

## **Department of Planning and Budget**

### **2020 Fiscal Impact Statement**

**1. Bill Number:** SB939

|                        |                                       |  |                                    |
|------------------------|---------------------------------------|--|------------------------------------|
| <b>House of Origin</b> | <input type="checkbox"/> Introduced   | <input type="checkbox"/> Substitute            | <input type="checkbox"/> Engrossed |
| <b>Second House</b>    | <input type="checkbox"/> In Committee | <input checked="" type="checkbox"/> Substitute | <input type="checkbox"/> Enrolled  |

**2. Patron:** Saslaw

**3. Committee:** Labor and Commerce

**4. Title:** Labor and employment; collective bargaining; employees of counties, cities, and towns.

**5. Summary:** This bill repeals the existing prohibition on collective bargaining by public employees. The bill creates the Public Employee Relations Board, which will determine appropriate bargaining units and provide for certification and decertification elections for exclusive bargaining representatives of state employees and local government employees. The measure requires public employers and employee organizations that are exclusive bargaining representatives to meet at reasonable times to negotiate in good faith with respect to wages, hours, and other terms and conditions of employment. The measure repeals a provision enacted in 2013 that declares that, in any procedure providing for the designation, selection, or authorization of a labor organization to represent employees, the right of an individual employee to vote by secret ballot is a fundamental right that shall be guaranteed from infringement.

**6. Budget Amendment Necessary:** Yes, see Item 8.

**7. Fiscal Impact Estimates:** See Item 8.

**8. Fiscal Implications:** This fiscal impact estimate is preliminary and will be updated as information becomes available.

#### **Public Employee Relations Board**

This bill establishes the Public Employee Relations Board (the Board) as a supervisory board within the executive branch. The bill provides for the payment of compensation and expenses of the members by the Department; the bill does not identify the department, however, for this fiscal impact statement it is assumed to be the Department of Labor and Industry (DOLI). The three Board members are entitled to compensation in accordance §2.2-2813, *Code of Virginia*, which stipulates that members be compensated at \$50 per day, unless a different rate of compensation is specified by statute for such members, plus expenses for each day or portion thereof in which the member is engaged in the business of that body.

The Board likely will require support staff. As no organizational model is known at this time, it is unknown what these staff costs would total. Additional general fund support would need to be provided to DOLI to support these costs.

### **Office of the Attorney General**

Additionally, the requires the Office of the Attorney General to provide legal services to the Board and establishes a procedure for the Board to investigate alleged violations of conduct prohibited by the bill. Also, the bill provides that any party aggrieved by any decision or order of the Board may appeal to the circuit court. The OAG estimates that one additional attorney would be needed to assist with the Board's work at an estimated cost of \$138,598.

### **Department of Human Resource Management (DHRM)**

DHRM anticipates the need for five additional positions to create the Office of Labor Relations, at an estimated annual ongoing cost of \$769,223 in addition to initial one-time consultant support, which is preliminarily estimated to cost approximately \$85,000.

The new Office of Labor Relations is expected to be managed by a Director and include two professionals with labor law expertise, a communications specialist, and an administrative support position. This Office will reside within the Department of Human Resource Management and will be tasked to work with agencies as they transition to a new labor model within the Commonwealth. The Director and the two professional staff will be needed for activities related to compliance, investigations, and negotiations and bargaining, as well as, working with agencies to ensure compliance with bargaining agreements. The Director also will serve as liaison to the Board and to designated staff within the Office of the Attorney General.

As this is a new labor model, DHRM anticipates a large number of inquiries related to employee job classification, bargaining unit assignment, and exemptions. The communications specialist will provide oversight for the development, implementation, and continuous updating of all training that will be required for current and new managers, employees, and human resources staff across the Commonwealth. In addition, the communications specialist will have oversight for system support in which position, employee, and bargaining-related data will be managed, communicated, and reported as needed. The communications specialist also will be responsible for managing web-based content. The administrative support will manage the traditional support functions of a work unit. The estimated ongoing annual cost for the Office of is \$769,223 and includes salary, fringe benefits, and associated nonpersonal services costs.

Consulting Services also are expected to be needed initially due to the anticipated complexity of the transition to a new labor model which has never been done before in the Commonwealth of Virginia. DHRM anticipates the need for a consultant to assist with creating the Office of Labor Relations and identifying impacts to current and planned infrastructure, policies and processes, training needs, etc. Estimated consulting costs are preliminarily estimated to be approximately \$85,000.

