

Department of Legislative Services  
Maryland General Assembly  
2000 Session

FISCAL NOTE

House Bill 1320 (Delegate C. Davis)

Ways and Means

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**Public Schools - Collective Bargaining - Organizations of Noncertificated Employees**

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This bill enables local boards of education to include issues concerning educational policy or the administration of the public schools as proper subjects of collective bargaining for noncertificated school employees. The bill provides that collective bargaining on a subject matter is illegal only if it is expressly prohibited by statute. The State Board of Education cannot prohibit collective bargaining on subject matters that are permissive or mandatory subjects of collective bargaining.

When an impasse is reached between a local board and an employee organization and an arbitration panel is convened, the recommendations of the arbitration panel become final and binding on both the local board and the county governing body. The local board cannot appeal the decision of the arbitration panel. In addition, the bill repeals the requirement that the local board of education make the final determination on matters subject to negotiation and that the final determination be subject to other provisions of statute relating to the fiscal relationship between the public school system and the county governing body.

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** Potential significant increase in local school expenditures. The effect on local school expenditures depends on the items included in the employee collective bargaining agreements. **This bill imposes a mandate on a unit of local government.**

**Small Business Effect:** None.

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**Analysis**

**Current Law:** Collective bargaining rights are extended to noncertificated public school employees in 15 local school systems. The nine counties on the Eastern Shore are not required to enter into collective bargaining agreements with their noncertificated public school employees. Noncertificated employees include custodians, school bus drivers, maintenance workers, instructional aides, and nonprofessional school employees. The scope of collective bargaining includes all matters that relate to salaries, wages, hours, and other working conditions.

The State Board of Education has ruled that certain matters relating to educational policy or the administration of the public schools are not negotiable because the interests of the overall school community prevails. **Exhibit 1** lists the subject matters that are not negotiable and arbitrable.

Local boards of education have the final decision on whether to accept the recommendation of the arbitration panel. In addition, any negotiated agreement between the local board and employee organization is subject to the county governing body providing the local school system with sufficient funding to implement the agreement.

**Local Fiscal Effect:** Pursuant to this bill, the findings and recommendations of the arbitration panel are final and binding, and the county governing body would have to fund the recommendations. This could result in a significant increase in local school expenditures, especially if the local board agrees to include additional issues in collective bargaining negotiations that were previously disallowed by the State board.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland State Department of Education, Maryland State Teachers Association, Department of Legislative Services

**Exhibit 1**  
**Non-negotiable Subject Matters**

<b>Subject Matter Not Negotiable/Arbitrable</b>	<b>State Board Decision/ Appellate Court Opinion</b>
School Calendar	MCEA v. Board of Education of Montgomery County, 311 Md. 303, 534 A.2d 980 (December 28, 1987)
Reclassification	MCEA v. Board of Education of Montgomery County, 311 Md. 303, 534 A.2d 980 (December 28, 1987)
Class Size	Garrett County Teachers' Association v. Board of Education, State Board Opinion No. 88-6 (April 27, 1987)
Classroom Observation	Howard County Education Association v. Board of Education, State Board Opinion 88-5 (April 27, 1987)
Second Class Certificates	Dorchester Educators v. Board of Education, State Board Opinion 88-3 (April 27, 1988)
Assignment (but procedure is negotiable)	Brezinski/Wallace v. Board of Education of Howard County, State Board Opinion 98-14 (June 28, 1989)
Transfer and Reassignment (but procedure is negotiable)	Einem v. Board of Education of Howard County, State Board Opinion No. 89-13 (June 28, 1989)
A local school board may neither negotiate nor delegate its responsibilities for determining tenure.	Board of Education of Carroll County v. Education Association, Inc., 53 Md. App. 355, 452 A.2d 1316 (1982)
Right to transfer teachers involuntarily (procedures are negotiable and arbitrable).	Williamson v. Board of Education of Prince George's County, No. 89-11 (June 28, 1989)
Matters of educational policy including promotion, transfer, and evaluation of noncertificated employee is not negotiable.	Howard County Educational Support Personnel v. Board of Education of Howard County, No. 89-32 (December 13, 1989)
Change in step caused by a reclassification plan.	Washington County Educational Classified Employee Association v. Board of Education of Washington County (Ct. of Sp. App., September 3, 1993)
Extra-curricular assignments, such as coaching assignment decisions.	Education Association of St. Mary's County and Thomas Murray v. Board of Education of St. Mary's County, State Board Opinion No. 97-22 (May 28, 1997) upheld by the Circuit Court for St. Mary's County, case no. 18-C-97-000781, May 14, 1998

Source: Maryland Association of Boards of Education

**Fiscal Note History:** First Reader - March 20, 2000  
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