

Department of Legislative Services
 Maryland General Assembly
 2008 Session

FISCAL AND POLICY NOTE

House Bill 1518 (Delegate Howard, *et al.*)
 Ways and Means

Education - Collective Bargaining - Public School Labor Relations Board

This bill establishes a Public School Labor Relations Board (PSLRB) to administer and enforce the labor relations laws for local boards of education and their employees. The authority of the State Board of Education to decide public school labor relations disputes and the authority of the State Superintendent of Schools to declare labor impasses are repealed. The bill also repeals the authority of the local boards of education to make final determinations of matters that have been the subject of negotiation and requires collective bargaining agreements for certificated school personnel to provide for binding arbitration of grievances arising from the agreements.

Fiscal Summary

State Effect: General fund expenditures could increase by an estimated \$245,500 in FY 2009 to provide for the administration of PSLRB. Alternatively, local school systems could reimburse the State for the administrative costs of PSLRB. Future year expenditure estimates reflect annualization, regular salary increases, and inflation. Revenues would not be affected.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	245,500	323,000	333,500	344,500	355,900
Net Effect	(\$245,500)	(\$323,000)	(\$333,500)	(\$344,500)	(\$355,900)

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

Local Effect: Local school expenditures could increase beginning in FY 2009 due to increased legal costs, possible costs for fact-finding and binding arbitration, and potential costs resulting from negotiations that could include class size discussions. Additional costs would be incurred if local school systems are required to reimburse the State for PSLRB administrative costs.

Small Business Effect: None.

Analysis

Bill Summary:

Establishment of the Public School Labor Relations Board

PSLRB consists of five members appointed by the Governor with the advice and consent of the Senate, including two chosen from a list provided by employee organizations and two who must be members of the education or business community. Members serve staggered, six-year terms and are entitled to the salaries provided in the State budget and standard State reimbursements. A board member must take an oath of office and may be removed by the Governor for incompetence or misconduct.

Jointly with the State Labor Relations Board and the Higher Education Labor Relations Board, PSLRB must appoint an executive director, who serves at the pleasure of the labor relations boards. The executive director is entitled to a salary as provided in the annual State budget and may hire staff necessary to carry out the responsibilities of PSLRB. PSLRB must employ the services of independent legal counsel, and with the approval of PSLRB, the executive director may employ professional consultants who serve at the pleasure of the executive director.

PSLRB must administer and enforce the labor relations provisions relating to public schools and may adopt regulations, guidelines, and policies to carry out its rights and recommend legislative action regarding its operation. A majority of the voting members of the board constitutes a quorum for the transaction of any business or the exercise of any power or the performance of any duty. The board may not take any formal action without the approval of a majority of board members. In deciding labor relations matters, the board may conduct hearings, subpoena witnesses, administer oaths, take the testimony or deposition of a person under oath, and conduct investigations. If a person fails to comply with an order issued by the board, the board may petition a circuit court to order the person to comply with the board's order. Each hearing and determination by PSLRB is subject to review under the Administrative Procedure Act.

Changes to the Collective Bargaining Processes for Public School Employees

When asked by a local board of education or a local employee organization, PSLRB must determine if a matter is a mandatory bargaining subject, a permissive subject, or an illegal subject for bargaining. The specific exclusion of class sizes from collective bargaining

negotiations is repealed, and for noncertificated employees, discipline and discharge for just cause are changed from subjects that may be bargained to subjects that must be bargained.

A local board of education and local employee organization must negotiate all mandatory subjects and all permissive subjects mutually agreed to by the local board and the employee organization. The existing impasse resolution process is repealed and replaced with a new collective bargaining process that includes timelines for progression from negotiation to mediation, to fact-finding, and eventually to binding arbitration. The costs of mediation, fact-finding, and arbitration must be split between the local board of education and the local employee organization. The prohibition against raising a subject that has not been negotiated in an attempt to resolve an impasse is repealed.

Any negotiated provisions of collective bargaining agreements are subject to the fiscal relationship between the local boards of education and the local governments.

Current Law: The State Board of Education decides all controversies and disputes regarding public elementary and secondary education, including disputes between local boards of education and the local employee organizations representing school system personnel.

