

Department of Legislative Services  
Maryland General Assembly  
2011 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 699

(Senator Klausmeier)

Finance

Appropriations

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**State Law Enforcement Officers - Collective Bargaining - Certain Police  
Employees**

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This bill establishes collective bargaining rights for sworn State law enforcement officers holding a noncommissioned rank who are represented by an exclusive employee representative over wages, hours, working conditions, and any other terms or conditions of employment. The bill allows either party to declare an impasse and request a hearing before the State Labor Relations Board (SLRB). The bill requires the use of arbitration, in certain circumstances. The bill's requirements apply only to negotiation of a new Memorandum of Understanding (MOU) or the negotiation of a successor to an existing MOU. It is not applied to a dispute over a provision in an existing MOU.

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**Fiscal Summary**

**State Effect:** Potential significant increase in the costs of salary and benefits for State law enforcement officers beginning in FY 2014. Although such a potential impact cannot be reliably quantified, a 1% increase in salary for covered law enforcement officers is estimated at \$1.0 million.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** The bill allows either party to require SLRB to render a decision on disputed issues upon a declaration of impasse. SLRB must consider evidence about

factors that are relevant to terms and conditions of employment, as specified, and issue a written decision accepting the final offer of one of the parties.

The bill allows either party to request arbitration during negotiations, and it is required upon a declaration of an impasse. Arbitration must be in the form of a three person board, as specified, through the use of the services of the American Arbitration Association. The bill establishes the powers and duties of the board and provides timeframes and deadlines relating to negotiation and arbitration. The evidence that an arbitration board must receive and consider is enumerated in the bill.

If either party rejects the decision of the arbitration board and declines to enter into a MOU, a written notice of the rejection must be sent to the other party with the reasons for the rejection. The rejecting party must also send a copy of the notice to the Governor, the Senate President, and the Speaker of the House. The bill specifies how the expenses of negotiation and arbitration must be covered by the State and the employees bargaining unit.

To the extent that matters covered in a new MOU do not require the enactment of legislation or the appropriation of funds, the matters are binding on the parties. To the extent these matters require the enactment of legislation, the Governor or the Governor's designee must recommend the matters to the General Assembly for approval during the next legislative session beginning after the conclusion of the negotiations.

In the annual budget bill submitted to the General Assembly, the Governor must include any amounts in the budget required to accommodate any additional cost resulting from the negotiations, including the actuarial impact of any legislative changes to any of the state pension or retirement systems that are required as a result of the negotiations for the fiscal year beginning the following July 1 if the legislative changes have been negotiated to become effective in that fiscal year. If the Governor does not include the required amounts in the budget bill to accommodate the additional costs, the Governor must include those amounts in the budget for the following fiscal year.

Monetary or other benefits that were matters of agreement that were incorporated into the MOU but were not paid to members of the bargaining unit because they were not included in the Budget Bill must be paid retroactively to the affected employees on the second July 1 following the conclusion of negotiations. Negotiations for a MOU must be considered closed sessions under specified provisions of the State Government Article.

**Current Law:** The Law Enforcement Officers' Bill of Rights was enacted in 1974 to guarantee police officers specified procedural safeguards in any investigation that could lead to disciplinary action. It extends to police officers of 23 specified State and local agencies. It does not grant collective bargaining rights.

State law enforcement employees impacted under the bill are covered under the current collective bargaining agreement for State employees (under the State Personnel and Pensions Article), including an agreement of the parties on the standards of wages, hours, and other terms and conditions of employment for State employees in the State Personnel Management System. The current MOU between the State and the Maryland State Law Enforcement Officers Labor Alliance (SLEOLA) addresses disciplinary matters for law enforcement officers.

Binding arbitration is not included in the Title 3 provisions. The State's current MOU with SLEOLA includes a procedure for the resolution of an impasse during the negotiations of a MOU. This procedure outlines the use of an arbitration board that results in recommendations to the Governor. This MOU procedure does not make the arbitrator's recommendations binding on the Governor.

SLRB is an independent unit of State government, and consists of a five-member volunteer board. The purpose of SLRB is to implement the State's collective bargaining provisions and to adjudicate and resolve cases involving the State and employee organizations. The powers and duties of the board include the following:

- determining appropriate bargaining units and amendments and clarification of bargaining units, and conducting representation elections;
- adjudicating unfair labor practice complaints and fashioning appropriate remedial relief for violations of collective bargaining provisions; and
- adjudication of disputes regarding negotiability.

**Background:** According to the Department of Budget and Management (DBM), there are currently 1,657 sworn, noncommissioned State law enforcement officers represented by SLEOLA.

**State Fiscal Effect:** The current MOU was initiated on July 1, 2010, and is in effect until June 30, 2013. The actual costs of any new agreements under the bill may be significant, and because the issues may vary greatly, cannot be quantified. DBM advises that, as an example, a 1% increase in salary for SLEOLA covered law enforcement officers is estimated at approximately \$1 million.

Significant operational difficulties for the Department of Budget and Management (DBM) and SLRB to prepare for and participate in impasse hearings and arbitration. Potential additional per diem and travel expense costs for SLRB. Potential additional costs to DBM, depending on the issues in dispute, for expert witnesses, outside counsel and court reporting. Under one set of assumptions, these costs could total as much as \$66,000.

According to SLRB, requiring the board to conduct a hearing within 10 days of receiving a request for a hearing based on a negotiations impasse reached by the parties, and requiring the board to issue a written decision accepting the last best offer of either party, by October 1, present significant operational difficulties for the volunteer board. SLRB currently shares administrative staff with the Higher Education Labor Relations Board and the new Public School Labor Relations Board. The three boards have a staff of two employees and one assistant Attorney General. SLRB reports that there may also be some difficulties in having or acquiring meeting space to meet the bill's requirements.

In any case, SLRB members are each paid at a per diem rate of \$100 per day plus mileage for members, and \$125 per day plus mileage for the board. While it is not possible to predict how many days a SLRB hearing under the bill would last, or how many hearings would actually be requested, SLRB advises that the bill's requirements may exceed the current resources of the board.

DBM assumes that the bill's requirements will result in additional staff time from the Principal Counsel, an assistant Attorney General, the DBM employee relations staff and the Executive Director of the Office of Personnel Services and Benefits to prepare for SLRB hearings.

DBM advises that these hearings could include expert witnesses, outside counsel, and court reporting costs. According to DBM, these costs could be as high as \$66,300 in any given year. However, Legislative Services advises that these costs are somewhat speculative and would depend on the issues in dispute and the details that may lead to impasse and arbitration.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** Although HB 673 (Delegate Clagett – Appropriations) is designated as a cross file, the bills are not identical.

**Information Source(s):** Department of Budget and Management; Department of Natural Resources; Department of General Services; Department of State Police; Morgan State University; Maryland Department of Transportation; University System of Maryland; Maryland Association of Counties; Carroll, Harford, and Montgomery counties; Department of Legislative Services

**Fiscal Note History:** First Reader - March 1, 2011  
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