

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 831
Finance

(Senator Ferguson)

Government, Labor, and Elections

Labor Law - Child Labor Penalties, Private Sector Employee Labor Relations,
and State Employee Labor Standards

This bill prohibits a unit in the Executive Branch from petitioning or applying to the federal government for a waiver of any federal Fair Labor Standards Act (FLSA) provision that is applicable to the unit, even if the waiver is otherwise authorized under federal law. The bill also prohibits employers from forming specified employee involvement organizations (EIOs) that are not: subject to the National Labor Relations Act (NLRA) or under the jurisdiction of the National Labor Relations Board (NLRB). The Commissioner of Labor and Industry may assess a civil penalty against a person who violates specified child labor laws. The bill expands the jurisdiction of the Public Employee Relations Board (PERB) to cover private employees under specified conditions if a contingency is met. **The bill takes effect June 1, 2026, though some provisions of the bill are contingent on specified federal actions.**

Fiscal Summary

State Effect: General fund revenues may increase minimally beginning in FY 2026 from the bill's civil penalty provisions. Otherwise, the bill does not have an immediate fiscal impact absent the contingency specified by the bill. Should the bill's contingency be met, special fund revenues and expenditures for PERB increase, as discussed below.

Local Effect: The bill does not materially affect the operations or finances of the circuit courts.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Child Labor Penalties

The Commissioner of Labor and Industry may assess a civil penalty, to be paid into the general fund, against a person who violates specified child labor laws, including interfering with enforcement of the law, giving false information, or employing an underage minor. A civil penalty may not exceed \$16,035 for each specified child labor violation, and may not exceed \$72,876 for violations that willfully or repeatedly employ a minor in specified conditions (generally hazardous conditions), before July 15, 2027, and the penalty is annually indexed to inflation beginning July 15, 2027, as set by the commissioner in the preceding January.

Employee Involvement Organizations

An employer in the State may not allow the formation of an organization or entity in the workplace that is initiated through either the employer or employees and established through mutual consent of the employer and any number of employees that meet the following conditions:

- supervisors and employee members participate to address or negotiate working conditions of mutual interest;
- may be dissolved unilaterally by the employer; and
- through federal action occurring after December 31, 2025, is in whole or in part expressly exempt from or otherwise not subject to NLRA or the jurisdiction of the NLRB.

The bill may not be construed to preclude: (1) labor organizations subject to NLRA and the jurisdiction of NLRB from forming; (2) certification of an exclusive representative under NLRA; or (3) the formation of a committee or governance structure required for accreditation or designation by a state or national organization.

Private Employees and the Public Employee Relations Board

A private employee is an individual who is subject to NLRA or would have been subject to NLRA as it existed on January 1, 2025. The bill may not be construed to affect private employees' rights under any other federal or State law. The bill must be construed liberally to ensure that private employees in the State can effectively exercise the fundamental right to full freedom of association, self-organization, and designation of representatives of their own choosing, free from retaliation or intimidation by their employers. The bill specifies

collective bargaining rights for private employees, and the State, or a political subdivision of the State, is generally prohibited from denying, burdening, or abridging those rights.

A private employee may petition PERB to protect and enforce collective bargaining rights if the private employee: (1) is employed in a position that loses NLRA coverage because NLRA is entirely repealed or rendered entirely null and void, and (2) is not covered under the federal Railway Labor Act. A private employee may also petition PERB if NLRB has expressly ceded jurisdiction to the states.

A private employee may petition PERB to process any representation petition previously filed with NLRB, promptly certify an employee organization as an exclusive representative, or decide an unfair labor practice case arising under NLRA. Any existing terms and conditions of employment negotiated between a certified exclusive representative and an employer must remain in full force and effect during the bargaining following certification. The bill details the process to pursue relief from PERB.

