

SENATE BILL 1043

F5, F1

4lr1839
CF HB 1175

By: **Senator Gile**

Introduced and read first time: February 2, 2024

Assigned to: Education, Energy, and the Environment

A BILL ENTITLED

1 AN ACT concerning

2 **Education – Public School Employers and Employees – Subcontracting for**
3 **Services**

4 FOR the purpose of prohibiting a public school employer from entering into a certain
5 subcontracting agreement unless certain circumstances occur; specifying the
6 requirements for a public school employer to enter into a certain subcontracting
7 agreement; providing for the contents of certain subcontracting agreements;
8 requiring a certain public school employee who is displaced as a result of a
9 subcontracting agreement to retain certain status and rights; requiring a public
10 school employer to provide certain notices related to subcontracting; requiring a
11 public school employer to award a subcontracting agreement through a certain
12 procurement process; prohibiting the approval of certain subcontracting agreements
13 under certain circumstances; requiring, before entering into a subcontracting
14 agreement, that a public school employer hold certain meetings for certain purposes;
15 requiring a certain subcontractor that submits a bid for a subcontracting agreement
16 to provide certain information to a public school employer; providing for certain
17 remedies under certain circumstances; making a certain violation an unfair labor
18 practice under certain collective bargaining laws; and generally relating to public
19 school employers and employees and subcontracting for services.

20 BY repealing and reenacting, with amendments,
21 Article – Education
22 Section 6–402 and 6–503
23 Annotated Code of Maryland
24 (2022 Replacement Volume and 2023 Supplement)

25 BY adding to
26 Article – Education
27 Section 6–801 through 6–809 to be under the new subtitle “Subtitle 8. Public School
28 Employer Subcontracting Agreements”
29 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2022 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 22–206(a)(10) and (11)
Annotated Code of Maryland
(2021 Replacement Volume and 2023 Supplement)

BY adding to
Article – State Government
Section 22–206(a)(12)
Annotated Code of Maryland
(2021 Replacement Volume and 2023 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Education

6–402.

(a) Public school employees may form, join, and participate in the activities of employee organizations of their own choice for the purpose of being represented on all matters that relate to salaries, wages, hours, and other working conditions.

(b) Public school employees, public school employers, and exclusive representatives are subject to the provisions of **SUBTITLE 8 OF THIS TITLE AND** Title 22 of the State Government Article.

6–503.

(a) Public school employees may form, join, and participate in the activities of employee organizations of their own choice for the purpose of being represented on all matters that relate to salaries, wages, hours, and other working conditions.

(b) Public school employees, public school employers, and exclusive representatives are subject to the provisions of **SUBTITLE 8 OF THIS TITLE AND** Title 22 of the State Government Article.

SUBTITLE 8. PUBLIC SCHOOL EMPLOYER SUBCONTRACTING AGREEMENTS.

6–801.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "EMPLOYEE ORGANIZATION" HAS THE MEANING STATED IN § 22-101 OF THE STATE GOVERNMENT ARTICLE.

(C) "EXCLUSIVE REPRESENTATIVE" HAS THE MEANING STATED IN § 22-101 OF THE STATE GOVERNMENT ARTICLE.

(D) "PUBLIC SCHOOL EMPLOYEE" MEANS AN INDIVIDUAL WITH COLLECTIVE BARGAINING RIGHTS UNDER SUBTITLE 4 OR 5 OF THIS TITLE WHO HOLDS A POSITION BY APPOINTMENT OR EMPLOYMENT IN THE SERVICE OF A PUBLIC SCHOOL EMPLOYER.

(E) "PUBLIC SCHOOL EMPLOYER" MEANS A COUNTY BOARD OF EDUCATION OR THE BALTIMORE CITY BOARD OF SCHOOL COMMISSIONERS.

(F) "SUBCONTRACTING" MEANS AN ACTION, PRACTICE, OR EFFORT BY A PUBLIC SCHOOL EMPLOYER THAT RESULTS IN SERVICES OR WORK PERFORMED BY PUBLIC SCHOOL EMPLOYEES BEING PERFORMED OR PROVIDED BY ANOTHER PERSON.

