

**Favorable  
House Bill 1254  
Education - Public Schools - Service Contracts and Professional  
Development**

**Ways and Means Committee  
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The Maryland State Education Association strongly supports House Bill 1254. This legislation would ensure that county boards of education justify new service contracts to the State Department of Education (MSDE) and provide support for affected employees. It further requires MSDE to create a professional development system for support staff, which counties must implement.

MSEA represents 76,000 educators and school employees who work in Maryland's public schools and community colleges, teaching and supporting our almost 900,000 K-12 students so they can pursue their dreams. MSEA represents more than 40 local affiliates in every county across the state of Maryland, and our parent affiliate is the 3-million-member National Education Association (NEA).

Subcontracting, the practice of replacing employees in a bargaining unit with the employees of a subcontractor to perform the same work under comparable conditions of employment, has long been ruled a mandatory subject of bargaining in the private sector under the National Labor Relations Act.<sup>1</sup> This legal duty obligates the employer to provide notice to the union and provide an opportunity to bargain the decision and the effects of the employer's decision to replace bargaining unit employees with those of a subcontractor.<sup>2</sup> Numerous public sector jurisdictions have adopted similar rulings through public sector labor relations adjudications.<sup>3</sup>

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<sup>1</sup> *Arbah Hotel Corp.*, 371 NLRB No. 126, slip op. at 4 (2022) (citing *Fibreboard Corp. v. NLRB*, 379 U.S. 203, 215 (1964)).

<sup>2</sup> *Id.*

<sup>3</sup> See, e.g., *Oakland Unified School Dist.* (2005) California PERB Decision No. 1770; *Service Employees Local 316 v. Ill. Educ. Labor Relations Bd.*, 153 Ill. App. 3d 744, 106 Ill. Dec. 112, 505 N.E.2d 418, 125 LRRM 2274 (App. 4th Dist. 1987); *Millcreek Twp. Sch. Dist. v. Millcreek Twp. Educ. Support Pers. Ass'n*, 653 Pa. 409, 439 (2019) (citing *Pa. Labor Relations Bd. v. Mars Area Sch. Dist.*, 480 Pa. 295 (1978)); *Community College District 17 (Spokane)* Washington PERC Decision 9379 at 2 n.1 (June 2006).

Additionally, certain states have recently enacted legislation enabling public school employers and exclusive representatives to negotiate the issue of subcontracting non-instructional employee positions.<sup>4</sup> Relatedly, certain states have enacted reforms to establish standards, processes, and procedures that must be met when a public employer attempts to subcontract out work performed by public employees, including public school employees.<sup>5</sup> These reforms are designed to promote transparency and accountability in the subcontracting out process including requirements for cost projections for solicited services, reviewing bids in open session, inviting public comment on the proposals, and establishing protections for workers who may be impacted by the subcontracting decision.

House Bill 1254 establishes comparable workplace protections for public school employees that currently exist for public employees working in state government.

Current state policy, “is to use state employees to perform all state functions in state operated facilities in preference to contracting with the private sector to perform those functions.”<sup>6</sup> At least sixty days before a state agency issues a solicitation for a service contract, the state agency must provide the exclusive representative of the employees who may be affected by the service contract with written notice of the work that is being proposed for contracting out, contracting procedures, requirements, timetables, and employees rights under relevant state law, and an opportunity to meet and discuss possible alternatives to the proposed service contract.<sup>7</sup>

Additionally, a state agency attempting to enter into a service contract must provide the Department of Budget and Management with certain information including a demonstration that the agency has explored alternatives to a service contract, cost comparisons that calculate the cost of providing the service with state employees versus the cost of the service contract, and a formal plan of assistance for all state employees who will be negatively impacted by the service contract.<sup>8</sup> The plan of assistance must include i) efforts to place impacted employees in other vacant state

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<sup>4</sup> See N.J. Stat. Ann. §§ 34:13A-44 – 49; 2023 Mich. Pub. Act 143 (authorizing collective bargaining negotiations between schools and exclusive representatives for noninstructional support service contracts).

<sup>5</sup> See generally, Cal. Educ. Code § 45103.1; 105 ILCS 5/10-22.34c; 24 P.S. § 5-528; Or. Rev. Stat. §§ 279B.030, 279B.033.

<sup>6</sup> MD Code, State Personnel and Pensions, § 13-402

<sup>7</sup> MD Code, State Finance and Procurement, § 13-218.1(b)(1)

<sup>8</sup> MD Code, State Personnel and Pensions, § 13-405.



agency positions; ii) requiring the contractor to hire displaced employees, if feasible; and iii) prior notification to the impacted employees.<sup>9</sup>

Furthermore, the Secretary of Budget and Management exercises oversight of contractual employees in the state service by ensuring that the use of contractual employees by state agencies are for services that cannot be performed by assignment or hiring of non-temporary employees, that comparable rates of pay exist between contractual employees and employees in positions that encompass comparable duties, responsibilities, experience, and authority, and the services performed under the contract are infrequent, of limited duration, or require quick implementation and no reasonable alternatives exist.<sup>10</sup>

House Bill 1254 promotes the public interest by creating more transparency and accountability from public school employers when they attempt to subcontract work or services performed by public school employees. The protections for public school employees sought after in this bill resemble comparable protections for state employees, and the process outlining the obligation to negotiate this subject is similar to requirements in the private sector and other public sector jurisdictions. Public school employees, students and families, and communities stand to benefit with the processes established under this legislation.

In addition to guidelines around subcontracting, House Bill 1254 intends to create a professional development system statewide for education support professionals. As it currently stands, there is no uniform delivery or implementation of professional training or continuing education for support staff, with standards varying from LEA to LEA. Now is the time to ensure that every staff member who is crucial to keeping students healthy, safe, and learning have access to training that expands their ability to meet the growing and changing needs of our students, families, and communities.

House Bill 1254 would provide a structure for local school systems to build out no fewer than two paid, in-person days of high-quality professional development to be held during weekday school hours each school year. Training would be tailored for paraeducators and other education support professionals to receive instruction on collaborative practices, improving student learning environments, crisis prevention

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<sup>9</sup> MD Code, State Personnel and Pensions, § 13-405(d).

<sup>10</sup> MD Code, State Personnel and Pensions, § 13-202(a).



and de-escalation, and job skills training appropriate for specific education support professional groups.

House Bill 1254 moves forward the work done by advocates in the state to improve the working conditions of education support professionals by enacting parameters around outsourcing and creating a framework for local school systems to engage in professional development that expands the ability for all staff to meet the ever-changing needs of our students, families, and communities.

**We urge the committee to issue a Favorable Report on House Bill 1254.**