

**Department of Legislative Services**

Maryland General Assembly

2024 Session

**FISCAL AND POLICY NOTE****Third Reader - Revised**

House Bill 1402

(Montgomery County Delegation)

Appropriations

Finance

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**Montgomery County – State’s Attorney’s Office Personnel – Application of  
County Personnel Laws and Collective Bargaining MC 12–24**

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This bill generally establishes the right of nonprobationary employees of the Montgomery County State’s Attorney’s Office (SAO), including nonsupervisory assistant State’s Attorneys, to organize and bargain collectively in accordance with specified provisions of the county code with regard to compensation, pension (for active employees), fringe benefits, hours, and other terms and conditions of employment, including performance evaluation procedures. The bill further (1) specifies that employees of the Montgomery County SAO are subject to the county’s merit system law and personnel regulations and may be excluded from those provisions only to the extent that such applicability is made the subject of collective bargaining and (2) establishes additional requirements related to the collective bargaining process.

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**Fiscal Summary****State Effect:** None.

**Local Effect:** Montgomery County expenditures increase to facilitate the collective bargaining authorized in the bill and may increase, potentially significantly, to the extent personnel costs increase as a result of a bargained agreement. Revenues are not affected.

**Small Business Effect:** None.

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## Analysis

**Bill Summary:** The bill expresses the intent of the General Assembly to (1) protect the right of the Montgomery County Executive and the State's Attorney to bargain; (2) preserve a single master collective bargaining agreement to the extent that a single exclusive bargaining representative represents multiple units of employees covered under the county's collective bargaining law; and (3) streamline and facilitate the collective bargaining process, as specified.

The County Executive is considered the employer of nonprobationary employees of SAO, including nonsupervisory assistant State's Attorneys, only for the purpose of collective bargaining for hours and compensation (including pension and fringe benefits). The State's Attorney is considered the employer for all other purposes, including those related to collective bargaining for all other terms and conditions of employment.

If a single exclusive representative represents both county government employees and employees of SAO, the terms and conditions of employment of any current and subsequent collective bargaining agreement between the county government and the representative are applicable to SAO employees, unless different terms and conditions are negotiated by the State's Attorney, as specified. If a single exclusive bargaining representative represents both county government employees and SAO employees, the State's Attorney must bargain only over particular matters applicable to SAO employees *not* related to compensation, pension, fringe benefits, and hours.

In case of a disagreement between the State's Attorney and the exclusive bargaining representative regarding whether a matter applies to SAO employees, the dispute must be resolved by the Labor Relations Administrator appointed under the Montgomery County Code, as specified. If the parties are unable to reach agreement during negotiations, they must follow the procedures for declaring an impasse and submitting a dispute to binding arbitration in accordance with county code.

There must be only one collective bargaining agreement covering both county government employees and employees of SAO. Any agreements reached under the bill's provisions must be included in an appendix or addendum to the agreement between the county government and the exclusive bargaining representative. Further, any required funding for the terms of an agreement negotiated by the State's Attorney is subject to the budget and fiscal policies of the county.

Except as provided in the county merit system law and personnel regulations, the provisions of the bill (including any agreement made in accordance with its provisions), may not impair the right and responsibility of the State's Attorney to perform various functions, as specified, generally related to the operations of SAO.

If contracting out work will result in the displacement of employees, the State's Attorney may not enter into the contract unless prior written notice of at least 90 days (unless otherwise agreed) has been given to the exclusive bargaining representative. Additionally, the contract must be consistent with any applicable provisions of the Montgomery County Code. Further, any displacement of bargaining unit members must adhere to any applicable provisions in the county code and any applicable collective bargaining agreement. Any action to suspend, discharge, or otherwise discipline a civilian employee may be subject to the grievance procedure established in the collective bargaining agreement, subject to specified provisions in the Montgomery County Charter.

**Current Law:** There is no explicit provision in statute in regard to collective bargaining for employees of the Montgomery County SAO.

Subject to approval by the County Council, the Montgomery County State's Attorney is entitled to a reasonable expense allowance for the operation of the office and performance of the duties of the State's Attorney. Generally, the State's Attorney may appoint the number of staff, as specified, that the County Council approves; the employees are subject to the exclusive control of the State's Attorney and entitled to the same benefits as county employees under the merit system.

In general, Chapter 33, Article VII of the Montgomery County Code includes various provisions in regard to collective bargaining, including those that (1) declare it in the public interest for employees to have the opportunity to bargain collectively over wages, hours, and other terms and conditions of employment, as specified; (2) require the appointment of a Labor Relations Administrator to effectively administer specified provisions of the relevant county code in regard to the collective bargaining process; (3) set forth procedures for the selection, certification, and decertification of an employee organization as the representative of a unit for collective bargaining; and (4) specify certain subject matters over which an employer and certified representative must bargain collectively. Chapter 33, Article VII of the Montgomery County Code also includes explicit provisions regarding impasse and binding arbitration procedures.

**Local Expenditures:** Montgomery County advises the bill increases the expenditures of SAO. Initially, costs are anticipated for bargaining unit employees who are involved in the bargaining process. According to the county, additional positions *may* be required within SAO to ensure that caseloads are maintained as employees are involved in the collective bargaining process. Furthermore, county personnel costs increase, potentially significantly, to the extent salaries and benefits under a negotiated agreement are higher than they would have otherwise been. The magnitude of any such impact cannot be reliably predicted in advance, and any funding required for the terms of an agreement negotiated by the State's Attorney under the bill's provisions is subject to the budget and fiscal policies of the county. However, for *illustrative purposes only*, the county advises that for every

1% increase in personnel costs for nonsenior positions within SAO, county expenditures increase by \$183,000 per year. According to the county, a negotiated agreement that included provisions for traditional overtime (which SAO positions do not currently earn), would increase expenditures by over \$2.0 million annually.

The Montgomery County Department of Finance and Office of Labor Relations *may* experience additional operational and/or fiscal impacts, *potentially* including minimal overtime costs and/or additional personnel resources.

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### **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Montgomery County; Department of Legislative Services

**Fiscal Note History:** First Reader - March 11, 2024  
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Revised - Amendment(s) - March 26, 2024  
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