

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 1066
Appropriations

(Delegate Olszewski, *et al.*)

Maryland Transportation Authority Police - Collective Bargaining - Binding
Arbitration

This bill establishes (1) the conditions under which the Maryland Transportation Authority (MDTA) and the exclusive representative of the MDTA police force may enter into arbitration and (2) guidelines and timetables for the completion of the arbitration process.

The bill takes effect July 1, 2014.

Fiscal Summary

State Effect: Minimal increase in nonbudgeted expenditures by MDTA to share in the cost of an arbitrator with the exclusive representative. To the extent that arbitration results in higher compensation for MDTA police officers than would otherwise be agreed to through continued negotiation, personnel costs for MDTA increase. No effect on revenues.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: If an agreement on a memorandum of understanding (MOU) has not been reached by December 1, either MDTA or the exclusive representative may declare an impasse. When an impasse is declared, the parties jointly select an arbitrator by alternative striking from a list provided by the federal Mediation and Conciliation Service

or under the Labor Arbitration Rules of the American Arbitration Association. The party who declared the impasse selects the source of the list. Selection of the arbitrator must be completed within three days of receipt of the list.

By January 1, the parties must submit to the arbitrator a list of items to which they have agreed and a separate memorandum detailing each party's last final offer on all items in which there is not agreement. By January 15, the arbitrator must hold a closed hearing at a time, date, and place selected by the arbitrator. The arbitrator is authorized to give notice and hold hearings in accordance with the Administrative Procedure Act, administer oaths and take testimony and other evidence, and issue subpoenas. The arbitrator's final report must be issued by February 15, which must select the final offer determined to be more reasonable when viewed as a whole.

The bill specifies the factors that the arbitrator may and may not consider in making his or her selections. The arbitrator's selections, when merged with the items on which there was agreement between the parties, become the final agreement between MDTA and the exclusive representative. The parties must then execute an MOU that incorporates the final agreement. MDTA and the exclusive representative must share equally in the costs of the arbitrator.

The bill does not prohibit the parties from reaching a voluntary settlement, either before or after the arbitrator issues a final report. Either party may file a complaint against the report in the circuit court for Baltimore County. Filing of a complaint against the report does not stay implementation of the report.

Current Law: 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. Except as otherwise specified, the collective bargaining law currently applies to all employees of the:

- principal departments within the Executive Branch;
- Maryland Insurance Administration;
- State Department of Assessments and Taxation;
- State Lottery and Gaming Control Agency;
- Office of the Comptroller;
- State Retirement Agency;
- Maryland State Department of Education
- University System of Maryland (USM), Morgan State University (MSU), St. Mary's College of Maryland (SMCM), and Baltimore City Community College (BCCC); and

- Maryland Transportation Authority employees and police officers who are 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.

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 selection process for, and authority granted to, the fact finder are identical to those specified for the arbitrator in the bill. By November 20, the fact finder must make written recommendations regarding wages, hours, and working conditions, and any other terms or conditions of employment that may be in dispute. Those recommendations must be delivered to the same parties specified in the bill by December 1, but they are not binding. The outcome of collective bargaining must be incorporated into an MOU.

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.

Background: Currently, MDTA has 464 police officer positions eligible for collective bargaining. They are represented by Fraternal Order of Police Lodge 34.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Budget and Management, Judiciary (Administrative Office of the Courts), Maryland Department of Transportation, Department of Legislative Services

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