

Department of Legislative Services  
Maryland General Assembly  
2003 Session

FISCAL AND POLICY NOTE

House Bill 254  
Appropriations

(Delegate Jones, *et al.*)

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State Personnel - Grievance Procedures - Employees Covered by Collective  
Bargaining Agreements

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This bill allows a State employee who is subject to a collective bargaining agreement to use a grievance procedure other than the one contained in the bargaining agreement if the exclusive representative of the employee's bargaining unit gives written authorization. The bill requires an employee to choose between filing a grievance under the procedures governing the State Personnel Management System (SPMS) or the procedure in the collective bargaining agreement.

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Fiscal Summary

**State Effect:** The bill would not materially affect State finances.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Current Law:** Generally, an employee in an executive branch agency may file a grievance about the interpretation and application of a personnel policy (or any policy or regulation under management's control) with the grievant's appointing authority. A grievance does not include a dispute about: (1) a pay grade or class range; (2) the amount or effective date of a statewide pay increase; (3) establishment of a class or classification standards; (4) assignment of a class to a service category; or (5) an oral reprimand or counseling.

The statutory procedure requires the employee to first file the grievance with his or her appointing authority. If the dispute is not resolved in the first step, the grievant may appeal within ten days after receiving a decision to the head of the principal unit and ultimately to the Secretary of Budget and Management (DBM). Within 30 days, the Secretary must decide to uphold the decision or refer the grievance to the Office of Administrative Hearings (OAH). If the grievance involves a position reclassification, the Secretary must order an audit of the position if one has not been conducted in the last year.

The grievance procedures provided for these employees do not apply to several types of employees, including those who are: subject to a collective bargaining agreement that contains another grievance procedure; temporary; a student; an inmate or patient in an institution, a State Police officer, or an employee subject to a contract or regulation governing teacher tenure. It also does not apply to employees outside SPMS, which includes any position in the legislative and judicial branches and any position in the executive branch with an independent personnel system. The Department of Transportation, the University of Maryland, St. Mary's College, Morgan State University, and Baltimore City Community College have their own personnel systems.

Chapter 298 of 1999 provided statutory collective bargaining rights for certain State employees – the rights were similar to those in the executive order that had previously governed those employees. It also created a State Labor Relations Board to oversee the collective bargaining process. The board is responsible for holding hearings to resolve any issues or complaints arising under collective bargaining. A Memorandum of Understanding (MOU), signed by the employees' representative and the Governor, contains all the matters agreed to during the bargaining process, which may include wages, hours, and other terms and conditions of employment.

**State Expenditures:** Approximately 36,900 State employees are covered by an MOU, excluding transportation employees. DBM advises that in most cases, these employees can currently use the grievance procedure under SPMS. Legislative Services advises that OAH rejected one grievance filed by an MOU employee in 2002 because the employee was under a collective bargaining agreement.

Regardless of the employee's choice of grievance procedure, the State's costs would not change significantly. The average State cost of a grievance case for both SPMS and for collective bargaining employees is \$2,000 per case. The labor relations board charges approximately \$4,000 per case involving collective bargaining disputes, which includes the services of a factfinder. The State pays half of this charge. An OAH hearing to resolve a grievance brought by an SPMS employee also costs \$2,000. In fiscal 2002, 198

grievances were forwarded to OAH; an additional 90 cases were resolved by DBM and did not require a hearing.

**Additional Comments:** DBM advises that it does not believe the bill applies to MOU employees because the law does not use the term “collective bargaining” to describe those employees (pursuant to Chapter 298).

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Transportation; Department of Budget and Management; American Federation of State, Municipal, and County Employees; Department of Legislative Services

**Fiscal Note History:** First Reader - February 10, 2003  
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Analysis by: Ann Marie Maloney

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