

**Department of Legislative Services**  
 Maryland General Assembly  
 2012 Session

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

House Bill 537  
 Appropriations

(Delegate Jones, *et al.*)

Finance

**State Personnel - Collective Bargaining - Applicability**

This bill expands the applicability of the State’s collective bargaining law to include employees of the Office of the Comptroller, the Maryland Transportation Authority (MDTA) who are not police officers, the State Retirement Agency (SRA), and the Maryland State Department of Education (MSDE).

The bill takes effect July 1, 2012.

**Fiscal Summary**

**State Effect:** General fund expenditures by the State Labor Relations Board (SLRB) increase by \$58,000 in FY 2013 to handle the increased workload associated with adding employees from four agencies to existing bargaining units. General fund expenditures by the Department of Budget and Management (DBM) increase by \$27,800 in FY 2013 for the same reason. Out-year expenditures reflect annualized salaries, employee turnover, inflation, elimination of one-time expenditures, and the elimination of a half-time contractual position in FY 2015. No effect on revenues.

| (in dollars)   | FY 2013    | FY 2014    | FY 2015    | FY 2016    | FY 2017    |
|----------------|------------|------------|------------|------------|------------|
| Revenues       | \$0        | \$0        | \$0        | \$0        | \$0        |
| GF Expenditure | 85,800     | 88,400     | 77,100     | 80,700     | 84,500     |
| Net Effect     | (\$85,800) | (\$88,400) | (\$77,100) | (\$80,700) | (\$84,500) |

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** None.

## Analysis

**Bill Summary:** SLRB is prohibited from designating unique bargaining units for each of the agencies subject to collective bargaining under the bill. Instead, at the request of the appropriate exclusive representative, the board must determine the appropriate existing bargaining unit for each employee and add all affected positions to the appropriate unit. SLRB must also, at the request of the exclusive representative, conduct self-determination elections for the newly added members of each bargaining unit.

### Current Law:

#### *Collective Bargaining*

Chapter 298 of 1999 established statutory collective bargaining rights for approximately 40,000 State employees; previously, collective bargaining rights had been established by a 1996 executive order. The collective bargaining law currently applies to the:

- principal departments within the Executive Branch;
- Maryland Insurance Administration;
- State Department of Assessments and Taxation;
- State Lottery Agency;
- University System of Maryland (USM), Morgan State University (MSU), St. Mary's College of Maryland (SMCM), and Baltimore City Community College (BCCC); and
- MDTA police officers at the rank of first sergeant and below.

The following personnel are not included:

- employees of the Maryland Transit Administration;
- Legislative and Judicial Branch personnel;
- elected and appointed officials;
- the Governor's and Lieutenant Governor's staff;
- special appointees and executive service personnel in the State Personnel Management System (SPMS);
- senior administrators, faculty members, student employees, and other designated employees of USM, MSU, SMCM, or BCCC;
- the chief, deputy, or assistant administrator of a unit with an independent personnel system;
- temporary or contractual employees in SPMS;
- an employee who is entitled to participate in collective bargaining under another law;

- an employee whose participation in a labor organization is contrary to the State's ethics laws; and
- any supervisory, managerial, or confidential employee as defined by regulation.

SLRB is a five-member independent unit of State government responsible for administering and enforcing the State's collective bargaining law, particularly the establishment of new collective bargaining units and the certification of exclusive employee representatives for those units. In that capacity, the board holds elections for exclusive employee representatives when petitioned to do so, and also adjudicates dispute resolution cases related to the collective bargaining process.

Parties to the collective bargaining process must make every reasonable effort to conclude their negotiations by January 1 for any item requiring appropriation for the fiscal year that begins the following July 1. If the parties do not conclude negotiations for the next fiscal year before October 25, either party may request that a neutral fact finder be employed to resolve the issues. The outcome of collective bargaining must be incorporated into a memorandum of understanding.

Exclusive employee representatives must represent fairly and without discrimination all employees in a bargaining unit, whether or not they are members of the organization. They may negotiate all matters related to wages, hours, and other terms and conditions of employment.

*Service Fees:* The Fair Share Act of 2009 (Chapter 187) authorizes the State to collectively bargain with the exclusive representative of a bargaining unit for service fees from State employees who are not members of that exclusive representative. Thus, employees who are in a bargaining unit but are not members of any employee organization must pay the service fee if a fee is successfully negotiated. Likewise, employees who are dues-paying members of an employee organization that is not the exclusive representative must also pay any negotiated service fee.

Chapter 187 specifies that service fees may not be bargained for in negotiations between an employee organization and a USM institution, MSU, SMCM, or BCCC.

Employees may not be required to pay a service fee due to specified religious objections. However, such employees are required to pay up to an amount equal to the negotiated service fee to a nonprofit charitable organization. To receive this exemption, employees must provide proof of payment to the exclusive representative and DBM.

