SB 207

Department of Legislative Services

Maryland General Assembly
2001 Session

FISCAL NOTE
Revised

Senate Bill 207 (The President, *et al.*) (Administration)

Finance and Budget and Taxation Appropriations

State Personnel - Higher Education - Collective Bargaining

This Administration bill expands collective bargaining for State employees to include employees of the University System of Maryland (USM), Morgan State University, St. Mary's College, and Baltimore City Community College.

The bill takes effect July 1, 2001.

Fiscal Summary

State Effect: Higher education personnel expenditures could increase depending on the contents of negotiated memoranda of understanding. Expenditures could increase by $333,300 (general funds) in FY 2002 for three additional positions and other one-time and ongoing expenses for the newly created Higher Education Labor Relations Board. Administrative expenditures at USM and the other covered institutions could increase by $660,800 in FY 2002 for eleven additional positions and contractual services, of which 70% is assumed to be general funds. FY 2002 costs reflect the October 1 effective date; future years reflect annualization and growth. Revenues would not be affected.

(in dollars)	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Revenues	$0	$0	$0	$0	$0
GF Expenditure	795,900	923,000	963,100	1,005,600	1,050,800
Higher Ed Exp.	198,200	273,200	285,700	299,000	313,100
Net Effect	($994,100)	($1,196,200)	($1,248,800)	($1,304,600)	($1,363,900)

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.

Analysis

Bill Summary: With certain exceptions, employees of USM, Morgan State University, St. Mary's College, and Baltimore City Community College would be subject to collective bargaining. Employees not covered by collective bargaining include administrators, faculty, teaching assistants, contractual employees, and others.

Each of the institutions, including each constituent institution of USM, will have three bargaining units: non-exempt employees, exempt employees, and sworn police officers. Potentially, there could be 51 bargaining units (17 institutions times three units each), but the bill allows constituent institutions of USM to combine their units with those of other constituent institutions for the purposes of collective bargaining. The institutions will be required to request any necessary funding or legislation to implement collectively bargained matters. The memoranda will become effective upon ratification by the institution's governing board and a majority vote of the employees in the bargaining unit. The bill clarifies that provisions negotiated by State employees under their collective bargaining agreements will not necessarily apply to higher education employees.

The bill creates an independent Higher Education Labor Relations Board to oversee collective bargaining for State institutions of higher education. The board will consist of five members and will employ an executive director and other staff.

The bill also requires the institutions to study their contractual employment practices and report to the Governor and the General Assembly by December 31, 2001.

Current Law: Chapter 298 of 1999 specifically prohibits the establishment or implementation of a collective bargaining plan for USM's nonfaculty employees.

Background: Chapter 298 of 1999 provided statutory collective bargaining rights for approximately 37,000 State employees of the executive branch. Prior to that, collective bargaining for certain State employees was governed by Executive Order 01.01.1996.13. The law currently applies to approximately 37,000 employees of the executive branch and certain other agencies. A State Labor Relations Board oversees the collective bargaining process. The board consists of five members: the Secretary of Budget and Management plus four members of the general public appointed by the Governor with the advice and consent of the Senate (these members have been appointed but not yet confirmed by the Senate). There is an executive director and four other budgeted positions; additional staff support is provided by DBM.

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 matters; and holding hearings to resolve any issues or complaints arising under collective bargaining.

Under the law, employees have 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.

The parties may bargain over wages, hours, and other terms and conditions of employment. The parties, the Governor's designee, and the exclusive representative 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 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.

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 cost of administering collective bargaining will be borne by the newly created Higher Education Labor Relations Board (to oversee collective bargaining and resolve disputes) and the institutions (to implement collective bargaining and negotiate as the employer). The cost of creating and operating the board cannot be precisely estimated at this time, but it is reasonable to assume that it will be similar to the amount that the Department of Budget and Management (DBM) has budgeted to operate the State Labor Relations Board. DBM has budgeted approximately $575,000 per year for that board, including five positions and $200,000 per year in contractual services for economic and legal analysis.

