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2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 138

(Senator Hettleman)

Finance

Appropriations

Education - Baltimore County Public Library - Collective Bargaining

This bill establishes a collective bargaining process for full- or part-time nonmanagement employees, as specified, of the Baltimore County Public Library. **The bill takes effect July 1, 2021.**

Fiscal Summary

State Effect: To the extent Baltimore County eligible library employees' salaries increase due to the collective bargaining process, expenditures increase to pay increased retirement costs beginning in FY 2025; however, any such impact is not material. Revenues are not affected.

Local Effect: The Baltimore County Public Library can handle payroll deductions for union and service fees using existing resources. Baltimore County Public Library expenditures may increase significantly due to the hiring of outside mediators and increases in library employee salaries. In addition, there may be immaterial 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 Director of the Baltimore County Public Library, 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. The neutral decision maker must decide on the inclusion or exclusion of specified employees in the bargaining unit. The neutral decision maker's findings are final and binding on both parties.

A bargaining unit may only hold an election once per year. The director, 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.

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 process 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 Baltimore County Executive or the county council to determine the budget of the Baltimore County Public Library 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 county executive is not bound by any decision made under the mediation process and must act in accordance with the bill. The county council may accept or reject the recommendation of approval by the county executive. 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 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 county executive may approve or reject a request for additional funding, in whole or in part. If the county executive approves a request, the county executive must submit the request to the county council. The county council 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 county executive or county council 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 county executive.

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 county executive and the county council. The county executive must select one of the offers. The selection of the county executive 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 or 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; (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: Since it is a charter county, Baltimore County may (1) establish a local library agency and grant it some or all of the powers of a board of trustees or (2) have a board of library trustees, provide for the board's selection, and determine its powers.

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 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. As employees of Montgomery County, employees of the Montgomery County Public Library System may bargain collectively.

State Expenditures: Although the bill may affect State expenditures for retirement as early as fiscal 2025, any such impact is not material. 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 salary base for teachers may increase beginning in fiscal 2023 depending on the outcomes of the collective bargaining process.

Local Expenditures: Baltimore County library system can handle payroll deductions for union fees using existing resources. Baltimore County expenditures for public libraries may increase due to (1) increased costs for collective bargaining, including the hiring of outside mediators and (2) increased salaries for employees. In addition, the bill may affect local retirement expenditures for library employees who are not librarians or clerical staff; however, any impact is not material.

Increased Labor Negotiations

Baltimore County library system expenditures may increase to hire outside mediators. The Baltimore County library system and the designated local library employee organizations are required to split mediation costs. Mediation costs will depend on the number of cases per year and cannot be reliably estimated. The bill does provide specific timeframes for the completion of mediation, which may help to control costs.

Increased Salaries and Benefits and Increased Retirement Costs

Another potential cost for Baltimore County library system is increased salaries and fringe benefits for employees due to the implementation of collective bargaining processes. To the extent that collective bargaining is more advantageous for library employees, costs may increase significantly.

According to a report from the AFL-CIO's Department for Professional Employees, in 2018, union librarians and library assistants earned on average 38% and 48%, respectively, more per week than their nonunion equivalents. However, this statistic likely significantly over estimates the impact of union participation on salary because it does not account for library location or type (*i.e.*, municipal, school, or academic).

Baltimore County advises the Baltimore County Public Library System has 728 employees, which equates to 492 full-time equivalent staff. In fiscal 2022, Baltimore County Public Library System salaries, including management staff and staff not part of the State retirement system are estimated to be \$24.2 million according to Baltimore County. If these costs were to increase by 1% in fiscal 2023 (in addition to a 2% annual projected salary increase), Baltimore County may spend an additional \$242,233 in fiscal 2023 (although these figures include management salaries, which are not included in the bill). The bill does, however, specify that the Baltimore County Executive or Baltimore County Council may reject a term that has a fiscal impact. In addition, Baltimore County library system expenditures may increase to provide paid leave for employee organization stewards to attend training sessions. To the extent salaries increase for non-State eligible employees, local expenditures for retirement costs may also increase; however, any impact on retirement costs is not material.

Additional Comments: The bill does not establish a designated number of units. It is assumed that all Baltimore County library employees eligible for collective bargaining under the bill will bargain as one unit.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 45 (Delegate Forbes) - Appropriations.

Information Source(s): Maryland State Library Agency; Governor's Office; State Retirement Agency; Baltimore County; Department of Legislative Services

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