

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 881
Appropriations

(Delegate Hucker, *et al.*)

Libraries - Collective Bargaining

This bill establishes a collective bargaining process for nonmanagement level local public library employees and local public library systems, except those in Montgomery and Prince George's counties.

Fiscal Summary

State Effect: To the extent library employee salaries increase due to the collective bargaining process, general fund expenditures increase to pay increased retirement costs. Revenues are not affected.

Local Effect: Local library systems can handle payroll deductions for union and service fees using existing resources. Local library system expenditures may increase significantly due to the hiring of outside mediators, increases in library employee salaries, and hiring human resources personnel.

Small Business Effect: None.

Analysis

Bill Summary: Two employee collective bargaining units are established: one for professional services and one for employees who maintain buildings, facilities, or grounds.

An employee may form, join, or assist an employee organization and bargain collectively through a representative. An employee also may refrain from participating in an employee organization; however, an employee organization providing exclusive

representation may seek enforcement of an agency shop or other union security provision, which requires employees to pay a fee to cover collective bargaining costs.

Process for Designating Exclusive Representation

The bill establishes a process for designating an employee organization as the exclusive representative for collective bargaining, and the process must be overseen by a neutral third party. The selection may be done by majority signature of employees on valid authorization cards or election by secret ballot. The local library system and the employee organization must each pay for half of the costs of the neutral third party.

If an employer and an employee organization dispute an employee's eligibility to vote for or be represented by a bargaining unit, the neutral third party is required to make a final and binding decision after holding a hearing. The losing party must pay the costs of the neutral third party.

If the neutral third party finds that fraud or coercion occurred in the selection of exclusive representation, the third party must direct an election and the employer and employee organization each to pay one-half of the costs incurred by the neutral third party in directing an election.

Local Library Systems and Exclusive Representation

Local library systems and employee organizations may not interfere with the rights of employees under the bill.

Local library systems and employee organizations must bargain in good faith. A local library system is also required to recognize the right of an exclusive representative to represent the employees of a bargaining unit in collective bargaining and in settling grievances. If employees of a bargaining unit elect an exclusive representative and enter into a collective bargaining agreement, the agreement may supersede certain other laws regarding the suspension and dismissal of library employees, as well as other library personnel policies.

An exclusive representative must serve as the sole bargaining agent and must represent all employees fairly and in good faith, regardless of membership in the organization.

Collective Bargaining Process

Topics for Collective Bargaining – The local library system and the exclusive representative are required to execute a collective bargaining agreement incorporating all

matters of agreement on wages, hours, and other terms of employment. The local library system and the exclusive representative must bargain collectively about:

- salary and wages, including the percentage of the increase in the salary and wages budget that will be devoted to merit increments and cash awards;
- pension and other retirement benefits for active employees;
- employee benefits, including insurance, leave, holidays, and vacations;
- hours and working conditions;
- matters affecting the health and safety of employees;
- help for employees in a unit that loses jobs because a local library system exercises certain rights; and
- service fees.

On the request of either party, a neutral third party must determine whether a dispute over the negotiability of a subject exists and whether the subject is negotiable.

Salaries and wages are required to be uniform for employees in the same classification under a collective bargaining agreement. A collective bargaining agreement supersedes a conflicting employer policy and must expire at the end of a fiscal year.

In bargaining, the principal goals of a local library system and exclusive representation must promote certain objectives including the delivery of quality public services and specified employee interests.

The bill may not impair certain rights and responsibilities of a local library system, including determining its general budget and mission. These matters, excluding evaluation and assignment procedures, are not subject to collective bargaining.

Mediation and Fact Finding – The bill establishes a process for a neutral third party to mediate or serve as a fact finder for a collective bargaining dispute. A local library system and an exclusive representative may jointly request a neutral third party to mediate, or serve as a fact finder about, a collective bargaining dispute. Either party may declare an impasse at any time during the collective bargaining process. If differences remain after March 1, an impasse exists. When an impasse exists, the parties may jointly request mediation before a neutral third party or on the election of either party, enter fact finding. If by March 15 the parties have not reached full agreement through mediation, both parties are required to refer the remaining disputes to a neutral third party for fact-finding.

The fact finder must render a timely decision settling the remaining disputes and consider only certain factors in rendering a decision. Based on the fact finder's decision, the parties must continue bargaining. Thirty days after the fact finder renders a decision, the employer and the exclusive representative must refer all remaining disputes along with the fact finder's decision to the board of library trustees for final resolution. The board must make the fact finder's decisions available to the public when the board receives the decision.

The fact finder must consider only the following factors in rendering a decision:

- past collective bargaining contracts between the employer and the exclusive representative, including the bargaining history that led to the agreement, or if there are no past collective bargaining contracts, the history of employee wages, hours, benefits, and other working conditions;
- a comparison of wages, hours, benefits, and conditions of employment of similar employees of other employers in the Washington-Baltimore metropolitan area;
- the interest and welfare of the public;
- the ability of the employer to finance any economic adjustments required under the collective bargaining agreement;
- the effects of any economic adjustments on the standard of public service normally provided by the employer; and
- the annual increase or decrease in consumer prices for all items as reflected in the most recent Consumer Price Index – Wage Earners and Clerical Workers (CPI-W) for the Washington-Baltimore Metropolitan area.

