

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 374
Appropriations

(Delegates Krimm and Kerr)

Finance

Maryland School for the Deaf - Professional Personnel and Staff - Service Designation, Assignment, and Placement in a Collective Bargaining Unit

This bill specifies that professional personnel and staff employed by the Maryland School for the Deaf (MSD) are in the professional and skilled services in the State Personnel Management System (SPMS). Notwithstanding any other provision law, before December 31, 2022, the Secretary of Budget and Management must assign (1) all professional personnel and staff classifications and positions of MSD to the professional and skilled services in SPMS and (2) all positions in the professional and skilled services, except for faculty at MSD, to bargaining unit A, B, C, D, F, or H. The bill further specifies that, notwithstanding any other provision of law, an employee of MSD migrated to SPMS or assigned to a bargaining unit by the Secretary of Budget and Management must suffer no diminution of pay or benefits resulting from the migration or assignment and, in the course of a migration or assignment, may be placed on a new salary schedule only at a grade and step that results in a greater annual rate of pay. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: The bill is not expected to directly affect State finances, as it mostly codifies existing practice, as discussed below. Any effects are generally operational in nature.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law:

Categories in the State Personnel Management System

SPMS has four major employment categories designated in statute:

- executive service, which consists of chief administrators of principal units or comparable positions, including deputy secretaries or assistant secretaries;
- management service, which consists of positions that involve direct responsibility for the oversight and management of personnel and financial resources and that require the exercise of discretion and independent judgment;
- professional service, which consists of positions that require advanced knowledge in a field of science or learning and that normally require a professional license, advanced degree, or both; and
- skilled service, which consists of all other positions.

Chapter 538 of 2019 established that each teacher employed by MSD is in the professional service in SPMS.

Classification of skilled, professional, management, and executive service positions in SPMS is the responsibility of the Secretary of Budget and Management. The Secretary must likewise establish the standards and procedures used to classify positions in the skilled, professional, management, and executive services and provide advice and guidance on their use.

The head of a principal unit may classify positions in the unit, in accordance with the Secretary of Budget and Management's established standards and procedures, if the Secretary chooses to delegate the classification authority. If the Secretary delegates the classification authority to the head of a principal unit, that person must prepare a position classification plan for the Secretary's approval and classify all positions in accordance with the approved plan. The Secretary must conduct a position classification audit at least once every three years but only if the classification activity was delegated to the head of a principal unit. The Secretary may conduct operational audits of classification practices and records in principal units once every three years.

A temporary employee is not classified in the skilled, professional, management, or executive service in SPMS.

State Employees and Collective Bargaining

Title 3 of the State Personnel and Pensions Article establishes statutory collective bargaining rights for a large number of State employees. Chapter 804 of 2021 extended collective bargaining rights to employees of MSD and specified that faculty at MSD must have a separate bargaining unit. “Faculty at the Maryland School for the Deaf” is defined as an employee who has been granted a specified status by the Board of Trustees of MSD and includes after-school program counselors; American Sign Language specialists; athletic trainers; behavior specialists; clerical aides; dorm counselors; employment specialists; instructional technology resources specialists; librarians; literacy and reading specialists; physical and occupational therapists; orientation and mobility specialists; school counselors; school IEP coordinators; school nurses and social workers; speech-language pathologists; student support specialists; teachers; teacher aides; transition coordinators; and work-to-learn specialists. It does not include officers or supervisory employees at MSD.

In addition to employees of MSD, Maryland’s collective bargaining law generally applies to employees of the Executive Branch departments, the Maryland Insurance Administration, the State Department of Assessments and Taxation, the State Lottery and Gaming Control Agency, the University System of Maryland (USM), the Office of the Comptroller, the Maryland Transportation Authority ((MDTA) for those who are not police officers), the State Retirement Agency, the Maryland State Department of Education, the Maryland Environmental Service, Morgan State University (MSU), St. Mary’s College of Maryland (SMCM), and Baltimore City Community College (BCCC), along with specified firefighters for the Martin State Airport and all full-time MDTA police officers at the rank of first sergeant and below.

The State’s collective bargaining law does not apply to:

- Maryland Transit Administration employees;
- Legislative and Judicial Branch personnel;
- elected and appointed officials;
- the Governor’s and Lieutenant Governor’s staff;
- an employee assigned to, or with access to records of, the State Labor Relations Board (SLRB);
- special appointees and executive service personnel in SPMS;
- senior administrators, faculty members, student employees, and other designated employees of USM, MSU, SMCM, or BCCC;
- the chief, deputy, or assistant administrator of a unit with an independent personnel system;
- temporary or contractual employees in SPMS;

- an employee who is entitled to participate in collective bargaining under another law;
- an employee whose participation in a labor organization is contrary to the State's ethics laws; and
- any supervisory, managerial, or confidential employee as defined by regulation.

Parties to the collective bargaining process must make every reasonable effort to conclude their negotiations by January 1 for any item requiring appropriation for the fiscal year that begins the following July 1. The Governor must include in the annual budget bill submitted to the General Assembly any amounts in the budgets of the principal units required to accommodate any additional cost resulting from the negotiations for the fiscal year beginning the following July 1, if the legislative changes have been negotiated to become effective in that fiscal year.

State Labor Relations Board

SLRB is a five-member independent unit of State government responsible for administering and enforcing the State's collective bargaining law, particularly the establishment of new collective bargaining units and the certification of exclusive employee representatives for those units. In that capacity, the board holds elections for exclusive employee representatives when petitioned to do so, and also adjudicates dispute resolution cases related to the collective bargaining process.

State Fiscal Effect: This bill specifies that professional personnel and staff employed by MSD are in the professional and skilled services in SPMS, which generally codifies existing classifications for these positions.

The bill additionally specifies that the Secretary of Budget and Management must assign all positions in the professional and skilled services within MSD, excluding faculty (which, pursuant to current law, must have a separate bargaining unit), to bargaining unit A, B, C, D, F, or H, all of which are currently represented by the American Federation of State, County, and Municipal Employees. As noted above, Chapter 804 of 2021 generally extended collective bargaining rights to employees of MSD. The Department of Budget and Management (DBM) advises that, as of January 2022, of the 75 positions subject to assignment in the above-specified bargaining units under the bill, 49 were already assigned to bargaining units A and B, 16 were assigned to E and G, and 10 were excluded as management, supervisory, or confidential positions or by executive order. DBM further advises that, to date, no representation elections have been conducted for MSD employees.

Thus, the bill appears to subject to reassignment those positions within MSD (other than faculty) that have been assigned to existing bargaining units other than units A, B, C, D, F, and H. To the extent that such a change results in accretion elections for affected

employees, general fund expenditures for SLRB increase minimally to administer the elections. However, for purposes of this fiscal and policy note, it is assumed that the bill does not directly affect the employee and labor relations activities of MSD, nor directly affect personnel and other expenditures for MSD, as the bill does not extend collective bargaining rights to employees not already eligible for collective bargaining under Chapter 804. Potential effects on MSD administrative and personnel expenditures as a result of the expansion of collective bargaining rights to MSD employees have already been accounted for in the fiscal and policy note for Chapter 804.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 955 (Senator Benson) - Finance.

Information Source(s): Governor's Office; Maryland School for the Deaf; Department of Budget and Management; State Labor Relations Board; Office of Administrative Hearings; Department of Legislative Services

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