

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 815
Finance

(Senator Gladden, *et al.*)

State Personnel - Collective Bargaining - Revisions

This bill establishes the State Labor Relations Board (SLRB) as an independent unit of State government. Additionally, it allows either party in the collective bargaining process for any bargaining unit to request that a board of arbitration be convened if negotiations do not conclude by November 1.

The bill takes effect July 1, 2005.

Fiscal Summary

State Effect: General fund expenditure increase of \$240,000 in FY 2006 to develop a database with employee information and annual costs of \$8,000 to maintain the database beginning in FY 2007. Potential significant increase in general fund expenditures beginning in FY 2006 related to hiring panels of arbitrators. The effect of arbitration on future personnel costs cannot be reliably estimated.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: Since SLRB would be an independent unit of State government, the composition of the board would change so that the Secretary of Budget and Management would no longer be a member of the board. The membership of SLRB would consist of five members, all of which would be appointed by the Governor with the advice and

consent of the Senate. Of the five members, two would be appointed on the recommendation of the Maryland AFL-CIO, and two would be members of the business community. No one on SLRB would be an officer or employee of the State or of a State employee organization. Additionally, SLRB would select its chairman from the members, rather than be a gubernatorial designee. The bill also requires that the members of SLRB have staggered terms of office. To this effect, the term of one member will expire in 2007, two in 2008, and two in 2009.

SLRB and the Higher Education Labor Relations Board (HELRB) would jointly appoint an executive director of the boards, who would serve at the pleasure of and would be responsible to both SLRB and HELRB. The executive director may hire any staff as necessary.

SLRB would be required to order the State to provide an exclusive representative with each employee's name, position classification, unit, and worksite address and telephone number, for employees in the bargaining unit that the exclusive representative represents.

Furthermore, the bill defines unfair labor practices, which may not be engaged in by the State, its employees, officers, agents, or representatives. Among those practices prohibited are:

- interfering with, restraining, or coercing employees in exercising their rights;
- dominating, interfering with, supporting, assisting in the formation, existence, or administration of any labor organization;
- granting administrative leave to employees to attend employer sponsored or supported meetings or events related to an election or a specific labor organization, unless administrative leave is also granted to employees to attend labor-sponsored or supported meetings, or employee meetings;
- discriminating in hiring, tenure, or any condition of employment that encourages or discourages membership in an employee organization;
- failing to provide all employee organizations the same rights of access;
- engaging in surveillance of union activities;
- refusing to bargain in good faith; or
- engaging in a lockout.

Additionally, the bill defines unfair labor practices, which may not be engaged in by the employee organizations, their agents, or representatives. Among those practices prohibited are:

- interfering with, restraining, or coercing employees in exercising their rights;
- causing or attempting to cause an employer to discriminate in hiring, tenure, or any condition of employment to encourage or discourage membership in an employee organization;
- engaging in, instigating, or encouraging employees to engage in a strike;
- interfering with the statutory duties of the State or an employer;
- refusing to bargain in good faith; or
- not fairly representing employees in collective bargaining, or in any other matter.

If collective bargaining negotiations are not concluded by November 1, either party would be able to request that a board of arbitration be convened. The board of arbitration would be composed of three neutral members appointed by the federal Mediation and Conciliation Service or under the labor arbitration rules of the American Arbitration Association. The board would have the authority to give notice and hold hearings, administer oaths and take testimony or other evidence, issue subpoenas, and must determine before January 1 the matters of agreement. The bill requires that the memorandum of understanding (MOU) incorporating all matters of agreement reached by the parties or determined by the board of arbitration must be executed by the exclusive representative and the employing authority engaged in collective bargaining.

Current Law: The five-member SLRB is part of the Department of Budget and Management (DBM). As such, the Secretary of Budget and Management is a member of SLRB. Additionally, two members must have knowledge of labor issues, and two must be members of the business community. These four members are appointed by the Governor with the advice and consent of the Senate.

HELRB is an independent unit of State government that appoints its own executive director. The executive director of SLRB is appointed by the board with the approval of the Secretary of Budget and Management.

The Secretary of Budget and Management is authorized to define what unfair labor practices are, for the purpose of prohibiting certain actions by the State, its employees, agents, or representatives, or actions by employee organizations, their representatives, or agents.

