Department of Legislative Services

Maryland General Assembly
1999 Session

FISCAL NOTE
Revised

House Bill 179 (The Speaker, *et al.*) (Administration)
Appropriations

State Employees - Collective Bargaining

This Administration bill provides statutory collective bargaining rights for certain State employees, as described below. The bill provides for memoranda of understanding between the Governor and the employees' representatives.

The bill takes effect July 1, 1999.

Fiscal Summary

State Effect: General fund expenditures would increase by $434,300 for six additional positions and other expenses (including one-time expenses for office furniture and equipment) for the Department of Budget and Management. Future year personnel increases reflect salary growth and turnover. Indeterminate increase in executive branch personnel expenditures depending on the contents of negotiated memoranda of understanding. Revenues would not be affected.

(in dollars)	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004
GF Revenues	$0	$0	$0	$0	$0
GF Expenditures	434,300	389,900	403,000	416,600	430,800
Net Effect	($434,300)	($389,900)	($403,000)	($416,600)	($430,800)

Note: ( ) = decrease; GF = general funds; FF = federal funds; SF = special funds; - =indeterminate effect

Local Effect: None.

Small Business Effect: A small business impact statement was not provided by the Administration in time for inclusion in this fiscal note. A revised fiscal note will be issued when the Administration's assessment becomes available.

Fiscal Analysis

Bill Summary: This bill provides statutory collective bargaining rights for approximately 40,000 State employees. (Currently, collective bargaining for certain State employees is governed by Executive Order 01.01.1996.13.)

Eligibility

Employees of the following appointing authorities are covered by the bill:

- the principal departments within the executive branch;
- the Maryland Insurance Administration;
- the State Department of Assessments and Taxation; and
- the State Lottery Agency.

The following personnel are not included:

- legislative and judicial branch personnel;
- elected and appointed officials;
- the Governor's staff;
- special appointees and executive service personnel in the State Personnel Management System;
- employees of the newly created State Labor Relations Board;
- the chief, deputy, or assistant administrator of a unit with an independent personnel system;
- temporary or contractual employees;
- an employee who is entitled to participate in collective bargaining under another law;
- an employee whose participation in a labor organization is contrary to the State's ethics laws; and
- any supervisory, managerial, or confidential employee as defined by regulation.

The employees covered under the bill are essentially the same as those covered by the executive order.

State Labor Relations Board

The bill creates a State Labor Relations Board to oversee the collective bargaining process. The board consists of five members: the Secretary of Budget and Management (or designee) plus four members of the general public appointed by the Governor with the advice and consent of the Senate. The four appointed members cannot be employees of the State or an employee organization. Two of the members must have knowledge of labor issues while the other two members must be members of the business community.

In making appointments to the board, the Governor must ensure, to the extent practicable, that the ratio of male and female members and the racial makeup of the board is reflective of the general population of the State and each major geographic area of the State is represented on the board.

The four appointed members will serve six-year staggered terms. They are entitled to compensation provided in the State budget in addition to expense reimbursement under the standard travel regulations. The board can hire an executive director, who will also be entitled to a salary. The executive director could in turn hire professional consultants. Other staff support are to be provided by the Department of Budget and Management.

No formal action may be taken by the board without the approval of a majority of the board.

The board's responsibilities include:

- establishing guidelines for creating new bargaining units;
- establishing procedures for, supervising conduct of, and resolving disputes about elections for exclusive representatives;
- investigating and taking appropriate action in response to complaints of unfair labor practices and lockouts;
- investigating possible violations of collective bargaining and any other relevant matter; and
- holding hearings to resolve any issues or complaints arising under collective bargaining.

The current executive order places responsibility for conducting elections and certifying bargaining representatives with the Department of Labor, Licensing, and Regulation (DLLR).

Employee and Employer Rights: Prohibition of Strikes and Lockouts

The bill gives employees the right to:

- take part or refrain from taking part in forming, joining, supporting, or participating in any employee organization or its lawful activities;
- be fairly represented by their exclusive representative, if any, in collective bargaining; and
- engage in other concerted activities (other than strikes) for the purpose of collective

bargaining.

The State retains the right to determine the mission, budget, organization, numbers, types and grades of employees assigned, work projects, tours of duty, methods, means, and personnel by which its operations are to be conducted. The State retains various other rights in setting and implementing its governmental goals.