(G) "SUBCONTRACTING AGREEMENT" MEANS AN AGREEMENT OR ARRANGEMENT ENTERED INTO BY A PUBLIC SCHOOL EMPLOYER TO ESTABLISH SUBCONTRACTING BETWEEN THE PUBLIC SCHOOL EMPLOYER AND A SUBCONTRACTOR.

(H) "SUBCONTRACTOR" MEANS A PERSON THAT:

(1) PROPOSES OR RESPONDS TO A SOLICITATION FROM A PUBLIC SCHOOL EMPLOYER FOR A SUBCONTRACTING AGREEMENT; OR

(2) ENTERS INTO A SUBCONTRACTING AGREEMENT.

6-802.

IT IS THE PUBLIC POLICY OF THE STATE THAT PUBLIC SCHOOL EMPLOYERS USE PUBLIC SCHOOL EMPLOYEES TO PERFORM INSTRUCTIONAL AND NONINSTRUCTIONAL HUMAN SERVICE FUNCTIONS IN PUBLIC SCHOOLS RATHER THAN SUBCONTRACTING WITH THE PRIVATE SECTOR TO PERFORM THE SAME FUNCTIONS.

6-803.

(A) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PUBLIC SCHOOL EMPLOYER IS SUBJECT TO THE REQUIREMENTS OF THIS SUBTITLE.

(2) THIS SUBTITLE MAY NOT BE CONSTRUED TO SUPERSEDE ANY PROTECTIONS OR RIGHTS OF A PUBLIC SCHOOL EMPLOYEE OR AN EXCLUSIVE REPRESENTATIVE UNDER FEDERAL OR STATE LAW.

(B) THE REQUIREMENTS OF THIS SUBTITLE APPLY TO THE RENEWAL OF AN EXISTING SUBCONTRACTING AGREEMENT THAT EXPIRES ON OR AFTER OCTOBER 1, 2024.

(C) THIS SUBTITLE DOES NOT APPLY TO:

(1) PUBLICLY FUNDED FULL-DAY PREKINDERGARTEN PROGRAMS UNDER TITLE 7, SUBTITLE 1A OF THIS ARTICLE; OR

(2) THE DELIVERY OF COORDINATED COMMUNITY SUPPORTS UNDER § 7-447.1 OF THIS ARTICLE.

6-804.

(A) A PUBLIC SCHOOL EMPLOYER MAY NOT ENTER INTO A SUBCONTRACTING AGREEMENT THAT:

(1) EXCEPT AS PROVIDED IN § 6-808 OF THIS SUBTITLE, REPLACES OR SUPPLEMENTS ANY WORK PERFORMED BY BARGAINING UNIT EMPLOYEES; OR

(2) FOLLOWS THE EXPIRATION OF AN EXISTING COLLECTIVE BARGAINING AGREEMENT UNLESS:

(I) WITHIN 90 DAYS BEFORE THE PUBLIC SCHOOL EMPLOYER REQUESTS BIDS OR PROPOSALS FOR THE SUBCONTRACTING AGREEMENT, THE PUBLIC SCHOOL EMPLOYER PROVIDES WRITTEN NOTICE TO:

1. THE EXCLUSIVE REPRESENTATIVE OF THE PUBLIC SCHOOL EMPLOYEES IN EACH BARGAINING UNIT THAT MAY BE AFFECTED BY THE SUBCONTRACTING AGREEMENT; AND

2. THE PUBLIC EMPLOYEE RELATIONS BOARD;

(II) THE PUBLIC SCHOOL EMPLOYER HAS OFFERED THE EXCLUSIVE REPRESENTATIVE IN EACH BARGAINING UNIT AFFECTED BY THE SUBCONTRACTING AGREEMENT THE OPPORTUNITY TO DISCUSS:

1 1. THE DECISION TO SUBCONTRACT FOR SERVICES OR
2 WORK; AND

3 2. THE OPPORTUNITY TO ENGAGE IN NEGOTIATIONS
4 OVER THE EFFECTS OF THE SUBCONTRACTING IN ACCORDANCE WITH §§ 6-406 AND
5 6-507 OF THIS TITLE; AND

6 (III) THE SUBCONTRACTING AGREEMENT SATISFIES ALL OTHER
7 REQUIREMENTS OF THIS SUBTITLE.

