

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 37
Appropriations

(Delegate Vogel)

Declaration of Rights - Right to Organize

This proposed constitutional amendment, if approved by the voters at the next general election to be held in November 2026, (1) establishes that every person employed in the State has the fundamental right to organize and collectively bargain on compensation, hours, and other terms and conditions of employment and (2) prohibits the State from directly or indirectly denying, burdening, or abridging this right unless justified by a compelling State interest achieved by the least restrictive means.

Fiscal Summary

State Effect: If approved by voters, State personnel and other expenditures (all funds) may increase, potentially significantly, as early as FY 2027, as discussed below. Revenues are not directly affected.

Local Effect: If approved by voters, local personnel and other expenditures may increase, potentially significantly, as early as FY 2027. Revenues are not directly affected.

Small Business Effect: Minimal.

Analysis

Current Law: It is the policy of the State that negotiation of terms and conditions of employment should result from a voluntary agreement between employees and the employer and, thus, each individual worker must be fully free to associate, organize, and designate a representative for negotiation of terms and conditions of employment. This process must be free from coercion, interference, or restraint by an employer in (1) designation of a representative; (2) self-organization; and (3) other concerted activity

for the purpose of collective bargaining or other mutual aid or protection. State law establishes a procedure for certifying a labor organization as the bargaining representative for a workplace, and a majority of employees must vote in favor of joining a union in order for a workplace to unionize.

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. Title 3 authorizes the State, State institutions of higher education, and the Maryland Environmental Service (MES) to meet and confer with exclusive employee representatives about negotiable terms. Title 3 does not provide for binding arbitration but does allow fact finding in the event of an impasse, as discussed later in this Current Law section. Employees, employers, and exclusive representatives subject to Title 3 are also subject to the provisions of the Maryland Public Employee Relations Act.

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, MES, the Office of Public Defender, the Maryland School for the Deaf, 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 Public Employee Relations Board;
- 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;
- temporary, contractual, or emergency employees in a unit of the Executive Branch with an independent personnel system;
- 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;
- any managerial or confidential employee of specified units of State government as defined by regulation; and
- any supervisory, managerial, or confidential employee of USM, MSU, SMCM, or BCCC.

National Labor Relations Act

In 1935, the U.S. Congress passed the National Labor Relations Act (NLRA), commonly known as the "Wagner Act," which set forth employees' rights to join unions and required employers to bargain collectively with unions selected by a majority of workers in an appropriate bargaining unit. Under Section 7 of NLRA, employees have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and also have the right to refrain from any or all such activities. The NLRA generally applies to all employers involved in interstate commerce other than airlines, railroads, agriculture, and government.

NLRA also established the National Labor Relations Board (NLRB), an independent federal agency, to enforce its provisions. NLRB also acts to prevent and remedy unfair labor practices committed by private sector employers and unions, as well as conducts secret-ballot elections regarding union representation.

State / Local Expenditures: The NLRA provides most private sector employees with the right to organize and collectively bargain, but the NLRA does not apply to public sector employees. Thus, if approved by voters, the proposed amendment may grant public sector employees who are prohibited from joining unions under current law the right to join a union (subject to the amendment's exclusion provision).

The proposed amendment increases State and local expenditures (all funds) in two ways if a union is formed for a bargaining unit currently excluded from collective bargaining. First, adding more bargaining units may increase the workload of human resources/labor relations units within State and local agencies to respond to additional union matters, such as inquiries on memoranda of understanding, grievances, performance management, and other labor matters. Additionally, the Public Employee Relations Board may need to run

elections if petitions are filed to form unions for State employees and may experience an increase in filings of unfair labor practice charges. Thus, to the extent the additional workload within human resources/labor relations units increases, additional staff may be needed. The extent to which the workloads of human resources/employee relations functions increase as a result of the bill cannot be reliably predicted, as it depends on whether employees excluded under current law from joining unions elect to participate in collective bargaining and the demands of the unions, among other factors. To the extent that additional personnel are needed to manage increased responsibilities under the bill, State and local expenditures (all funds) increase beginning as early as fiscal 2027 if a petitioning union is successful.

Second, State and local 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 proposed amendment prohibits the State from directly or indirectly denying, burdening, or abridging the right to organize and collectively bargain unless justified by a compelling State interest achieved by the least restrictive means. However, the bill does not define a compelling State interest, so litigation may occur, resulting in legal expenses increasing by an indeterminate amount. To the extent that there is a compelling State interest to deny public sector employees the right to collectively bargain, the fiscal effect is mitigated.

Additional Information

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

Designated Cross File: None.

Information Source(s): Maryland Municipal League; Maryland Association of Counties; Office of the Attorney General; Public Employee Relations Board; Department of Budget and Management; Maryland Department of Labor; Maryland State Board of Elections; National Labor Relations Board; Department of Legislative Services

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