make efficient the MD state law related to public employees and brings best collective bargaining practices to Maryland labor law.

SB 367 provides much needed reforms to bring Maryland public sector labor law in line with federal law and with many states' public sector collective bargaining law.

BTU urges a favorable report on Senate Bill 367.

SB 367 Public Employee Relations Act 02.16.2023.pd

Uploaded by: Anna Yates

Position: UNF

Senate Bill 367
Public Employee Relations Act
Senate Finance Committee
February 16, 2023

Unfavorable

Chair Griffith and Members of the Finance Committee,

Thank you for the opportunity to share our thoughts on Senate Bill 367. Currently, the State Higher Education Labor Relations Board (SHLERB) oversees and governs collective bargaining matters for St. Mary's College and other Maryland institutions of higher education. The Bill proposes to eliminate SHLERB and instead group higher education institutions with all State agencies under a single entity, the Public Employee Relations Board. Employment issues experienced within higher education differ significantly from those of other State agencies. The SHLERB has developed expertise specifically related to higher education employment – expertise that would be lost if higher education institutions employment issues were arbitrated by the proposed Public Employee Relations Board.

In addition, the inclusion of supervisory and managerial employees in collective bargaining would create significant challenges in the College's ability to serve its students and the campus community. Supervisory and managerial employees' core responsibilities are to carry out management rights and to implement the institution's policies and procedures. Extending collective bargaining rights to supervisory and managerial employees would place these individuals in an improper position: choose to act in the best interest of the institution or choose to align with the interest of the collective bargaining unit they supervise.

Furthermore, providing supervisors and managers with collective bargaining rights would interfere with the College's ability to carry out its mission. Supervisors and managers play a critical role in ensuring that the College fulfills its essential responsibility: to care for the health and safety of students. To include the self-interest of collective bargaining employees to the work environment of supervisors and managers would undermine this core responsibility and create institutional risk.

For these reasons, I urge an unfavorable report on Senate Bill 367.

Thank you for your consideration and continued support of St. Mary's College of Maryland.



Tuajuanda C. Jordan, PhD
President

The
**NATIONAL
PUBLIC
HONORS**
College



SB 367.Omnibus Employee Relations Act - elim. PSLR

Uploaded by: John Woolums

Position: UNF

BILL: Senate Bill 367
TITLE: Education - Collective Bargaining - Certificated Employees - Class Size
DATE: February 16, 2023
POSITION: OPPOSE
COMMITTEES: Finance and Education, Energy and the Environment
CONTACT: John R. Woolums, Esq.

The Maryland Association of Boards of Education (MABE) strongly opposes Senate Bill 367 with respect to the provisions of the bill that would expand the scope of school system collective bargaining by adding class size and school calendar issues; replace the use of mediation with arbitration; and eliminate the Public School Labor Relations Board (PSLRB) in favor of consolidating its role with that of a new Public Employee Relations Board. MABE opposes Senate Bill 367 in light of these dramatic and disruptive reforms to the manner in which school employee contracts are negotiated, and disputes are resolved.

The Blueprint for Maryland's Future is requiring wholesale revisions to each of Maryland's 24 collective bargaining agreements. The agreements are negotiated annually through a highly regulated process and with an established dispute resolution process. Adding class size and school calendar to the topics which may be negotiated and included in bargaining agreements would introduce unanticipated complicating factors into the entire transition to implementing the Blueprint. Again, neither the Blueprint nor the current process for resolving teachers' contract disputes are aligned with adding these significant funding and policy issues to the types of matters which may be negotiated.

The quasi-judicial body created by the legislature to resolve collective bargaining disputes is the Public School Labor Relations Board (PSLRB). Since its inception in the Fairness in Negotiations Act of 2010, the PSLRB has been hearing and resolving disputes between employees and their unions, and unions and school systems. The PSLRB is comprised of members appointed by MABE, the Public School Superintendents Association of Maryland (PSSAM), the teachers' associations, and the Governor. In this way, the PSLRB is intended to reflect expertise in school system governance, administration, employee contract negotiations, and dispute resolution. Adding to the scope of bargaining as proposed in Senate Bill 367, and replacing mediation with arbitration, would only make an already complex and time-sensitive process more likely to bog down in contentious disputes.

For these reasons, MABE urges an unfavorable report on Senate Bill 367.

SB 367_ Public Employee Relations Act.pdf

Uploaded by: Mary Pat Fannon

Position: UNF



Mary Pat Fannon, Executive Director
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BILL: SB 367
TITLE: Public Employee Relations Act
DATE: February 16, 2023
POSITION: Opposes
COMMITTEE: Senate Finance Committee
Senate Education, Energy, and the Environment Committee
CONTACT: Mary Pat Fannon, Executive Director, PSSAM

The Public School Superintendents' Association of Maryland (PSSAM), on behalf of all twenty-four local school superintendents, **opposes** Senate Bill 367.

