

**RG.00**  
**Higher Education Labor Relations Board**

***Operating Budget Data***

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(\$ in Thousands)

	<b>FY 01</b>	<b>FY 02</b>	<b>FY 03</b>		<b>% Change</b>
	<u>Actual</u>	<u>Working</u>	<u>Allowance</u>	<u>Change</u>	<u>Prior Year</u>
Reimbursable Fund	\$0	\$450	\$431	(\$19)	(4.1%)
<b>Total Funds</b>	<b>\$0</b>	<b>\$450</b>	<b>\$431</b>	<b>(\$19)</b>	<b>(4.1%)</b>

***Personnel Data***

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	<b>FY 01</b>	<b>FY 02</b>	<b>FY 03</b>	
	<u>Actual</u>	<u>Working</u>	<u>Allowance</u>	<u>Change</u>
Regular Positions	0.00	3.00	3.00	0.00
Contractual FTEs	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
<b>Total Personnel</b>	<b>0.00</b>	<b>3.00</b>	<b>3.00</b>	<b>0.00</b>

***Vacancy Data: Regular Positions***

Budgeted Turnover: FY 03	0.13	4.17%
Positions Vacant as of 12/31/01	0.00	0.00%

- Since its inception on July 1, 2001, the Higher Education Labor Relations Board has hired its full staff of three full-time equivalent employees: a Senior Program Manager III, an Administrator VI, and a Special Assistant II, Executive Department.

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

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## ***Analysis in Brief***

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### **Issues**

- 1. Progress of Representation Elections in the State:** As of January 24, 2002, 24 representation elections have been coordinated by the Higher Education Labor Relations Board (HELRB) for exempt employees, non-exempt employees, and sworn police officers in higher education institutions across the State. **The HELRB should be prepared to discuss these and future elections, as well as other anticipated future activities of the board.**

### **Recommended Actions**

1. Concur with the Governor's allowance.

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***Operating Budget Analysis***

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**Program Description**

Activities of the board during the implementation of collective bargaining in higher education focus on commencing its operations, developing the necessary implementing regulations, and conducting union representation elections. Once elections are concluded and exclusive representatives for collective bargaining are certified (expected by the close of fiscal 2002), labor representatives and higher education representatives will commence contract negotiations. The board's role during this time will be to monitor these processes, respond to issues and complaints that may arise, issue appropriate orders as necessary, and otherwise support and assist the process. Subsequent to the completion of memoranda of understanding (MOUs), the board will process complaints that may arise and, as grievances develop, rule on the application of the conditions of the MOUs. The board will also monitor its own regulations, hear concerns, and propose changes as it deems warranted. Challenges to the results of the current round of elections are possible two years after the initial election, so renewed election activity is possible beginning in fiscal 2004.

The Higher Education Labor Relations Board is a very small independent agency with three regular employees. These regular employees provide ongoing services as indicated in the program description and provide support to the five-person board:

- Jamin B. Raskin, Chair, law professor, The American University
- Harriet Cooperman, attorney at law, management labor law specialist
- Leo Gant, retired citizen, former federal mediation expert
- David R. Merkowitz, educator and consultant
- Susan B. Schurman, President, National Labor College

**Governor's Proposed Budget**

The Higher Education Labor Relations Board (HELRB or 'board') was established during the 2001 session (Chapter 341, Acts of 2001) in the legislation granting collective bargaining rights to higher education employees. It is funded in the Governor's allowance with reimburseable funds from higher education institutions at \$431,411, down from the \$450,000 estimated in fiscal 2002 for initial implementation of collective bargaining.

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The decrease in the allowance over the working appropriations in the State Higher Education Labor Relations Board as indicated in **Exhibit 1** can be largely explained by two things: an overestimate of base salary rates in the fiscal 2002 working appropriation and a decrease in the implementation costs associated with establishing an office, writing the controlling regulations, and conducting elections in fiscal 2002.

