

Department of Legislative Services
 Maryland General Assembly
 2014 Session

FISCAL AND POLICY NOTE

House Bill 490
 Appropriations

(Delegate Hixson, *et al.*)

Education - Community Colleges - Collective Bargaining

This bill establishes a collective bargaining process for local community college and Baltimore City Community College (BCCC) employees including full-time faculty, part-time faculty, and staff, but excluding officers, supervisory or confidential employees, and student assistants. Specified employees may bargain collectively over wages, hours, other terms and conditions of employment, and the procedures for dues and fees to be charged by the representative. Disputes on these issues may be settled through mediation and fact finding. The bill requires the State Higher Education Labor Relations Board (SHELRB) to define the bargaining units; conduct elections; serve as the mediator, if necessary; and perform other functions.

Fiscal Summary

State Effect: SHELRB general fund expenditures increase by \$55,000 in FY 2015 to administer the collective bargaining, decreasing in the out-years to approximately \$7,500 per year as the bargaining process is implemented. BCCC administrative expenditures may increase to expand collective bargaining to faculty. In addition, personnel expenditures may increase by 1% to 1.5% per year as a result of collective bargaining. State aid to the community colleges is not affected.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	55,000	7,500	7,500	7,500	7,500
Net Effect	(\$55,000)	(\$7,500)	(\$7,500)	(\$7,500)	(\$7,500)

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

Local Effect: Local community college administrative expenditures may increase to implement collective bargaining. In addition, personnel expenditures may increase by 1% to 1.5% per year as a result of collective bargaining. Revenues are not affected. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: Up to four bargaining units at each community college may be established: (1) one for full-time faculty; (2) one for part-time faculty; (3) one for the remaining eligible exempt employees, as defined by the federal Fair Labor Standards Act; and (4) one for eligible nonexempt employees. “Part-time faculty” are employees who receive a contract for less than one full academic year and are designated with part-time faculty status by the president of the community college.

The bill repeals the current collective bargaining rights for the Community College of Baltimore County, Montgomery College, and Prince George’s Community College.

Terms of an Agreement

Exclusive employee representatives must represent fairly and without discrimination all employees in a bargaining unit, whether or not they are members of the organization. They may negotiate all matters related to wages, hours, and other terms and conditions of employment.

A collective bargaining agreement must include a provision for the deduction from the paycheck of each community college employee in a bargaining unit any authorized union dues as well as any authorized service fees. A service fee may be ratified only by a majority of votes cast by the employees in the bargaining unit. A collective bargaining agreement may include a provision for the arbitration of grievances arising under an agreement, but it may not include matters relating to the employees’ or teachers’ retirement or pension systems otherwise covered by statute. However, this does not prohibit a discussion of the terms of the retirement or pension systems in the course of collectively bargaining. The terms of a collective bargaining agreement must supersede any conflicting regulations or administrative policies of the public employer.

A request for funds necessary to implement a collective bargaining agreement must be submitted by the public employer in a timely fashion for consideration in the budget process of the county. Not later than 20 days after final budget action by the governing body of a county, if a request for funds necessary to implement a collective bargaining agreement is reduced, modified, or rejected by the governing body, either party to the agreement may reopen the agreement.

Certification of an Employee Organization

In order to be certified, an employee organization must submit a petition showing that at least 30% of the eligible employees in a bargaining unit wish to be represented by the petitioning organization. Other employee organizations may participate in the election if they prove that 10% of the eligible employees in the bargaining unit wish to be represented by them. There must also be a provision for “no representation” on the ballot. SHELRB must conduct the election by secret ballot.

Mediation

If in the course of collective bargaining an impasse is reached, a party may request the services of SHELRB in mediation or engage another mutually agreeable mediator. If there is not mutual agreement, either party may petition SHELRB to initiate fact finding. The parties must bear equally the costs of fact finding.

Current Agreements

If a community college entered into any agreements or contracts with employees of the community college through exclusive representation in the course of collective bargaining before October 1, 2014, the community college may continue to operate under the agreements and contracts until the agreements and contracts expire. After the agreements or contracts expire, the community colleges must follow the rules and regulations of collective bargaining established by the bill.

Current Law: Most local community college employees do not have collective bargaining rights through their positions with local community colleges. Some employees who work for BCCC, the Community College of Baltimore County, Montgomery College, and Prince George’s Community College have collective bargaining rights. At BCCC, specified nonfaculty employees including nonexempt, exempt, and sworn police officers have collective bargaining rights. At the Community College of Baltimore County classified (nonfaculty) employees have collective bargaining rights. At Montgomery College all employees (including faculty) except supervisory, confidential employees, and student assistants have collective bargaining rights. At Prince George’s Community College all eligible classified (nonfaculty) employees of the college, including all skilled professional service and skilled and nonskilled service employees have collective bargaining rights.

