

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 275
Appropriations

(Delegate Foley, *et al.*)

**State Personnel - Collective Bargaining - Faculty, Part-Time Faculty, and
Graduate Assistants**

This bill authorizes faculty, part-time faculty, and graduate assistants at the University System of Maryland (USM), Morgan State University (MSU), and St. Mary's College of Maryland (SMCM) to collectively bargain. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: Expenditures for USM institutions and MSU increase minimally to reimburse the State Higher Education Labor Relations Board (SHELRB) for collective bargaining expenses. Accordingly, SHELRB reimbursable revenues and expenditures increase minimally. In addition, USM, MSU, and SMCM administrative and personnel expenditures may increase, potentially significantly.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: Up to three bargaining units at each USM institution, MSU, and SMCM may be established: (1) one for faculty; (2) one for part-time faculty; and (3) one for all eligible graduate assistants.

“Faculty” is defined as employees whose assignments involve academic responsibilities, including teachers, scientists, researchers, academic advisors, postdoctoral interns, and

department heads. It does not include officers, supervisory employees, confidential employees, part-time faculty, or graduate assistants.

“Part-time faculty” is defined as employees whose assignments involve academic responsibilities, including teachers, scientists, researchers, academic advisors, postdoctoral interns, and department heads.

“Graduate assistant” is defined as a graduate student at a USM institution, MSU, or SMCM who is a teaching, administrative, or research assistant, or in a comparable position; or a fellow.

The petitions, elections, and certification of exclusive representatives must be conducted under the processes established for collective bargaining at community colleges in § 16-704 and § 16-705 of the Education Article.

Current Law: Chapter 341 of 2001 extended collective bargaining rights to many categories of higher education personnel at public four-year institutions of higher education and Baltimore City Community College (BCCC) but excluded all faculty and students from the benefit. In addition, contingent, contractual, temporary, or emergency employees are specifically excluded from collective bargaining. Also excluded are student employees, including a teaching assistant or a comparable position, fellow, or postdoctoral intern.

State Higher Education Labor Relations Board

SHELRB is responsible for enforcing collective bargaining laws with respect to employees of USM, MSU, SMCM, and BCCC.

SHELRB may investigate and take appropriate action in response to complaints of unfair labor practices and lockouts. Among the nine unfair labor practices included in statute is refusing to bargain in good faith. The State and its officers, employees, agents, or representatives are prohibited from engaging in unfair labor practices.

University Employment and Compensation Policies

USM institutions must follow various policies related to staff employment and compensation. For example, [USM Policy II – 1.5 Policy on the Employment of Full-Time, Non-Tenure Track Instructional Faculty in the University System of Maryland](#) and [USM Policy II – 1.6 Policy on the Employment of Salaried, Part-time, Non-Tenure Track Instructional Faculty in the University System of Maryland](#) every effort must be made to make salaries professionally appropriate and competitive to the extent allowed by available fiscal resources.

Wages for graduate assistants are set by each institution. At USM institutions, institutions must follow [USM Policy III – 7.11 Policy on Graduate Assistantships](#). Under this policy, appointments may be made for appropriate periods of time, as determined by the institution. A graduate assistant may serve on a full-time, half-time, or other basis. A full-time assistant’s responsibilities should take, on average, 20 hours per week. A half-time assistantship should require an average of 10 hours per week.

According to USM policy, each institution must establish stipend levels for graduate assistants at levels that are competitive with peer institutions, to the extent allowed by available fiscal resources. Further, each institution must establish minimum stipend amounts annually, with discretion to award stipends above the minimum level.

§ 16-704 and § 16-705 – Certification of an Employee Organization

In order to be certified, an employee organization must submit a petition showing that at least 30% of the eligible employees in a bargaining unit wish to be represented by the petitioning organization. Other employee organizations may participate in the election if they prove that 10% of the eligible employees in the bargaining unit wish to be represented by them. There must also be a provision for “no representation” on the ballot. SHELRB must conduct the election by secret ballot, which may be in person, by mail, or electronic. Interest in union representation can be shown by a union authorization card or a union membership card as specified.

An employee organization may request a preferred method of voting; if there is a dispute between two or more employee organizations, SHELRB may designate the method of voting. SHELRB must assist an eligible employee in using an alternative method of vote casting if the employee notifies SHELRB of the inability to cast a ballot using the designated method.

SHELRB must designate an employee organization as the exclusive representative only if (1) one employee organization seeks certification as the exclusive representative; (2) there is no incumbent exclusive representative; (3) the employee organization has not requested an election; and (4) SHELRB determines that more than 50% of the employees support the employee organization as specified.

The election of an exclusive representative may not be conducted in any bargaining unit in which (1) an exclusive representative has been certified within the immediately preceding 24 months or (2) a valid election has been held within the preceding 12 months in which an exclusive representative was certified.

State Fiscal Effect:

State Higher Education Labor Relations Board

SHELRB reimbursable revenues and expenditures increase minimally for each election. Actual revenues and expenditures depend on the number of elections held, the number of members, and the number and duration of any disputes.

Higher Education Institutions

Higher education expenditures increase minimally for USM institutions, MSU, and SMCM to reimburse SHELRB for expenses related to collective bargaining. Actual costs depend on whether eligible faculty, part-time faculty, and graduate assistants decide to collectively bargain and the actual reimbursable costs that can be assigned to the institutions.

Administrative expenditures may increase minimally at USM institutions, MSU, and SMCM to expand collective bargaining to eligible faculty, part-time faculty, and graduate assistants. USM advises that it is currently in negotiations with the American Federation of State, County and Municipal Employees for the first consolidated memorandum of understanding which will cover a subset of the USM's bargaining unit-eligible staff.

Salary expenditures for eligible faculty, part-time faculty, and graduate assistants may increase; however, any increases depend on actual negotiations and current salaries and benefits. Health and retirement benefit costs may also increase, to the extent they are negotiated. The State shares in the cost of salary and fringe benefit increases for State-supported employees at USM, MSU, and SMCM.

The University of Maryland, College Park Campus (UMCP) advises that, if graduate assistants negotiate for and receive certain benefits that necessitate they become classified as professional staff, their stipends become subject to FICA (also known as Federal Insurance Contributions Act) and unemployment tax. If that were to happen, UMCP tax expenditures could increase by \$5 million annually. However, the Department of Legislative Services advises that unionization by graduate assistants at other institutions has not had this effect

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See SB 118 of 2022; SB 521 and HB 751 of 2022; and SB 658 and HB 214 of 2020.

Designated Cross File: SB 247 (Senator Kramer, *et al.*) - Finance.

Information Source(s): University System of Maryland; Morgan State University;
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