**Exhibit 1**

**Governor's Proposed Budget  
Higher Education Labor Relations Board  
(\$ in Thousands)**

<b>How Much It Grows:</b>	<b>Reimb. <u>Fund</u></b>	<b><u>Total</u></b>
2002 Working Appropriation	\$450	\$450
2003 Governor's Allowance	431	431
Amount Change	(\$19)	(\$19)
Percent Change	(4.1)%	(4.1)%
<b>Where It Goes:</b>		
<b>Personnel Expenses</b>		
Fiscal 2003 general salary increase .....		\$2
Fiscal 2003 increments .....		2
Annualize fiscal 2002 general salary increase .....		4
Turnover expectancy .....		(10)
Base salary .....		(18)
Other adjustments .....		(2)
<b>Other Changes</b>		
In-state travel .....		(5)
Office supplies .....		(2)
Printing .....		(15)
Computer equipment .....		(15)
Rent .....		40
<b>Total</b>		<b>(\$19)</b>

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

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### **Regular Employees**

Regular employee salaries were budgeted at \$242,151 in the fiscal 2002 working appropriation and are budgeted at \$220,536 in the fiscal 2003 allowance. Although the Executive Director had been hired, the HELRB did not begin filling its other positions until October 2001. The Department of Budget and Management (DBM) prepared the initial budget for the HELRB but did not offset the full cost of these positions with a turnover expectancy. HELRB also overbudgeted for the level of salaries paid its staff. These two circumstances are reflected in the \$21,615 drop in regular employee personnel costs in fiscal 2003.

### **Contractual Employees and Services**

The board was required by statute to develop regulations and hold elections during the first half of fiscal 2002 but, as indicated above, was not fully staffed until December. The shortage of regular employees during that time period necessitated the use of contractual services. Those services are budgeted at \$100,000 for fiscal 2002 and at \$85,000 for fiscal 2003, reflecting the diminishing need after the regulations are finalized and the initial elections are held. There is also \$58,000 budgeted for fiscal 2002 and 2003 for contractual employee services, but no contractual employees are indicated. It appears that the board is budgeting a part-time assistant attorney general assigned to them, which it shares with DBM, as a contractual. Other contractual services include legal consultants (\$125 per hour for up to 100 hours), technical consultants to take care of the mechanics of the elections (\$50 per hour for up to 40 hours), and clerical support at election sites (\$12 per hour for up to 40 hours in fiscal 2002 only). These costs are in line with funding provided to the State Labor Relations Board after its initial year of service.

### **Non-Personnel Expenditures**

The board has budgeted \$25,000 in office supplies and equipment in fiscal 2002, which was reduced to \$8,000 in fiscal 2003, reflecting the fact that the office has been established and elections will have been held. Offsetting this decrease is the fact that it was given office space gratis in fiscal 2002 at 45 Calvert Street in Annapolis and is charged \$40,000 for rent in fiscal 2003. A move from 45 Calvert Street in Annapolis to the same building where the Maryland Higher Education Commission is located is anticipated in 2003.

### **Future Budgeting Practices**

The Department of Legislative Services (DLS) suggests that the HELRB budgeting practices more closely align with those used in the State Labor Relations Board and in other executive branch agencies. For example, it needs to consider the following issues in the next budget cycle:

- The part-time assistant attorney general who has been assigned to the agency needs to be reflected in the agency's regular employee count and needs to be budgeted under salaries and wages, not under technical and special fees (contractual employees). It is DLS's understanding that HELRB is sharing the position with the State Labor Relations Board, where it is budgeted at 100%. DBM's largely general fund budget and HELRB's reimburseable fund budget should each indicate actual costs associated with the assistant attorney general.

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- The subobject which provides for per diem payments should be utilized for board members in order to distinguish those monies from funds budgeted for contractual services.

**Performance Analysis: Managing for Results**

The Higher Education Labor Relations Board has not been in existence long enough to establish a formal mission statement, objectives, program description, or performance measures, nor has it had enough practical experience to estimate its own performance on any measures it could establish. The board intends to establish a viable Managing for Results plan in time for the next budget cycle.

