

Department of Legislative Services
 Maryland General Assembly
 2014 Session

FISCAL AND POLICY NOTE
 Revised

House Bill 1292
 Appropriations

(Delegate Jones, *et al.*)

Finance

District Court of Maryland Employees - Collective Bargaining

The bill establishes collective bargaining rights for specified employees of the District Court. The bill also establishes the State Judicial Employees Labor Relations Board as an independent unit of State Government and establishes duties for the board.

The bill takes effect July 1, 2014.

Fiscal Summary

State Effect: General fund expenditures increase by \$403,300 in FY 2015 to establish and staff the newly created State Judicial Employees Labor Relations Board and to hire one labor relations specialist within the Judiciary. Future year expenditures reflect annualization and inflation. In addition, personnel expenditures may increase 1% to 1.5% per year as a result of collective bargaining. Revenues are not affected.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	403,300	435,100	454,700	475,300	496,800
Net Effect	(\$403,300)	(\$435,100)	(\$454,700)	(\$475,300)	(\$496,800)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill establishes that secretarial, administrative constabulary, and maintenance and housekeeping employees of the District Court have the right to (1) self organization; (2) bargain collectively through an employee organization that is an exclusive representative of the employees' own choosing; and (3) engage in, or refrain from engaging in, other concerted activities for the purpose of collective bargaining or mutual aid or protection.

The bill establishes membership requirements for the State Judicial Employees Labor Relations Board and procedures for filling vacancies and the removal of members. The board must elect a chair from among its members. The term of a member is five years. The bill establishes expiration dates for the terms of the initial members of the board. Board members are entitled to compensation provided in the State budget and reimbursement for expenses. The board must appoint an executive director, who is responsible to and serves at the pleasure of the board. The executive director is entitled to the salary provided in the State budget and may hire any necessary staff. With approval of the board, the executive director may employ professional consultants.

The board is responsible for administering and enforcing provisions relating to collective bargaining and must recognize one statewide bargaining unit comprising all secretarial, administrative constabulary, and maintenance and housekeeping employees of the District Court. The board must adopt regulations that establish guidelines for establishing a bargaining unit that take into consideration specified items, including the desires of the employees involved; the wages, hours, and other working conditions of the employees involved; and the administrative structures of the District Court as an employer. The regulations must also establish procedures that are consistent with specified requirements in the State Personnel and Pensions Article for the determination of questions relating to representation, including the proper manner of petitioning by employee organizations and certification of an exclusive representative.

The board must (1) investigate and take appropriate action in response to complaints of unfair labor practices and lockouts; (2) investigate any alleged violations relating to the bill's provisions or associated regulations; and (3) investigate any other relevant matter. The board may hold a hearing in accordance with the Administrative Procedure Act whenever necessary for a fair determination of any related issue or complaint. If a person fails to comply with an order issued by the board, a person aggrieved, a member of the board, or the board in its own name may petition the circuit court for the county in which the person failed to comply to order the person to comply with the board's order. The board may not be required to post bond.

All employees covered by the bill are subject to statutory provisions regarding the rights of employees, prohibitions against engaging in any strike, and the authority for an employee organization to petition the circuit court for appropriate relief, including injunction, in specified circumstances. The District Court, the Chief Judge of the District Court, and the Administrative Office of the Courts are subject to statutory provisions which prohibit the State from engaging in any lockout and authorize the State to petition the circuit court for appropriate relief, including injunction, if a strike occurs or appears imminent. Statutory provisions relating to unfair labor practices are also extended to the District Court, the Chief Judge of the District Court, the Administrative Office of the Courts, and the exclusive representative for covered employees.

An employee organization certified as the exclusive representative must (1) serve as the sole and exclusive bargaining agent for all employees in the bargaining unit; (2) represent fairly and without discrimination all employees in the bargaining unit, whether or not the employees are members of the organization or are paying dues or other contributions to it or participating in its affairs; and (3) promptly file with the board all changes and amendments to the organization's governing documents. The obligation of the parties to engage in collective bargaining must begin on certification of an exclusive representative and include negotiation over the terms of a memorandum of understanding (MOU).