State employees are prohibited from engaging in any strike, which includes work stoppages or slowdowns. The State is prohibited from engaging in a lockout. Both parties are prohibited from engaging in any unfair labor practices, as defined by the Secretary of Budget and Management.

Strikes are currently prohibited under the executive order, but the term is not defined and does not specifically address work slowdowns.

Election and Certification of Exclusive Representative

The board determines the appropriateness of each bargaining unit. The board will conduct elections for the exclusive representative of the bargaining units (currently the Department of Labor, Licensing, and Regulation conducts the elections) and certify the winner of those elections. The exclusive representative will then serve as the sole and exclusive bargaining agent for all employees in the bargaining unit.

Collective Bargaining Process

The parties may bargain over wages, hours, and other terms and conditions of employment. The parties, the Governor's designee, and the exclusive representative will then execute a memorandum of understanding (MOU) incorporating all matters of agreement reached. To the extent that these matters require legislative approval or the appropriation of funds, these matters must be recommended to the General Assembly for approval or for the appropriation of funds.

The Governor or the Governor's designee is not required to negotiate over any matter that is inconsistent with applicable law and may negotiate and reach agreement with regard to any such matter only if it is understood that the agreement with respect to such matter cannot become effective unless the applicable law is amended by the General Assembly.

Memorandum of Understanding (MOU)

The MOU contains all the matters of agreement reached in the collective bargaining process and is signed by the designated representatives of the Governor and the exclusive representative. The MOU may be valid for at least one year and no more than three years. The agreement must be ratified by the Governor and the employees of the bargaining unit (by a majority of the votes cast by the employees of the unit).

The General Assembly reserves the right to change or modify the law with regard to any matter that is the subject of a memorandum of understanding, regardless of whether the change or modification would become effective during the term of the MOU.

The current executive order does not specify the duration of agreements.

Existing Bargaining Units

The board must acknowledge existing bargaining units and exclusive representatives as certified under the Governor's executive order implementing collective bargaining. Newly covered employees will be placed in the existing bargaining units.

University System of Maryland

The bill prohibits the establishment or implementation of a collective bargaining plan for the University System of Maryland's nonfaculty employees.

State Expenditures: State expenditures associated with collective bargaining fall into three categories: (1) administrative expenses from implementation of collective bargaining; (2) increased across-the-board employee compensation negotiated via collective bargaining; and (3) other additional expenditures for other items negotiated via collective bargaining.

Administrative Expenses

The Department of Budget and Management is requesting approximately $677,700 in fiscal 2000, with ongoing costs of approximately $634,500 to implement the statutory collective bargaining program and create a State Labor Relations Board.

This request includes an additional ten positions to administer collective bargaining: one executive director, one deputy director, two professionals, one paraprofessional, and five labor relations professionals. Future year personnel expenditures assume 3.5% salary increases and 3% turnover. The computer equipment and office furniture are assumed to be one-time expenditures; the other expenditures are assumed to be ongoing.

When the executive order was signed, the Administration stated that implementation could be accomplished with existing resources. At that time, however, the former Department of Fiscal Services estimated the following additional expenditures associated with implementing the executive order:

Responsibility	Agency	Cost
Classifying positions into bargaining units	Department of Budget and Management (DBM)	Absorbed within existing resources.
Certification of bargaining unit; supervision of representative elections	Department of Labor, Licensing, and Regulation	$157,640
Contract Negotiation	Governor's Office	$323,750
Payroll deduction changes	Central Payroll Bureau of Comptroller's Office	$56,700 (one time); $30,000 ongoing
Grievance resolution related to collective bargaining agreement	DLLR/DBM/Office of Administrative Hearings	$97,100
Total		**$635,200**

While DBM's estimate for implementing statutory collective bargaining is similar to DFS's original estimate, this similarity is misleading given that many of the tasks associated with implementing collective bargaining have already been accomplished. The vast majority of covered employees have already been placed in collective bargaining units. The first set of elections for these units have already been held and the first round of negotiations is essentially complete.

The cost estimate provided by DBM therefore may be somewhat inflated. Moreover, DLLR expenditures should be reduced because they will no longer be required to conduct representative elections and the Office of Administrative Hearings will similarly no longer need to resolve employee disputes related to collective bargaining. Both of these functions will now be performed by the labor relations board. Because these agencies were not permitted to request additional funds for these additional responsibilities, it cannot be reliably determined at this time how much these expenditures should decrease.

