

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 504 (Delegate Acevero)
Ways and Means

Collective Bargaining - Public School Employees - Authorization to Strike

This bill authorizes certificated and noncertificated public school employees to engage in a strike. To that end, the bill also repeals the prohibitions and penalties against an employee organization representing those employees from calling or directing a strike. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: Public School Labor Relations Board (PSLRB) revenues and expenditures are likely not materially affected.

Local Effect: Although local school systems operations may be disrupted by a strike, overall local school system expenditures directly related to a strike are likely absorbable with existing budgeted funds, as explained below. However, in some cases, a strike may lead to a local school system or a local government choosing to direct more funding to address the concerns, including salary, of the striking employees. Any such choice would be a local decision but could be significant.

Small Business Effect: Minimal.

Analysis

Current Law: An employee organization representing a certificated or noncertificated collective bargaining unit may not call or direct a strike. Certificated employees are school employees that require a certificate to be employed. This includes teachers and principals.

Any employee organization designated as exclusive representative that calls or directs a strike must have its designation as exclusive representative revoked by the public school employer. In addition, the employee organization and any other employee organization that violated those prohibitions is ineligible to be designated as exclusive representative for a period of two years. Further, the public school employer must stop making payroll deductions for dues of the organization that violated the prohibitions for one year.

“Public school employer” is defined as a county board of education or the Baltimore City Board of School Commissioners.

Public School Days and Hours Requirements

Public schools must be open for at least 180 days and 1,080 school hours at elementary and middle schools or 1,170 hours at high schools during a 10-month period. However, a local board of education may apply to the State Board of Education for a waiver from these provisions of State law; the application must describe a demonstrated effort by the local board to comply with State law and that the school system calendar included from 3 to 10 days to be used to make up days lost. In response, the State board may permit:

- increases or decreases in the length of the school year;
- exceptions from the 10-month period requirement;
- adjustments in the length of the school day; and
- schools to be open on holidays.

These adjustments may be granted only if normal school attendance is prevented because of natural disaster, civil disaster, or severe weather conditions. After any school system closure, the local school system must notify the State board, within 10 days of reopening, of its plan to make up the missed school days, including the dates of the make-up days. Education funding from the State or local sources may not be reduced if there are fewer than 180 school days in any year because of an approved application to the State Board of Education for a decrease in the length of the school year.

Public School Collective Bargaining Process

On request, a public school employer or at least two of its designated representatives must meet and negotiate with at least two representatives of the exclusive negotiating agent for certificated public school employees about salaries, wages, hours, and other working conditions, including procedures regarding employee transfers and assignments and the structure, time, and manner of the access of the exclusive representative to a public school employer’s new employee processing. A local board may not negotiate the school calendar, the maximum number of students assigned to a class, or any matter that is precluded by

applicable statutory law. A local board may negotiate on other matters that are mutually agreed to by the local board and the employee organization. A matter that has not been mutually agreed to as a subject of negotiation may not be raised in any action taken to resolve an impasse.

Public School Labor Relations Board

PSLRB was established in 2010 as an independent agency of the State government to administer and enforce the labor relations laws for local boards of education and their employees. It is administrated jointly with the State Higher Education Labor Relations Board and the State Labor Relations Board.

If PSLRB determines the local board of education and local employee organization have reached an impasse in negotiations, it must order them to begin mediation using a neutral mediator within a certain timeframe. The mediation must follow specified procedures. After receiving the mediator's proposed settlement, the local board of education and local employee organization must notify the mediator of their intent to accept the written proposed settlement, accept it in part, or decline the settlement and request arbitration before PSLRB.

If arbitration is requested, PSLRB must follow specified hearing procedures to develop a final and binding written award that selects and adopts the complete final offer of the local board of education, the complete final offer of the local employee organization, or the mediator's complete offer of settlement. The local board of education and local employee organization are required to equally share the costs of mediation and arbitration.

If the county government does not approve sufficient funds to implement a negotiated agreement, the local school board must negotiate with the employee organization before making a fiscal determination in accordance with the timetable and procedure established by PSLRB. A final decision of PSLRB may be appealed to a circuit court.

State Expenditures: There may be an increase of impasse matters and statutory violation claims made to PSLRB. PSLRB can handle these matters using existing budgeted resources.

Local Expenditures: If public school employees choose to strike, local school systems may need to hire temporary staff, such as substitute teachers, to keep schools open to meet statutory day and hour requirements. Adjustments to the requirements may only be granted if there is a natural disaster, civil disaster, or severe weather conditions. It is unknown if a strike would qualify for an adjustment. However, in most cases, overall costs do not increase significantly due to costs being offset by savings from staff on strike. In general,

staff on strike are not paid, and do not receive back pay. Thus, overall, the direct costs of a strike are likely absorbable with existing budgeted funds.

However, any strike is likely very disruptive, to students, families, and even businesses. In addition, there may not be temporary staff available to provide adequate coverage. Many public school employees including teachers and bus drivers require specialized training and certification. There are shortages of employees with these skills. Thus, in some extreme cases, a local school system may need to temporarily close until an agreement is made, or adequate staff are found.

As public school employee strikes may be very disruptive, a strike may lead a local school system or local government to direct more local school system or local government funding to address the concerns of the striking employees. Concerns of the public school employees may include increased local school system employee pay. Thus, local school system and local government expenditures may increase, potentially significantly. However, any such increase is a local choice and cannot be reliably estimated.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Public School Labor Relations Board; Maryland State Department of Education; Department of Budget and Management; Baltimore City Public Schools; Baltimore County Public Schools; Anne Arundel County Public Schools; Department of Legislative Services

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