If the parties do not conclude negotiations for the next fiscal year before October 25, on demand of the Chief Judge of the District Court or the exclusive representative, the board must conduct a hearing or authorize an arbitrator admitted to the National Academy of Arbitrators to conduct a hearing. The hearing's purpose is to conduct fact-finding to resolve the major issues in dispute and issue a written statement of findings and recommendations as to appropriate terms and conditions of employment.

Collective bargaining must include all matters relating to wages, hours, and other terms and conditions of employment. Collective bargaining may include negotiations relating to the right of an employee organization to receive service fees from nonmembers consistent with statutory provisions. However, the District Court and the exclusive representative may not be required to negotiate over any matter that is inconsistent with applicable law and may negotiate and reach agreement with regard to a matter that is inconsistent with applicable law only if it is understood that the agreement with respect to the matter cannot become effective unless the applicable law is amended by the General Assembly.

Negotiations must conclude with an MOU that covers all matters of agreement reached in the collective bargaining process. The MOU is not valid if it extends for less than one year or more than three years. An MOU may not take effect unless it is ratified by a secret ballot vote of a majority of the employees voting in the bargaining unit and the signature of the Chief Judge of the Court of Appeals. On ratification of the MOU, it must

be signed by the Chief Judge of the District Court and the principal executive officer of the exclusive representative and take effect as of the effective date agreed to by the parties as stated in the MOU.

The bill also specifies that the Judiciary has the right to determine specified budgetary, employment, and personnel practices.

The bill and any agreement under the bill do not limit or otherwise interfere with the powers of the Governor, the Judiciary, or the General Assembly under the budgetary process set forth in the State constitution.

Current Law/Background:

Collective Bargaining Generally

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. Chapter 341 of 2001 expanded collective bargaining to include employees of public institutions of higher education in the State. Chapters 581 and 582 of 2012 further expanded collective bargaining rights. Maryland's collective bargaining law applies to employees of the principal Executive Branch departments, the Maryland Insurance Administration, the State Department of Assessments and Taxation, the State Lottery and Gaming Control Agency, University System of Maryland (USM), the Office of the Comptroller, the Maryland Transportation Authority for police officers as specified, and civilian employees, the State Retirement Agency, the Maryland State Department of Education, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College.

Judicial and Legislative branch personnel, in addition to specified Executive Branch employees within the State, do not have these rights, including elected government officials; political appointees or employees by special appointment; or any supervisory, managerial, or confidential employees of an Executive Branch department.

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.

The State Labor Relations Board (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. The State Higher Education Labor Relations Board is responsible for enforcing collective bargaining laws with respect to employees of the University System of Maryland, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College.

Service Fees

Chapter 187 of 2009 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.

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 the Department of Budget and Management.

While an exclusive representative bargains for all members of a particular bargaining unit, only some of these individuals pay 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.

State Fiscal Effect: General fund expenditures increase by at least \$403,311 in fiscal 2015, which reflects the July 1, 2014 effective date and assumes a 60-day start-up delay. Conversely, the response of the Judiciary requested more than \$3.4 million for implementation of the bill. The Department of Legislative Services disagrees with this assessment.

This estimate reflects the cost of hiring one executive director, one attorney, one administrative assistant to staff the newly created State Judicial Employees Labor Relations Board and administer the collective bargaining process. It also reflects the cost of hiring of one labor relations specialist within the Judiciary's District Court to handle, among other issues, the negotiation of special circumstances affecting the District Court that will inevitably arise as both management and employees adjust to collective bargaining procedures. It includes salaries, fringe benefits, one-time start-up costs, and operating expenses (including costs for board member per diems and mailings to impacted employees).

Positions	4
Salaries and Fringe Benefits	\$341,466
Operating Expenses	<u>61,845</u>
Total FY 2015 State Expenditures	\$403,311

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Future Personnel Costs

Based on a Department of Legislative Services study of collective bargaining from 1995, it is estimated that collective bargaining increases salary and salary-driven fringe benefits costs by 1% to 1.5% annually. The Judiciary did not provide information regarding the number of employees who would be impacted by the collective bargaining process, but estimated additional personnel expenditures of almost \$1.2 million annually. Because these future personnel expenditures are speculative, these potential expenditures are not included in the above estimate.

Additional Information

Prior Introductions: None.

Cross File: SB 824 (Senator Pugh) - Finance.

Information Source(s): Judiciary (Administrative Office of the Courts), State Labor Relations Board, Department of Legislative Services

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