



**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](mailto:phogan@usmd.edu)