

April 8, 2022

The Honorable Adrienne A. Jones  
Speaker of the House of Delegates  
H-101 State House  
Annapolis, MD 21401

Dear Speaker Jones:

In accordance with Article II, Section 17 of the Maryland Constitution, and at the request of the Office of the Public Defender, I have vetoed House Bill 90 – *State Personnel Management System – Office of the Public Defender – Placement and Collective Bargaining*. I have also vetoed House Bill 580 – *Maryland Transit Administration Police – Collective Bargaining – Supervisors and Sergeants*. These pieces of legislation seek to alter labor practices that have worked for decades, while creating several burdensome fiscal and operational hardships.

House Bill 90 – *State Personnel Management System – Office of the Public Defender – Placement and Collective Bargaining*

Public defenders play an integral role in our justice system by ensuring that all defendants are afforded the right to counsel in accordance with the Sixth Amendment to the Constitution and representing those who are considered indigent. House Bill 90 flies in the face of the client-centered mission of the Office of the Public Defender (OPD) and will have negative impacts on the recruitment of these devoted public servants. In his veto request letter, the state's Public Defender, Paul B. DeWolfe stated that this legislation "will change the character and operation of the Office of the Public Defender in fundamental ways that will adversely impact our ability to recruit the most promising Assistant Public Defenders and provide representation that is solely focused on the interests of our clients." Not only does the bill shift the focus away from the clients upon which assistant public defenders are called to serve and assist, but the transfer of employees to the State Personnel Management System will remove a unique talent pool and recruitment tool by prohibiting OPD from hiring promising and exceptional third-year law students, who have shown a strong commitment to public defense service. Instead of focusing on creating opportunities for professional growth and development for dedicated attorneys, this legislation will provide unnecessary protections for underperforming attorneys and ultimately slow down the process of the administration of justice.

At a time where the courts are just beginning to make their way through the backlog of cases caused by the COVID-19 pandemic, this legislation is ill-timed and ill-informed.

House Bill 580 – Maryland Transit Administration Police – Collective Bargaining – Supervisors and Sergeants

The three unions enumerated in the Transportation Article were placed in statute as a result of the private Baltimore Transit Company's transition to the state owned and run Mass Transit Administration. Federal legislation was enacted forty years ago to provide the "Labor Protections" to MTA employees already represented by the three named unions that were required in order for the State to receive funding under the Federal Urban Mass Transit Act of 1964. The Maryland Code State Personnel and Pensions article articulates the proper method for electing a union representative for all other State and MDOT employees.

Supervisory positions are prohibited from collectively bargaining as it presents a conflict of interest, especially in personnel and disciplinary matters. The "managerial exclusion" is typical in unionized workforces so that managers and supervisors can effectively negotiate and enforce collective agreements and maintain the ability to execute management responsibilities. The National Labor Relations Act (NLRA), the federal law governing private employer labor and union relationships, also excludes managers and supervisors for these reasons.

HB580 arbitrarily assigns the Maryland Classified Employees Association (MCEA) as the representative of the supervisors and sergeants in the Maryland Transit Administration Police without the consent or approval of the affected employees. Without this consent, employees will be bound to terms of employment negotiated by a representative they did not elect. Further, passing this bill would create conflicting statutory provisions regarding the rights of current employees to collectively bargain.

For these reasons, I have vetoed House Bill 90 and House Bill 580.

Sincerely,

Lawrence J. Hogan, Jr.  
Governor