

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
First Reader

Senate Bill 661
Finance

(Senator Benson)

State Personnel - Contractual Employees - Transfer to Budgeted or Permanent Positions

This bill requires the University System of Maryland (USM), Morgan State University (MSU), St. Mary's College of Maryland (SMCM), Baltimore City Community College (BCCC), and the Maryland Department of Transportation (MDOT) to place a contractual employee in a permanent position – in the same or similar classification in which the contractual employee is employed – if the contractual employee has been employed in a contractual position for 60 continuous months. An appointing authority under the State Personnel Management System (SPMS) must replace a contractual position with a budgeted position and allow the contractual employee to transfer to the budgeted position if a contractual employee has been employed in a contractual position for 60 continuous months.

Fiscal Summary

State Effect: Expenditures (all funds) increase significantly, potentially by more than \$20.0 million annually as discussed below, beginning in FY 2018 to convert specified contractual positions to permanent positions. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Units under SPMS may not execute or renew a contract for employing a contractual employee unless the Secretary of Budget and Management issues a certification

that, among other requirements, the services to be performed under the contract encompass functions that are infrequent, are needed for a limited time, are unusual, or need to be implemented quickly and for which there is no reasonable alternative. The Secretary of Budget and Management may not continue the certification for a contractual employee if the Secretary determines that the services performed under the contract encompass permanent functions, have no specific expiration date, and are regularly performed on a basis that is at least equal to 50% of the work responsibility of a full-time permanent employee.

Under SPMS, selection plans for vacant positions in the skilled or professional service categories must include any limitations that restrict consideration to current contractual employees. Selection of candidates for a position may be from a list of contractual employees performing the same or similar duties of the position.

MDOT, USM, MSU, SMCM, and BCCC must include in their personnel policies a consideration of hiring contractual employees to fill a vacant position in the same or similar classification in which the contractual employee is employed.

Under SPMS, if a contractual position is replaced by a budgeted position, a contractual employee in the contractual position may transfer to the budgeted position if (1) the employee meets the minimum qualifications for the budgeted position and has at least six continuous months of satisfactory service as of the date on which the replacement occurs; (2) there is a continuing need for the function to be performed; (3) the agency can document a competitive hiring process; and (4) the budgeted position replacing the contractual position was not available at the time the contractual employee was hired.

Background: There are estimated to be 10,089 contractual full-time equivalent employees (FTEs) in fiscal 2018; more than two-thirds of these FTEs are in higher education institutions. The number of contractual FTEs is 361.0 more than in fiscal 2017, as shown in **Exhibit 1**. Higher education accounts for most of the increase with 298.0 contractual FTEs added.

Exhibit 1
Contractual Full-time Equivalent Position Changes
Fiscal 2016 Actual to Fiscal 2018 Allowance

<u>Department/Service Area</u>	<u>2016 Actual</u>	<u>2017 Working Appropriation</u>	<u>2018 Allowance</u>	<u>2017-2018 Change</u>
Health and Human Services				
Health and Mental Hygiene	354	483	476	-6
Human Resources	143	74	74	0
Juvenile Services	178	147	150	4
<i>Subtotal</i>	<i>674</i>	<i>704</i>	<i>701</i>	<i>-3</i>
Public Safety				
Public Safety and Correctional Services	268	392	308	-84
Police and Fire Marshal	22	66	68	2
<i>Subtotal</i>	<i>290</i>	<i>459</i>	<i>377</i>	<i>-82</i>
Transportation	40	41	122	82
Other Executive				
Legal (Excluding Judiciary)	46	51	57	6
Executive and Administrative Control	203	180	179	-1
Financial and Revenue Administration	52	51	51	0
Budget and Management and DoIT	13	13	34	20
Retirement	11	9	8	-1
General Services	7	23	23	0
Natural Resources	376	436	492	56
Agriculture	45	47	48	0
Labor, Licensing, and Regulation	127	145	130	-15
MSDE and Other Education	274	286	279	-7
Housing and Community Development	53	103	105	2
Commerce	18	21	25	4
Environment	27	61	50	-11
<i>Subtotal</i>	<i>1,251</i>	<i>1,425</i>	<i>1,478</i>	<i>53</i>
<i>Executive Branch Subtotal</i>	<i>2,255</i>	<i>2,627</i>	<i>2,678</i>	<i>50</i>
Higher Education	6,937	6,766	7,064	298
Judiciary	330	334	347	13
Grand Total	9,522	9,727	10,089	361

DoIT: Department of Information Technology

MSDE: Maryland State Department of Education

Note: Numbers may not sum to total due to rounding.

Source: Department of Budget and Management

State Expenditures: Expenditures (all funds) increase significantly beginning in fiscal 2018 to convert contractual positions to permanent positions. Converting contractual positions to permanent positions increases expenditures because the State provides retirement benefits, health insurance coverage, and other fringe benefits, like paid leave, to permanent employees but not to all contractual employees to the same extent. State health insurance costs are estimated to be \$17,000 per employee in fiscal 2018, increasing to \$23,968 per employee by fiscal 2022, so expenditures increase to the extent that the State does not already pay health insurance costs for the affected contractual employees. Retirement contributions increase State expenditures by about 18% of an employee's salary. Permanent employees receive paid leave benefits so productivity may decrease if the eligible employees take additional leave, and permanent employees may also be eligible for tuition reimbursements.

The Department of Budget and Management (DBM) advises that it does not have an accurate count of SPMS contractual employees who have worked five consecutive years; prior to DBM's new personnel system, agencies maintained their own systems for contractual employee histories, and records on contractual employees were not kept in a consistent fashion or in a central location. However, based on the data that DBM has available, 943 employees in SPMS have at least four years of contractual service and could potentially be converted to a permanent, budgeted position in fiscal 2018.

MDOT advises that 8 contractual employees would be eligible to have their positions converted to permanent positions, with 29 additional contractual employees becoming eligible after the effective date of the bill.

USM advises that, after three consecutive years of service working as a specified contingent employee at the same institution, the contingent employee must be converted to a regular status position. Therefore, the bill does have a fiscal impact on USM because it already converts contractual employees to permanent employees after three years of service. Likewise, MSU advises that the bill does not affect its expenditures. SMCM reports it has five contractual positions, but these employees have no more than three years of service, so while there is not an immediate fiscal impact on SMCM, expenditures could increase in future years. BCCC expects expenditures to increase significantly to convert 96 contractual employees to permanent employees in fiscal 2018. In out-years, an additional 67 contractual employees could become eligible to be converted to permanent positions.

The actual amount by which expenditures increase is unknown because it depends on how many contractual employees work for five continuous years in a contractual position and what their salaries are when they are converted to a permanent position. However, based on the estimates of DBM, MDOT, and BCCC, more than 1,000 employees are likely eligible to become permanent employees in fiscal 2018. Providing these employees health

insurance could increase expenditures by as much as \$17.8 million, assuming they do not already have such coverage, and providing retirement contributions increases expenditures generally by about 18% of these employees' salaries. Thus, expenditures could increase by more than \$20.0 million beginning in fiscal 2018. In future years, expenditures continue to escalate as health insurance costs are expected to increase by at least 8.2% annually and pension costs are also projected to increase.

Alternatively, State agencies may elect to terminate contractual employees who are approaching the five-year threshold if there are not any permanent positions available for them. This practice could limit the bill's fiscal effect but disrupt State operations.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City Community College; University System of Maryland; Morgan State University; St. Mary's College of Maryland; Department of Budget and Management; Maryland Department of Transportation; Department of Legislative Services

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