### **Other State Agencies**

The bill requires that there be a minimum of 16 distinct bargaining units for state employees, including four for different types of health and human services employees and seven for different types of public safety employees. The legislation grants authority to the exclusive representatives of these units to request bargaining for issues such as wages, fringe benefits, and matters that have applicability across more than one bargaining unit. The exclusive representatives also have the authority to request supplementary bargaining for issues uniquely affecting public employees in all or part of a bargaining unit.

Additionally, each of the 16 public institutions of higher education, the Virginia Community College System, the University of Virginia Medical Center, and the Virginia Commonwealth University Health Care System shall have bargaining units as determined by the Board but employees of these units are not allowed to be included with the units established for other state employees. Each state-controlled enterprise, independent political subdivision, authority, or agency employing public employees not covered by the Virginia Personnel Act shall also have separate bargaining units determined the Board. Authorities include but aren't limited to the Virginia Resources Authority, the Alcoholic Beverage Control Authority, Virginia Tourism Authority, and Fort Monroe Authority. Agencies with employees not covered by the Virginia Personnel Act include the five independent agencies: Virginia Retirement System, Virginia College Savings Plan, Virginia Lottery, State Corporation Commission, and the Virginia Workers' Compensation Commission.

Based on the provisions outlined above, there is the potential for a minimum of 35 distinct collective bargaining agreements within the Executive Branch, but there could be more depending on the requests of the exclusive representatives or how many bargaining units the Board determines should be created for the higher education institutions. Certain state agencies and institutions of higher education will require additional human resource personnel to participate in negotiations as well as to implement provisions in the collective bargaining agreements, especially on bargaining unit specific measures. Depending on the size of the agency, it is estimated that an additional two to six personnel may be required, at similar costs to what is outlined above for DHRM. Agencies with a large number of employees and with those employees spread out across the state, such as the Department of Corrections, Department of Transportation, Department of Behavioral Health and Developmental Services, and Virginia Community College System may require five to six additional human resource staff each at a cost of \$769,223 to \$923,068 per agency. Other medium to large sized agencies, including the institutions of higher education, Department of State Police, Department of Health, Department of Motor Vehicles, Department of Social Services may require four to five additional human resource staff each at a cost of \$615,378 to \$769,223 per agency. Actual costs may vary based on other factors such as the complexity of the collective bargaining agreements.

## **Management and Employee Communications and Training**

According to the Department of Human Resource Management, communications and training of managers will be needed, as managers will need to understand the collective bargaining processes and agreements. Additionally, communications with employees will be needed, to ensure they understand their rights and related processes. It is further anticipated that human resources professionals also would require training to ensure a baseline of knowledge and understanding of collective bargaining rights and processes.

In addition to the training and communications support provided by the new Office of Labor Relations under DHRM discussed above, additional one-time costs of \$49,800 are estimated for external support to create new custom training modules for supervisors, employees, and human resources professionals. This estimate is based on pricing information obtained by DHRM from a community college training partner with expertise in training design and delivery.

## **Infrastructure**

Impacts to the Commonwealth's technology infrastructure are expected to occur for systems that manage time, labor, payroll, and benefits offered. The Commonwealth is currently in the process of developing the new statewide Cardinal Human Capital Management (HCM) system, which is expected to be deployed by October 2021. Any immediate changes as a result of this legislation prior to implementing and deploying the new Cardinal HCM system are not feasible without significant risk and cost to the current project and its timeline. The new HCM system is replacing outdated, unsustainable legacy systems whose age and unsupported technology threaten daily operations.

The Department of Human Resource Management's Personnel Management Information System (PMIS) and the Department of Account's central payroll and leave system, CIPPS, will be decommissioned and are expected to be replaced by the new Cardinal HCM system in October 2021, based upon the current project schedule. Technology staff are currently dedicated to day-to-day operational systems maintenance and critical Cardinal transition tasks; labor-intensive system reconfigurations to these outdated, legacy systems (PMIS and CIPPS) have been discontinued. Therefore, the systems changes that would be necessary to implement this legislation cannot be implemented to PMIS or CIPPS and need to wait until the new Cardinal HCM system is implemented.

Preliminary estimates for statewide technology support for labor management and collective bargaining is preliminarily estimated to cost \$8.5 million, assuming no immediate impacts to the current Cardinal HCM transition plan and schedule. This estimate includes \$1.5 million to develop business requirements in addition to \$5.0 million to implement a new module and \$2.0 million for technical adjustments to Cardinal HCM functionality in order to meet the business requirements. Final estimated costs would depend on the business and system requirements identified during the planning phase. Cardinal HCM operates as an internal service fund and is supported by revenue from charges assessed to user-based state agencies. Any additional costs to Cardinal HCM would be expected to be recovered through the

charges assessed to those state agencies. The state impact is estimated to come approximately 50 percent from the general fund and 50 percent from nongeneral fund sources, based on the portion of agencies' salary expenditures paid from the general fund in fiscal year 2019, which was used to determine the fund split for agency Cardinal HCM charges funded in HB/SB30.

