

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 525
Appropriations

(Delegate Clagett, *et al.*)

Finance

State Personnel - Hiring Prohibition - Individuals Terminated with Prejudice

This bill bars an appointing authority in the Executive, Legislative, or Judicial branches of State government from hiring any individual who has been terminated with prejudice from State service. The bill applies only prospectively and does not affect an application or offer for employment made before October 1, 2012.

Fiscal Summary

State Effect: Any effort to coordinate and share information about terminated employees across all independent personnel management systems in the State can be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The State Personnel and Management System (SPMS) includes most employees in Executive Branch agencies; the Judicial and Legislative branches each have independent personnel systems. An Executive Branch agency may, if expressly authorized in statute, establish an independent personnel management system. The Maryland Department of Transportation (MDOT) and the University System of Maryland (USM) have the two largest independent personnel management systems in the Executive Branch.

Subject to due process and appeal procedures established in statute, employees in SPMS may be terminated with or without prejudice. The actions of an employee terminated with prejudice have been found by the appointing authority to be so egregious that the employee does not merit employment in any capacity with the State. SPMS employees terminated with prejudice may not be hired by another Executive Branch agency in SPMS for three years.

Background: The Department of Budget and Management (DBM) administers SPMS. A December 2011 audit of DBM's Office of Personnel Services and Benefits by the Office of Legislative Audits (OLA) found that policies governing the rehiring of employees terminated from State service were not uniform among the State's various personnel systems, and information on terminations was not being shared among them. An OLA review of terminations and hirings across systems found that no individual terminated with prejudice from SPMS had been hired by MDOT or USM. However, 61 employees in SPMS had been terminated with prejudice by MDOT. OLA recommended that DBM work in conjunction with other State agencies not in SPMS to (1) assess whether uniform termination policies should be established; (2) create a comprehensive list of employees terminated with prejudice from all State agencies; and (3) provide access to the list to all State agencies for use in making hiring decisions.

The Administrative Office of the Courts advises that it does not hire a former Judicial Branch employee who has been terminated for any reason, and that it does not knowingly hire any applicant for employment who has been terminated from another branch of government. Personnel guidelines for the Department of Legislative Services do not distinguish between termination with and without prejudice.

DBM, MDOT, and both the Judicial and Legislative branches all acknowledge that information on terminated employees is not shared among the various independent personnel management systems. However, DBM has convened a task force to develop an efficient method to enforce the current termination/rehire policies of all independent personnel management systems.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Budget and Management, Governor's Office, Judiciary (Administrative Office of the Courts), Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - February 17, 2012
mc/ljm

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