

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 145 (Delegate Hixson)
Ways and Means

Public School Labor Relations Board - Renegotiation Procedures and Administration

This bill authorizes a local board of education and an employee organization to use an alternative procedure regarding the renegotiation of funds if the county government or the Baltimore City government does not approve enough funds to implement a negotiated agreement under specified circumstances. In addition, the bill codifies that the Attorney General must assign an assistant Attorney General to provide legal services to the Public School Labor Relations Board (PSLRB), the Higher Education Labor Relations Board (HELRB), and the State Labor Relations Board (SLRB). Specified powers of PSLRB with regards to the administration and enforcement of the collective bargaining process for certificated and noncertificated public school employees are altered.

The bill takes effect July 1, 2016.

Fiscal Summary

State Effect: None. Codifying the assistant Attorney General position reflects current practice; thus, there is no fiscal impact. Designating the circuit court in which a proceeding must occur has no fiscal impact on the State.

Local Effect: Minimal. Any alternative procedure used by a local board of education and an employee organization regarding the renegotiation of funds must be consistent with statutes covering the fiscal authority and the public school employer; thus, it is assumed that this provision has minimal fiscal effect. The cost of any remedy resulting from an unsuccessful legal appeal by a local school system is impossible to predict. Designating the circuit court in which a proceeding must occur is anticipated to have minimal fiscal impact on the Anne Arundel Circuit Court.

Small Business Effect: None.

Analysis

Bill Summary:

Alternative Method of Renegotiation

An alternative method of renegotiation may be used if (1) the local board of education and the employee organization negotiate and adopt an agreement to use an alternative procedure and (2) the alternative procedure is consistent with all relevant statutes, including statutes covering the fiscal authority and the local board of education.

Chair of the Public School Labor Relations Board

The bill requires that the member who represents the public and meets specified conditions to chair PSLRB.

PSLRB Administration and Enforcement Changes

In connection with the administration and enforcement of the collective bargaining process for certificated and noncertificated public school employees:

- references to written communications, such as letters and notices, must include electronic communications, unless otherwise indicated by PSLRB;
- PSLRB may extend the time limits set forth in law relevant to the collective bargaining process for certificated and noncertificated public school employees for good cause shown; and
- the venue for a judicial proceeding involving an order or other action of PSLRB is the county where the principal office of PSLRB is located.

Unless a court has issued a stay, a party subject to an order of PSLRB must comply with the order without the need for judicial enforcement. At the request of PSLRB, a court may (1) grant injunctive relief to enforce compliance with an order of PSLRB and (2) grant any other remedy the court deems appropriate.

Definition of Day

The bill clarifies that “day” means calendar day unless otherwise indicated.

Current Law:

Public School Labor Relations Board

PSLRB administers and enforces the labor relations laws for local boards of education and their employees.

PSLRB consists of five members appointed by the Governor with the advice and consent of the Senate. One member who represents the public and meets specified conditions, two chosen from a list provided by employee organizations and two chosen from a list provided by the Maryland Association of Boards of Education and the State Superintendents Association of Maryland. The chair is elected from among the members. Members serve staggered, five-year terms and are entitled to compensation in accordance with the State budget and standard State reimbursements. A board member must take an oath of office and may be removed by the Governor only for incompetence or misconduct.

PSLRB shares an executive director with SLRB and HELRB; the executive director is jointly appointed by and serves at the pleasure of all three labor relations boards. The executive director may hire staff necessary to carry out the responsibilities of PSLRB. With the approval of PSLRB, the executive director may employ professional consultants who serve at the pleasure of the executive director.

PSLRB must administer and enforce the labor relations provisions relating to public schools and may adopt regulations, guidelines, and policies to carry out its rights and recommend legislative action regarding its operation. In deciding labor relations matters, the board may conduct hearings, subpoena witnesses, administer oaths, take the testimony or deposition of a person under oath, and conduct investigations. PSLRB must decide controversies and disputes. If a person fails to comply with an order issued by the board, the board may petition a circuit court to order the person to comply with the board’s order. Each hearing and determination by PSLRB is subject to review under the Administrative Procedure Act. PSLRB, rather than the State Board of Education, is responsible for supervising employee representation elections.

The Collective Bargaining Processes

When asked by a local board of education or a local employee organization, PSLRB must determine if a matter is a mandatory, permissive, or illegal subject for bargaining. Procedures regarding employee transfers and assignments are specified as a working condition that must be negotiated for certificated employees.

If PSLRB determines the local board of education and local employee organization have reached an impasse in negotiations, it must order them to begin mediation using a neutral mediator within a certain timeframe. The mediation must follow specified procedures. After receiving the mediator's proposed settlement, the local board of education and local employee organization must notify the mediator of their intent to accept the written proposed settlement, accept it in part, or decline the settlement and request arbitration before PSLRB.

If arbitration is requested, PSLRB must follow specified hearing procedures to develop a final and binding written award that selects and adopts the complete final offer of the local board of education, the complete final offer of the local employee organization, or the mediator's complete offer of settlement. The local board of education and local employee organization are required to equally share the costs of mediation and arbitration.

If the county government including Baltimore City does not approve sufficient funds to implement a negotiated agreement, the local school board must negotiate with the employee organization before making a fiscal determination in accordance with the timetable and procedure established by PSLRB. A final decision of PSLRB may be appealed to a circuit court.

Background: Chapters 324 and 325 of 2010 established the PSLRB as an independent agency of State government to administer and enforce the labor relations law for local boards of education and their employees. The PSLRB shares an executive director with SLRB and HELRB. The Governor's proposed fiscal 2017 State budget includes \$497,259 and three full-time regular positions and one full-time contractual position for the administration of the boards. One of those positions is an assistant Attorney General. PSLRB advises that since the executive director position is codified, PSLRB wants the assistant Attorney General position codified as well for consistency of service.

PSLRB offices are located in Anne Arundel County; thus, under the bill unless PSLRB offices move, all judicial proceedings involving the board will be held in Anne Arundel County Circuit Court.

Local Expenditures: Any alternative procedure used by a local board of education and an employee organization regarding the renegotiation of funds must be consistent with

statutes covering the fiscal authority and the public school employer; thus, it is assumed that this provision has minimal fiscal effect. However, how the funds are distributed may be affected.

The cost of any remedy granted by the court at the request of PSLRB resulting from an unsuccessful legal appeal is impossible to predict.

Designating the circuit court in which a proceeding must occur is anticipated to have minimal fiscal impact on local school systems and the court. Without the bill, actions could have been brought in the county in which the local board of education or employee association is located. The Administrative Office of the Courts (AOC) advises that a review of Maryland CaseSearch reveals only two relevant prior actions. In both, the PSLRB was plaintiff and actions were brought in the Anne Arundel County Circuit Court. As such, estimating a precise operation impact on the Anne Arundel County Circuit Court is difficult; however, AOC does not anticipate it to be significant.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Governor's Office, Judiciary (Administrative Office of the Courts), Maryland State Department of Education, Department of Budget and Management, Montgomery County, Department of Legislative Services

Fiscal Note History: First Reader - February 10, 2016
md/rhh

Analysis by: Caroline L. Boice

Direct Inquiries to:
(410) 946-5510
(301) 970-5510