SHELRB is responsible for enforcing collective bargaining laws with respect to employees of the University System of Maryland, Morgan State University, St. Mary’s College of Maryland, and BCCC.

SHELRB may investigate and take appropriate action in response to complaints of unfair labor practices and lockouts. Among the nine unfair labor practices included in statute is refusing to bargain in good faith. The State and its officers, employees, agents, or representatives are prohibited from engaging in unfair labor practices.

For Prince George's Community College employees, the Department of Labor, Licensing, and Regulation is required to define the bargaining units, conduct elections, serve as the mediator, if necessary, and perform other functions.

Background: In Maryland there are 15 local community colleges and BCCC. Local community college boards of trustees oversee policy and operations with funding provided by State and local governments and generated through student tuition and fees. BCCC is operated by the State.

Chapter 341 of 2001 extended collective bargaining rights to many categories of higher education personnel at public four-year institutions of higher education and BCCC but excluded all faculty and students from the benefit. The law also established a SHELRB to oversee collective bargaining between institutions and the higher education bargaining units and to hear disputes between them. As of 2010, institutions of higher education were bargaining with approximately 6,300 employees.

Since enactment in 2001, most of the bargaining units for State higher education employees have elected an exclusive representative. In 2010, there were 33 bargaining units from 15 public higher education institutions certified as "eligible for exclusive representative election" by SHELRB.

The administration of SHELRB was consolidated with the State Labor Relations Board in 2006, and the proposed fiscal 2015 State budget includes \$468,830 and three authorized positions for the administration of the boards. Of that, \$102,050 is reimbursable funds from institutions of higher education, and the remainder is State general funds.

As of January 2006, in the United States, approximately 319,000 faculty members at 491 institutions of higher education and 57,000 graduate student employees at 26 institutions were represented by a union. The majority were employed at a public institution and slightly more than half of the organized faculty work on a full-time basis.

State Expenditures: SHELRB general fund expenditures increase by approximately \$55,000 in fiscal 2015 to implement the bill. SHELRB reports that this funding covers the additional office supplies necessary to conduct on-site elections for the up to 64 bargaining units created by the bill. SHELRB advises that after the bargaining units are established, approximately \$5,000 to \$10,000 annually is needed, depending on the number of labor disputes it is asked to help resolve.

Since the State funds local community colleges and BCCC based on per-student formulas, any increase in personnel costs is not borne by the State.

Personnel Costs

Based on a Department of Legislative Services study of collective bargaining from 1995, it is estimated that collective bargaining increases salary and salary-driven fringe benefits costs by 1% to 1.5%. In 2010, BCCC had a total of 372 faculty: 123 full-time and 249 part-time. It is unknown how many other staff employed by BCCC will be granted collective bargaining rights under the bill. BCCC would have to fund any such additional costs within the formula funding and from tuition revenues.

Local Expenditures: Local community college administrative expenditures may increase to implement collective bargaining. Some local community colleges may need to hire a labor relations administrator to manage the collective bargaining process at an estimated cost of \$60,000 per year. In addition, there may be costs associated with fact finding and mediation. These costs will depend on the particular circumstances at each community college, but may be several thousand to tens of thousands of dollars in the years that there is a labor dispute.

Personnel Costs

Salary and salary-driven fringe benefits costs may increase by 1% to 1.5% due to collective bargaining. In 2010, at the local community colleges there were approximately 2,375 full-time faculty and 5,697 part-time faculty. It is unknown how many other staff employed by the local community colleges will be granted collective bargaining rights under the bill.

Local governments have the option whether to provide the funding for any terms that may be negotiated under a collective bargaining agreement. If the local government does not provide additional funds, the college can choose to fund the additional costs from tuition revenues or choose to reopen negotiations with the employee bargaining units.

Additional Comments: The bill does not repeal the current bargaining rights for employees of BCCC. Thus, it will have to be determined which bargaining units to use and which collective bargaining processes to use. Also, while the bill authorizes colleges with existing bargaining agreements to continue to operate under them after the bill's effective date, the bill repeals the laws authorizing those bargaining units and agreements as of October 1, 2014.

Additional Information

Prior Introductions: None.

Cross File: Although designated as a cross file, SB 749 (Senator Pugh, *et al.* - Finance) is not identical.

Information Source(s): Maryland Higher Education Commission, State Higher Education Labor Relations Board, Department of Legislative Services

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mc/rhh

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