

Department of Legislative Services
 Maryland General Assembly
 2017 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 871
 Appropriations

(Delegate Haynes, *et al.*)

Education - Community Colleges - Collective Bargaining

This bill establishes a collective bargaining process for local community college employees including full-time faculty, part-time faculty, and staff but excluding officers, supervisory or confidential employees, and student assistants. Full-time and part-time faculty at Baltimore City Community College (BCCC) may also collectively bargain under this process. 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 exclusive representative. Disputes on these issues may be settled through mediation and fact finding and, if necessary, are subject to a final and binding decision by the State Higher Education Labor Relations Board (SHELRB).

The bill does not apply to collective bargaining units, contracts, or agreements in existence prior to October 1, 2017, except as specified in the bill.

Fiscal Summary

State Effect: SHELRB reimbursable revenues and expenditures increase by \$27,300 in FY 2018 to administer the elections of new collective bargaining units. Out-years reflect annualization, ongoing expenses, and completion of elections in FY 2020. BCCC expenditures increase by \$1,700 in FY 2018 and 2019 and \$1,800 in FY 2020 to reimburse SHELRB for collective bargaining expenses. BCCC administrative expenditures may increase to expand collective bargaining to faculty (not shown). In addition, personnel expenditures may increase by 1% to 3% per year as a result of collective bargaining; thus, general fund expenditures for community college retirement increase (not shown). State aid for BCCC and local community colleges is not otherwise affected.

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
ReimB. Rev.	\$27,300	\$28,000	\$28,800	\$0	\$0
ReimB. Exp.	\$27,300	\$28,000	\$28,800	\$0	\$0
Higher Ed Exp.	\$1,700	\$1,700	\$1,800	\$0	\$0
Net Effect	(\$1,700)	(\$1,700)	(\$1,800)	\$0	\$0

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

Local Effect: Local community college expenditures increase by \$1,700 per college in FY 2018 and 2019 and \$1,800 in FY 2020 to reimburse SHELRB for expenses. Local community college administrative expenditures may increase to implement collective bargaining. In addition, personnel expenditures may increase by 1% to 3% per year as a result of collective bargaining. Revenues are not affected. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: Up to six bargaining units at each community college may be established: (1) one for full-time faculty; (2) one for part-time faculty; (3) two for the remaining eligible exempt employees, as defined by the federal Fair Labor Standards Act; (4) one for eligible nonexempt employees; and (5) one unit reserved for sworn police officers.

“Faculty” is an employee whose assignments involve academic responsibilities, including teachers or department heads.

“Part-time faculty” is an employee whose assignment involves academic responsibilities, including teachers or department heads, who (1) receives a contract for less than one full academic year and (2) is designated with part-time faculty status by the president of the community college.

“Public employees” for whom collective bargaining is authorized do *not* include officers, supervisory or confidential employees, or student assistants at any college. At BCCC, the term only includes faculty; under current law, specified nonfaculty employees of BCCC have collective bargaining rights.

The bill repeals the current authorization for collective bargaining rights for the Community College of Baltimore County, Montgomery College, and Prince George’s Community College and encompasses these institutions within the new authorization.

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 except as specified in the bill (discussed below).

A collective bargaining agreement must include a provision for the deduction (from the paycheck of each community college employee in a bargaining unit) of 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 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. Within 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.

The election of an exclusive representative may not be conducted in any bargaining unit in which a valid election has been held within the preceding 12 months.

Except as specified below, the exclusive representative of a bargaining unit that operated under a collective bargaining agreement or contract before October 1, 2017, maintains certification after the agreement or contract expires. If a collective bargaining agreement or contract is in effect, a valid petition for an election may be submitted only if the petition is submitted between 120 days and 90 days before the expiration of the collective bargaining agreement or contract.

Mediation and Fact Finding

If, in the course of collectively 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 find that an impasse exists and initiate fact finding. The parties must bear equally the costs of fact finding.

Current Agreements

SHELRB may not require the bargaining units at a community college to conform to the requirements of the bill if the bargaining units were in existence before October 1, 2017. On or after October 1, 2017, an election or a recognition of an exclusive representative must be conducted by SHELRB for each bargaining unit after the requirements specified in the bill have been met.

The bill further specifies that, if a community college entered into any agreements or contracts with employees of the community college through exclusive representation in the course of collectively bargaining before October 1, 2017, the community college must continue to operate under the agreements and contracts, until the agreements and contracts expire. If a bargaining unit in existence before October 1, 2017, dissolves, the community colleges must follow the rules and regulations of collective bargaining established by the bill. However, if a party to an agreement or contract in effect before October 1, 2017, determines that an impasse exists, the parties must follow the bill's impasse procedures.

Current Law: Most local community college employees do not have collective bargaining rights. 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 SHELRB to oversee collective bargaining between institutions and the higher education bargaining units and to hear disputes between them. As of March 2015, approximately 7,200 employees at public institutions of higher education were eligible to collectively bargain.