Legislative Services estimates that at most 6 new DBM positions would be required to implement statutory collective bargaining. Given that the bargaining units are already established and the first set of elections have been held, 3 labor relations positions should be adequate. (DBM also already has staff to address employee grievances that would now come under the scope of collective bargaining.) Also, one high-level professional position should be adequate to provide support to the executive director, rather than the 3 positions requested by DBM. Based on these workload estimates, the additional fiscal 2000 costs to DBM would be approximately $434,300, declining to $389,900 in fiscal 2001 after payment of one-time expenditures; as illustrated below:

Cost to Implement Collective Bargaining

	DBM Request	Legislative Services Estimate
Additional positions (including exec. director) to staff State Labor Relations Board, including fringe benefits	$593,185	$350,282
Per diems for board members	$19,200	$19,200
Travel mileage for board and staff	$5,464	$5,464
Outside mediator and fact-finders	$10,000	$10,000
Office furniture and supplies for new staff	$25,650	$25,170
Additional computer equipment for new staff	$22,200	$22,200
Subscriptions to labor relations guides and manuals	$2,000	$2,000
Total	**$677,699**	**$434,316**

Computerized payroll deduction changes, such as implementation of the agency, can be made by the Central Payroll Bureau using existing budgeted resources. Again, the majority of payroll expenses associated with collective bargaining have already been realized.

Administrative expenses for the higher education institutions may increase by an indeterminate amount to implement collective bargaining for non-faculty employees.

Increased Across-the-Board Employee Compensation

A study by the former Department of Fiscal Services found that collective bargaining increased salaries and salary-related fringe benefits by 1% to 1.5% per year, versus what they would be in the absence of collective bargaining.

The fiscal 1999 budget included a general salary increase of $1,275 (phased-in) per employee and the Governor has included a similar increase in his fiscal 2000 budget proposal. The fiscal 1999 increase cost $90.3 million (of which $58.3 million was general funds) and represented a payroll increase of 3.0%. The cost of the fiscal 2000 increase is estimated at $81 million ($53 million in general funds) and represents a payroll increase of 2.6%.

It cannot be reliably estimated at this time whether (or how much of) such an increase would have transpired in the absence of collective bargaining. Moreover, as long as the collective bargaining executive order remains in effect, it is not clear what additional compensation costs would result from statutory collective bargaining.

Providing collective bargaining for 8,800 non-faculty employees of State higher education institutions should not affect the cost of general salary increases, because these higher education employees have received (and, under the status quo, presumably would continue to receive) the general salary increase received by other State employees even though they are not covered by the executive order. If bargaining terms related specifically to these employees, then personnel expenditures could increase by an indeterminate amount (on a payroll of approximately $311 million).

Other Additional Expenditures for Other Items Negotiated via Collective Bargaining

In addition to the general salary increase, the Governor has granted other compensation and non-compensation benefits during collective bargaining negotiations. The fiscal 2000 budget submitted by the Governor includes $898,680 identified as direct or indirect costs of implementing provisions of collective bargaining agreements under the executive order. These expenses are allocated as follows:

Uniform Allowance	$611,817
Shift Differential	$163,366
Acting Capacity Pay	$70,453
Roll Call Pay	$33,579
Bilingual Pay, Bulletin Boards, Call-Back Pay, Report Pay, Short Turnaround Pay, Stewards/Duty Time	$17,465
Total	**$898,680**

Also as part of collective bargaining, the Governor has requested legislation to enhance the State Police Retirement System at a cost of approximately $13 million per year. The fiscal impact of such pension legislation would not normally be realized until fiscal 2001; the Governor, however, has included $8 million in the fiscal 2000 budget for the pension enhancement contingent on enactment of the enhancement bill.

Again, it cannot be reliably estimated at this time whether such improvements to working conditions would have transpired in the absence of collective bargaining. Any changes to employee benefits that are specified in statute -- such as pension benefits -- would require legislative action to implement the collective bargaining agreement. Finally, as long as the collective bargaining executive order remains in effect, it is not clear what additional fringe benefit costs would result from statutory collective bargaining.

Information Source(s): Comptroller's Office (Central Payroll Bureau); Department of Budget and Management; Department of Labor, Licensing, and Regulation; Department of Transportation; Office of Administrative Hearings; University System of Maryland; Department of Legislative Services

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Analysis by: Matthew D. Riven

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510