

**Department of Legislative Services**  
Maryland General Assembly  
2021 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 486  
Appropriations

(Delegate Solomon)

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**State Employees - Collective Bargaining - Applicability, Bargaining Processes,  
and Memorandums of Understanding**

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This bill requires the Chancellor of the University System of Maryland (USM) to act on behalf of USM and its constituent institutions, rather than the institutions' presidents under current law, for the purposes of collective bargaining. An exclusive representative that represents more than one bargaining unit of USM employees may request to bargain a consolidated memorandum of understanding (MOU), as specified. Further, the bill makes changes to the collective bargaining process for State employees and employees of public four-year institutions and Baltimore City Community College (BCCC) by (1) changing the entities that determine which employees are eligible for collective bargaining and (2) specifying that good faith requirements include facilitating the meaningful use of a fact finder. **The bill takes effect June 1, 2021.**

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**Fiscal Summary**

**State Effect:** The bill does not materially affect overall State finances but does affect operations, as explained below.

**Local Effect:** None.

**Small Business Effect:** None.

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## Analysis

### Bill Summary:

#### *University System of Maryland – Collective Bargaining*

As under current law, each USM institution must continue to have its own bargaining units. However, the bill repeals current law allowing constituent institution presidents to agree to enter into and terminate cooperation agreements for the purpose of collective bargaining.

If an exclusive representative represents more than one bargaining unit of USM employees and requests to bargain a consolidated MOU, the Chancellor and the exclusive representative *must negotiate* the terms of one consolidated MOU to apply to all bargaining units for employees of all USM institutions represented by that exclusive representative. Even so, on mutual agreement and in writing, the parties may designate a matter particular to a constituent USM institution to be negotiated by the exclusive representative and the president of that institution or the president's designee. On conclusion of negotiations, all matters of agreement must be included in the consolidated MOU, including those pertaining to a specified institution.

Subject to the requirements of current law, the effective date of a consolidated MOU must be July 1 to align with the fiscal year of USM and must continue in effect until a subsequent June 30. Specifically under current law, the MOU may not expire until it is succeeded by an MOU that is agreed to and ratified.

Further, the bill establishes that all terms of a presently existing MOU, as specified, may not be impaired in any way by the bill and must remain in full force and effect until a successor MOU is agreed to and ratified.

#### *State and Higher Education – Collective Bargaining*

The bill makes two changes to the collective bargaining process for specified State and higher education employees. First, the bill requires the State Labor Relations Board (SLRB) or the State Higher Education Labor Relations Board (SHELRB), as specified, rather than the Secretary of Budget and Management, to adopt regulations that define which employees are supervisory, managerial, or confidential employees and, thus, not eligible for collective bargaining. These regulations adopted by the boards must be consistent with similar definitions adopted by the National Labor Relations Board (NLRB). Second, the bill specifies that the good faith requirements include facilitating the meaningful use of a fact finder with regards to collective bargaining with the State, USM, Morgan State University, St. Mary's College of Maryland, and BCCC.

**Current Law:** The Board of Regents of USM must appoint a Chancellor of USM. The Chancellor is the Chief Executive Officer of USM and the Chief of Staff for the Board of Regents of USM. The Chancellor must (1) advise the Board of Regents of USM; (2) conduct systemwide planning; (3) coordinate and arbitrate among the institutions and centers of USM; (4) assist the institutions in achieving performance goals in accordance with their adopted performance accountability plan; (5) provide technical assistance to institutions and centers such as legal and financial services; (6) perform the duties the board assigns; and (7) see that the policies of the board are carried out. The Chancellor serves at the pleasure of the board. The Chancellor is entitled to the compensation established by the board. However, until June 30, 2021, the board must notify the Governor, the President of the Senate, and the Speaker of the House at least 30 days before a contractual salary increase, negotiated severance package, or any other financial bonus for the Chancellor goes into effect.

The president of a USM institution must act on behalf of the institution for the purposes of collective bargaining. Likewise, the presidents of the following centers or institutes bargain on behalf of their center or institute:

- University of Maryland Center for Environmental Science;
- Cooperative Extension Service and the Agricultural Experiment Station;
- Statewide Medical Education and Training System;
- Maryland Fire and Rescue Institute;
- Center for Maryland Advanced Ventures;
- University of Maryland Center for Economic and Entrepreneurship Development; and
- any other center, component, or institute established and operated by USM in accordance with its mission.

The exclusive representative must designate one or more representatives to participate as a party in collective bargaining on behalf of the exclusive representative.

An MOU that incorporates all matters of agreement reached by the parties must be executed by the exclusive representative and the president of the USM institution or the president's designee. To the extent these matters require legislative approval or the appropriation of funds, the matters must be recommended to the General Assembly for approval or for the appropriation of funds. To the extent matters involving a State institution of higher education require legislative approval, the legislation must be recommended to the Governor for submission to the General Assembly. For skilled service or professional service employees who are employees of an institution, the terms of an MOU executed by the president and the exclusive representative apply.

An MOU must contain all matters of agreement reached in the collective bargaining process. The MOU must be in writing and signed by the exclusive representative involved in the collective bargaining negotiations and the president of the system institution or the president's designee.

No MOU is valid if it extends for less than one year or for more than three years. In the case of a State institution of higher education, an MOU is not effective until it is ratified by the institution's governing board and a majority of the votes cast by the employees in the bargaining unit. All terms of an MOU must continue in force and effect without change until a successor MOU is agreed to and ratified.

The presidents of USM institutions may agree to cooperate for the purpose of collective bargaining. A president may elect to terminate a cooperation agreement with another USM institution.

Appropriate bargaining units must consist of (1) all eligible nonexempt employees, as described in the federal Fair Labor Standards Act, except eligible sworn police officers; (2) all eligible exempt employees, as described in the federal Fair Labor Standards Act; and (3) all eligible sworn police officers.

#### *State and Higher Education – Collective Bargaining*

The Secretary of Budget and Management defines, through regulations, which State and higher education employees are eligible for collective bargaining. In regards to collective bargaining for specified State or higher education employees, the parties must meet at reasonable times and engage in collective bargaining in good faith to conclude a written MOU or other written understanding.

**State Fiscal Effect:** The bill does not materially affect total State expenditures, but it does affect operations and potentially finances at the constituent institutions. As the bill consolidates most collective bargaining duties from the USM constituent institution presidents with the Chancellor, it increases the time spent on collective bargaining by the Chancellor and the USM Office while likely decreasing the time spent on collective bargaining by the constituent institutions. In addition, USM institutions report various operational and potential fiscal impacts of coalition bargaining (which must be undertaken under specified circumstances), including issues specific to a particular institution. Overall, however, to the extent collective bargaining agreements negotiated under the bill are similar to those negotiated under current law, there is no material effect on total expenditures for USM.

SLRB and SHELRB are separate boards that are administered jointly. Under the bill, the boards must adopt new regulations, with definitions similar to those adopted by NLRB,

regarding which employees are eligible for collective bargaining. As under current law, claims of unfair labor practices with regard to collective bargaining by USM institutions are filed with SHELRB. Developing the required regulations and receiving allegations of unfair labor practices have no material fiscal or operational impact on the boards.

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### **Additional Information**

**Prior Introductions:** HB 641 of 2020, a similar bill, received a hearing in the House Appropriations Committee, but no further action was taken. Its cross file, SB 660, received a hearing in the Senate Finance Committee, but no further action was taken.

**Designated Cross File:** SB 9 (Senator Kramer) - Finance.

**Information Source(s):** State Labor Relations Board; State Higher Education Labor Relations Board; University System of Maryland; Department of Legislative Services

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