## *Issues*

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### **1. Progress of Representation Elections in the State**

With Chapter 341, Acts of 2001, a number of employees of the University System of Maryland, Baltimore City Community College, St. Mary's College of Maryland, and Morgan State University are eligible to bargain collectively over wages, hours, and conditions of employment. Higher education employees not eligible include those holding positions ineligible in the rest of the State (e.g., special appointees; managerial, supervisory, or confidential employees) as well as:

- a chief administrator or comparable position;
- a deputy, associate, or assistant administrator or comparable positions;
- a member of the faculty, including a faculty librarian;
- a student employee, including a teaching assistant or a comparable position, fellow, or post doctoral intern;
- a contingent, contractual, temporary, or emergency employee; or
- a contingent, contractual, or temporary employee whose position is funded through a research or service grant or contract, or through clinical revenues.

Given these parameters, three labor organizations are certified to participate in a number of representation elections, all conducted by the HELRB, with the potential to provide exclusive representation to a total of 12,000 higher education employees on 16 campuses. The results of elections for exempt (from the Fair Labor Standards Act) employees, non-exempt employees, and sworn police officers, as of January 23, 2002, are provided in **Appendix 3**. Of the 19 elections for which outcomes are available, 15 have resulted in representation by the American Federation of State, County, and Municipal Employees (AFSCME) and 4 by the Maryland Classified Employees Association, Inc. (MCEA). Two elections have necessitated runoff elections, and the results of three are being appealed. Of those elections for which exclusive representation has been established, 87% (with certified ballots) of those voting (70% overall turnout) voted for union representation; no elections resulted in no union representation. Results to date show 3,880 employees being newly represented by labor organizations. Elections in other large units including the exempt employees in College Park and all employees in Towson are still possible, which could significantly increase the number of represented individuals. An election for non-exempt employees in UM Baltimore County is pending but not yet scheduled.

Labor representatives and representatives of higher education institutions next begin negotiations over the terms of the memoranda of understanding (MOUs). These MOUs will establish the wages, hours, and working conditions for as many as 48 bargaining units across the State. The board's role during this time will be to monitor these processes, respond to issues and complaints that may arise, issue appropriate orders as necessary, and otherwise support and assist the process. Subsequent to the completion of MOUs, the board will process complaints that may arise and, as grievances develop, rule on the

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application of the conditions of the MOUs. **The HELRB should be prepared to discuss the status of representation elections in the State and discuss anticipated future activities.**

***Recommended Actions***

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1. Concur with the Governor's allowance.

***Current and Prior Year Budgets***

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**Current and Prior Year Budgets  
Higher Education Labor Relations Board  
(\$ in Thousands)**

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
<b>Fiscal 2002</b>					
Legislative Appropriation	\$0	\$0	\$0	\$0	\$0
Budget Amendments	0	0	0	450,000	450,000
<b>Working Appropriation</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$450,000</b>	<b>\$450,000</b>

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

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The Higher Education Labor Relations Board was created in fiscal 2002 (Chapter 341, Acts of 2001) and initially funded with reimbursable funds from the University System of Maryland, Baltimore City Community College, St. Mary’s College of Maryland, and Morgan State University. The distribution of funds from individual institutions includes:

- \$409,714 from the University System of Maryland;
- \$10,828 from Baltimore City Community College;
- \$8,775 from St. Mary’s College of Maryland; and
- \$20,683 from Morgan State University.

Total funds available for the establishment of the Board were \$450,000.

