

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 101

(Chair, Finance Committee)(By Request - Departmental -
Transportation)

Finance

**Maryland Transit Administration - Labor Relations - Resolution of Labor
Disputes**

This departmental bill repeals the requirement that any labor dispute between the Maryland Transit Administration (MTA) and an accredited representative of its employees must be submitted to an arbitration board, whose decision is binding and final. Instead, the bill (1) authorizes fact finding procedures (similar to the process for other State employees) for labor disputes involving wages, salaries, hours, working conditions, or benefits, and (2) requires MTA to request that the State Labor Relations Board (SLRB) resolve any labor dispute involving grievances or discipline. The bill expands the definition of “labor dispute” to include any controversy related to discipline and repeals a requirement that both parties pay 50% of any arbitration expenses.

The bill takes effect July 1, 2016, and applies prospectively.

Fiscal Summary

State Effect: Transportation Trust Fund expenditures may decrease, potentially significantly, to the extent that the labor dispute process established by the bill leads to more favorable outcomes for MTA. SLRB general fund expenditures increase minimally to handle MTA cases. It is assumed that the Office of Administrative Hearings and the Judiciary can implement the bill with existing resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: The Maryland Department of Transportation (MDOT) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) concurs with this assessment.

Analysis

Bill Summary: For a labor dispute involving wages, salaries, hours, working conditions, and benefits, MTA or an accredited representative may request a fact finder to resolve the labor dispute. The fact finder must be a neutral party that is appointed by alternate striking by parties from a list provided by the Federal Mediation and Conciliation Service (FMCS) or under the Labor Arbitration Rules of the American Arbitration Association (AAA).

In performing his or her duties, the selected fact finder may give notice and hold hearings, administer oaths and take testimony and other evidence, and issue subpoenas. The fact finder must make written recommendations regarding wages, hours, and working conditions, and any other terms or conditions of employment in dispute. The recommendations must be delivered to the Governor, the accredited representative, the President of the Senate, and the Speaker of the House of Delegates by the Secretary of Transportation or the Secretary's designee. Additionally, if the resolution of a labor dispute requires legislative approval or the appropriation of funds, the issue must be recommended to the General Assembly.

For an unresolved labor dispute involving a grievance or discipline, MTA must request SLRB to resolve the dispute. The board may require the Office of Administrative Hearings to hold a hearing and the final decision of SLRB may be appealed as if it were a contested case.

Current Law:

Maryland Transit Administration – Collective Bargaining and Labor Disputes

The provisions of the Transportation Article that govern MTA define an “accredited representative” to include the representative of any labor organization, or its successor, authorized to act for the employees involved in the collective bargaining system. MTA must bargain collectively and enter into written agreements related to wages, salaries, hours, working conditions, and retirement provisions with the accredited representative of its employees who are employed in specified job classifications.

The provisions of the Transportation Article that govern MTA define “labor dispute” to be construed broadly and to include any controversy related to (1) wages, hours, or other working conditions; (2) benefits, including health and welfare, sick leave, insurance, pension, or retirement provisions; (3) grievances that arise; and (4) collective bargaining agreements. If a labor dispute between MTA and any employees does not result in agreement, MTA must submit the dispute to an arbitration board.

The arbitration board consists of three members: one is appointed by MTA, one is appointed by the authorized representative of the employees, and one is appointed jointly. The arbitrator who is appointed jointly is the chairman of the board. A majority determination of the board is final and binding on all disputed matters. Each party must pay 50% of the arbitration costs.

State Employees and Collective Bargaining

Chapter 298 of 1999 established statutory collective bargaining rights for approximately 40,000 State employees; previously, collective bargaining rights had been established by a 1996 executive order. Except as otherwise specified, the collective bargaining law currently applies to all employees of the:

- principal departments within the Executive Branch;
- Maryland Insurance Administration;
- State Department of Assessments and Taxation;
- State Lottery and Gaming Control Agency;
- Office of the Comptroller;
- State Retirement Agency;
- Maryland State Department of Education;
- University System of Maryland (USM), Morgan State University (MSU), St. Mary's College of Maryland (SMCM), and Baltimore County Community College (BCCC), except as specified; and
- Maryland Transportation Authority employees and police officers who are at the rank of first sergeant and below.