8 (B) (1) A SUBCONTRACTING AGREEMENT SHALL CONTAIN PROVISIONS
9 REQUIRING THE SUBCONTRACTOR TO:

10 (I) OFFER EMPLOYMENT WITH THE SUBCONTRACTOR TO
11 PUBLIC SCHOOL EMPLOYEES WHOSE EMPLOYMENT IS TERMINATED AS A RESULT OF
12 THE SUBCONTRACTING; AND

13 (II) COMPLY WITH A POLICY OF NONDISCRIMINATION AND TAKE
14 AFFIRMATIVE STEPS TO PROVIDE AN EQUAL EMPLOYMENT OPPORTUNITY FOR ALL
15 INDIVIDUALS.

16 (2) EACH PUBLIC SCHOOL EMPLOYEE DISPLACED AS A RESULT OF
17 THE SUBCONTRACTING AGREEMENT SHALL:

18 (I) RETAIN ALL PREVIOUSLY ACQUIRED SENIORITY OR
19 TENURE DURING THE PUBLIC SCHOOL EMPLOYEE'S PERIOD OF EMPLOYMENT WITH
20 THE PUBLIC SCHOOL EMPLOYER; AND

21 (II) HAVE RECALL RIGHTS AS SPECIFIED IN ANY APPLICABLE
22 COLLECTIVE BARGAINING AGREEMENT WHEN THE SUBCONTRACTING AGREEMENT
23 EXPIRES.

24 (C) (1) A SUBCONTRACTING AGREEMENT SHALL CONTAIN A PROVISION
25 THAT PROHIBITS THE SUBCONTRACTOR OR AN AGENT OF THE SUBCONTRACTOR
26 FROM EXPENDING FUNDS OR RESOURCES OR PROVIDING ASSISTANCE TO AN
27 INDIVIDUAL OR GROUP FOR A NEGATIVE CAMPAIGN AGAINST EFFORTS BY THE
28 EMPLOYEES OF THE SUBCONTRACTOR OR AN EMPLOYEE ORGANIZATION TO SEEK
29 RECOGNITION AND CERTIFICATION AS THE EXCLUSIVE REPRESENTATIVE FOR THE
30 EMPLOYEES OF THE SUBCONTRACTOR UNDER THE NATIONAL LABOR RELATIONS
31 ACT OR TITLE 22 OF THE STATE GOVERNMENT ARTICLE.

(2) A PUBLIC SCHOOL EMPLOYER SHALL TERMINATE A SUBCONTRACTING AGREEMENT WITH A SUBCONTRACTOR THAT VIOLATES PARAGRAPH (1) OF THIS SUBSECTION.

(3) A SUBCONTRACTOR THAT VIOLATES PARAGRAPH (1) OF THIS PARAGRAPH SHALL BE INELIGIBLE TO ENTER INTO A SUBCONTRACTING AGREEMENT UNDER THIS SUBTITLE FOR 2 YEARS BEGINNING FROM THE LATER OF:

(I) THE DATE OF THE VIOLATION; OR

(II) THE DATE ON WHICH THE SUBCONTRACTOR IS DETERMINED TO HAVE VIOLATED PARAGRAPH (1) OF THIS SUBSECTION.

6-805.

(A) (1) A SUBCONTRACTING AGREEMENT MAY NOT BE APPROVED BY A PUBLIC SCHOOL EMPLOYER ON THE BASIS THAT COST SAVINGS WILL RESULT FROM THE SUBCONTRACTOR PROVIDING THE SUBCONTRACTOR'S EMPLOYEES REDUCED RATES OF PAY OR BENEFITS COMPARED TO PUBLIC SCHOOL EMPLOYEES.

