

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 65
Appropriations

(Delegates S. Johnson and Charkoudian)

Finance and Education, Energy, and the
Environment

Education - Public Libraries - Collective Bargaining

This bill establishes a collective bargaining process for full- or part-time nonmanagement employees, as specified, of public library systems throughout the State. As a result, the bill repeals provisions of law rendered obsolete by the bill's Statewide applicability. The bill only applies prospectively and may not be applied or interpreted to have any effect on or application to: (1) the composition of a collective bargaining unit that is in existence on the bill's July 1, 2023 effective date, unless the collective bargaining unit dissolves after that date; (2) a collective bargaining agreement entered into before the bill's July 1, 2023 effective date; or (3) collective bargaining negotiations that began before the bill's July 1, 2023 effective date. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: To the extent eligible library employees' salaries increase due to the collective bargaining process, general fund expenditures increase to pay increased retirement costs beginning in FY 2028. Revenues are not affected.

Local Effect: Local library systems can handle payroll deductions for union and service fees using existing resources. Local public library expenditures may increase significantly due to the hiring of outside mediators, increases in library employee salaries, and increases in retirement costs for non-State eligible employees.

Small Business Effect: None.

Analysis

Bill Summary: An employee may form, join, and participate in an employee organization; bargain collectively through a representative of their choice; and engage in lawful

concerted activities for their mutual aid and protection. An employee also may refuse to join or participate in the activities of an employee organization.

Represent All Employees Fairly

The employer must recognize the right of the certified exclusive representative to represent the employees in the unit in collective bargaining and the settlement of grievances. The certified exclusive representative of a unit must (1) serve as the sole agent for the unit in collective bargaining and (2) represent all employees in the unit fairly and in good faith, in a manner that is not arbitrary or discriminatory.

Certification of an Employee Organization

During the month of *September only*, an employee organization with written proof that at least 30% of the employees in the bargaining unit have designated the employee organization to represent them, may file a petition with the board of the relevant public library system, or their designee, as specified. Before the petition of interest may be processed, the proof of interest must be verified by a neutral decision maker from the federal Mediation and Conciliation Service as specified. The employee organization and the library system must equally bear any costs associated with the verification.

A bargaining unit may only hold an election once per year. The board, or their designee, must notify all employees within the bargaining unit that an election will be held and request a neutral decision maker from the federal Mediation and Conciliation Service to oversee and conduct an election by secret ballot. The ballot must include choices for exclusive representation by any employee organization seeking to obtain or continue representation rights, as specified, and no exclusive representation.

If the board disagrees with the petitioning employee organization or the petitioning employees as to the inclusion or exclusion of specific employees and the classifications of employees in the bargaining unit, all the employees in the petitioned-for group must have the opportunity to vote in the election, as specified. If the total number of ballots of challenged employees have an impact on the election result, the parties must immediately refer the dispute to the neutral decision maker to resolve the dispute. The neutral decision maker must hold a hearing on the dispute, as specified. The neutral decision maker's findings are final and binding on the parties.

An employee organization must be certified as exclusive representative following an election if the employee organization has received the vote of a majority of the valid votes cast. If an election includes three or more choices and no choice receives the majority of votes, the neutral decision maker must conduct a runoff election between the two choices

that received the largest number of votes. The choice receiving the largest number of votes must be certified.

Employees represented by an employee organization may petition for decertification as specified. The petition must be processed as described.

Topics for Collective Bargaining

If an employee organization is certified as specified, the employer and the certified exclusive representative must enter into a collective bargaining agreement that contains provisions regarding wages, hours, and the terms and conditions of employment; the grievance process regarding the interpretation and implementation of the agreement; and other topics that the parties may mutually agree to that are suitable for bargaining.

Dues

The employer must automatically deduct dues from an employee who is a member of the union and who submits a dues deduction card. The dues must be remitted to the certified exclusive representative. The employer must automatically stop making payroll deductions on behalf of a certified exclusive representative if the certified exclusive representative is decertified, the certified exclusive representative's right to dues is revoked, the employee ceases to be a member of the bargaining unit, or the employee resigns from membership in the employee organization.

Provisions for the Agreement

An employee is not allowed to engage in a strike. The authority of the governing body to determine the budget of the employer is not restricted.

The bill establishes terms that must be met in a collective bargaining agreement, a process for reaching an agreement and when an impasse must be declared. The bill also establishes processes and requirements for mediating an impasse, selecting a mediator, and resolving a dispute. Any costs associated with this must be shared equally by the employer and the certified exclusive representative.

The governing body is not bound by any decision made under the mediation process and must act in accordance with the bill. The governing body may accept or reject the recommendation of approval by the library board of trustees. The mediation process established in the bill must be the exclusive procedure for resolving disputes between the parties, unless the parties, by mutual agreement, determine to use another method of dispute resolution.

