

Department of Legislative Services  
 Maryland General Assembly  
 2017 Session

FISCAL AND POLICY NOTE  
 First Reader

House Bill 491  
 Appropriations

(Delegate Haynes, *et al.*)

State Personnel - Grievance Procedures - Exclusive Representatives

This bill expands the application of the State Personnel Management System (SPMS) employee grievance proceedings to include a dispute between an exclusive representative and an employer. In order to be subject to the grievance procedure, the dispute must be (1) about the interpretation and application of a personnel policy or regulation adopted by the Secretary of Budget and Management or any other policy or regulation over which management has control or (2) over any term or condition of a memorandum of understanding (MOU) between the State and the exclusive representative.

Fiscal Summary

**State Effect:** General fund expenditures increase by \$684,300 in FY 2018 for State agencies within SPMS to resolve grievances stemming from disputes with an exclusive representative of employees in SPMS and for the Office of Administrative Hearings (OAH) to hear cases. Out-year costs reflect annualization and the elimination of one-time costs. State revenues are not affected.

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	684,300	864,800	902,800	942,900	985,100
Net Effect	(\$684,300)	(\$864,800)	(\$902,800)	(\$942,900)	(\$985,100)

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

**Local Effect:** None.

**Small Business Effect:** None.

## Analysis

**Bill Summary:** An exclusive representative with a grievance may present the grievance free from coercion, discrimination, interference, reprisal, or restraint. An employee who is subject to a collective bargaining agreement that contains another grievance procedure is no longer excluded from participating in grievance proceedings.

**Current Law:** Subject to specified exemptions, any employee in SPMS may file a grievance. A grievance is a dispute between an employee and the employee's employer about the interpretation of and application to the employee of (1) a personnel policy or regulation adopted by the Secretary of Budget and Management or (2) any other policy or regulation over which management has control. Grievances are not disputes about pay grades, the timing or amount of statewide pay increases, or other specified items.

Resolution of a grievance is a three-step process consisting of (1) initiation of the grievance; (2) an appeal to the head of the principal unit; and (3) an appeal to the Secretary of Budget and Management. If the Secretary does not resolve the grievance, it is referred to OAH for a final administrative decision.

**Background:** In fiscal 2016, there were 138 grievances forwarded to the Department of Budget and Management (DBM), of which 80 grievances were forwarded to OAH; the rest were resolved by DBM.

**State Expenditures:** DBM expects up to 160 additional grievances as a result of expanding the definition of a grievance. The bill allows exclusive representatives to file grievances on issues in a MOU, which include paid release time for union activities; access to State facilities; union activity during working hours; State-provided meeting space, office supplies, and bulletin boards; access to State mail service and State email systems; distribution of union information in the workplace; access to new employees individually and during State-organized formal orientations; State-provided union office space; and general release-from-duty provisions. DBM anticipates many grievances to arise, especially from employers denying requested leave to attend union events.

Disputes between an exclusive representative and an employer within SPMS are currently resolved through a fact finder, who acts as an arbitrator. This process is used sparingly, in part because the costs of using a fact finder are shared equally between the exclusive representative and the employer. The State bears the cost of grievance procedures, so DBM expects exclusive representatives to use the grievance process instead of using a fact finder as a result of the cost savings to unions and the comparative ease of the grievance process.

A portion of the additional 160 grievances will be forwarded to OAH for an administrative hearing. Due to the complexity of grievances, OAH will need an administrative law judge to handle the increased caseload.

General fund expenditures increase by \$684,272 in fiscal 2018, which accounts for the bill's October 1, 2017 effective date. To process the anticipated increase in grievances, this estimate reflects the cost of hiring one administrative law judge within OAH, two human resource analysts within DBM, one employee relations officer within the Department of Juvenile Services, and two employee relations officers within each of the following agencies: the Department of Health and Mental Hygiene; the Department of Public Safety and Correctional Services; and the Department of Human Resources. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	10.0
Salaries and Fringe Benefits	\$627,415
One-time Start-up Costs	46,400
Operating Expenses	<u>10,457</u>
<b>Total FY 2018 State Expenditures</b>	<b>\$684,272</b>

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

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 446 (Senator Feldman, *et al.*) - Finance.

**Information Source(s):** University System of Maryland; Department of Budget and Management; Maryland Department of Transportation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 12, 2017  
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