(2) A SUBCONTRACTING AGREEMENT MAY NOT BE ENTERED INTO UNLESS THE PUBLIC SCHOOL EMPLOYER CAN CLEARLY DEMONSTRATE THAT:

(I) THE SUBCONTRACTING AGREEMENT WILL RESULT IN ACTUAL COST SAVINGS TO THE LOCAL EDUCATION SYSTEM AND THE AMOUNT OF SAVINGS CLEARLY JUSTIFY THE SCOPE AND DURATION OF THE SUBCONTRACTING AGREEMENT; AND

(II) THE ECONOMIC ADVANTAGE OF THE SUBCONTRACTING AGREEMENT OUTWEIGHS THE SOCIAL AND PUBLIC INTEREST IN HAVING PARTICULAR SERVICES OR WORK BE PERFORMED BY THE PUBLIC SCHOOL EMPLOYEES.

(B) A SUBCONTRACTING AGREEMENT:

(1) MAY BE APPROVED IF A SUBCONTRACTOR'S EMPLOYEES' WAGES AND BENEFITS ARE, AT MINIMUM, EQUIVALENT TO THE WAGES AND BENEFITS OFFERED BY A PUBLIC SCHOOL EMPLOYER TO ITS PUBLIC SCHOOL EMPLOYEES; AND

(2) SHALL:

(I) INCLUDE SPECIFIC PROVISIONS RELATING TO THE QUALIFICATIONS OF THE SUBCONTRACTOR'S EMPLOYEES WHO WILL PERFORM THE WORK UNDER THE SUBCONTRACTING AGREEMENT;

(II) CLEARLY DEFINE AND ASSIGN THE SCOPE OF WORK, DUTIES, RESPONSIBILITIES, ADMINISTRATION, AND OVERSIGHT OF THE AGREEMENT BETWEEN A PUBLIC SCHOOL EMPLOYER AND A SUBCONTRACTOR;

(III) REQUIRE A PUBLIC SCHOOL EMPLOYER TO ENSURE THAT EACH EMPLOYEE OF THE SUBCONTRACTOR IS KNOWLEDGEABLE OF THE EMERGENCY PROTOCOLS AND PROCEDURES AT THE EMPLOYEE'S ASSIGNED WORK LOCATION; AND

(IV) SPECIFY THE ROLES AND RESPONSIBILITIES OF A SUBCONTRACTOR'S EMPLOYEES IN THE EVENT OF EMERGENCY SITUATIONS TO ENSURE THE HEALTH AND SAFETY OF STUDENTS, PUBLIC SCHOOL EMPLOYEES, AND THE PUBLIC.

6-806.

(A) (1) FOR EACH SUBCONTRACTING AGREEMENT, A PUBLIC SCHOOL EMPLOYER SHALL MAINTAIN THE RIGHT TO:

(I) AUDIT A SUBCONTRACTOR'S BUSINESS RECORDS AND DOCUMENTS TO VERIFY THE ACCURACY OF COSTS ATTRIBUTABLE UNDER THE SUBCONTRACTING AGREEMENT;

(II) INSPECT THE SUBCONTRACTOR'S EQUIPMENT AND MATERIALS USED UNDER THE SUBCONTRACTING AGREEMENT TO ENSURE:

1. THE HEALTH AND SAFETY OF STUDENTS, PUBLIC SCHOOL EMPLOYEES, AND THE PUBLIC; AND

2. COMPLIANCE WITH ALL APPLICABLE LOCAL, STATE, AND FEDERAL LAWS; AND

(III) HAVE A PUBLIC POINT OF CONTACT FOR AN INDIVIDUAL WHO CAN RECEIVE COMPLAINTS REGARDING ALLEGED WRONGDOING OR CONCERNS RELATED TO THE QUALITY OF SERVICES PROVIDED BY THE SUBCONTRACTOR.