To operate the Higher Education Labor Relations Board, general fund expenditures could increase by an estimated $333,300 in fiscal 2002, which accounts for a 90-day start-up delay. This estimate reflects the cost of hiring three new positions to staff the board. The lower number of positions for this board versus the existing State board reflects the smaller number of employees covered under the bill.

The estimate includes salaries, fringe benefits, and ongoing operating expenses, including a $100 per day per diem and travel and expense reimbursement for the board members, ongoing contractual services, and printing and other communications costs. It also includes one-time start-up expenses such as computers and office furniture and initial costs for communications and consulting services associated with establishing bargaining units and holding elections. Future year expenditures reflect: (1) full salaries with a 6.5% increase in fiscal 2003 and a 4.5% increase each year thereafter, with 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

In addition, administrative expenses for the higher education institutions will also increase to implement collective bargaining for these employees. USM advises that it will require 22 additional positions and incur other costs (at a total cost of $1.4 million) to administer collective bargaining. These positions and other costs would be spread among the constituent institutions and at the system headquarters. Legislative Services believes this estimate is excessive given that DBM has added only ten new staff to administer collective bargaining for 37,000 employees, or about four times the number covered under this bill. Moreover, the labor relations board, rather than the institutions, will handle the dispute resolution function.

Legislative Services therefore advises that USM could implement the bill's requirements with approximately eight additional staff to handle collective bargaining negotiations (one additional position at the six largest constituent institutions and two positions shared among the smaller constituent institutions). Each of the other three institutions covered under the bill -- Morgan State University, St. Mary's College, and Baltimore City

Community College -- could also need an additional position to handle collective bargaining negotiations.

Higher education expenditures could therefore increase by an estimated $660,800 in fiscal 2002, which accounts for the bill's October 1, 2001 effective date. This estimate reflects the cost of hiring the 11 positions (at Grade 22) to handle the collective bargaining negotiations. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses, including approximately $100,000 for contractual services (among all the institutions) for outside attorneys, economists, and labor specialists as necessary, and $25,000 for supplies. Future year expenditures reflect: (1) full salaries with a 6.5% increase in fiscal 2003 and a 4.5% increase each year thereafter, with 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

It is not possible to determine the exact proportion attributable to State general funds. It is assumed that 70% of personnel costs are associated with State general funds and the other 30% with other restricted and unrestricted fund sources at the institutions.

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 number of employees covered by the bill is estimated to be as follows:

Estimated Number of Employees and Payroll of Covered Employees of Higher Education Institutions Subject to SB 207/HB 300

($ in millions)	Estimated Number of Covered Employees	Estimated Payroll (including fringe benefits)
University System of Maryland	9,000	$377.0
St. Mary's College	210	8.5
Morgan State University	487	21.7
Baltimore City Community College	290	12.6
Total	**9,987**	**$419.8**

Note: Employees covered based on total institution employees, less faculty and 20% assumed reduction for administrative/management and contractual employees. Payroll assumes fringe benefits at 20% of salary.

Providing collective bargaining for these non-faculty employees of State higher education institutions may 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 collective bargaining statute. If the bargaining resulted in provisions related specifically to these employees and over and above what was provided to other State employees, then personnel expenditures could increase accordingly.

Other Additional Expenditures for Other Items Negotiated via Collective Bargaining

In addition to the general salary increases, the Governor has granted other compensation and non-compensation benefits during collective bargaining negotiations, including tuition reimbursement, roll call pay, shift differential, increased uniform allowance, and other expenses. It cannot be reliably estimated at this time whether such improvements to working conditions would have transpired in the absence of collective bargaining or whether the higher education bargaining units would negotiate other non-salary benefits with a fiscal impact.

Additional Information

Prior Introductions: HB 607 of 2000, a substantially similar bill, was not reported from the House Appropriations Committee. SB 245, the cross file to HB 607, was not reported from the Senate Finance Committee.

Cross File: HB 300 (Speaker, *et al*.) – (Administration) **-** Appropriations.

Information Source(s): Department of Budget and Management, Maryland Higher Education Commission, Morgan State University, St. Mary's College, University System of Maryland, Department of Legislative Services

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