Since enactment in 2001, most of the bargaining units for State higher education employees have elected an exclusive representative. In 2015, there were 39 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 2018 State budget includes \$435,371 and three full-time regular positions for the administration of the boards, including the Public School Labor Relations Board. Of that, \$94,902 is reimbursable funds from institutions of higher education, and the remainder is State general funds.

According to the National Center for the Study of Collective Bargaining in Higher Education and the Professions' directory published in 2012, in the United States, approximately 370,000 faculty members at 519 institutions of higher education were represented by a union. Nearly all of them (93%) were employed at a public institution, and slightly more than half of the organized faculty worked on a full-time basis.

State Fiscal Effect: SHELRB reimbursable revenues and expenditures increase by \$27,295 in fiscal 2018, which accounts for the bill's October 1, 2017 effective date. SHELRB advises that one full-time contractual administrator is needed to administer the elections of at most 85 new collective bargaining units but likely fewer than 60 new collective bargaining units (some existing units may also need to be changed).

Based on the number of currently formed units by community colleges authorized to collectively bargain, it is assumed that approximately 69% of authorized units will choose to request an election. Thus, this estimate assumes that, of the approximately 60 new units

that choose to request an election, one-third do so in each year, with all elections concluding at the end of three years. This estimate reflects the cost of hiring one full-time contractual administrator to administer the elections, postage for election ballots, travel expenses to visit community colleges holding elections, and election supplies. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

For the purposes of this estimate, it is assumed that BCCC and the local community colleges reimburse SHELRB for the full cost of hiring a full-time contractual administrator and other expenses; however, actual reimbursement depends on actual costs and actual usage by community colleges. If BCCC and local community colleges do not fully reimburse SHELRB, additional general funds may be needed.

Contractual Position	1
Salary and Fringe Benefits	\$20,499
Postage Supplies and Materials	2,156
Start-up/Other Operating Expenses	<u>4,640</u>
Total FY 2018 Reimbursable Expenditures	\$27,295

Future-year expenditures reflect a full salary with annual increases and employee turnover, as well as annual increases in ongoing operating expenses and termination of the contractual position on June 30, 2020, following the elections of all new collective bargaining units.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

Since the State funds local community colleges and BCCC based on per-student formulas, any increase in personnel costs does not affect community college formula aid. However, because retirement costs for certain community college employees are paid by the State on behalf of the local community colleges, to the extent that their personnel costs increase more than they otherwise would have, general fund expenditures increase. Any such impact cannot be reliably estimated at this time; the potential impact of collective bargaining on salaries is discussed further below.

Baltimore City Community College

BCCC expenditures increase to reimburse SHELRB for expenses related to collective bargaining. For the purposes of this estimate, it is assumed that BCCC expenditures increase by an estimated \$1,706 in fiscal 2018, \$1,748 in fiscal 2019, and \$1,802 in fiscal 2020. This estimate is based on the assumption that BCCC and the State’s 15 local

community colleges equally reimburse SHELRB for the costs estimated each year. Actual costs depend on whether BCCC employees decide to collectively bargain and the actual reimbursable costs that can be assigned to BCCC.

BCCC administrative expenditures may increase to expand collective bargaining to faculty, as discussed below (under Local Expenditures).

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 1.0% to 1.5%. A 2011 study published in the *Journal of Labor Research* found that the collective bargaining rights for faculty at two-year institutions of higher education increased basic salary by 2.8% and total salary by 3.0%. In 2016, BCCC had a total of 143 full-time equivalent faculty, of which 113 are full time, and the remainder are part time. It is unknown how many other staff employed by BCCC are 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 expenditures increase to reimburse SHELRB for collective bargaining expenses. These costs are anticipated to be minimal and absorbable within each local community college's overall operating budget. For the purposes of this estimate, it is assumed that expenditures for each local community college increase by an estimated \$1,706 in fiscal 2018, \$1,748 in fiscal 2019, and \$1,802 in fiscal 2020. This estimate is based on the assumption that BCCC and the State's 15 local community colleges equally reimburse SHELRB for the costs estimated each year. Actual costs depend on whether employees at a particular local community college decide to collectively bargain and the actual reimbursable costs that can be assigned to each local community college.

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 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 3% due to collective bargaining as explained above. In 2015, at the local community colleges, there were 2,525 full-time faculty and 4,977 part-time faculty teaching courses for credit. It is unknown how many other staff employed by the local community colleges are granted collective bargaining rights under the bill.

Local governments have the option of whether they provide 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 Information

Prior Introductions: HB 27 of 2016, a similar bill, passed the House and received a hearing in the Senate Finance Committee, but no further action was taken. HB 966 of 2015, a similar bill, received a hearing in the House Appropriations Committee, but no further action was taken. SB 749/HB 490 of 2014, similar bills, received a hearing in the Senate Finance Committee and House Appropriations Committee, respectively, but no further action was taken on either bill.

Cross File: SB 652 (Senator Guzzone, *et al.*) - Finance.

Information Source(s): State Higher Education Labor Relations Board; Maryland Higher Education Commission; Baltimore City Community College; Baltimore City; Harford and Wicomico counties; National Center for the Study of Collective Bargaining in Higher Education and the Professions; Department of Legislative Services

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Analysis by: Caroline L. Boice

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