**Background:**

*Maryland Bargaining Units*

**Exhibit 1** shows the number of State employees in each bargaining unit, which totals 26,640.

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**Exhibit 1**  
**State of Maryland Bargaining Units**  
**(Excluding Higher Education Units)**

| <u>Unit</u> | <u>Unit Name</u>  | <u>Employees</u> | <u>Exclusive Representative</u> |
|-------------|---|------------------|---------------------------------|
| A           | Labor and Trades  | 741              | AFSCME MD                       |
| B           | Administrative, Technical, and Clerical                   | 3,604            | AFSCME MD                       |
| C           | Regulatory, Inspection, and License                       | 314              | AFSCME MD                       |
| D           | Health and Human Services (nonprof.)                      | 1,782            | AFSCME MD                       |
| E           | Health Care Professionals                                 | 1,770            | AFT – Healthcare MD             |
| F           | Social and Human Services Professionals                   | 3,887            | AFSCME MD                       |
| G           | Engineering, Scientific, and Administrative Professionals | 3,659            | MPEC                            |
| H           | Public Safety and Security                                | 9,274            | AFSCME/Teamsters                |
| I           | Sworn Police Officers                                     | 1,609            | SLEOLA                          |

Note: AFSCME = American Federation of State, County, and Municipal Employees; AFT = American Federation of Teachers; MPEC = Maryland Professional Employees Council; SLEOLA = State Law Enforcement Officers' Labor Alliance

Source: Department of Budget and Management, January 2012

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*Service Fees*

While an exclusive representative bargains for all members of a particular bargaining unit, only a portion of these individuals pays union membership dues to the representing organization. A service fee is paid by an employee to his or her bargaining unit's exclusive representative to offset costs attributable to the collective bargaining process. Generally, this fee is less than the fee charged for union dues.

Employees of the four agencies who are subject to collective bargaining have to pay either union membership dues or a service fee negotiated by exclusive employee representatives. Fees negotiated by unions vary across bargaining units; the fee assessed by the American Federation of State, County, and Municipal Employees, which represents the largest group of State employees, is \$10.80 per biweekly pay period, or \$281 per year.

**State Fiscal Effect:** For this analysis, Legislative Services assumes that employees in some, if not all four, of the agencies elect to be included in existing collective bargaining units. Due to a significant increase in the number of employees subject to collective bargaining, DBM requires a permanent, half-time human resources analyst to handle, among other issues, the negotiation of special circumstances affecting any of the four new agencies, and any increase in dispute resolution cases that inevitably will arise as both management and employees adjust to new collective bargaining and dispute resolution procedures. Thus, general fund expenditures increase by \$27,792 in fiscal 2013 for DBM to add a permanent half-time human resources analyst to carry out the functions listed above. This estimate reflects the bill's October 1, 2012 effective date.

Under the bill, SLRB is responsible for determining the appropriate placements for each of the new employees added to the existing bargaining units, administering the elections for exclusive representation by the four affected agencies, and adjudicating the anticipated increase in dispute resolution cases and other related legal issues that come before the board. Therefore, general fund expenditures by SLRB increase by \$57,977 in fiscal 2013, which accounts for the bill's October 1, 2012 effective date. This estimate reflects the cost of upgrading a part-time assistant Attorney General position to a full-time position and of hiring a half-time contractual administrative assistant to handle the increased workload related to designation of employees into existing bargaining units and election administration. Legislative Services believes that some of these functions are largely short term in nature and, therefore, require only contractual support for two years. The estimate includes salaries, fringe benefits, a one-time expenditure of \$15,000 to cover the cost of mailing ballots to employees of each of the four agencies for the mandated elections, and ongoing operating expenses. The contractual position terminates at the conclusion of fiscal 2014.

Therefore, total general fund expenditures increase by \$85,769 in fiscal 2013 for DBM and SLRB to implement the bill's provisions.

|   |                 |
|---|-----------------|
| Regular Position                        | 0.9             |
| Contractual Position                    | 0.5             |
| Salaries and Fringe Benefits            | \$65,704        |
| Mailings                                | 15,000          |
| Ongoing Operating Expenses              | 5,065           |
| <b>Total FY 2013 State Expenditures</b> | <b>\$85,769</b> |

Future year expenditures reflect full-year salaries with annual increases and employee turnover, annual increases in ongoing operating expenses, elimination of one-time expenditures, and elimination of the half-time contractual position for SLRB.

The four agencies added to existing collective bargaining provisions can implement the bill's provisions with existing resources, but they may experience a loss of personnel management flexibility to the extent that their employees elect to participate in collective bargaining and the resulting agreements restrict their freedom to adjust staff assignments as needed. This may negatively affect the quality or timing of services they provide to constituent groups.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 783 (Senator Pugh, *et al.*) - Finance.

**Information Source(s):** Department of Budget and Management, Maryland State Department of Education, Comptroller's Office, Maryland State Retirement Agency, Maryland Department of Transportation, State Labor Relations Board, Department of Legislative Services

**Fiscal Note History:** First Reader - February 19, 2012  
mc/ljm Revised - Clarification - March 4, 2012  
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