

Department of Legislative Services  
Maryland General Assembly  
2019 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 766  
Appropriations

(Delegate Haynes, *et al.*)

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Education - Community Colleges - Collective Bargaining

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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, 2019, except as specified in the bill.**

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Fiscal Summary

**State Effect:** Reimbursable revenues and expenditures increase by an estimated total of \$26,200 for each new collective bargaining unit to have one election. BCCC expenditures increase by an estimated \$2 per eligible employee to reimburse SHELRB for collective bargaining expenses. In addition, BCCC administrative and personnel expenditures including State retirement may increase.

**Local Effect:** Local community college expenditures increase by an estimated \$2 per eligible employee to reimburse SHELRB for collective bargaining expenditures for an estimated total of \$25,500. Local community college administrative and personnel expenditures including retirement may increase. Revenues are not affected. **This bill may impose a mandate on a unit of local government.**

**Small Business Effect:** None.

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## 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) one for the remaining eligible exempt employees, as defined by the federal Fair Labor Standards Act; (4) two 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” are employees whose assignments involve academic responsibilities, including teachers or department heads, who (1) receive a contract for less than one full academic year and (2) are 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, 2019, 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.

### *Contact Information*

On written request of an exclusive representative, and within 30 days of a new employee’s date of hire, a community college must provide the exclusive representative with specified contact information.

## *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, 2019. On or after October 1, 2019, 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, 2019, 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, 2019, 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, 2019, 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. In 2016, 12 new public-sector collective bargaining units were added.

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 2020 State budget includes \$434,517 and three full-time regular positions for the administration of the boards, including the Public School Labor Relations Board. Of that, \$94,770 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. About half (48%) of covered faculty were in two states, California and New York. Nearly all of them (93%) were employed at a public institution, and slightly more than half worked on a full-time basis. Nationally, just over half were employed by two-year institutions. Finally, thousands of more faculty participate in nonbargaining units, and roughly 60,000 graduate student employees are covered by contracts.

*Inside Higher Ed* reported in 2016 that, due to collective bargaining, adjunct faculty at Northeastern University, a four-year institution, negotiated a new contract with salary increases of 12% over three years. 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%.

## **State Fiscal Effect:**

### *State Higher Education Labor Relations Board*

SHELRB reimbursable revenues and expenditures increase by an estimated \$26,172 per election (for all eligible employees at BCCC and local community colleges). SHELRB advises that postage for election ballots and election supplies are required. These costs are approximately \$2 per eligible employee. Based on 2017 data from the Integrated Postsecondary Education Data System (IPEDS), there are approximately 13,086 full- and part-time community college employees in Maryland that do not currently have collective bargaining rights; it is assumed that the majority will qualify to collectively bargain.

### *State Aid for Community Colleges and Potential Retirement Costs*

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 local 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.

*For illustrative purposes*, the Department of Budget and Management advises that a 1.0% increase in all community college salaries would increase State contributions to the Employees' and Teachers' Retirement System and the Optional Retirement Program by approximately \$630,000. Salary increases affect retirement contributions two years later. This estimate includes employees who already have collective bargaining rights. Any actual increases will depend on actual negotiations made by employees and the community colleges. Any such increase cannot be reliably estimated.

### *Baltimore City Community College*

Higher education expenditures increase for BCCC 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 \$2 per eligible employee; however, actual costs depend on whether eligible employees decide to collectively bargain and the actual reimbursable costs. Based on 2017 data from IPEDS, approximately 323 additional BCCC employees will be eligible to collectively bargain under the bill. Thus, BCCC higher education expenditures increase by an estimated \$646 to reimburse SHELRB for collective bargaining elections.

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

Salary and salary-driven fringe benefits costs may increase due to collective bargaining; actual increases may depend on the job classification and collective bargaining unit. Although actual increases cannot be reliably estimated, increases of 1% to 3% are probable. BCCC would have to fund any such additional costs within its 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, totaling \$25,526 per election. For the purposes of this estimate, it is assumed that reimbursable costs for SHELRB increase by \$2 per eligible employee. 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 1% to 3% due to collective bargaining as explained above. In 2017, at the local community colleges, there were approximately 12,763 employees that do not currently qualify to have collective bargaining rights.

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.

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### **Additional Information**

**Prior Introductions:** HB 667 of 2018 received a hearing in the House Appropriations Committee, but no further action was taken. Its cross file, SB 408, received a hearing in the Senate Finance Committee but was withdrawn. HB 871 of 2017 received a hearing in

the House Appropriations Committee, but no further action was taken. Its cross file, SB 652, received a hearing in the Senate Finance Committee, but no further action was taken.

**Cross File:** None.

**Information Source(s):** Harford County; Maryland State Labor Relations Boards; Baltimore City Community College; Department of Budget and Management; National Center for the Study of Collective Bargaining in Higher Education and the Professions; *Inside Higher Ed*; Department of Legislative Services

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