Department of Legislative Services

Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 746 (Senator Guzzone, *et al.*)
Finance Appropriations

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 specified staff but excluding officers, supervisory or confidential employees, and student assistants. Implementation is delayed, as specified, until September 1, 2022 or 2023, with bargaining over wages delayed until July 1, 2023 or 2024. Full-time and part-time faculty at Baltimore City Community College (BCCC) may also collectively bargain under this process with implementation delayed until October 1, 2024. Beginning in fiscal 2026, the Governor must include funding to accommodate costs for BCCC in the annual budget bill as specified. Except as specified, the bill does not apply to collective bargaining units, contracts, or agreements in existence prior to September 1, 2022. **The bill takes effect September 1, 2022.**

Fiscal Summary

State Effect: Reimbursable revenues and expenditures increase by an estimated total of $37,500 for each new collective bargaining unit to have one election beginning as early as FY 2023. BCCC expenditures increase by an estimated $3 per eligible employee ($900 total estimate) to reimburse State Higher Education Labor Relations Board (SHELRB) for collective bargaining expenses, as early as FY 2025. Beginning in FY 2026, as explained below, general fund expenditures increase to the extent BCCC negotiations result in additional costs; *under one set of assumptions*, general fund expenditures increase for this purpose by an estimated $121,000 in FY 2026 and beyond. Although the bill may affect State expenditures for retirement beginning in FY 2027, any impact is not material. **This bill establishes a mandated appropriation beginning as early as FY 2026.**

Local Effect: Local community college expenditures increase by an estimated $3 per eligible employee to reimburse SHELRB for collective bargaining expenditures for an estimated total of $36,600 (with the first elections as early as FY 2023). 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.

Analysis

Bill Summary: Specified employees may bargain collectively over wages, hours, other terms and conditions of employment, and the procedures for dues to be charged by the exclusive representative. Aspects of access to new employees are also subject to negotiation. Disputes on these issues may be settled through mediation and fact finding and, if necessary, are subject to a final and binding decision by SHELRB.

Beginning on September 1, 2022, the employees at the following eight large community colleges may collectively bargain under the process established by the bill: Anne Arundel Community College; Community College of Baltimore County; Frederick Community College; Harford Community College; Howard Community College; Montgomery College; Prince George's Community College; and College of Southern Maryland. Negotiations on wages are delayed until July 1, 2023 (fiscal 2024).

Beginning on September 1, 2023, the employees at the following seven small community colleges may collectively bargain under the process established by the bill: Allegany College of Maryland; Carroll Community College; Cecil College; Chesapeake College; Garrett College; Hagerstown Community College; and Wor-Wic Community College. Negotiations on wages are delayed until July 1, 2024 (fiscal 2025).

Beginning on October 1, 2024, the full-time and part-time faculty at BCCC may collectively bargain under the process established by the bill. The Governor must include general funds to cover these costs in the annual State budget; thus, general fund expenditures for BCCC increase as early as fiscal 2026.

Bargaining Units

Up to four bargaining units at each community college may be established: (1) one for full-time faculty; (2) one for part-time faculty; and (3) two for eligible nonexempt employees.

"Faculty" are employees whose assignments involve academic responsibilities, including teachers and department heads.

“Part-time faculty” are employees whose assignments involve academic responsibilities, including teachers, counselors, and department heads, who 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.

Intent of the General Assembly

It is the intent of the General Assembly that the State promote harmonious and cooperative relationships with the public employees of the community college system by encouraging collective bargaining practices, protecting the rights of public employees to associate, organize, and vote for their own exclusive representatives, and recognizing the dignity of labor for all employees of the community college system.

A delay in implementation of this bill is to ensure that community colleges are granted sufficient time to plan for potential negotiations and may not be used to plan for, or engage in, activities that would discourage or otherwise coerce employees seeking to hold an election.

