

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 895
Ways and Means

(Howard County Delegation)

Finance

Education - Howard County Library System - Collective Bargaining
Ho. Co. 3-13

This bill establishes a collective bargaining process for nonmanagement employees of the Howard County Library System.

Fiscal Summary

State Effect: To the extent Howard County eligible library employees' salaries increase due to the collective bargaining process, general fund expenditures increase to pay increased retirement costs beginning in FY 2017. Revenues are not affected.

Local Effect: The Howard County Library System can handle payroll deductions for union and service fees using existing resources. Howard County Library System expenditures may increase significantly due to the hiring of outside mediators, increases in library employee salaries, and increases in retirement costs for non-State eligible employees.

Small Business Effect: None.

Analysis

Bill Summary: Two employee collective bargaining units are established: a professional and technical unit for professional, paraprofessional, and technical employees and a service and labor unit for employees who maintain buildings, facilities, or grounds.

An employee may form, join, and participate in an employee organization; bargain collectively through a representative of their choice; and engage in lawful concerted activities for their mutual aid and protection. An employee also may refuse to join or participate in the activities of an employee organization.

The bargaining units may *not* include management or confidential employees. Job title may not be the exclusive basis for concluding that the employee is a management employee; and the nature of the employee's work, including whether or not a major portion of the working time of the employee is spent as a part of a team with nonmanagement employees, must be considered.

Method of Selecting an Exclusive Representative

The method of selecting an exclusive representative of the bargaining unit is specified.

An employee organization that is seeking certification as the exclusive representative of a bargaining unit must submit a petition to the Director of the Howard County Library System, or the director's designee, that includes the signatures of at least 30% of the employees in the bargaining unit indicating they wish to be represented exclusively by the employee organization specified in the petition.

If the director does not challenge the validity of the petition within 30 days, the petition must be submitted to the State Mediation and Conciliation Service for the purpose of holding a consent election. If the director challenges the validity of the petition, either the employer or the employee organization may submit a request to the State Mediation and Conciliation Service to determine the validity of the petition and whether to conduct a consent election and certify the employee organization. Any costs must be shared equally by the employer and the employee organization specified in the petition.

Represent All Employees Fairly

The employer must recognize the right of the certified exclusive representative to represent the employees in the unit in collective bargaining and the settlement of grievances.

The certified exclusive representative of a unit must (1) serve as the sole agent for the unit in collective bargaining and (2) represent all employees in the unit fairly, without discrimination, and without regard to whether the employee is a member of the employee organization.

Topics for Collective Bargaining

The employer and the certified exclusive representative must enter into a collective bargaining agreement that contains provisions regarding wage, hours, and the terms and conditions of employment; the settlement of grievances regarding the interpretation and implementation to the agreement; and the time period by which the Board of Library Trustees for Howard County must submit to the county executive a request for additional funding.

Dues

The employer must automatically deduct dues from an employee who is a member of the union and who submits a dues deduction card. The dues must be remitted to the certified exclusive representative. The employer must automatically stop making payroll deductions on behalf of a certified exclusive representative if the certified exclusive representative is decertified, the certified exclusive representative's right to dues is revoked, or the employee ceases to be a member of the bargaining unit.

Provisions for the Agreement

The grievance procedures included in the collective bargaining agreement may not allow an arbitrator to alter the terms of the collective bargaining agreement. An employee is not allowed to engage in a strike. The authority of the Howard County Executive or the county council to determine the budget of the Howard County Library System is not restricted.

A collective bargaining agreement entered into must be effective on ratification by the majority of votes cast by the employees in the bargaining unit and approval by the director. A single year or multiyear collective bargaining agreement must expire at the close of Howard County's fiscal year.

Except as otherwise provided, the employer and the certified exclusive representative must reach an agreement by March 1. The employer and the certified exclusive representative may agree to extend negotiations for a period not to extend past June 30. An impasse is reached during the negotiations if an agreement is not reached by March 1 or the date to which the negotiations were mutually extended.

Process for an Impasse

If an impasse is reached, the employer and the certified exclusive representative must submit a final offer to each other within 24 hours of the impasse being reached. Unless the impasse reached has been resolved, the dispute and the final offers must be submitted

to the Federal Mediation and Conciliation Service (FMCS) within five days after the impasse is reached. Within 30 days after the dispute is submitted to FMCS, a mediator appointed by FMCS must meet with the director and the certified exclusive representative and make written findings of fact and recommendations for the resolution of the dispute. Copies of the mediator's written findings and recommendations must be submitted to the director and the certified exclusive representative. Any costs associated with this must be shared equally by the employer and the certified exclusive representative.