PERB may conduct elections to determine an exclusive representative of an appropriate bargaining unit, certify an exclusive representative, order an employer to bargain with that exclusive representative, and decide unfair labor practices. In specified circumstances, PERB may order an employer to submit to binding arbitration. PERB may order any appropriate remedy, including injunctive relief and civil penalties to effectuate the bill and PERB may decide allegations of unfair labor practices. Additionally, the bill specifies how some matters can be resolved.

If PERB finds that an employer committed an unfair labor practice under NLRA, PERB may assess a civil penalty not exceeding \$1,000 for each private employee with respect to whom the violation occurred, which must be distributed to a special fund for PERB to carry out provisions of the bill. An order by PERB is subject to judicial review in the circuit court.

The bill's provisions related to PERB's enforcement of private collective bargaining rights are contingent on NLRA being fully repealed or rendered entirely null and void or NLRB ceding jurisdiction on NLRA to the State. The Maryland Department of Labor (MD Labor) must monitor action by the federal government and notify the Department of Legislative Services (DLS) within 30 days after the contingency has been met. If DLS receives notice from MD Labor, these provisions take effect on the date the notice is received by DLS.

Current Law:

Work Permits and Special Permits

Generally, a minor under the age of 14 may not be employed or allowed to be employed, and individuals between the ages of 14 and 18 may not work without a permit, subject to SB 831/ Page 3

specified exemptions. Except under conditions specified in statute, a minor between the age of 14 and 18 may not work in about a dozen hazardous professions delineated in statute; additional occupations are restricted for minors younger than age 16.

A parent or guardian of a minor may apply for a work permit by completing an online application and, after reviewing the application, the Commissioner of Labor and Industry may issue the permit if permissible.

The Commissioner of Labor and Industry may issue a special permit for a minor of any age to be employed as an entertainer, model, or performer. If the commissioner is satisfied that the employment will not be detrimental to the minor's health or welfare, the minor will be adequately supervised, and the minor's education will not be neglected, the commissioner must issue the special permit. The special permit must be notarized with the signatures of the employer and the minor's parent or guardian.

Statute includes additional requirements related to the working hours of minors that generally limit the number of hours and time of day during which a minor may be employed.

A person who interferes with the commissioner's enforcement of the statute or knowingly gives false information to the commissioner is guilty of a misdemeanor and on conviction is subject to a fine of up to \$1,000 and/or imprisonment for up to 90 days. A person who knowingly employs or allows a minor to be employed in violation of the law is guilty of a misdemeanor and on conviction is subject to a fine of up to \$10,000, and/or imprisonment for up to one year.

Public Employee Relations Board

Chapter 114 of 2023, the Public Employee Relations Act (PERA), established PERB to oversee collective bargaining for all public employees. Prior to PERA, the collective bargaining rights of State employees, employees of public institutions of higher education, employees of community colleges, or public school employees, including teachers, were administered by one of three labor relations boards, depending on the nature of the employees' employer: the State Labor Relations Board (SLRB); the State Higher Education Labor Relations Board (SHELRB); and the Public School Labor Relations Board (PSLRB). PERA consolidated different collective bargaining laws that apply to different employees into one set of rules and procedures for public employees. The Act also repealed SLRB, SHELRB, and PSLRB, and instead established PERB to oversee collective bargaining for all the previously mentioned public employees.

In addition to consolidating three labor boards into one, the Act consolidated different collective bargaining laws into one law, including provisions regarding employee access,

unfair labor practices, management and employee rights, prohibited employer and employee actions, designation of bargaining units, elections, and certification of exclusive representatives.

There are approximately 180,000 public employees who fall under PERB's jurisdiction. Specifically, PERB jurisdiction covers approximately 40,000 State employees, 23,000 higher education employees, 17,000 community college employees, and 100,000 public school employees.

National Labor Relations Act

In 1935, the U.S. Congress passed NLRA, commonly known as the "Wagner Act," which set forth employees' rights to join unions and required employers to bargain collectively with unions selected by a majority of workers in an appropriate bargaining unit. Under Section 7 of NLRA, employees have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and also have the right to refrain from any or all such activities. NLRA generally applies to all employers involved in interstate commerce other than airlines, railroads, agriculture, and government. Thus, NLRA provides most private sector employees with the right to organize and collectively bargain, but NLRA does not apply to public sector employees.