(2) A PUBLIC SCHOOL EMPLOYER SHALL INFORM STUDENTS, PUBLIC SCHOOL EMPLOYEES, EMPLOYEES OF THE SUBCONTRACTOR, AND THE PUBLIC OF

1 THE AVAILABILITY OF THE PUBLIC POINT OF CONTACT UNDER PARAGRAPH (1) OF
2 THIS SUBSECTION AND MAKE THE CONTACT INFORMATION OF THE PUBLIC POINT OF
3 CONTACT AVAILABLE.

4 (3) A PUBLIC SCHOOL EMPLOYER OR SUBCONTRACTOR MAY NOT
5 RETALIATE AGAINST A STUDENT, A PUBLIC SCHOOL EMPLOYEE, AN EMPLOYEE OF A
6 SUBCONTRACTOR, OR A MEMBER OF THE PUBLIC FOR MAKING A GOOD FAITH
7 COMPLAINT REGARDING ALLEGED WRONGDOING OR CONCERNS RELATED TO THE
8 QUALITY OF SERVICES PROVIDED BY A SUBCONTRACTOR.

9 (B) (1) A PUBLIC SCHOOL EMPLOYER SHALL NOTIFY THE PUBLIC AND
10 THE APPROPRIATE EXCLUSIVE REPRESENTATIVE AS SOON AS PRACTICABLE THAT
11 THE PUBLIC SCHOOL EMPLOYER IS CONSIDERING OR EXPLORING
12 SUBCONTRACTING.

13 (2) THE NOTICE REQUIRED UNDER THIS SUBSECTION SHALL BE:

14 (I) PUBLISHED IN CONSPICUOUS PLACES, INCLUDING THE
15 WEBSITE OF THE PUBLIC SCHOOL EMPLOYER; AND

16 (II) PROVIDED IN WRITING TO THE APPROPRIATE EXCLUSIVE
17 REPRESENTATIVE.

18 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PUBLIC
19 SCHOOL EMPLOYER SHALL AWARD A SUBCONTRACTING AGREEMENT THROUGH A
20 PUBLICIZED, COMPETITIVE PROCUREMENT PROCESS.

21 (2) (I) BEFORE A PUBLIC SCHOOL EMPLOYER ENTERS INTO A
22 SUBCONTRACTING AGREEMENT, AT LEAST ONCE DURING AN OPEN SESSION OF A
23 REGULARLY SCHEDULED PUBLIC SCHOOL EMPLOYER MEETING, THE PUBLIC
24 SCHOOL EMPLOYER SHALL:

25 1. REVIEW AND CONSIDER THE PROPOSALS OF ALL
26 SUBCONTRACTORS WHO SUBMITTED BIDS TO PERFORM THE SERVICES OUTLINED IN
27 THE SUBCONTRACTING REQUEST FOR A PROPOSAL; AND

28 2. DISCUSS THE PUBLIC SCHOOL EMPLOYER'S REQUEST
29 FOR PROPOSALS TO SUBCONTRACT WORK PERFORMED BY PUBLIC SCHOOL
30 EMPLOYEES.

31 (II) THE PUBLIC SCHOOL EMPLOYER SHALL INVITE AND ALLOW
32 PUBLIC COMMENT ON THE PROPOSED SUBCONTRACTING AGREEMENT, INCLUDING
33 PUBLIC COMMENT FROM THE EXCLUSIVE REPRESENTATIVE OF THE PUBLIC SCHOOL

1 EMPLOYEES WHO ARE AFFECTED BY THE PROPOSED SUBCONTRACTING
2 AGREEMENT.

3 (III) 1. SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS
4 SUBPARAGRAPH, THE PUBLIC SCHOOL EMPLOYER SHALL PROVIDE NOTICE TO THE
5 PUBLIC OF THE DATE, TIME, AND LOCATION OF THE FIRST PUBLIC HEARING ON OR
6 BEFORE THE EARLIER OF:

7 A. THE INITIAL DATE THAT THE PUBLIC SCHOOL
8 EMPLOYER ISSUES THE REQUEST FOR PROPOSALS; OR

9 B. A DATE OCCURRING AT LEAST 30 DAYS BEFORE
10 ENTERING INTO A SUBCONTRACTING AGREEMENT.

11 2. THE NOTICE PROVIDED UNDER THIS SUBPARAGRAPH
12 SHALL BE PUBLISHED IN CONSPICUOUS PLACES, INCLUDING THE WEBSITE OF THE
13 PUBLIC SCHOOL EMPLOYER.

