

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 1346
Appropriations

(Delegate Shank, *et al.*)

State Employees - Collective Bargaining - "The Fair Share Act" - Repeal

This bill repeals the provision of law that allows the State to collectively bargain with the exclusive representative of a bargaining unit for service fees from State employees who are not members of that exclusive representative.

The bill takes effect July 1, 2010.

Fiscal Summary

State Effect: None. Prohibiting the State from collectively bargaining with exclusive representatives for nonmember services does not impact State finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Chapter 187 of 2009 authorizes the State to collectively bargain with the exclusive representative of a bargaining unit for service fees from State employees who are not members of that exclusive representative. Thus, employees who are in a bargaining unit but are not members of any employee organization must pay the service fee if a fee is successfully negotiated. Likewise, employees who are dues-paying members of an employee organization that is not the exclusive representative must also pay any negotiated service fee.

Chapter 187 specifies that service fees may not be bargained for in negotiations between an employee organization and a University System of Maryland (USM) institution, Morgan State University, St. Mary's College of Maryland, or Baltimore City Community College.

Employees may not be required to pay a service fee due to specified religious objections. However, such employees are required to pay up to an amount equal to the negotiated service fee to a nonprofit charitable organization. To receive this exemption, employees must provide proof of payment to the exclusive representative and the Department of Budget and Management (DBM).

Background: While an exclusive representative bargains for all members of a particular bargaining unit, only a portion of these individuals pays union membership dues to the representing organization. A service fee is paid by an employee to his or her bargaining unit's exclusive representative to offset costs attributable to the collective bargaining process. Generally, this fee is less than the fee charged for union dues. No such fees have yet been negotiated since Chapter 187 of 2009 was enacted.

Maryland Bargaining Units

Maryland's collective bargaining law applies to employees of the Executive Branch departments, the Maryland Insurance Administration, the State Department of Assessments and Taxation, the State Lottery Agency, USM, Morgan State University, St. Mary's College of Maryland, and Baltimore City Community College.

Certain Executive Branch employees within the State do not have these rights, such as elected government officials; political appointees or employees by special appointment; or any supervisory, managerial, or confidential employees of an Executive Branch department, USM institution, or other State college or university, including faculty.

The bill applies to the roughly 31,600 State employees in nine Executive Branch bargaining units with exclusive representatives. Union membership dues for State employees typically range from \$9 to \$15 per biweekly pay period but exceed \$19 per pay period for certain unions.

Exhibit 1 shows the number of State employees in each bargaining unit. The State's collective bargaining statute only applies to the Executive Branch.

Several thousand State employees belong to a union that is not the exclusive representative of their bargaining unit (excluding higher education units). Whether these employees also belong to the union with exclusive bargaining authority is not known; however, if service fees are successfully negotiated under Chapter 187, these individuals would pay service fees in addition to their union dues. This bill would preclude that

possibility. According to DBM, more than 20,000 of the State's roughly 51,500 Executive Branch employees are union members.

Exhibit 1
State of Maryland Bargaining Units
(Excluding Higher Education Units)

<u>Unit</u>	<u>Unit Name</u>	<u>Number of Employees</u>	<u>Exclusive Representative</u>
A	Labor and Trades	1,714	AFSCME MD
B	Administrative, Technical, and Clerical	5,636	AFSCME MD
C	Regulatory, Inspection, and License	511	AFSCME MD
D	Health and Human Services (nonprof.)	1,877	AFSCME MD
E	Health Care Professionals	1,931	AFT – Healthcare MD
F	Social and Human Services Professionals	3,902	AFSCME MD
G	Engineering, Scientific, and Administrative Professionals	4,860	MPEC
H	Public Safety and Security	9,455	AFSCME / Teamsters
I	Sworn Police Officers	1,694	SLEOLA

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

Source: Department of Budget and Management, March 2010

Service Fees in Other States

In 2009, 23 other states either required state employees to pay a service fee or allowed the fee to be mandated through collective bargaining. In some states, employees with a religious objection to paying the fee are exempt from paying it. In all states, some employees, such as managers or confidential employees, are exempt from the collective bargaining law. In some states, supervisors are exempt. Service fees are also referred to as representation fees, agency fees, agency shop fees, or fair share fees.

Supreme Court Rulings

The U.S. Supreme Court has issued several opinions relating to the right of a public-sector exclusive representative to collect service fees from nonunion members. In *Aboud v. Detroit Board of Education*, 431 U.S. 209 (1977), the court found that, while an exclusive representative could collect a fee from nonunion members, the fee revenues

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could not be used to support ideological causes not germane to the organization's duties as the collective bargaining representative. In another case, the *Chicago Teachers Union v. Hudson*, 475 U.S. 292 (1986), the court held that, in order to protect nonunion members' constitutional rights to freedom of speech and association, the union's collection of agency fees must "include an adequate explanation of the basis for the fee, a reasonably prompt opportunity to challenge the amount of the fee before an impartial decision maker, and an escrow for the amounts reasonably in dispute while such challenges are pending."

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Automobile Insurance Fund, Maryland Department of Transportation, Maryland Insurance Administration, Maryland State Department of Education, Department of Budget and Management, Department of Health and Mental Hygiene, Department of Public Safety and Correctional Services, Department of State Police, Department of Legislative Services

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