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Appendix 2

**Object/Fund Difference Report  
Higher Education Labor Relations Board**

<u>Object/Fund</u>	<u>FY01 Actual</u>	<u>FY02 Working Appropriation</u>	<u>FY03 Allowance</u>	<u>FY02 - FY03 Amount Change</u>	<u>Percent Change</u>
<b>Positions</b>					
01 Regular	0	3.00	3.00	0	0%
<b>Total Positions</b>	<b>0</b>	<b>3.00</b>	<b>3.00</b>	<b>0</b>	<b>0%</b>
<b>Objects</b>					
01 Salaries and Wages	\$ 0	\$ 242,151	\$ 220,536	(\$ 21,615)	(8.9%)
02 Technical & Spec Fees	0	57,849	57,875	26	
03 Communication	0	10,000	10,000	0	0%
04 Travel	0	15,000	10,000	(5,000)	(33.3%)
08 Contractual Services	0	100,000	85,000	(15,000)	(15.0%)
09 Supplies & Materials	0	10,000	8,000	(2,000)	(20.0%)
11 Equip - Additional	0	15,000	0	(15,000)	(100.0%)
13 Fixed Charges	0	0	40,000	40,000	N/A
<b>Total Objects</b>	<b>\$ 0</b>	<b>\$ 450,000</b>	<b>\$ 431,411</b>	<b>(\$ 18,589)</b>	<b>(4.1%)</b>
<b>Funds</b>					
09 Reimbursable Fund	\$ 0	\$ 450,000	\$ 431,411	(\$ 18,589)	(4.1%)
<b>Total Funds</b>	<b>\$ 0</b>	<b>\$ 450,000</b>	<b>\$ 431,411</b>	<b>(\$ 18,589)</b>	<b>(4.1%)</b>

Note: Full-time and contractual positions and salaries are reflected for operating budget programs only.

**Representation Election Results  
As of January 22, 2002**

<u>Unit</u>	<u>Total Employees</u>	<u>Votes Cast</u>	<u>Turnout</u>	<u>Tally of Votes</u>			<u>Outcome</u>
				<u>AFSCME</u>	<u>MCEA</u>	<u>No Union</u>	
<b>UM College Park</b>							
Non-exempt	1,750	1,108	63%	920	n/a	180	AFSCME
<b>Bowie State University</b>							
Non-exempt	84	69	82%	41	20	0	AFSCME
Exempt	69	41	59%				Appealed
Sworn police officers	7	5	71%	1	3	0	MCEA
<b>UM Eastern Shore</b>							
Non-exempt	198	139	70%	82	48	6	AFSCME
Sworn police officers	7	4	57%	4	0	0	AFSCME
<b>Frostburg State University</b>							
Non-exempt	256	228	89%	122	37	55	AFSCME
Sworn police officers	14	13	93%	6	7	0	MCEA
<b>Coppin State College</b>							
Non-exempt	87	64	74%	42	17	0	AFSCME
Exempt	49	27	55%	13	9	2	AFSCME, pending appeal
Sworn police officers	9	7	78%	6	1	0	AFSCME
<b>University of Baltimore</b>							
Non-exempt	138	114	83%				Runoff - AFSCME & MCEA
Sworn Police Officers	9	8	89%	4	2	0	AFSCME

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<u>Unit</u>	<u>Total Employees</u>	<u>Votes Cast</u>	<u>Turnout</u>	<u>Tally of Votes</u>			<u>Outcome</u>
				<u>AFSCME</u>	<u>MCEA</u>	<u>No Union</u>	
<b>Salisbury State University</b>							
Non-exempt	291	233	80%	n/a	11	0	Runoff - AFSCME & MCEA
Sworn Police Officers	16	14	88%				MCEA
<b>UM University College</b>							
Non-exempt	140	117	84%	92	n/a	12	AFSCME
<b>UM Center for Environmental Science</b>							
Non-exempt	58	44	76%	n/a	34	9	MCEA
<b>Baltimore City Community College</b>							
Non-exempt	183	105	57%	97	n/a	1	AFSCME
Exempt	97	70	72%	57	n/a	8	AFSCME
Sworn police officers	8	5	63%	4	n/a	1	AFSCME
<b>St. Mary's College</b>							
Non-exempt	97	79	81%	70	1	7	AFSCME
Exempt	103	47	46%	39	1	7	AFSCME
Sworn police officers	5	4	80%	1	0	0	AFSCME, pending appeal
<b>Morgan State University</b>							
Non-exempt	205	161	79%	95	36	1	AFSCME
<b>Total</b>	<b>3,880</b>	<b>2,706</b>	<b>70%</b>	<b>1,696</b>	<b>227</b>	<b>289</b>	

Source: Higher Education Labor Relations Board