

Department of Legislative Services
 Maryland General Assembly
 2012 Session

FISCAL AND POLICY NOTE

Senate Bill 1034 (Senator Muse)
 Finance

**Civil Rights - Fair Practices and Equal Employment Opportunity Officers -
 Supervision by the Attorney General**

This bill requires the Attorney General of Maryland, rather than the head of each principal unit of State government, to assign to each unit a fair practices officer and an appropriate number of equal employment opportunity officers. These individuals will report directly to the Director of Civil Rights in the Office of the Attorney General (OAG), instead of to the heads of the respective units, and are entitled to salaries from the funds of the principal unit.

Fiscal Summary

State Effect: General fund expenditures increase by \$183,700 in FY 2013 for the Office of the Attorney General to hire two administrators and one attorney to handle the increased responsibilities under the bill. Future year expenditures reflect annualization and inflation. Revenues are not affected.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	183,700	229,600	244,800	256,100	267,800
Net Effect	(\$183,700)	(\$229,600)	(\$244,800)	(\$256,100)	(\$267,800)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill also authorizes an applicant or employee to file with the head of the principal unit or the Director of Civil Rights in OAG a written complaint that alleges a violation of specified State personnel laws. The bill establishes that after a complaint is received and investigated, as specified, an equal employment opportunity officer must recommend a proposed decision to the Attorney General, as well as to the head of the principal unit as is required under current law. The bill repeals the requirement for the head of the principal unit to issue a written decision and the authorization for the head of the unit to grant any appropriate relief, and instead requires the Attorney General to issue a written decision to the complainant and authorizes the Attorney General to seek any appropriate relief. The bill also alters the description of a fair practices officer, by repealing a provision that authorizes a fair practices officer to be an assistant secretary within a principal unit.

Current Law/Background: The State's Equal Employment Opportunity (EEO) program is under the authority of the Secretary of Budget and Management but is administered and enforced by an EEO coordinator. The purpose of the EEO program is to ensure a system that provides equal opportunity in employment on the basis of merit and fitness. It covers all employees in any Executive Branch agency (including those with an independent personnel system) and applicants for a position in the skilled, professional, and management services (or comparable positions) in those agencies.

The State's EEO program (1) reviews appealed discrimination complaints; (2) investigates whistleblower complaints; (3) monitors agencies' fair practices and EEO programs and policies; (4) provides training and technical assistance to managers and supervisors; (5) ensures compliance with federal, State, and local laws prohibiting discrimination; (6) evaluates State agencies' EEO efforts; and (7) reports annually to the Governor. It also manages the Employee Assistance Program, which provides confidential and professional referral and assessment services to State employees who are experiencing personal difficulties that are adversely affecting their work performance.

The head of each principal unit must appoint a fair practices officer who reports directly to the head of the unit and is an assistant secretary or an employee of the unit with stature similar to that of an assistant secretary. The head of each principal unit must also appoint an appropriate number of EEO officers for the unit. If necessary, the fair practices officer of a unit may also be the unit's EEO officer. The fair practices officer implements the State's EEO program, investigates and resolves complaints, and coordinates EEO officer activities. An EEO officer monitors all personnel actions, attests that EEO procedures were followed in personnel actions, and performs other assigned duties.

An applicant or employee may file with the head of the principal unit a written complaint that alleges a violation of the State's personnel laws. A complaint must be filed within 30 days after the complainant first knew of or reasonably should have known of the alleged violation that is the basis for the complaint.

Within 30 days after such a complaint is received (1) an equal employment officer, under the direction of the fair practices officer, must investigate the complaint and recommend a proposed decision to the head of the principal unit; and (2) the head of the principal unit must issue a written decision to the complainant and may grant any appropriate relief.

Per statutory provisions or through executive order, unless otherwise specified, all personnel actions concerning a State employee or applicant for employment in State government must be made without regard to age, ancestry, color, creed, marital status, mental or physical disability, national origin, race, religious affiliation, belief, or opinion, sex, sexual orientation, or gender identity and expression. In addition, personnel actions concerning an employee or applicant in the skilled service or professional service of the State Personnel Management System (or a comparable position), must be made without regard to political affiliation, belief, or opinion, or any other nonmerit factor. Personnel actions concerning an employee or applicant in the management service or a special appointment, or comparable position, must be made without regard to political affiliation, belief, or opinion, unless otherwise specified. According to the Annual Statewide Equal Employment Opportunity Report for fiscal 2011, there were 445 complaints of discrimination in 2011.

State Expenditures: General fund expenditures increase by \$183,657 in fiscal 2013, which accounts for the bill's October 1, 2012 effective date. This estimate reflects the cost of hiring two administrators and one attorney to assist the Director of Civil Rights in OAG with the expanded duties under the bill, such as monitoring the fair practice officers within the principal units, issuing written decisions on complaints received, and seeking appropriate relief. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

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Salaries and Fringe Benefits	\$163,789
Operating Expenses	<u>19,868</u>
Total FY 2013 State Expenditures	\$183,657

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

The bill's provision repealing the ability of an assistant secretary to serve as a fair practices officer may have an additional impact for those agencies who have an assistant or deputy secretary currently serving as the fair practice officer, such as the Department of Budget and Management. While it is anticipated that in most cases these duties can be reassigned without a fiscal impact, expenditures may increase minimally in some agencies if the reassignment cannot be absorbed by current staff.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General, Department of Budget and Management, Maryland Commission on Civil Rights, Department of Legislative Services

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