Any technology solution will need to manage the potential multiple collective bargaining units and agreements possible within the introduced legislation. Payroll processes for member dues collection, distribution, and termination of payments will need to be established.

In addition to the statewide systems already discussed, there are also multiple state agencies that use their own systems for time, labor, payroll and benefits, some that have been purchased with general fund appropriations and others that have been purchased with state nongeneral fund or federal fund revenues. A cost estimate for the impact to these agencies is currently indeterminate.

### **Salary Information**

The proposed legislation requires public employers and applicable employee organizations to meet at reasonable times to negotiate in good faith with respect to wages, hours, and other terms and conditions of employment. Since it is unknown what agreements may result from such negotiations, the following information is provided for context of what a one percent salary increase would be for various employee groups in the executive branch and the independent agencies. Judicial branch employees and employees working for the legislature of the Commonwealth are exempt from the provisions of this proposed legislation.

### **Estimated Value of a One Percent (1%) Increase in Salary, Salaried Employees Only**

| <b>Executive Branch (salaried, non-higher education)</b> | <b>General Fund</b> | <b>Nongeneral Fund</b> |
|--|---------------------|------------------------|
| State Troopers   | \$1,514,648         | \$250,989              |
| Other Law Enforcement                                    | \$4,171,320         | \$226,039              |
| All Other Executive Branch State Employees               | \$11,657,759        | \$15,421,252           |
| <i>Subtotal</i>  | <i>\$17,343,727</i> | <i>\$15,898,280</i>    |
|  |                     |                        |
| <b>Institutions of Higher Education (salaried)</b>       | <b>General Fund</b> | <b>Nongeneral Fund</b> |
| Higher Education Faculty                                 | \$9,310,778         | \$14,606,781           |
| University Staff (non-faculty)                           | \$1,689,515         | \$8,823,868            |
| All Other Higher Education State Employees               | \$3,092,947         | \$4,166,566            |
| <i>Subtotal</i>  | <i>\$14,093,240</i> | <i>\$27,597,215</i>    |
|  |                     |                        |
| <b>Independent Agencies (salaried)</b>                   | <b>General Fund</b> | <b>Nongeneral Fund</b> |
| All Other Independent Agency State Employees             | \$697               | \$1,594,402            |
|  |                     |                        |
| <b>GRAND TOTAL</b>                                       | <b>\$31,437,664</b> | <b>\$45,089,897</b>    |

Additionally, decisions by local school division employees to collectively bargain for salary increases would have an impact on state funding for K-12 education. The value of the state's share of a statewide one percent salary increase for funded SOQ instructional and support positions is estimated at \$48,219,919.

Decisions by other state-supported local employees, such as General Registrars and Electoral Boards, Community Service Boards, and local Department of Social Services offices, to collectively bargain for salary increases may have an impact on state funding. Employees of Constitutional Officers are exempt from the provisions of this legislation in the engrossed version. Decisions to increase state funding for these positions would be at the discretion of General Assembly and the Governor in the Appropriation Act. The value of the state's share of a statewide one percent salary increase for the various state-supported local employees, excluding employees of Constitutional Officers, is estimated at \$3,704,491.

### **Other**

According to DHRM, non-supervisory, salaried positions within its PMIS system represent a total of 51,815 employees. This excludes employees who may be covered by the bill for which data is not immediately available such as faculty positions, Tier 3 Universities and some positions in independent, legislative, and judicial branch agencies.

The legislation indicates that the scope of collective bargaining between a state agency and an exclusive representative shall include wages, hours, and other terms and conditions of employment, and specifically include matters within the administrative discretion of the Director of DHRM. The bill forbids benefits provided under *Code of Virginia* Title 51.1 – Pensions, Benefits, and Retirement and Title 65.2 – Workers' Compensation from being considered during negotiations. Other potential costs that could be impacted by collective bargaining would include changes in employee health benefits. These cost estimates are indeterminate at this time.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Labor and Industry; Department of Human Resource Management; all state agencies; courts; localities; Office of the Attorney General, all other entities employing public employees.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.

Date: February 26, 2020  
File: SB939H1