14 (D) (1) IN THIS SUBSECTION, "INDIRECT OVERHEAD COSTS" MEANS THE
15 PRO RATA SHARE OF EXISTING ADMINISTRATIVE SALARIES AND BENEFITS, RENT,
16 EQUIPMENT COSTS, UTILITIES, AND MATERIALS.

17 (2) SUBJECT TO PARAGRAPHS (3) AND (4) OF THIS SUBSECTION, A
18 PUBLIC SCHOOL EMPLOYER SHALL PROVIDE AND PUBLISH FOR THE PUBLIC A COST
19 COMPARISON, USING GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, OF EACH
20 EXPENDITURE CATEGORY AND ACCOUNT THAT:

21 (I) THE PUBLIC SCHOOL EMPLOYER PROJECTS IT WOULD
22 INCUR OVER THE TERM OF THE SUBCONTRACTING AGREEMENT IF THE PUBLIC
23 SCHOOL EMPLOYER CONTINUED TO PERFORM THE SERVICES USING ITS
24 EMPLOYEES; AND

25 (II) A SUBCONTRACTOR IS PROJECTED TO INCUR IF THE
26 SERVICES WERE PERFORMED BY THE SUBCONTRACTOR'S EMPLOYEES.

27 (3) A COST COMPARISON UNDER PARAGRAPH (2) OF THIS
28 SUBSECTION MAY NOT INCLUDE THE PUBLIC SCHOOL EMPLOYER'S INDIRECT
29 OVERHEAD COSTS UNLESS THE COSTS:

30 (I) CAN BE ATTRIBUTED SOLELY TO THE SERVICES TO BE
31 PERFORMED BY THE SUBCONTRACTOR'S EMPLOYEES; AND

(II) WOULD NOT EXIST IF THE SERVICES WERE PERFORMED BY INDIVIDUALS OTHER THAN THE PUBLIC SCHOOL EMPLOYER'S EMPLOYEES.

(4) (I) A COST COMPARISON UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE ANY CONTINUING COSTS OF THE PUBLIC SCHOOL EMPLOYER THAT WOULD BE DIRECTLY ASSOCIATED WITH THE SERVICES TO BE PERFORMED BY THE SUBCONTRACTOR'S EMPLOYEES.

(II) THE CONTINUING COSTS DESCRIBED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL INCLUDE THE COSTS FOR INSPECTION, SUPERVISION, AND MONITORING BY THE PUBLIC SCHOOL EMPLOYER.

(E) A PUBLIC SCHOOL EMPLOYER SHALL ESTABLISH PROCEDURES TO ENSURE PROPER DOCUMENTATION AND ACCOUNTING OF EXPENSES INCURRED DURING THE TERM OF A SUBCONTRACTING AGREEMENT.

6-807.

(A) A SUBCONTRACTOR THAT SUBMITS A BID FOR A SUBCONTRACTING AGREEMENT SHALL PROVIDE THE FOLLOWING INFORMATION TO A PUBLIC SCHOOL EMPLOYER:

(1) EVIDENCE OF COMPREHENSIVE LIABILITY INSURANCE THAT IS EQUIVALENT IN SCOPE AND AMOUNT TO THE MINIMUM COMPREHENSIVE LIABILITY INSURANCE CARRIED BY A COUNTY BOARD UNDER § 4-105 OF THIS ARTICLE;

(2) EVIDENCE THAT THE SUBCONTRACTOR PROVIDES ITS EMPLOYEES WITH WAGES AND BENEFITS THAT ARE AT LEAST EQUIVALENT TO THE WAGES AND BENEFITS OF THE EMPLOYEES OF THE PUBLIC SCHOOL EMPLOYER;