Rights and Responsibilities

The bill establishes rights and responsibilities for specified community college employees, community colleges, and SHELRB with regards to collective bargaining.

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 union dues authorized and owed by the employee. 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.

Baltimore City Community College

For BCCC, in the annual budget bill submitted to the General Assembly, the Governor must include any amounts in the budget of BCCC required to accommodate any additional cost resulting from the negotiations, including the actuarial impact of any legislative changes to any of the State pension or retirement systems that are required, as a result of the negotiations, for the fiscal year beginning the immediately following July 1 if the legislative changes have been negotiated to become effective in that fiscal year.

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, which may be in person, by mail, or electronic. Interest in union representation can be shown by a union authorization card or a union membership card as specified.

An employee organization may request a preferred method of voting; if there is a dispute between two or more employee organizations, SHELRB may designate the method of voting. SHELRB must assist an eligible employee in using an alternative method of vote casting if the employee notifies SHELRB of the inability to cast a ballot using the designated method.

SHELRB must designate an employee organization as the exclusive representative only if (1) one employee organization seeks certification as the exclusive representative; (2) there is no incumbent exclusive representative; (3) the employee organization has not requested an election; and (4) SHELRB determines that more than 50% of the employees support the employee organization as specified.

The election of an exclusive representative may not be conducted in any bargaining unit in which (1) an exclusive representative has been certified within the immediately preceding 24 months or (2) a valid election has been held within the preceding 12 months in which an exclusive representative was certified.

Except as specified below, the exclusive representative of a bargaining unit that operated under a collective bargaining agreement or contract before October 1, 2021, 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 at least 90 days, but not more than 120 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.

New Employee Processing

Within 10 days after a new employee's date of hire, the community college must provide the exclusive representative with specified contact information in a searchable and analyzable electronic format as specified. An employee may opt out of further communication from the exclusive representative as specified. An exclusive representative must be provided access to new employee processing. The structure, time, and manner of the access is subject to negotiation. Either party may request that SHELRB declare an impasse. The mediator or SHELRB must consider specified factors. Disputes on these issues may be settled through mediation and fact finding and, if necessary, are subject to a final and binding decision by SHELRB.

A request to negotiate made between September 1, 2022, and the expiration date of an existing collective bargaining agreement must only be reopened to negotiate access of the public employer's new employee processing. Either party may elect to negotiate a separate agreement in lieu of reopening the existing agreement.

Further, 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 similar specified contact information.

State Higher Education Labor Relations Board

SHELRB may adopt regulations to implement the bill and delegate and assign its responsibilities and obligations to the Executive Director of SHELRB. SHELRB may not adopt any rule that (1) unnecessarily delays the resolution of disputes over elections, unfair labor practices, or any other matter in the bill or (2) restricts or weakens the protection provided to public employees and employee organizations under the bill or existing regulations.

SHELRB must adopt regulations in accordance with Title 3, Subtitle 6 of the State Personnel and Pensions Article that address ratification, duration, and enforcement of an agreement under the bill.

Current Agreements

These provisions do not apply to BCCC.

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 September 1, 2022. On or after September 1, 2022, 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 September 1, 2022, 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 September 1, 2022, dissolves, the community college 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 September 1, 2022, determines that an impasse exists, the parties must follow the bill's impasse procedures.

A large community college may not be required to bargain with the exclusive representative over wages until July 1, 2023; however, this does not apply to an exclusive bargaining unit established before September 1, 2022. A small community college may not be required to bargain with the exclusive representative over wages of employees in a bargaining unit until July 1, 2024.

Current Law: 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.

Most local community college employees do not have collective bargaining rights. However, 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 Maryland Department of Labor is required to define the bargaining units, conduct elections, serve as the mediator, if necessary, and perform other functions.