The employer and the employee organization must each pay for half of the costs incurred from mediation or fact-finding.

Grievance Procedure – In addition to the other items that must be collectively bargained, the local library system and the exclusive representative are required to bargain about a grievance procedure. The process must establish binding third-party arbitration as the exclusive forum for resolving grievances arising under the contract. A neutral third party has no authority to amend a collective bargaining agreement regarding grievance procedures.

Employees or employee organizations may not engage in a strike or other behavior such as a work slowdown. Employees who do participate in a strike may not be compensated by an employer while so engaged. The bill establishes a process to investigate strikes and a process to discipline employees and employee organizations that participate in strikes.

The cost for hiring a neutral third party to investigate a strike must be split between the local library system and the employees' exclusive representation.

Review for Fiscal Impact

A board of library trustees is required to review a term of a collective bargaining agreement that has a present or future fiscal impact, and may accept or reject all or part of a term with fiscal impact. The board must follow certain procedures to indicate its approval or rejection and when negotiating a partial or complete resolution.

Database of Collective Bargaining Decisions

Local library systems are required to retain and make available in a publicly searchable database collective bargaining decisions issued by a neutral third party or under a valid grievance procedure. The local library systems must bear the cost of creating and maintaining the database.

Current Law: Local public library systems not located in charter counties are governed by boards of trustees. A charter county may (1) establish a local library agency and grant it some or all of the powers of a board of trustees; or (2) have a board of library trustees, provide for the board's selection, and determine its powers.

Each board of library trustees must establish policies for staff classification; salaries; work conditions; suspension with pay; grievance procedures; benefits, including vacation and sick leave; hours of work; and any other personnel procedures and practices necessary for the efficient operation of the library. A library board of trustees may advise in the preparation of, and approve, the library budget.

Employees of the Prince George's County Memorial Library System have the rights to organize and bargain collectively through representatives of their choosing. These employees must be covered under provisions of the Prince George's County Labor Code. Notwithstanding any other provision of law, a certified bargaining agent or employee of the Prince George's County Memorial Library System may not call or direct a strike.

As employees of Montgomery County, employees of the Montgomery County Public Library System may bargain collectively.

Background: Library employees in Montgomery and Prince George's counties bargain collectively. In these counties, library employees are required to pay either union fees or agency shop fees, although there is an exemption for those with a religious objection. Agency shop fees are also referred to as representation fees, service fees, or fair share

fees. For the union that represents library employees in both those counties, the union fee and the shop fee for 2010 is \$10 per week.

The Governor's proposed fiscal 2011 budget includes \$33.0 million in State aid for local library systems through the library funding formula. The aid is distributed on the basis of population and is equalized so that jurisdictions with smaller per capita tax bases receive more aid per capita.

State Expenditures: The State pays retirement benefits for library employees based on the salaries of library employees in the second prior fiscal year. If library employees choose to bargain collectively, the salary base for teachers may increase beginning in fiscal 2011 depending on the outcomes of the collective bargaining process. An increased salary base results in higher librarian retirement payments in the second fiscal year following the increase.

For illustrative purposes, if statewide librarians' salaries increase by 0.5% in fiscal 2011, State library retirement contributions will increase by an estimated \$77,700 in fiscal 2013. This estimate assumes a State retirement contribution rate of 16.11% in fiscal 2013.

Local Expenditures: Local library systems can handle payroll deductions for union and service fees using existing resources. Likewise, local library systems can handle the database requirements with existing resources. Local expenditures for local public libraries may increase due to (1) increased costs for collective bargaining, including the hiring of outside mediators; (2) increased salaries for employees; and (3) hiring human resource personnel to meet union requirements.

Increased Labor Negotiations

Local library system expenditures may increase to hire outside mediators. Local library systems and the designated local library employee organizations are required to split mediation costs. Mediation costs will depend on the number of cases per year and cannot be reliably estimated. The bill does provide specific timeframes for the completion of mediation, which may help to control costs.

Increased Salaries and Benefits

Another potential cost for local library systems is increased salaries and fringe benefits for employees due to the implementation of collective bargaining processes. To the extent that collective bargaining is more advantageous for library employees, costs may increase significantly. In fiscal 2009, local library systems spent an estimated

\$93.6 million on professional salaries. If these costs were to increase by 0.5% in fiscal 2011, collectively, local library systems will spend an additional \$468,000 in fiscal 2011. The bill does, however, specify that a board of library trustees may reject a term that has a present or future impact. In addition, local library system expenditures may increase to provide paid leave for employee organization stewards to attend training sessions.

Human Resources Personnel

Some of the smaller local library systems report that they may need to hire human resources personnel to handle the additional requirements and paperwork entailed by the collective bargaining process. These local library systems report that they currently do not employ any professional human resource staff, and that type of personnel would be required to implement any agreement from the collective bargaining process. It is estimated that the salary and benefits costs for a human resources manager will be approximately \$75,000 in fiscal 2011.

Additional Information

Prior Introductions: None.

Cross File: SB 225 (Senator King, *et al.*) - Finance.

Information Source(s): Maryland State Department of Education; Kent, Worcester, and Washington counties; Department of Legislative Services

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