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2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1554
Appropriations

(Delegate Attar, *et al.*)

Baltimore City - Police Department - Collective Bargaining and Arbitration

This bill, which is subject to voter referendum, expands, from “direct compensation” to “terms of employment,” the terms and conditions of employment for which binding arbitration is required between Baltimore City and the certified employee organization representing Baltimore City police officers if collective bargaining negotiations have not produced a written agreement by March 1 of any year and one of the parties request arbitration. The bill similarly expands the content of the detailed itemization of a specified proposal required to be given to each member of the board of arbitration and all parties as part of arbitration proceedings as well as the factors on which the board must base an award. In addition, the bill repeals limitations on interest arbitration for police officers and the authority of the board of arbitration to decide the issue. Finally, the bill requires that the amounts of the “financial terms of employment” (rather than only salary and wage scales) for city police officers determined by the final decision of the board of arbitration must be included in the proposed ordinance of estimates, may not be reduced by the city council, and must be adopted by the Baltimore City Board of Estimates, as specified. **The bill generally takes effect December 1, 2020, contingent on passage of a referendum by qualified voters of Baltimore City in the November 2020 general election. The bill’s provisions relating to the referendum take effect July 1, 2020.**

Fiscal Summary

State Effect: None.

Local Effect: Potential significant increase in Baltimore City expenditures related to binding arbitration proceedings and terms of employment for Baltimore City police officers; however, any such impact cannot be reliably quantified. Revenues are not affected. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: The bill defines “financial terms of employment” to mean wages, salaries, longevity, shift differential, bonuses if applicable, leave with monetary value, specialty pay, acting out of title pay, educational incentives, or any other item having monetary value.

“Other terms of employment” means pensions or any benefit that is to be paid on or after an employee’s retirement or termination of employment, or all other terms and conditions of employment, such as, but not limited to, job security, disciplinary procedures, investigations and actions, promotions, deployment or scheduling, including eligibility and assignment to details and positions, loss of leave as provided in the general orders, or issues relating to eligibility for overtime compensation.

“Terms of employment” means the financial terms of employment and the other terms of employment, as specified.

Current Law: Binding arbitration is required between Baltimore City and the certified organization representing city police officers if collective bargaining proceedings have not produced a written agreement concerning all issues of direct compensation by March 1 of any year and arbitration is requested by one of the parties.

The board of arbitration has three members, one appointed by the mayor and one appointed by the certified employee organization representing the bargaining unit. These two members choose the third member (who serves as the chair) from a list furnished by the American Arbitration Association. The time in which the board must be appointed and the time in which the board must rule are limited.

The arbitration board must identify the major issues in the dispute, review positions of all parties, and take into consideration a number of factors, including the lawful authority and financial conditions of the city, wages, benefits, hours, and other working conditions of other police departments and other public safety employees in Maryland and comparable metropolitan areas of other states, as well as cost of living. The board has the power to administer oaths, compel the attendance of witnesses, and require evidence by subpoena. After hearing witnesses and considering evidence, the board must (by written decision) order the implementation of the last proposal of one of the parties, in its entirety. This decision is the final decision, and there are no provisions for appeal.

Specified provisions governing interest arbitration for police officers apply only to the terms of collective bargaining agreements directly relating to direct compensation and if there is a dispute over whether an issue is an issue of direct compensation, the board of arbitration must decide the issue with the decision of the board being final and binding on

both parties. The provisions may not be construed as being contradictory to the provisions of the general orders.

With respect to salaries and wage scales, the amount determined by the final decision of the board of arbitration must be included in the proposed ordinance of estimates, may not be reduced by the city council, and must be adopted by the Board of Estimates as the salary and wage scales for employees of the Baltimore Police Department (BPD), as specified.

“Direct compensation” is defined as wages, salaries, longevity, shift differential, bonuses if applicable, and leave with monetary value. “Direct compensation” does not include (1) pensions or any benefit that is to be paid on or after an employee’s retirement or termination of employment or (2) issues that do not relate to direct compensation, such as, but not limited to, job security, disciplinary procedures, investigations and actions, promotions, deployment or scheduling, including eligibility and assignment to details and positions, loss of leave as provided in the general orders, or issues relating to eligibility for overtime compensation.

Article 12 of the Baltimore City Code sets forth specific management rights reserved to the city. Specifically, the Baltimore City Code provides that it is the exclusive right of the city to determine the mission of each of its constituent agencies, set standards of services to be offered to the public, and exercise control and direction over its organization and operations. It is also the right of the city to direct its employees; to hire, promote, transfer, assign, or retain employees in positions within an agency; and in that regard, to establish reasonable work rules. The city also retains the right to suspend, demote, discharge, or take any other appropriate disciplinary action against its employees for just cause, as specified; or to relieve its employees from duty in the event of lack of work, funds, or for other legitimate reasons.

The provisions of the Baltimore City Code governing the rights of the city in municipal labor relations are deemed to be a part of every memorandum of understanding reached between the city and an employee organization. Any memorandum of understanding reached between the city and an employee organization must be subject to the provisions of the charter or applicable ordinance concerning salaries, hours of work, fringe benefits, pensions, and other conditions of employment.

Background: Although BPD is a State agency, the State does not control the appointment or removal of the police commissioner and is not responsible for providing funding for the operations of the police department. However, the State retains the ability to amend the law relating to the department in order to implement policy changes.

Local Expenditures: Subject to the referendum, beginning in fiscal 2021, to the extent that collective bargaining negotiations between the city and a police bargaining unit do not

conclude by March 1 and either party requests binding arbitration, Baltimore City expenditures could increase significantly. However, the costs of binding arbitration must be paid equally by the city and the exclusive representative.

Any future costs associated with the outcome of binding arbitration proceedings depend on the terms of employment associated with the final agreement as chosen by the board of arbitration. As the terms of employment under the bill could include items such as pensions, incentives, assignments, leave, and other items that have monetary and nonmonetary value, these additional costs could be significant.

Additional Information

Prior Introductions: HB 1251 of 2019, a similar bill, received an unfavorable report from the House Appropriations Committee.

Designated Cross File: None.

Information Source(s): Baltimore City; Department of Legislative Services

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mr/lgc

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