This legislation consolidates and alters certain laws governing collective bargaining for certain public employees, including laws related to the establishment of bargaining units, elections and certification of exclusive representatives, employee and employer rights, unfair labor practices, strikes, and lockouts. The bill establishes the Public Employee Relations Board to oversee collective bargaining activities for certain public employees.

PSSAM strongly opposes the following provisions of the bill: (1) adding class size and school calendar issues as permissible collective bargaining topics; (2) replacing the use of mediation with arbitration throughout the bill; and, (3) the elimination of the Public School Labor Relations Board (PSLRB) by consolidating it with the State Labor Relations Board, and the State Higher Education Labor Relations Board into a new Public Employee Relations Board.

The bill significantly alters the longstanding collective bargaining process and dispute resolution by eliminating the PSLRB. This Board has expertise in public school collective bargaining issues, which could be minimized in a broader Public Employee Relations Board. The inclusion of class size and calendar issues as permissible collective bargaining topics is also a great concern. This committee has previously heard PSSAM's concerns regarding the issue of class size in Senate Bill 206, which makes bargaining class size a permissible subject. There are many unintended consequences of making this change as described in our testimony on SB 206.

Financial and operational concerns top those concerns, especially the potential outcome of needing more teachers to satisfy bargained class sizes.

This legislation would also significantly complicate and confuse our implementation of the Blueprint for Maryland's Future. The Blueprint is based on the concepts of equity and adequacy. This legislation would result in 24 different agreements that could create new inequities among systems based on the strength (or weakness) of either bargaining unit.

Second, the Kirwan Commission considered and rejected mandating smaller class sizes. There was no conclusive research that smaller classes were responsible for student success; they found small classes were not a characteristic of successful schools around the world. Third, the Blueprint calls for increases in teacher salaries and more planning time (60% teaching and 40% planning), which will require additional staff. School systems are already strategizing and contemplating this need in the context of the national teacher shortage.

Placing a cap on class sizes or allowing this to be a topic of negotiations would limit a system's ability to allocate resources to high need schools. Local boards and superintendents need the flexibility to invest in the students and families who need us the most. Lastly, the Blueprint for Maryland's Future already requires wholesale revisions to the local systems' collective bargaining agreements through the establishment of the career ladder.

The Public School Labor Relations Board (PSLRB) has been hearing and resolving disputes between employees and their unions, and unions and school systems since 2010. The PSLRB is composed of members appointed by our organization, (PSSAM), the Maryland Association of Boards of Education (MABE), the teachers' associations, and the Governor. This membership structure allows for expertise in school system governance, administration, employee contract negotiations, and dispute resolution, all of which would be lost by consolidating the PSLRB into the new Board.

Finally, replacing mediation with arbitration would make an already complex and time-sensitive process more contentious and dissuade parties from coming to the bargaining table willing to compromise for the good of our teachers and students.

For these reasons, PSSAM opposes Senate Bill 360 and urges an unfavorable report.

SB367_USM_UNF.pdf

Uploaded by: Sherri Roxas

Position: UNF



SENATE FINANCE COMMITTEE
Senate Bill 367
Public Employee Relations Act
February 16, 2023
Unfavorable

Chair Griffith, Vice Chair Klausmeier, and members of the committee, thank you for the opportunity to share our thoughts regarding Senate Bill 367.

Senate Bill 367 proposes a drastic restructuring of the collective bargaining process in the state of Maryland including for the University System of Maryland (USM) institutions. Among other things, the bill (1) redefines key aspects of the labor-management relationship, (2) modifies the bargaining and dispute resolution processes, (3) amends the election process for certifying an exclusive representative, and (4) establishes a new consolidated labor relations board with expanded regulatory and enforcement powers. The scope and magnitude of this bill as proposed must not be underestimated as the fiscal and operational impact on the institutions would be immeasurable.

Under existing law (MD Code, State Personnel and Pensions Section 3-302), management has reserved to it certain fundamental management rights and prerogatives which help to ensure the effective and efficient operations of their institutions. Such rights include: the right to determine the mission, budget, organization, numbers, types and grades of employees assigned, the work projects, tours of duty, methods, means, and personnel by which its operations are to be conducted, the technology needed, internal security practices, and relocation of its facilities, to determine the services to be rendered and operations to be performed, to hire, direct, supervise, and assign employees, etc. These rights are consistent with management rights provided under labor statutes in the private sector, federal government and states throughout the country. Senate Bill 367 seeks to drastically limit the rights of management to just determining its functions and programs, determining the budget and organizational structure, and directing employees. The narrowing of management rights in such a way would effectively eliminate its ability to run its operations.

Several key terms are also redefined under Senate Bill 367. The definition of an employee is expanded so broadly that collective bargaining rights would extend to supervisory and managerial employees, and to employees with access to personnel, budgetary, or fiscal data used in collective bargaining, creating an inherent and improper conflict of interest. Importantly, the bill would also make it legal for employees to refuse or fail to perform employment duties or engage in a work slowdown. Behavior that is currently considered an unfair labor practice.