Local boards of education and employee organizations must negotiate all matters that relate to salaries, wages, hours, and other working conditions. The school calendar, class size, and any other matter prohibited by State law are not subject to collective bargaining. The groups may negotiate on other matters that are mutually agreed upon, but matters for which there is not mutual agreement may not be raised in any action taken to resolve an impasse between the groups. Impasses are resolved through mediation, and the costs of mediation are shared by the local board of education and the employee organization. Local boards must make the final determination as to matters that have been the subject of negotiation, but the determination is subject to the fiscal relationship between the local boards and their local governments. Collective bargaining agreements between local boards of education and organizations for certificated personnel may provide for binding arbitration for grievances arising from the agreements.

Background: There are currently two labor relations boards operating in Maryland, the State Labor Relations Board and the Higher Education Labor Relations Board. Chapter 62 of 2006 consolidated the administration of the two boards, requiring them to jointly appoint a single executive director. Each board meets approximately eight times per year, and board members receive \$100 per meeting (except the chairmen, who receive \$125 each) and are entitled to standard expense reimbursements. The proposed fiscal 2009 State budget includes \$310,543 for the boards; the majority of the

appropriation (\$224,873) is reimbursable funds from public higher education institutions, with the remainder (\$85,670) being paid from State general funds.

The Maryland State Teachers Association reports that approximately 12 labor relations cases have gone before the State Board of Education since 1999. Last year, the Maryland State Department of Education reported that the State board had reviewed about two to three cases per year since 1999. MSTA also advises that approximately 30 states have independent labor relations boards that handle disputes between teachers' unions and public school employers.

State Expenditures: General fund expenditures could increase by an estimated \$245,543 in fiscal 2009, which accounts for the bill's October 1, 2008 effective date. This estimate reflects the cost of hiring an assistant director and an additional administrative staff member to work under the executive director of the State's labor relations boards and assist with the additional workload that would be created by PSLRB. The estimate includes two full-time salaries, fringe benefits, expenses for PSLRB legal counsel, compensation and travel expenses for PSLRB members, rental costs for additional space for staff of the labor relations boards, one-time start-up costs, and ongoing operating expenses.

	<u>FY 2009</u>	<u>FY 2010</u>
Salaries and Fringe Benefits	\$100,948	\$137,031
Legal Costs	112,500	153,000
Lease Payments for Additional Space	16,500	22,440
Other Start-up and Operating Expenses	<u>15,595</u>	<u>10,526</u>
Total State Expenditures	\$245,543	\$322,997

Future year expenditures reflect • full salaries with 4.4% annual increases and 3% employee turnover; and • 2% annual increases in ongoing operating expenses.

If funding for PSLRB is set up like the Higher Education Labor Relations Board, which is supported with funds from institutions of higher education, local school systems could pay to support the new board. In this case, no general funds would be needed.

The elimination of the current responsibilities of the State Board of Education and the State Superintendent of Schools with respect to public school labor relations would not materially affect the budget of the Maryland State Department of Education.

Local Fiscal Effect: Since local boards of education already engage in collective bargaining with local employee organizations, the bill would not necessarily result in significant increases in school expenditures. Current collective bargaining processes only allow for mediation, with the costs of mediation split between the local board of education and the employee organization. The bill would increase potential costs since expenses for mediation, fact-finding, and binding arbitration would be split between the two groups. In addition, negotiations could be broader and more complex as PSLRB, rather than the local boards of education, decides what subjects are mandatory, permissive, and illegal for bargaining. This could increase legal fees for local boards of education and employee organizations, especially in the first several years after the bill is enacted.

The elimination of class sizes as an illegal bargaining subject could have significant fiscal ramifications if local boards and local employee organizations mutually agree to include class size discussions in the bargaining process. However, all negotiations would still be subject to the fiscal relationship between local boards of education and the local governments. In effect, this limits potential costs for local boards of education since the boards rely on the State and local governments for their funding.

If local boards of education are required to reimburse the State for the administrative costs of operating PSLRB, local school expenditures would increase by approximately \$245,000 in fiscal 2009 and \$356,000 by fiscal 2013.

Additional Information

Prior Introductions: Although the bill was structured differently, HB 1079 of 2007 also would have established an independent Public School Labor Relations Board. The bill received an unfavorable report from the House Appropriations Committee.

Cross File: SB 850 (Senator Pugh, *et al.*) – Rules.

Information Source(s): Maryland State Department of Education, Maryland State Teachers Association, Governor’s Office, State Labor Relations Boards, Department of Legislative Services

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