(3) A LIST THAT INCLUDES THE FOLLOWING INFORMATION FOR THE EMPLOYEES WHO WILL PROVIDE SERVICES UNDER THE SUBCONTRACTING AGREEMENT:

(I) THE NUMBER OF EMPLOYEES;

(II) THE EMPLOYEES' JOB CLASSIFICATIONS AND QUALIFICATIONS; AND

(III) THE WAGES AND BENEFITS OF THE EMPLOYEES;

(4) SUBJECT TO SUBSECTION (B) OF THIS SECTION, USING GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, A COST PROJECTION OF EACH

1 EXPENDITURE CATEGORY AND ACCOUNT FOR PERFORMING THE SERVICES UNDER
2 THE SUBCONTRACTING AGREEMENT; AND

3 (5) A NOTARIZED AFFIDAVIT SIGNED BY THE PRESIDENT OR CHIEF
4 EXECUTIVE OFFICER OF THE SUBCONTRACTOR THAT ATTESTS THAT THE
5 SUBCONTRACTOR AND ITS EMPLOYEES MEET THE REQUIREMENTS OF §§ 6-113 AND
6 6-113.2 OF THIS TITLE AND § 11-722 OF THE CRIMINAL PROCEDURE ARTICLE.

7 (B) THE COST PROJECTION PROVIDED UNDER SUBSECTION (A)(4) OF THIS
8 SECTION MAY NOT BE INCREASED IF THE SUBCONTRACTOR'S BID IS ACCEPTED BY
9 THE PUBLIC SCHOOL EMPLOYER.

10 (C) A PUBLIC SCHOOL EMPLOYER THAT RECEIVES THE INFORMATION
11 REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL:

12 (1) PROVIDE THE INFORMATION AS SOON AS PRACTICABLE TO THE
13 EXCLUSIVE REPRESENTATIVE OF THE PUBLIC SCHOOL EMPLOYEES IMPACTED BY
14 THE SUBCONTRACTING AGREEMENT; AND

15 (2) PUBLISH THE INFORMATION IN CONSPICUOUS PLACES,
16 INCLUDING THE WEBSITE OF THE PUBLIC SCHOOL EMPLOYER.

17 6-808.

18 (A) NOTWITHSTANDING § 6-803(A)(1) OF THIS SUBTITLE, A PUBLIC SCHOOL
19 EMPLOYER MAY ENTER INTO A SUBCONTRACTING AGREEMENT FOR WORK THAT
20 REPLACES OR SUPPLEMENTS WORK PERFORMED BY BARGAINING UNIT EMPLOYEES
21 IF THE SERVICES ARE NO LONGER AVAILABLE FROM THE PUBLIC SCHOOL
22 EMPLOYER OR CANNOT BE PERFORMED BY EXISTING PUBLIC SCHOOL EMPLOYEES.

23 (B) A PUBLIC SCHOOL EMPLOYER THAT ENTERS INTO A SUBCONTRACTING
24 AGREEMENT UNDER SUBSECTION (A) OF THIS SECTION SHALL:

25 (1) DOCUMENT AND ISSUE WRITTEN NOTICE TO AN EXCLUSIVE
26 REPRESENTATIVE EXPLAINING WHY THE SUBCONTRACTED SERVICE COULD NOT BE
27 PROVIDED BY HIRING NEW PUBLIC SCHOOL EMPLOYEES OR UTILIZING EXISTING
28 PUBLIC SCHOOL EMPLOYEES; AND

29 (2) PUBLISH THE WRITTEN NOTICE IN CONSPICUOUS PLACES,
30 INCLUDING THE WEBSITE OF THE PUBLIC SCHOOL EMPLOYER.

31 (C) (1) A SUBCONTRACTING AGREEMENT ENTERED INTO UNDER THIS
32 SECTION SHALL:

1 (I) BE VALID FOR 1 SCHOOL YEAR; AND

2 (II) MEET ALL OTHER REQUIREMENTS UNDER THIS SUBTITLE.