The following personnel are not included:

- MTA employees;
- Legislative and Judicial Branch personnel;
- elected and appointed officials;
- the Governor's and Lieutenant Governor's staff;
- special appointees and executive service personnel in the State Personnel Management System (SPMS);
- senior administrators, faculty members, student employees, and other designated employees of USM, MSU, SMCM, or BCCC;
- the chief, deputy, or assistant administrator of a unit with an independent personnel system;
- temporary or contractual employees in SPMS;

- an employee who is entitled to participate in collective bargaining under another law;
- an employee whose participation in a labor organization is contrary to the State's ethics laws; and
- any supervisory, managerial, or confidential employee as defined by regulation.

Parties to the collective bargaining process must make every reasonable effort to conclude their negotiations by January 1 for any item requiring appropriation for the fiscal year that begins the following July 1. If the parties do not conclude negotiations for the next fiscal year before October 25, either party may request that a neutral fact finder be employed to resolve the issues. By November 20, the fact finder must make written recommendations regarding wages, hours, and working conditions and any other terms or conditions of employment that may be in dispute. Those recommendations must be delivered to the same parties specified in the bill by December 1, but they are not binding. The outcome of collective bargaining must be incorporated into a memorandum of understanding.

Background:

Mediation and Arbitration Organizations

FMCS was created in 1947 as an independent agency whose mission is to preserve and promote labor-management peace and cooperation. FMCS has more than 60 field offices across the United States and provides mediation and conflict resolution services to industry, government agencies, and communities. AAA is a not-for-profit organization with offices throughout the United States. AAA provides arbitration services to individuals and organizations who wish to resolve conflicts outside of the courts. Its activities include administering cases, from filing to closing; assisting in appointing mediators and arbitrators; setting hearings; and providing users with information on dispute resolution options.

Transportation Service Human Resources System and MTA

While most Executive Branch employees are members of SPMS, MDOT employees are members of the independent Transportation Service Human Resources System (TSHRS). TSHRS was established in 1993 to create an independent human resources system for MDOT. According to MDOT, TSHRS allows for greater efficiency in human resources management by including all of MDOT's modal units under a single set of human resources regulations, policies, and procedures.

MTA unions have a separate process for resolving labor disputes than other TSHRS employees who are also covered by a union. Current law makes any arbitration board determination for MTA and its union employees binding and, therefore, not subject to SB 101/ Page 4

judicial review or further bargaining; other State employee unions use a fact finder to resolve a dispute and findings and decisions can be appealed. MDOT advises that MTA's dispute system is unique and found nowhere else in State law. Furthermore, MTA management and legal counsel are concerned about the potential for an arbitration board to award uncontestable wages or other compensation that could impose significant, unanticipated costs on MTA. For example, MDOT advises that in 2012, an arbitration board decision resulted in unexpected costs of approximately \$35 million for cost-of-living requirements and merit increases, despite the fact that the General Assembly had passed budget reconciliation legislation that prohibited agencies from granting salary increases.

MDOT also advises that the changes are intended to assist MTA in addressing its problems with employee absenteeism.

MDOT advises that the number of cases that have gone to arbitration boards over the previous five calendar years are as follows: 43 cases for 2015; 104 cases for 2014; 71 cases for 2013; 65 cases for 2012; and 72 cases for 2011. There are currently 26 cases pending for 2016.

State Expenditures:

Maryland Transit Administration

As previously mentioned, any arbitration board determination for MTA under current law is binding and final and, therefore, not subject to judicial review or further bargaining. By repealing this system, and establishing a process that uses fact finding and SLRB to resolve labor disputes, MTA and the accredited representatives of its employees are able to appeal decisions and further bargain after a decision has been made. Although it is expected that MTA expenditures may decrease as a result of the bill, given the recent pattern of decisions, any fiscal impact depends on the number and types of cases that arise in future years, as well as the resulting decisions. Thus, any such impact cannot be predicted.

Although the bill repeals the requirement that each party pay 50% of arbitration costs during a labor dispute, this analysis assumes that MTA and the accredited representatives of its employees continue to evenly split any arbitration costs surrounding labor disputes. This is the general practice of other State agencies that have similar fact-finding procedures.

State Labor Relations Board

SLRB advises that expanding its caseload to include the specified MTA labor disputes requires additional expenditures due to its small staff and limited budgets. DLS concurs

and notes that any expenditure increase is expected to be minimal and to consist primarily of operational costs such as office supplies and staff time.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Governor's Office, Department of Budget and Management, Maryland Department of Transportation, Office of Administrative Hearings, Department of Legislative Services

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md/lgc

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: “Maryland Transit Administration—Labor Relations”

BILL NUMBER: SB 101

PREPARED BY: Maryland Department of Transportation/Maryland Transit Administration
(Dept./Agency)

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

 X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESS

OR

 WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS