

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE
Revised

Senate Bill 233 (The President, *et al.*) (Administration)

Finance

Ways and Means

Education - Negotiations Between Public School Employers and Employee Organizations

This Administration bill authorizes local boards of education and local school employee organizations representing certificated and noncertificated school personnel to negotiate over mutually agreeable matters other than salaries, wages, hours, and working conditions. Local boards, however, may not negotiate the school calendar, class sizes, or matters precluded by law. If either party declines to negotiate a permissive item, it cannot be subject to an impasse. The bill extends collective bargaining rights to noncertificated school employees who work for school systems on the Eastern Shore. The discipline and discharge of noncertificated employees for just cause is also added to the subjects that may be bargained.

Fiscal Summary

State Effect: General fund expenditures could increase due to potential increases in the teacher salary base and local spending for schools.

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

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

Current Law: School personnel negotiate with local school boards as two separate units, one for certificated personnel and one for noncertificated personnel. 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 (Caroline, Cecil, Dorchester, Kent, Queen Anne’s, Somerset, Talbot, Wicomico, and Worcester counties) or who work part-time do not have collective bargaining rights.

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. If this bill passes, it is possible that some of these matters could be negotiated.

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 Fiscal Effect: The State pays retirement benefits for teachers based on the salaries of teachers in the second prior fiscal year. Depending on the matters that are subject to collective bargaining, the salary base for teachers could increase beginning in fiscal 2003. An increased salary base would result in higher teachers' retirement payments in the second fiscal year following the increase.

In addition, the per pupil current expense figure, which is shared by State and local governments, is based on total school spending in the third and fourth prior fiscal years. Any increases in school spending that result from this bill would increase State spending through the current expense formula in future years. The per pupil current expense figure is also used to determine State aid provided through the compensatory education formula and targeted improvement grants.

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

Increased Labor Negotiations

Costs associated with labor negotiations would increase for the Eastern Shore counties because they would bargain with noncertificated employees who are currently ineligible for bargaining. Noncertificated employees would constitute a separate bargaining unit and would therefore double the negotiation workload of the Eastern Shore boards of education. Several Eastern Shore boards advise that funds for additional permanent personnel or for 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 local practices and available personnel, but two counties (Cecil and Worcester) estimate increased personnel and fee expenditures of approximately \$100,000 each.

Increased Salaries for Noncertificated School Employees

Another potential cost for local school systems is increased salaries and fringe benefits for noncertificated school employees. Based on a Legislative Services' study of collective bargaining, it is estimated that, on average, collective bargaining increases salary and salary-driven costs by 1% to 1.5% over what they would be in the absence of collective bargaining. The only impact would occur on the Eastern Shore systems because they do not currently bargain with any noncertificated employees.

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. Depending on the matters that the parties agree to negotiate, costs for local school systems could increase significantly.

Additional Information

Prior Introductions: HB 518 of 2001 would have made similar changes to the school employee negotiation process and would have had the State Labor Relations Board, rather than the State Board of Education, settle any disputes. The bill passed in the House but was not reported out of the Senate Finance Committee.

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 required the 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 290 (The Speaker, *et al.*) (Administration) – Ways and Means.

Information Source(s): Maryland State Department of Education, Maryland Association of Boards of Education, Harford County, Montgomery County, Eastern Shore of Maryland Educational Consortium, Department of Legislative Services

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Analysis by: Mark W. Collins

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