

**Department of Legislative Services
Maryland General Assembly
2006 Session**

**FISCAL AND POLICY NOTE
Revised**

House Bill 605
Appropriations

(Delegate Jones, *et al.*)

Finance

State Personnel - Collective Bargaining - Revisions

This bill establishes the State Labor Relations Board (SLRB) as an independent unit of State government. It allows either party in the collective bargaining process for any bargaining unit to request that a neutral third-party fact finder be employed if negotiations for the next fiscal year do not conclude by October 25.

The bill takes effect July 1, 2006.

Fiscal Summary

State Effect: General fund expenditure increase of \$240,000 in FY 2007 to develop a database with employee information and annual costs of \$8,000 to maintain the database beginning in FY 2008. Potential increase in general fund expenditures beginning in FY 2007 to hire fact finders and to conduct required investigations. The effect of fact finders on future personnel costs cannot be reliably estimated.

(in dollars)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	240,000	8,000	8,000	8,000	8,000
Net Effect	(\$240,000)	(\$8,000)	(\$8,000)	(\$8,000)	(\$8,000)

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

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 whom would be appointed by the Governor with the advice and consent of the Senate. Of the five members, two would be individuals with knowledge of labor issues chosen from a list of candidates submitted by each exclusive representative, 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; the chairman would not 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 2006, two in 2007, 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.

The bill requires SLRB to investigate a possible violation of collective bargaining laws or any other relevant matter.

The Department of Budget and Management (DBM) must provide an exclusive representative, upon written request, with each employee's name, position classification, unit, and home and worksite addresses and telephone numbers, for employees in the bargaining unit that the exclusive representative represents. An exclusive representative may request this information twice every calendar year. The employer may charge a fee not to exceed the actual cost of providing the information to the representative, and the representative must consider the information it receives as confidential and may not release it to any person. However, the representative may authorize third-party contractors to use the information it receives, as directed by the representative to carry out its statutory duties. The bill requires the notification of an employee prior to the release of the employee's information, and it makes provisions for the employee to request that his or her information be withheld.

Moreover, the bill prohibits an exclusive representative from using employee information to increase membership in an employee organization, and it requires DBM to give employee organizations participating in an election reasonable access to employees in the bargaining unit.

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 include:

- 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;
- discharging or discriminating against an employee for signing or filing an affidavit, petition, or complaint, or giving information or testimony regarding employee rights or labor practices;
- 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, inducing, 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 October 25, either party would be able to request that a fact finder for the next fiscal year be employed to resolve the issues. The fact finder would be a neutral party appointed by alternate striking from a list

provided by the federal Mediation and Conciliation Service or under the labor arbitration rules of the American Arbitration Association. The fact finder must be appointed by November 1 and would have the authority to give notice and hold hearings, administer oaths and take testimony or other evidence, and issue subpoenas. The fact finder must make a written recommendation regarding wages, hours, working conditions, and any other disputed terms or conditions of employment before November 20. These written recommendations must be delivered to the Governor, the exclusive representative, the President of the Senate, and the Speaker of the House of Delegates by the Secretary of Budget and Management by December 1.

The bill specifies that the parties must meet at reasonable times and engage in collective bargaining in good faith to conclude a written Memorandum of Understanding (MOU) or other written understanding. MOU negotiations are to be considered closed sessions.

Current Law: The five-member SLRB is part of 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 fact finder be employed. 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 event, 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 33,029 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: The fiscal 2007 proposed SLRB appropriation totals \$110,304 including one position, an Assistant Attorney General, to staff SLRB. Of this, DBM is to be reimbursed \$53,976 in fiscal 2007 by HELRB for the services of this position. The separation of the board as an independent unit would effectively transfer its general fund appropriation (\$110,304 in fiscal 2007) out of DBM but would not have significant fiscal implications.

Assuming that the State would fund an executive director position for SLRB in future fiscal years, there could be potential future savings 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 2007 personnel allowance for SLRB is one position with a total expenditure of \$110,304; whereas the fiscal 2007 personnel allowance for HELRB is two positions with a total expenditure of \$321,082.

DBM advises that the department does not currently maintain a centralized database with the information required for State employees in the 18 agencies covered by collective bargaining. Therefore, DBM estimates that it would cost approximately \$240,000 in fiscal 2007 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 fact finder services cannot be reliably quantified at this time, as it would depend on the number of cases in which a fact finder was requested, as well as the length of the fact finding task. Assuming that the cost of a fact finder would be the same as that as an arbiter the federal Mediation and Conciliation Service reports that the average cost per arbiter is \$3,732. It is unknown how many cases would require a fact finder each year.

The effect of fact finding on personnel expenditures cannot be reliably estimated at this time. Assuming that the fact finder's recommendations are nonbinding, those recommendations would not directly affect State finances.

Additionally, to the extent that the number of SLRB investigations increases, expenditures associated with these investigations would increase. This expenditure cannot be reliably quantified at this time, since it is unknown how many new investigations would result from the bill.

DBM advises that in the past it has provided mailing lists to an agreed upon third-party mailer; therefore, DBM advises that the requirement that the department provide employee organizations reasonable access to employees in a bargaining unit would not materially impact State finances.

Additional Information

Prior Introductions: SB 815/HB 1068 of 2005 contained similar provisions; both bills had hearings, but no further action was taken.

Cross File: Although SB 348 is listed as the cross file, it is not identical.

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

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Exhibit 1
Composition of State of Maryland Bargaining Units
As of February 1, 2006

<u>Unit</u>	<u>Name</u>	<u>Number of Employees</u>	<u>Status</u>
A	Labor and Trades	1,897	AFSCME Maryland
B	Administrative, Technical and Clerical	6,619	AFSCME Maryland
C	Regulatory, Inspection and License	518	AFSCME Maryland
D	Health and Human Services Non Professionals	2,416	AFSCME Maryland
E	Health Care Professionals	2,045	AFT - Healthcare Maryland
F	Social and Human Services Professionals	4,213	AFSCME Maryland
G	Engineering, Scientific and Administrative Professionals	4,712	MPEC
H	Public Safety and Security	8,806	AFSCME / Teamsters
I	Sworn Police Officers	<u>1,803</u>	SLEOLA
Total		33,029	

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