The director and certified exclusive representative must meet within five days after the conclusion of mediation to reach a voluntary resolution of the dispute. If the director and the certified exclusive representative do not reach voluntary resolution of the dispute, the director must submit to the Board of Library Trustees for Howard County (1) the final offer of the director; (2) the final offer of the certified exclusive representative; and (3) the written findings and recommendations of the mediator. The board may (1) select one of the proposals submitted or (2) reject all proposals submitted and require the dispute to be submitted for mediation.

Terms that May Have a Fiscal Impact

The employer must submit to the board a term of a collective bargaining agreement if the term (1) requires an appropriation of funds or (2) has or may have a fiscal impact on the employer. The employer must make a good faith effort to have the board approve all terms of a collective bargaining agreement that the employer is required to submit to the board for review. The board must state in writing whether it will request that the county executive appropriate funds for or otherwise implement the items that require board review by May 1, or within 30 days of receiving the terms if negotiations are extended beyond May 1. If the board intends not to request an appropriation of funds for or otherwise implement a term, or part of a term, the board must include the reason for the rejection in the written statement.

If the board rejects a term, the employer and the certified exclusive representative must (1) meet as soon as possible to negotiate an agreement acceptable to the board and (2) submit to the board the results of the negotiation by May 15. The board must consider the agreement and issue a statement as required regarding the new term.

If the employer or the certified exclusive representative declare that an impasse exists, the dispute must be submitted for mediation.

If the board accepts a term for board review that requires additional funding, the board must submit a request to the county executive within the time period provided in the collective bargaining agreement. The county executive may approve or reject a request for additional funding, in whole or in part. If the county executive approves a request,

the county executive must submit the request to the county council. The county council may approve or reject a request for additional funding, in whole or in part.

If any part of a request for additional funding submitted to the county executive or county council is rejected, the entire collective bargaining agreement must be returned to the employer and the certified exclusive representative for renegotiation within the limits of the funding allocated by the county executive and county council. The renegotiation must be completed within a timetable established by the county executive.

If an impasse is reached, the employer and the certified exclusive representative must submit a final offer, within the limits of the funding allocated by the county executive. The county executive must select one of the offers. The selection of the county executive is binding.

Employer Retains Rights to Manage its Affairs

Except where abridged by an express provision of a collective bargaining agreement, the employer must retain the exclusive right and authority, at its discretion, to manage its affairs. Specifically, rights include the right and responsibility to hire, promote, transfer, assign, or retain employees; establish work rules; and demote, suspend, discharge, or take any other appropriate action against its employees for just cause. The employer also retains other specified rights.

Decertification of an Employee Organization

An employee organization must be deemed decertified if a petition is submitted to the director that includes the signatures of more than 50% of the employees in the bargaining unit indicating the wish to decertify the employee organization.

Employers and Employee Organizations

The employer and the employee organizations are prohibited from certain activities, including interfering with, restraining, or coercing an employee in the exercise of any right given to the employee by the bill; and refusing to bargain in good faith.

Strikes

An employee or an employee organization may not engage in, induce, initiate, direct, support or ratify a strike. The employer may not engage in, initiate, or direct a lockout of employees.

Collective Bargaining Agreement Supersedes

Except as otherwise provided by law, if employees have entered into a collective bargaining agreement with the employer, the collective bargaining agreement supersedes any conflicting regulation or administrative policy of the employer.

Current Law: Since it is a charter county, Howard 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 in 2010 was \$10 per week.

The Governor's proposed fiscal 2014 budget includes \$34.0 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. In addition, the State pays the full retirement contribution for eligible county library employees, including librarians and clerical employees, at a total cost of \$20.3 million in fiscal 2014. The Howard County library system will receive approximately \$820,800 in funding from the State aid formula in fiscal 2014. In addition, the State will contribute approximately \$2.0 million to the retirement fund for Howard County librarians.

State Expenditures: The State pays retirement benefits for library employees based on the salaries of eligible 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 2015 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 2015, State library retirement contributions will increase by an estimated \$10,000 in fiscal 2017. This estimate assumes a State retirement contribution rate of 20.27% in fiscal 2017.

Local Expenditures: Howard County library system can handle payroll deductions for union fees using existing resources. Howard County expenditures for 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) increased retirement costs for library employees who are not librarians or clerical staff.

Increased Labor Negotiations

Howard County library system expenditures may increase to hire outside mediators. The Howard County library system 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 and Increased Retirement Costs

Another potential cost for Howard County library system 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 2011, Howard County library system spent an estimated \$9.9 million on professional salaries. If these costs were to increase by 0.5% in fiscal 2015, Howard County will spend an additional \$49,600 in fiscal 2015. The bill does, however, specify that the Howard County Executive or Howard County Council may reject a term that has a fiscal impact. In addition, Howard County library system expenditures may increase to provide paid leave for employee organization stewards to attend training sessions. To the extent salaries increase for non-State eligible employees, local expenditures for retirement costs increase.

Additional Information

Prior Introductions: None.

Cross File: None.

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