

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

House Bill 1119 (Delegate Hill, *et al.*)
Commerce and Government Matters

Maryland Civil Rights Act of 2001

This bill alters procedures regarding hearings and relief under the Maryland Human Relations Commission (MHRC) law, and expands relief for discriminatory employment practices.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues for FY 2002 as a result of the attorneys' and expert witness fee award provisions. No effect on expenditures.

Local Effect: Any increase in circuit court cases could be handled with existing budgeted resources.

Small Business Effect: Potential minimal. Small businesses that employ 15 - 50 employees would be subject to compensatory damages in either an MHRC hearing or in civil court. The bill provides for additional compensatory damage awards in situations where intentional unlawful employment practices are committed by the same individual, and within certain time periods.

Analysis

Bill Summary: The bill allows a plaintiff to file a civil action in circuit court for unlawful employment practices instead of having the complaint heard by an administrative law judge. The bill authorizes an administrative law judge or circuit court judge to award compensatory damages to a plaintiff, and attorneys' fees and expert witness fees to a complaining party, including the commission.

Compensatory damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, or nonpecuniary losses are capped according to the number of workers the respondent employer employs, ranging from \$50,000 for respondents with 15 - 100 employees to \$300,000 for respondents who have more than 500 employees.

In addition to these penalties, a judge may also impose compensatory damages ranging from \$10,000 if the employer has no prior offenses to \$50,000 if the employer has been adjudged to have committed two or more unlawful employment practices within the past seven years. If the unlawful employment practice has been committed by the same individual who has been previously adjudged to have committed an unlawful act, the compensatory damage limits may be imposed without regard to the time limits.

In reasonable accommodation cases, damages cannot be awarded if the disabled person informed the responsible entity that accommodation is needed and the responsible entity demonstrates good faith efforts to provide reasonable accommodation.

Current Law: The MHRC has jurisdiction over employers with more than 15 employees. Complainants must have their complaint heard by an administrative judge, and no compensatory damages, attorneys' fees, or expert witness fees may be awarded. Employees who work for an employer with fewer than 15 employees may only file a civil claim in State court and may be awarded compensatory damages.

State Revenues: General fund revenues could increase minimally in fiscal 2002 as a result of attorneys' and expert witness fee awards to the MHRC. Any increase in revenues would be used to offset existing litigation expenses (e.g., the cost of transcripts, filing fees, etc.) and costs associated with hiring witnesses, including traveling and lodging expenses.

The MHRC has approximately 20 employment discrimination cases annually in which the commission finds probable cause that discrimination occurred. Of these, approximately ten cases are litigated, either at the Office of Administrative Hearings (OAH) or in State circuit court. Hearings or trials generally last approximately three days. The MHRC budgets approximately \$50,000 annually for expert witness fees. Witness fees range from \$500 - \$2,000 an hour, and the MHRC must pay travel and accommodation expenses for out-of-State witnesses.

State Expenditures: Any increase in the number of cases the MHRC may have to investigate as a result of the bill's provisions can be handled with existing budgeted resources. The MHRC estimates that the number of cases that are litigated under the

bill's provisions will be split equally between administrative hearings and the circuit court.

Additional Information

Prior Introductions: Identical bills, HB 1133 and SB 579, were introduced in the 2000 session and referred to the House Commerce and Government Matters Committee and the Senate Judicial Proceedings Committee, respectively. No further action was taken on either bill. A similar bill, SB 140, was introduced in 1999. It was referred to interim study by the Judicial Proceedings Committee. Similar bills were introduced during the 1995 - 1998 sessions.

Cross File: None.

Information Source(s): Maryland Human Relations Commission, Judiciary (Administrative Office of the Courts), Office of Administrative Hearings, Department of Legislative Services

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