State Fiscal Effect:

Baltimore City Community College – Required Funding Due to Negotiations

General fund expenditures for BCCC increase due to the bill's requirement that the Governor include certain funding in the annual budget bill. Specifically, the Governor must include any amounts in the budget of BCCC required to accommodate any additional cost resulting from the negotiations, including the actuarial impact of any legislative changes to any of the State pension or retirement systems that are required, as a result of negotiations. The funding must be provided for the fiscal year beginning the immediately following July 1, if the legislative changes have been negotiated to become effective in that fiscal year.

As the bill allows BCCC to negotiate with full-time and part-time faculty beginning October 1, 2024, general fund expenditures may increase as early as July 1, 2025 (which is fiscal 2026), to accommodate these costs. Such costs cannot be reliably estimated and likely depend on job classification and the collective bargaining unit. Nevertheless, increases of 1% to 3% are probable. *Under one set of assumptions*, general fund expenditures increase by an estimated $121,000 in fiscal 2026 and beyond due to salary increases. This reflects a 1% salary increase (above an estimated 2% annual increase). These numbers reflect the salaries of staff that may not be in the bargaining units established by the bill. This estimate assumes that general funds are not provided for any administrative costs. BCCC administrative costs are discussed below.

Baltimore City Community College Administrative Costs

As early as fiscal 2025, 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 $3 per eligible employee; however, actual costs depend on whether eligible employees decide to collectively bargain and the actual reimbursable costs. Based on 2018 data from the Integrated Postsecondary Education Data System (IPEDS), approximately 300 additional BCCC employees will be eligible to collectively bargain under the bill. Thus, BCCC higher education expenditures increase by an estimated $900 to reimburse SHELRB for collective bargaining elections.

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

State Higher Education Labor Relations Board

SHELRB reimbursable revenues and expenditures increase – by an estimated $37,500 in total per election (which represents all eligible employees at BCCC and local community colleges). SHELRB advises that postage for election ballots and election supplies are required. Due to the delayed implementation, no elections will be held under the bill until fiscal 2023 for large colleges, fiscal 2024 for small colleges, and fiscal 2025 for BCCC. These costs are approximately $3 per eligible employee. Based on 2018 data from IPEDS, there are approximately 12,500 full-time 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. The costs will be spread over at least three years; revenues will increase correspondingly.

SHELRB can adopt the required regulations using existing resources.

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. Although the bill may affect State expenditures for retirement beginning in fiscal 2027, any impact is not material. The potential impact of collective bargaining on salaries is discussed further below.

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 $36,600 per election cycle in total. Specified larger community colleges may have their first elections as early as September 1, 2022 (fiscal 2023), and specified smaller community colleges may have their first elections as early as September 1, 2023 (fiscal 2024). Thus, these costs are spread over two years (or more). For the purposes of this estimate, it is assumed that reimbursable costs for SHELRB increase by $3 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

Bargaining units from specified larger community colleges may negotiate wages beginning July 1, 2023 (fiscal 2024). Bargaining units from specified smaller community colleges may negotiate wages beginning July 1, 2024 (fiscal 2025). Accordingly, negotiated increases are likely delayed to the following fiscal year. Salary and salary-driven fringe benefits costs may increase 1% to 3% due to collective bargaining as explained above. In 2018, at the local community colleges, there were nearly 12,200 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.

Additional Information

Prior Introductions: Similar legislation has been introduced in 2019 (HB 766), 2018 (HB 667/SB 408), and 2017 (HB 871/SB 652). The bills received hearings in the House Appropriations Committee or Senate Finance Committee, but each bill was subsequently withdrawn or no further action was taken.

Designated Cross File: HB 894 (Delegate Haynes) - Appropriations.

Information Source(s): State Higher Education Labor Relations Board; Maryland Higher Education Commission; Charles and Montgomery counties; Department of Legislative Services

Fiscal Note History: First Reader - February 10, 2021
rh/rhh Third Reader - March 26, 2021
Revised - Amendment(s) - March 26, 2021
Revised - Correction - July 20, 2021

Analysis by: Caroline L. Boice

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