

Department of Legislative Services
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FISCAL AND POLICY NOTE
First Reader

Senate Bill 874
 Finance

(Senator Kelley)

State Department of Education - Employment Categories and Practices

This bill alters the employment categories of specified professional assistants within the Maryland State Department of Education (MSDE). The bill generally reclassifies special appointment positions within MSDE, except those who perform a significant policy role or provide direct support to a member of the executive service, to positions in the executive, management, professional, or skilled service under the State Personnel Management System (SPMS). By January 1, 2018, MSDE must assign all employees who are designated by MSDE as professional or nonprofessional assistants to the appropriate employment category under SPMS.

Fiscal Summary

State Effect: General fund expenditures by MSDE increase by \$123,900 in FY 2018 due to additional staffing needs related to the reclassification of professional assistants. Out-year expenditures reflect annualization and elimination of one-time start-up costs. MSDE may incur additional personnel costs associated with employee recruitment and collective bargaining, which may be offset partially by lower starting salaries of professional or skilled service employees, which are not reflected in the table below. Revenues are not affected.

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	123,900	155,500	163,400	171,700	180,400
Net Effect	(\$123,900)	(\$155,500)	(\$163,400)	(\$171,700)	(\$180,400)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Most positions within MSDE are designated as “professional assistants,” a designation that does not exist anywhere else in State government. The State Board of Education must appoint all professional assistants nominated by the State Superintendent to MSDE, and they must be classified as being in the executive service, management service, or special appointments within SPMS. The State Superintendent may transfer professional assistants within MSDE as necessary, and they serve at the pleasure of the State Board of Education and the State Superintendent. Professional assistants can be removed in accordance with procedures set by the State Board. Unless otherwise provided, the State Superintendent must appoint and remove all clerical assistants and other nonprofessional MSDE personnel in accordance with statutory provisions that govern the skilled service, except for special appointments.

SPMS has four major employment categories designated in statute:

1. executive service, which consists of chief administrators of principal units or comparable positions, including deputy secretaries or assistant secretaries;
2. 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;
3. 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
4. skilled service, which consists of all other positions.

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’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.

Special appointments within SPMS are employees who:

- are appointed directly by the Governor to a position that is not provided for in the State Constitution;
- are appointed directly by the Board of Public Works;
- as determined by the Secretary of Budget and Management, perform a significant policy role or provide direct support to a member of the executive service;
- are assigned to the Government House (the Governor's residence);
- are assigned to the Governor's office; or
- are in positions specified by law to be special appointments.

Collective bargaining laws do not apply to special appointments. Special appointments are the only positions in the Executive Branch that may be filled with regard to political affiliation, but most are not. Positions that may be filled with regard to political affiliation must be so designated and disclosed to the appointee.

State Expenditures: The bill requires current personnel at MSDE to be reclassified by January 1, 2018. However, current at-will employees, which encompass all of the current professional assistants in MSDE, cannot be converted to skilled or professional service positions if they were not hired in that manner. Thus, positions can only be converted to another status upon vacancy.

Of the 890 professional assistant positions within MSDE, MSDE estimates that only 20 positions perform a significant policy role or provide direct support to a member of the executive service and, thus, would remain special appointment positions. Approximately 70 positions are classified in the executive service or management service within SPMS and, therefore, would remain unchanged. Thus, the bill reclassifies approximately 800 positions currently classified as special appointments to professional service or skilled service within SPMS.

As a result of the reclassification, MSDE must change its recruitment process to adhere to SPMS's system of advertising on the State's JobApps application and following a standard procedure rather than following a more flexible process, which enables MSDE to recruit professional assistants in a variety of methods and platforms. MSDE is eligible to hire professional assistant employees up to salary step 15 without further approval, but as a

result of the reclassification, MSDE would only be authorized to hire new employees up to salary step 9 unless special approval is requested. Thus, when MSDE experiences turnover, MSDE personnel costs could potentially decrease from this salary limitation.

MSDE has the flexibility to post a position outside of JobApps when a better venue is available for special appointments, such as on MSDE's website and professional organization mailing lists, but for skilled and professional services positions, MSDE must advertise on JobApps. MSDE has an applicant cap on JobApps of 12,500 applications, so MSDE must pay an overage cost of \$0.27 per application if it goes over its cap. Between August 8, 2015, and August 7, 2016, MSDE went over its application cap by approximately 14,600 applications and paid an overage charge of approximately \$4,000. As a result of advertising exclusively on JobApps, MSDE estimates receiving up to 1,000 additional applications per opening and paying up to \$8,000 in overage charges in future years as MSDE experiences attrition. As MSDE will be receiving more applications, it needs a recruitment officer to handle the increased volume of applications and to establish the new recruitment process.

MSDE advises that employee relations activities will increase based on the change in employee status. For example, employees will have more rights to appeal a disciplinary action. Professional and skilled service employees will be covered under collective bargaining agreements, so an employee and labor relations officer is needed to assist in managing negotiations, investigate employee grievances, oversee appeals, and assist with the reclassification process.

Thus, general fund expenditures increase for MSDE by \$123,914 in fiscal 2018, which assumes that MSDE staff are in place as of October 1, 2017, concurrent with the effective date of the bill. This estimate reflects the cost of hiring two human resource administrators (one recruitment officer and one employee and labor relations officer). It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. It does not include the additional personnel costs associated with the reclassification as those costs will depend on attrition rates. New employees could have potentially lower starting salaries, but personnel costs would be offset by potentially higher costs associated with collective bargaining agreements.

Positions	2.0
Salaries and Fringe Benefits	\$109,696
One-time Start-up Costs	9,280
Operating Expenses	<u>4,938</u>
Total FY 2018 State Expenditures	\$123,914

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

Additional Information

Prior Introductions: A similar bill, HB 533 of 2016, received a hearing in the House Appropriations Committee but was withdrawn. Another similar bill, SB 619 of 2016, received a hearing in the Senate Finance Committee, but no further action was taken.

Cross File: HB 499 (Delegate Jones, *et al.*) - Appropriations. SB 627 (Senator Benson, *et al.* - Finance) is identical as well.

Information Source(s): Maryland State Department of Education; Department of Budget and Management; Department of Legislative Services

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