

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

Senate Bill 378 (Senator Kelley, *et al.*)
Finance

Education - Negotiations

This bill authorizes local boards of education and local school employee organizations to negotiate over mutually agreeable matters other than salaries, wages, hours, and other working conditions. The bill requires the State Labor Relations Board (SLRB) to: (1) mediate and settle collective bargaining disputes between local boards of education and employee organizations representing certificated and noncertificated public school employees; and (2) determine, upon petition by either party, what matters are mandatory, permissive, or illegal for bargaining. The SLRB is also required to adopt rules and regulations to: (1) verify the number of public school employees who are members in good standing of an employee organization; and (2) hold and certify elections that decide what employee organizations will represent public school employees. The SLRB may adopt regulations to carry out the bill's requirements and may make recommendations for legislative action regarding the operation of the duties assigned by the bill.

Fiscal Summary

State Effect: The additional administrative functions assigned to the SLRB could be performed with existing budgeted resources.

Local Effect: Potentially significant increases in local school expenditures due to potential expansion of matters subject to collective bargaining agreements, increases in labor negotiation costs, and potential increases in noncertificated school employee salaries.

Small Business Effect: None.

Analysis

Bill Summary: In addition to the expansion of matters eligible for collective bargaining and the duties assigned to the SLRB, the bill extends collective bargaining rights to noncertificated school employees who work part-time and who work for Eastern Shore school systems (Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester counties). The bill also adds the discipline and discharge of noncertificated employees to the subjects that must be bargained.

Current Law: The State Board of Education, with the advice of its Attorney General, settles collective bargaining disputes between local boards of education and employee organizations. If, on request by either party, the State Superintendent of Schools determines that an impasse in collective bargaining negotiations is reached, the assistance of the State board may be requested with the consent of both parties.

The only matters subject to the collective bargaining process are salaries, wages, hours, and other working conditions. Noncertificated school employees who work for Eastern Shore school systems or who work part-time do not have collective bargaining rights.

The State board adopts rules and regulations to: (1) verify the number of public school employees who are in good standing with an employee organization; and (2) hold and certify elections for employee organizations.

The SLRB is made up of five members, the Secretary of Budget and Management or the Secretary's designee and four members appointed by the Governor with the advice and consent of the Senate. Members serve six-year staggered terms and may be removed by the Governor for incompetence or misconduct.

Background: The State Board of Education and sometimes the courts have ruled on the matters that can be negotiated in the collective bargaining process. **Exhibit 1** shows some of the subject matter that the State board and the courts have determined is not negotiable.

Exhibit 1
Non-Negotiable Subject Matters

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

State Expenditures: Of the five SLRB employee positions, four are currently vacant. It is assumed that one of these positions, if filled, could be used to provide the additional administrative support the bill would require. Any reduction in State Board of Education responsibilities would not materially affect its finances.

Local Fiscal Effect: Local school expenditures could increase due to: (1) an expanded catalog of matters subject to collective bargaining; (2) an increase to the types of employees with whom labor negotiations must occur; and (3) increased salaries for employees granted collective bargaining rights.

Matters Subject to Collective Bargaining

Under current law, only employee salaries, wages, hours, and working conditions are subject to collective bargaining. The bill would extend collective bargaining to include matters that are mutually agreed to by local boards of education and employee organizations, and on petition by one of the parties, the bill would have the SLRB decide what matters are permissible. Some matters to which bargaining power could be extended include the school calendar, class sizes, classroom observations, teacher assignments, and teacher transfers. The State Board of Education has ruled that these matters may not be bargained under current law, but if the bill's provisions result in these or other matters being subject to negotiation, there could be a significant fiscal impact on local school systems. The impact, however, cannot be reliably estimated at this time.

Increased Labor Negotiations

Costs associated with labor negotiations would increase for the Eastern Shore counties because they would have to bargain with noncertificated employees who are currently ineligible for bargaining. Several Eastern Shore school systems advise that funds for additional permanent personnel or attorney or consultant fees would be needed in order to comply with the bill's requirements. The costs to Eastern Shore school systems would vary depending on current local practices and available personnel, with two counties estimating increased personnel and fee expenditures of approximately \$100,000 each. School systems not located on Maryland's Eastern Shore could also be affected due to the inclusion of part-time noncertificated school personnel in collective bargaining, but the increased workload for these school systems is expected to be minimal.

Increased Salaries for Noncertificated School Employees

Another potential cost for local school systems is increased salaries for noncertificated school employees. Again, the greatest impact is on the Eastern Shore systems because

they do not currently bargain with any noncertificated employees. Expenditure increases for noncertificated employee salaries cannot be reliably estimated at this time, but could be significant for some Eastern Shore counties.

Additional Information

Prior Introductions: HB 1319 of 2000 would have allowed some education policy issues to be debated in collective bargaining negotiations. The bill was not reported out of the House Ways and Means Committee.

HB 451 of 2000 and HB 701 of 1999 would have allowed issues of discipline and discharge of noncertificated employees to be negotiated under collective bargaining. The 2000 bill passed the House but was not reported out of the Senate Finance Committee, and the 1999 bill received an unfavorable report from the House Ways and Means Committee.

Cross File: HB 518 (Delegate Hixson, *et al.*) - Ways and Means.

Information Source(s): Department of Budget and Management; Maryland State Department of Education; Department of Labor, Licensing, and Regulation; Eastern Shore Education Consortium; Caroline, Carroll, Cecil, Harford, Kent, Montgomery, Prince George's, Queen Anne's, St. Mary's, Wicomico, and Worcester counties; Department of Legislative Services

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