NLRA also established NLRB, an independent federal agency, to enforce its provisions. NLRB also acts to prevent and remedy unfair labor practices committed by private sector employers and unions, as well as conducts secret-ballot elections regarding union representation.

The President removed an NLRB member in January 2025, so for most of calendar 2025, NLRB lacked a quorum needed to make decisions or hear cases on unfair labor practices or union representation. Two members were appointed in January 2026, so the board currently has a quorum.

Federal Fair Labor Standards Act

The U.S. Congress passed the federal FLSA in 1938, to establish minimum wage, overtime pay, recordkeeping, and child labor standards for employees in both the private and public sectors. With specified exceptions, including special requirements for minors, employees are entitled to a minimum wage of no less than \$7.25 per hour and an employer is generally required to pay an overtime rate of no less than one and one-half times the regular rate of pay after 40 hours of work in a single workweek. The FLSA generally sets the minimum age for employment (14 years for non-agricultural jobs), restricts the hours

youth under the age of 16 may work, and prohibits youth under the age of 18 from being employed in hazardous occupations.

The Maryland Wage and Hour Law is the State complement to the federal FLSA, which specifies minimum wage and overtime requirements for employers and employees in the State. State law specifies that an employee must be paid the greater of the federal minimum wage or \$15.00 per hour. When federal and state standards are different, the rules that provide the most protection to workers apply.

State Revenues: MD Labor receives approximately 20 cases of child labor violations annually. Violations of the child labor law are subject to criminal penalties, but not civil penalties. It is unknown how many child labor cases may result in civil penalties under the bill. However, given that the bill does not expand the violations subject to penalties and the limited number of violations, general fund revenues may increase minimally beginning in fiscal 2026.

Special fund revenues are likely unaffected in the short-term, but in the event of NLRA being entirely repealed or rendered null and void or NLRB expressly ceding jurisdiction to the State, and thus meeting the bill's contingency, special fund revenues for PERB may increase annually from civil penalties assessed by PERB. However, DLS notes that the bill does not create a special fund to receive civil penalties under the bill.

State Expenditures: MD Labor can assess civil penalties on specified child labor violations with existing resources.

Prohibiting EIOs and prohibiting a unit in the Executive Branch from petitioning or applying to the federal government for a waiver of any FLSA provision has no immediate impact as EIOs and FLSA waivers are not currently authorized by the federal government. In the event that the federal government authorizes EIOs and waivers for FLSA, the bill does not change current practice so there is no material effect.

PERB is unaffected by the bill unless NLRA is entirely repealed or rendered null and void or NLRB expressly cedes jurisdiction to the State. Should the bill's contingency be met, MD Labor can notify DLS of the contingency being met with existing resources. Once DLS receives notice from MD Labor, PERB advises that it cannot absorb the additional workload with existing resources and needs additional employees to oversee collective bargaining for private employees. Additionally, PERB notes that the bill significantly increases the workload of board members. The chair of the board is a salaried employee, as authorized by current law, but current law entitles the other four board members only to minimal compensation provided in the State budget. Therefore, the four unsalaried board members would need to either become full-time employees or receive additional compensation commensurate with their increased workload. In the absence of experience

under the bill, it is not possible to reliably predict the extent to which private employees will exercise their collective bargaining rights under the bill and how many additional employees and resources PERB may need. Thus, to the extent that PERB must assume NLRA duties, PERB needs significant additional employees and resources, which it can request through the normal operating budget process.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1480 (Delegate Clippinger, *et al.*) - Government, Labor, and Elections.

Information Source(s): Judiciary (Administrative Office of the Courts); Public Employee Relations Board; Maryland Department of Labor; Department of Legislative Services

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