

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 422
Finance

(Senator McFadden)

State Employees - Collective Bargaining - Judicial Branch Employees

This bill extends collective bargaining to State Judicial Branch employees. It also establishes the State Labor Relations Board (SLRB) as an independent unit of State government.

Fiscal Summary

State Effect: General fund expenditures could increase by \$561,100 in FY 2005 to implement collective bargaining for Judicial Branch employees. Future year expenditures reflect annualization and inflation. Personnel expenditures may also increase significantly depending on the results of bargaining negotiations. Revenues would not be affected.

(in dollars)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	561,100	485,800	392,900	527,300	550,000
Net Effect	(\$561,100)	(\$485,800)	(\$392,900)	(\$527,300)	(\$550,000)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill transfers the authority of the Secretary of Budget and Management over certain matters to SLRB, including adoption and enforcement of regulations and policies to define unfair labor practices and establish permissible labor-

related activities on the work site. It also transfers the Secretary's authority to assign classification titles and positions to bargaining units (excluding those at universities) to SLRB.

It also expands the membership of the board from five to seven. The two additional members must be appointed by the Chief Judge of the Court of Appeals. The bill stipulates that the Governor must designate the chairman of the board with the advice of the Chief Judge, as well as the Secretary, and clarifies that the Governor may only remove members appointed by the Governor and the Chief Judge may remove members appointed by the Chief Judge.

The Chief Judge of the Court of Appeals must designate one or more representatives to participate as a party in collective bargaining. Further, the Governor must include any amounts in the budget of the Judicial Branch needed to cover any additional cost from collective bargaining negotiations and requires a memorandum of understanding (MOU) related to Judicial Branch employees to be executed by exclusive representatives and the Chief Judge or a designee. An MOU for Judicial Branch employees is not effective until it is ratified by the Chief Judge and a majority vote by the employees in the bargaining unit.

The terms of an MOU executed by the Chief Judge do not apply to skilled or professional service employees in the State Personnel Management System or employees of a State higher learning institution.

Current Law: Chapter 298 of 1999 created statutory collective bargaining rights for State Executive Branch employees. (Judicial and Legislative branch employees do not have collective bargaining.) It also created SLRB 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.

The board's responsibilities include: (1) establishing guidelines for creating new bargaining units; (2) establishing procedures for, supervising conduct of, and resolving disputes about elections for exclusive representatives; (3) investigating and responding to complaints of unfair labor practices and lockouts; and (4) holding hearings to resolve any issues or complaints arising under collective bargaining.

The Chief Judge of the Court of Appeals is the administrative head of the State judicial system. Judicial Branch employees have nonstatutory grievance procedures that apply to certain complaints; however, employees cannot grieve over issues such as wage patterns, fringe benefits, and position classification. The grievance procedure requires a written

complaint and an attempt to resolve the issue with an immediate supervisor. A supervisor's decision can be appealed to the Clerk of the Court or the Administrative Office of the Courts' unit director, and ultimately, to the State Court Administrator.

Background: The Judicial Branch includes the following: the Court of Appeals, Circuit Court judges and clerks, the District Court, the State Law Library, the Administrative Office of the Courts, and court-related agencies. The fiscal 2005 budget authorizes 3,244 permanent positions and salaries, wages, and benefits totaling \$197.4 million. The fiscal 2005 allowance for SLRB, which operates under the Department of Budget and Management (DBM), is \$261,604, which includes \$40,000 for contractual services.

Several states that provide statutory collective bargaining rights extend those rights to judicial employees, including New Hampshire, Rhode Island, Maine, Massachusetts, and Connecticut.

State Expenditures: The bill will increase expenditures for SLRB. Additionally, the Judicial Branch would incur both administrative and personnel costs to implement collective bargaining.

Administrative Costs – State Labor Relations Board

The cost of administering collective bargaining will be borne to some extent by the board to oversee bargaining and the election process. The board, which currently has three staff members, will need an Assistant Attorney General to handle the additional workload incurred as a result of collective bargaining for Judicial Branch employees. Furthermore, contractual assistance will likely be required to implement collective bargaining procedures in the first year. Fiscal 2005 general fund expenditures for the board will increase by \$123,976, which includes \$60,000 in contractual services, \$58,303 for an Assistant Attorney General (accounting for the October 1 effective date), and \$5,673 for operating expenses.

The bill's proposed expansion of the board will increase per diem expenses, which are assumed to be absorbable within existing resources. DBM advises that the transferred responsibilities in the bill are not likely to require additional resources for the board. For example, classifications have already been assigned to bargaining units – the board's authority to make these classifications under the bill would only be needed sporadically.

The separation of the board as an independent unit would effectively transfer its general fund appropriation (\$261,604 in fiscal 2005) out of DBM but would not have significant fiscal implications.

Judiciary

Administrative expenses for the Judicial Branch will also increase. The Judiciary advises that it would need eight additional positions and incur a total cost of \$1.6 million in fiscal 2005 to administer collective bargaining, based on an estimate of bargaining costs by DBM in 2003.

The Department of Legislative Services (DLS) advises that it would need fewer personnel given that SLRB will be handling some of the functions and less than 3,000 employees will be covered. DLS therefore advises that the Judiciary could implement the bill's requirements with approximately four additional permanent staff, including a labor relations manager, two labor relations specialists, and an administrative aide, as well as a contractual employee for 2005 only. DLS also notes that DBM draws upon assistance from various executive agencies to administer collective bargaining for executive employees; presumably the Judicial Branch agencies will also be able to provide support. DLS recommends \$175,000 in contractual services in the first year of implementation and \$100,000 thereafter.

Judiciary expenditures could therefore increase by an estimated \$437,201 in fiscal 2005 which accounts for the October 1 effective date. This estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses:

- contractual services (\$175,000);
- operating and start-up expenses, including travel (\$24,290); and
- salaries and fringe benefits (\$287,911) for five employees.

Future year expenditures reflect full salaries with 4.6% annual increases, 3% employee turnover, and 1% annual increases in ongoing operating expenses.

Personnel

Based on a DLS study of collective bargaining, it is estimated that, on average, collective bargaining increases costs associated with salaries and fringe benefits by 1% to 1.5%. It is unclear how many Judicial Branch employees would be covered by collective bargaining or whether contractual employees would be included. Presumably, judges would not be part of any collective bargaining unit. Accordingly, DLS assumes that 281 of the 3,244 employees allowed for fiscal 2005 would be excluded.

The payroll (excluding benefits) for the remaining 2,963 employees would be approximately \$139 million, based on the average State employee salary for fiscal 2005 (\$46,882), and would increase to \$140.3 million if salaries increased by 1% for all

employees. DLS observes that this number would be lower as it includes employees normally excluded from collective bargaining, such as managers. DLS also notes that State employee pay raises and other benefits frequently apply uniformly to all State employees regardless of their inclusion in a collective bargaining unit.

Additional Information

Prior Introductions: An identical bill was introduced as SB 607 in 2003 and was given an unfavorable report by the Senate Finance Committee.

Cross File: HB 904 (Delegate C. Davis) – Appropriations.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

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