

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 298

(Senators Kramer and Ellis)

Finance

State Personnel - Collective Bargaining - Supervisory and Managerial Employees

This bill repeals the statutory exclusion from collective bargaining for supervisory and managerial State employees in Executive Branch agencies as well as those employed by public State institutions of higher education – thereby establishing collective bargaining rights for those employees. Eligible supervisory and managerial employees must be defined by regulations, adopted by the Secretary of Budget and Management or the governing board of the institution of higher education, as appropriate. Generally, supervisory employees must have a separate bargaining unit, and managerial employees must have a separate bargaining unit. However, for each institution of higher education, each group of supervisory and managerial employees must have their own separate bargaining units.

Fiscal Summary

State Effect: General fund expenditures increase by \$77,400 in FY 2024; future years reflect annualization, inflation, and ongoing costs. State expenditures (all funds) increase minimally for each new collective bargaining unit to have one election beginning as early as FY 2024. State expenditures (all funds) may increase, potentially significantly, to the extent that collective bargaining negotiations result in additional rights, benefits, or salaries for affected employees, as discussed below. Any such impact cannot be reliably estimated or predicted, and is not shown below, but would most likely not be realized until at least FY 2025. Other costs for higher education institutions and the two labor relations boards (and related revenues) are not reflected below.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	77,400	92,200	96,300	100,600	105,900
Net Effect	(\$77,400)	(\$92,200)	(\$96,300)	(\$100,600)	(\$105,900)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill does not affect local government operations or finances.

Small Business Effect: None.

Analysis

Current Law:

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. 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, the Maryland School for the Deaf (MSD), 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 the State Personnel Management System (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

Rights of Employees

Employees subject to the State's collective bargaining law have the right to (1) take part or refrain from taking part in forming, joining, supporting, or participating in any employee organization or its lawful activities; (2) be fairly represented by their exclusive representative, if any, in collective bargaining; and (3) generally, engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

Labor Relations Boards and Bargaining Units

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 adjudicates dispute resolution cases related to the collective bargaining process. The State Higher Education Labor Relations Board is responsible for enforcing collective bargaining laws with respect to employees of public State institutions of higher education.

Institutions of higher education must have separate bargaining units, and for these institutions, appropriate bargaining units must consist of (1) all eligible nonexempt employees except sworn police officers; (2) all eligible exempt employees; and (3) all eligible sworn police officers. Additionally, MDTA police officers at the rank of first sergeant and below must have a separate bargaining unit, and faculty at MSD must have a separate bargaining unit.

Generally, the Secretary of Budget and Management has the authority to assign classification titles and positions to bargaining units as appropriate.

State Expenditures:

Collective Bargaining Costs for State Agencies

The bill increases State expenditures (all funds) in two ways. First, for each bargaining unit, State agencies incur costs to hold elections to determine whether affected employees will join a union or not; however, any such cost is anticipated to be minimal.

Second, if a union is formed for a bargaining unit, State agencies may incur potentially significant costs depending on the rights, benefits, and/or salaries negotiated. Any such costs cannot be reliably predicted or estimated at this time, as they depend wholly on the outcome of any subsequent negotiations. The Department of Budget and Management (DBM) estimates that approximately 6,300 supervisors and managers in SPMs are eligible to collectively bargain under the bill and, as such, the impact could be significant. Given the bill's October 1, 2023 effective date, negotiations may occur as early as the latter half of fiscal 2024 and any agreed-upon rights, benefits, and/or salaries are unlikely to become effective until at least fiscal 2025. Agencies with independent personnel systems (such as the Maryland Department of Transportation and various institutions of higher education) are likely to experience similar costs.

Department of Budget and Management Staff Costs

Additionally, general fund expenditures by DBM increase by \$77,417 in fiscal 2024, which accounts for the bill's October 1, 2023 effective date. This estimate reflects the cost of hiring one administrator for DBM to help assist with negotiations, potential grievances, and correspondence with the representatives of the new bargaining units. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salaries and Fringe Benefits	\$70,008
Operating Expenses	<u>7,409</u>
Total FY 2024 DBM Staff Expenditures	\$77,417

Future year expenditures reflect annualization and a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 183 (Delegate Chang) - Appropriations.

Information Source(s): Department of Budget and Management; Maryland Department of Transportation; State Department of Assessments and Taxation; Maryland Insurance Administration; Comptroller's Office; Maryland State Lottery and Gaming Control Agency; Maryland Environmental Service; Maryland School for the Deaf; University System of Maryland; Baltimore City Community College; Department of Legislative Services

Fiscal Note History: First Reader - January 30, 2023
js/mcr

Analysis by: Richard L. Duncan

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