The board of trustees must submit a term of collective bargaining agreement or memorandum of understanding (MOU) to the county executive with the board's recommendation regarding whether the agreement or mediator's decision requires an appropriation of additional funds.

Terms That May Have a Fiscal Impact

The governing body may approve or reject a request for additional funding, in whole or in part. If the governing body approves a request, the governing body must take all actions necessary to process the request for additional funding. The governing body may approve or reject a request for additional funding, in whole or in part.

If any part of a request for additional funding submitted to the governing body is rejected, the request for additional funds must be returned to the employer and the certified exclusive representative for renegotiation within the limits of the funding allocated by the county executive and county council. The renegotiation must be completed within a timetable established by the governing body.

If an impasse is reached, the employer and the certified exclusive representative must submit a final offer, within the limits of the funding allocated by the governing body. The governing body must select one of the offers. The selection of the governing body is binding on all parties.

Employers and Employee Organizations

The employer and the employee organization are mutually obligated to meet and negotiate as specified. The obligation to negotiate in good faith requires that an effort be made to arrive at an agreement and reduce the agreement to writing within a reasonable period of time but does not require that concessions be made on either side.

The bill specifies the exclusive rights of the employer and, subject to applicable provisions of a collective bargaining agreement or MOU, the employer may take specified actions including direct, hire, promote, and demote its employees.

The employer and the employee organizations are prohibited from certain activities, including interfering with, restraining, or coercing an employee in the exercise of any right given to the employee by the bill; and refusing to bargain in good faith.

An employee who is a member of a bargaining unit with an exclusive representative may, without the intervention of an employee organization, discuss any matter with the employer. This subsection does not waive the right of the employee organization to be the exclusive bargaining representative for issues related to wages, hours, and working

conditions and is not intended to create an alternative path to alter terms and conditions of the collective bargaining agreement between the parties.

Collective Bargaining Agreement Supersedes

Except as otherwise provided by law, if employees have entered into a collective bargaining agreement with the employer, the collective bargaining agreement supersedes any conflicting regulation or administrative policy of the employer.

Prohibited Activities

In general, strikes, work stoppages, lockouts, and secondary boycotts are prohibited. Employees and employee organizations may not engage in, sponsor, initiate, support, direct, or condone a strike, work stoppage, or secondary boycott. Employee organizations may not engage in, initiate, sponsor, or support, directly or indirectly, picketing of the employer, its property, or field or office facilities in furtherance of a strike, work stoppage, or secondary boycott.

If an employee organization violates these prohibitions, the board, after a majority vote, may (1) revoke the employee organization's designation as certified exclusive representative; (2) disqualify the employee organization from participating in representation elections for a period of up to two years; and (3) terminate immediately the payroll deductions for the employee organization's dues.

An employee who violates these prohibitions is subject to immediate disciplinary action, which may include permanent dismissal from employment for just cause.

The employer may not direct a lockout against employees; however, this may not be construed to prohibit the employer from exercising its managerial rights.

Current Law: Each board of library trustees must establish policies for staff classification; salaries; work conditions; suspension with pay; grievance procedures; benefits, including vacation and sick leave; hours of work; and any other personnel procedures and practices necessary for the efficient operation of the library. A library board of trustees may advise in the preparation of, and approve, the library budget.

Employees of the Baltimore County Public Library System, Howard County Library System and the Prince George's County Memorial Library System have the rights to organize and bargain collectively through representatives of their choosing. Howard County Library System employees have not chosen to use this authorization. As employees of Montgomery County, employees of the Montgomery County Public Library System may bargain collectively. If resolved by the governing board, Enoch Pratt Free

Library employees may be considered employees of Baltimore City for the purposes of collective bargaining and other related rights. Enoch Pratt Free Library employees formed a union in 2022.

State Expenditures: Although the bill may affect State expenditures for retirement as early as fiscal 2028, any such impact is expected to be minimal. The State pays retirement benefits for eligible library employees based on the salaries of eligible library employees in the second prior fiscal year. If library employees choose to bargain collectively, the employee salary base may increase beginning in fiscal 2026 at the earliest, depending on the outcomes of the collective bargaining process.

Local Expenditures: Local library systems can handle any payroll deduction for union fees using existing resources. Local library system expenditures may increase by a significant amount due to (1) increased costs for collective bargaining, including the hiring of outside fact finders and mediators and (2) increased salaries for employees, subject to the outcome of collective bargaining negotiations. In addition, the bill may affect local retirement expenditures for library employees who are not librarians or clerical staff; however, any impact is expected to be minimal.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 352 (Senator King, *et al.*) - Finance and Education, Energy, and the Environment.

Information Source(s): Baltimore, Charles, and Garrett counties; Governor's Office; Maryland Association of Counties; Maryland State Library Agency; Department of Legislative Services

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