3 (2) BEFORE A PUBLIC SCHOOL EMPLOYER ENTERS INTO A NEW
4 SUBCONTRACTING AGREEMENT UNDER SUBSECTION (A) OF THIS SECTION, THE
5 PUBLIC SCHOOL EMPLOYER SHALL:

6 (I) TAKE AFFIRMATIVE STEPS TO HIRE PUBLIC SCHOOL
7 EMPLOYEES TO PROVIDE THE WORK OR SERVICES; OR

8 (II) NOTIFY THE EXCLUSIVE REPRESENTATIVE IN ACCORDANCE
9 WITH SUBSECTION (B) OF THIS SECTION.

10 **6-809.**

11 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PUBLIC
12 SCHOOL EMPLOYEE, AN EXCLUSIVE REPRESENTATIVE, A SUBCONTRACTOR, OR A
13 RESIDENT OF THE STATE MAY FILE AN ACTION ALLEGING A VIOLATION OF THIS
14 SUBTITLE.

15 (B) (1) A PUBLIC SCHOOL EMPLOYER THAT VIOLATES § 6-804 OF THIS
16 SUBTITLE SHALL BE DEEMED TO HAVE COMMITTED AN UNFAIR LABOR PRACTICE
17 UNDER § 22-306 OF THE STATE GOVERNMENT ARTICLE.

18 (2) ANY PUBLIC SCHOOL EMPLOYEE OR EXCLUSIVE
19 REPRESENTATIVE AFFECTED BY A VIOLATION UNDER PARAGRAPH (1) OF THIS
20 SUBSECTION MAY FILE AN UNFAIR LABOR PRACTICE CHARGE WITH THE PUBLIC
21 EMPLOYEE RELATIONS BOARD IN ACCORDANCE WITH § 22-307 OF THE STATE
22 GOVERNMENT ARTICLE.

23 (3) IF THE PUBLIC SCHOOL EMPLOYEE OR EXCLUSIVE
24 REPRESENTATIVE PREVAILS ON THE CHARGE, THE PUBLIC SCHOOL EMPLOYEE OR
25 EXCLUSIVE REPRESENTATIVE IS ENTITLED TO A REMEDY THAT MAY INCLUDE
26 REINSTATEMENT, BACK PAY AND BENEFITS, TENURE AND SENIORITY CREDIT,
27 ATTORNEY'S FEES, EXPERT WITNESS FEES AND RELATED COSTS, AND ANY OTHER
28 RELIEF THE PUBLIC EMPLOYEE RELATIONS BOARD DEEMS APPROPRIATE.

29 (4) IF A PUBLIC SCHOOL EMPLOYER FAILS TO COMPLY WITH AN
30 ORDER ISSUED BY THE PUBLIC EMPLOYEE RELATIONS BOARD, THE BOARD MAY
31 PETITION THE CIRCUIT COURT IN ACCORDANCE WITH § 22-308 OF THE STATE
32 GOVERNMENT ARTICLE.

1 **(5) ANY AWARD ISSUED TO A PUBLIC SCHOOL EMPLOYEE UNDER THIS**
2 **SECTION MAY NOT BE REDUCED BASED ON INTERIM EARNINGS OF THE PUBLIC**
3 **SCHOOL EMPLOYEE.**

4 **Article – State Government**

5 22–206.

6 (a) A public employer and its officers, employees, agents, or representatives are
7 prohibited from engaging in any unfair labor practice, including:

8 (10) engaging in a lockout; [or]

9 (11) spending public money to contract with, using public resources to
10 contract with, or providing assistance to an individual or group for a negative campaign
11 against efforts by employees of a public employer or an employee organization to:

12 (i) gain or retain collective bargaining rights; or

13 (ii) certify an employee organization as an exclusive representative;

14 **OR**

15 **(12) VIOLATING § 6–804 OF THE EDUCATION ARTICLE.**

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2024.