There are no specified guidelines under which an employee organization or the State may request a board of arbitration be convened, nor is arbitration required by January 1. Representatives must be appointed to participate as a party in collective bargaining negotiations on behalf of the State, a University System of Maryland institution, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community

College. The parties must meet at reasonable times and conduct collective bargaining in good faith. Every effort must be made to conclude negotiations in a timely manner. In any case, they are required to conclude negotiations by January 1 for items requiring appropriation of funds for the subsequent fiscal year.

Background: The Executive Branch has approximately 34,336 employees who are part of nine bargaining units, excluding higher education. **Exhibit 1** shows the number of State employees in each bargaining unit.

State Fiscal Effect: DBM advises that the department's fiscal 2006 allowance contains \$100,944 for salary and benefits for the Assistant Attorney General position to staff SLRB as well as \$150 for operating expenses. Of this, DBM is reimbursed \$50,546 by HELRB for the services of this position. The separation of the board as an independent unit would effectively transfer its general fund appropriation (\$101,094 in fiscal 2006) out of DBM but would not have significant fiscal implications.

There could be a potential savings in expenditures, however, by having one executive director and staff for both SLRB and HELRB. Rather than have two independent labor relations boards with two staffs who would possibly be performing similar duties, having the boards share staff might eliminate the need to have redundant positions on each board, thereby increasing efficiency. The fiscal 2006 personnel allowance for SLRB is one position with a total expenditure of \$101,094, while the fiscal 2006 personnel allowance for HELRB is 2.50 positions with a total expenditure of \$326,788.

DBM advises that the department does not currently maintain a database with information regarding each employee's name, position classification, unit, and worksite address and telephone number for State employees in the 18 agencies covered by collective bargaining. Therefore, DBM estimates and Legislative Services concurs that it would cost approximately \$240,000 in fiscal 2006 to create this database. DBM further advises that annual maintenance costs would be approximately \$8,000. While each agency would be required to continuously update employee information, it is expected that the costs associated with updating this information would be absorbable within existing resources.

The cost of arbitration services cannot be reliably quantified at this time, as it would depend on the number of cases in which an arbitrator was required, as well as the length of the arbitration. The federal Mediation and Conciliation Service reports that the average total cost per arbitrator is \$3,542 for each case, and that average case lasts approximately 3.91 days. Based on this average, a panel of three arbitrators would cost approximately \$10,626 for each arbitration case. Since arbitration has not been required in Maryland for collective bargaining sessions that are at an impasse, it is unknown how

many cases would be arbitrated each year. *For illustrative purposes only*, if we assume that an arbitration board is required for three cases annually, general fund expenditures could increase by \$31,878 each year, beginning in fiscal 2006.

The effect of arbitration on personnel expenditures cannot be reliably estimated at this time because it depends on the MOU, which would contain the matters on which the parties are in agreement, as well as those matters that are determined by the board of arbitration.

Additional Information

Prior Introductions: None.

Cross File: HB 1068 (Delegate Barkley, *et al.*) – Appropriations.

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

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Exhibit 1
State of Maryland Bargaining Units
As of February 1, 2005

<u>Unit</u>	<u>Name</u>	<u>Number of Employees</u>	<u>Representative</u>
A	Labor and Trades	2,019	AFSCME Maryland
B	Administrative, Technical, and Clerical	7,229	AFSCME Maryland
C	Regulatory, Inspection, and License	707	AFSCME Maryland
D	Health and Human Services Nonprofessionals	2,496	AFSCME Maryland
E	Health Care Professionals	2,102	AFT - Healthcare Maryland
F	Social and Human Services Professionals	4,166	AFSCME Maryland
G	Engineering, Scientific and Administrative Professionals	4,880	MPEC
H	Public Safety and Security	8,916	AFSCME / Teamsters
I	Sworn Police Officers	<u>1,821</u>	SLEOLA
Total		34,336	

Note: AFSCME = American Federation of State, County and Municipal Employees; AFT = American Federation of Teachers; MPEC = Maryland Professional Employees Council; SLEOLA = The State Law Enforcement Officers' Labor Alliance

Source: Department of Budget and Management, March 2, 2005
