

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 746

(Delegate M. Washington)

Ways and Means

Finance

**Public School Labor Relations Board - Administration and Enforcement -
Revisions**

This bill requires the Attorney General to 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 by the bill, as well as the selection of the chair of PSLRB.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: None. Requiring the assistant Attorney General position reflects current practice; thus, there is no fiscal impact.

Local Effect: Minimal. The bill codifies the option for court intervention in disputes before PSLRB. Any impact on the circuit courts is assumed to be minimal.

Small Business Effect: None.

Analysis

Bill Summary:

Chair of the Public School Labor Relations Board

The bill specifies that the member who represents the public and meets specified conditions will chair PSLRB.

Public School Labor Relations Board 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, include electronic communications, unless otherwise indicated by PSLRB; and
- PSLRB may extend the time limits set forth in law for good cause shown.

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.

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 PSLRB as an independent agency of State government to administer and enforce the labor relations law for local boards of education and their employees. PSLRB shares an executive director with SLRB and HELRB. The Governor's proposed fiscal 2018 State budget includes \$435,371 and three full-time regular positions 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.

Local Fiscal Effect: The bill codifies the option for court intervention in disputes before PSLRB. The Administrative Office of the Courts (AOC) advises that a review of Maryland CaseSearch reveals that PSLRB was involved in five relevant actions from 2012 to 2017. Thus, while a fiscal and operational impact on circuit courts is possible, AOC does not anticipate it to be significant.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General; Governor's Office; Judiciary (Administrative Office of the Courts); Maryland State Department of Education; Department of Budget and Management; Department of Legislative Services

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