

BILL: Senate Bill 646
TITLE: Public School System Contracts – Prohibited Provisions
HEARING DATE: April 1, 2026
POSITION: SUPPORT
COMMITTEE: House Ways and Means Committee
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The Maryland Association of Boards of Education (MABE), representing all of the State’s local boards of education, **supports Senate Bill 646, Public School System Contracts – Prohibited Provisions.**

In 2024, Maryland enacted legislation, now codified at Md. Code Ann., State Fin. & Proc. Art. § 2-901, expressly voiding certain contract clauses that would bind State agencies and Maryland’s public universities to terms inconsistent with State law or public policy. By rendering those provisions void as a matter of law, the statute reduced the administrative burden of negotiating impermissible terms and created a more efficient contracting process grounded in clear statutory authority. After approximately 18 months of implementation, experience under the statute demonstrates its practical value. Counsel at the University of Maryland has reported more streamlined negotiations, fewer routine matters escalated to general counsel, and a clear statutory reference point when reviewing click-through agreements. **Senate Bill 646 builds on that 2024 framework by extending the same approach to Maryland’s local school systems.**

Local school systems still face these same challenges as State agencies and public universities did. Maryland’s 24 local boards of education enter into hundreds of contracts each year across operational and instructional areas. Everything from major contracts to reserving tickets for a student field trip requires review, analysis, and often negotiating to remove terms like remote venues for dispute resolution, broad indemnification, or mandatory arbitration provisions. Curriculum purchases, digital learning platforms, and instructional software frequently incorporate website terms by reference. A request from a vendor to click “I agree” can trigger legal review because the embedded terms exceed what a public entity can or should accept as the stewards of public funds.

When confronted with these provisions, school system procurement and legal teams must devote significant staff time to identify the problematic language, locate vendor representatives with authority to revise it, and negotiate its removal. These efforts consume public resources and staff person-hours that could otherwise be directed toward classroom and student needs. In some cases, vendors decline to modify their boilerplate

terms, resulting in additional internal review and risk analysis. The impact is both delay and measurable administrative cost.

Senate Bill 646 addresses this problem directly. By providing that specified contract provisions are void and unenforceable as a matter of Maryland law, the bill eliminates the need for repetitive negotiation over language that public school systems cannot or should not accept. SB 646 identifies provisions that are universally desirable to be protected against for a Maryland governmental entity operating on public funds. Instead of expending staff time negotiating boilerplate terms or seeking vendor approval to strike them, school systems will be able to point to clear statutory authority and to rest easy knowing that they can click through an agreement because terms unfavorable to Maryland public entities will be void. This clarity streamlines negotiations, reduces administrative burden, and allows routine and time-sensitive transactions to proceed without unnecessary expenditure of public resources.

Finally, MABE supports the amendments that expressly carve out collective bargaining agreements from the scope of the bill, as the legislation is intended to govern vendor and procurement contracts, not labor relations.

For these reasons, MABE supports Senate Bill 646 and requests a favorable report.