Senate Bill 367 overall expands the rights of an exclusive representative, yet improperly restricts and disadvantages management and employees:

- While providing an exclusive representative with essentially unlimited access to management's facilities and employees for campaign activities, it is an unfair labor practice for management to spend public money, use time, or use public resources to engage with employees honestly and openly on the same topic.

- No consideration exists for management throughout the process. Permitting electronic signatures on showing-of-interest forms makes it easier for a union to organize, but the bill contains no safeguards for management (e.g., verification of their validity). Additionally, the election format (in-person, electronic, or by mail) is decided by an exclusive representative with no input by management.
- An exclusive representative is provided with significantly more time to collect signatures to get elected than management, an employee or other interested party is to similarly collect signatures for removal of an exclusive representative. Signatures collected within the 18-month period immediately preceding a petition for election are considered valid; only those collected 90-days preceding the date of a petition for decertification are valid.
- This bill takes away the fundamental right of an employee to vote, by secret ballot, and choose how their interests should be represented. Immediate recognition of an exclusive representative is required, completely foregoing the election process, if a petition for election is supported by showing-of-interest forms of over 50% of bargaining unit employees.
- The interests of the union itself are put before the interests of an employee. Dues deductions are automatically reinstated for an employee who separates from employment with an institution and returns within one (1) year to a position represented by the same exclusive representative. The employee is given no choice over whether to continue financially supporting the exclusive representative. Similarly, an exclusive representative would have standing to file grievances as the “party in interest” regardless of whether an employee wishes to pursue a grievance or whether such a grievance is in the best interest of employees.

Senate Bill 367 would repeal the State Higher Education Labor Relations Board (SHELRB), serving public institutions of higher education, and the other currently existing boards serving executive agencies and K-12 public schools. Instead, one single Board would oversee the collective bargaining laws. The SHELRB has functioned as the expert for labor disputes in higher education for over 20 years. The newly enacted Board may not have the bandwidth to accomplish what was previously handled by three (3) boards, and may not have the expertise in higher education necessary to understand or appreciate the nuances. The result could be decision-making that impacts the level of education provided to students or that more negatively impacts the campus community. Additionally, by making prior labor board cases persuasive, the new Board could overturn many years of prior precedent and establish all new rules and regulations, leading to a complete lack of predictability in labor matters.

Interestingly, this bill’s claimed intent is to follow the rights of employees under the National Labor Relations Act (NLRA), yet provisions of this bill are only consistent with the NLRA when advantageous to the union. The bill intentionally disregards the NLRA when beneficial to management.

Senate Bill 367 seems to establish binding interest arbitration, albeit through a requirement that each negotiated MOU contain a dispute resolution clause. The USM has concerns about this, particularly over granting broad authority to an outside party, who is not accountable to the public, to award wage and other increases requiring the expenditure of tax dollars.

For these and many other reasons, and in consideration of the significant impact on the USM, we urge an unfavorable report on Senate Bill 367.



About the University System of Maryland

The University System of Maryland (USM)—one system made up of twelve institutions, three regional centers, and a central office—awards eight out of every ten bachelor’s degrees in the State of Maryland. The USM is governed by a Board of Regents, comprised of twenty-one 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.

USM Office of Government Relations - Patrick Hogan: phogan@usmd.edu

SB0367 - TSO - Public Employee Relations Act - LOI

Uploaded by: Patricia Westervelt

Position: INFO

February 16, 2023

The Honorable Melony Griffith
Chair, Senate Finance Committee
3 East, Miller Senate Office Building
Annapolis MD 21401

RE: Letter of Information – Senate Bill 367 – Public Employee Relations Act

Dear Chair Griffith and Committee Members:

The Maryland Department of Transportation (MDOT) takes no position on Senate Bill 367 but offers the following information for the Committee’s consideration.

Senate Bill 367 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, Senate Bill 367 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 Senate Bill 367, 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 Senate Bill 367 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 Senate Bill 367, 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, Senate Bill 367 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.

The Honorable Melony Griffith
Page Two

Senate Bill 367 includes a binding arbitration provision that will move the State's collective bargaining process from a negotiation to a process that provides little incentive for the parties to agree. Arbitration will have a significant fiscal impact, due to the cost of an arbitrator and the potential for extremely costly awards. By way of example, the Maryland Transit Administration (MTA) unions are subject to binding arbitration because of a federal law that dates back to the inception of the MTA. During the 2010 session, the General Assembly faced the Great Recession and was forced to eliminate employee increments (steps), cost-of-living increases, and deferred compensation matches; implement a furlough and service reduction plan; and effectuate significant pension reform. Meanwhile, at MTA, a binding arbitration award was made that granted employees of three MTA unions significant wage and pension enhancements costing \$35 million over three years.

Senate Bill 367 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 Senate Bill 367.

Respectfully Submitted,

Pilar Helm
Director of Government Affairs
Maryland Department of Transportation
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