# Department of Fiscal Services
Maryland General Assembly

## FISCAL NOTE

House Bill 393 (The Speaker, et al.)
(Administration)
Appropriations

### State Personnel Management System Reform Act of 1996

This Administration bill reforms the State Personnel Management System by establishing a decentralized system of personnel management with greater autonomy, responsibility, and accountability at the unit level. These provisions of the bill do not impact executive agencies with independent personnel authority or the judicial or legislative branches of government. In addition, the bill provides for the consistent application of matters relating to equal employment opportunity and the Maryland Whistleblower Law for all State employees and creates a Legislative Joint Committee of Fair Practices to oversee matters relating to equal opportunity in employment and procurement practices.

### Fiscal Summary

**State Effect:** The Governor's FY 1997 budget includes $892,100 in expenditure reductions to reflect the personnel reforms included in this bill, although these reductions are not contingent upon enactment of this bill. However, the budget does not include funding for many of the bill's provisions. Therefore, in relation to the budget, general fund expenditures would increase by $612,096 in FY 1997. Expenditures in the out-years include these unfunded provisions with adjustments to eliminate one-time costs and reflect inflation.

| (in dollars) | FY 1997 | FY 1998 | FY 1999 | FY 2000 | FY 2001 |
|---|---|---|---|---|---|
| GF Revenues | $0 | $0 | $0 | $0 | $0 |
| GF Expenditures | 612,100 | 502,900 | 323,400 | 335,000 | 347,000 |
| Net Effect | $612,100 | $502,900 | $323,400 | $335,000 | $347,000 |

*Note: ( ) - decrease; GF - general funds; FF - federal funds; SF - special funds*

**Local Effect:** None.

**Small Business Effect:** A small business impact statement was not provided by the

Administration in time for inclusion in this fiscal note. A revised fiscal note will be issued when the Administration's assessment becomes available.

## Fiscal Analysis

**Bill Summary:** Major changes to the State Personnel Management System include:

- **Reclassification of Positions:** Eliminates the classified and unclassified services and establishes the skilled career, professional, management, and executive services. The Secretary of Personnel must establish classifications and assign them to the appropriate service. Each agency must classify positions within the classes according to standards established by the Secretary.
- **Hiring of Skilled Career and Professional Service Employees:** Establishes a system of shared responsibility for recruitment and selection between the agencies and the Department of Personnel (DOP). Authorizes selection of a candidate within a broad band of qualified applicants.
- **Modification of Probationary Period:** Establishes a standard six-month probationary period for initial appointment, reinstatement, or competitive promotion and allows the appointing authority to extend the probationary period up to an additional six months.
- **Position Descriptions:** Requires employees in the skilled career, professional, and management services to be provided with written position descriptions including a discussion of essential duties, responsibilities, and standards for satisfactory performance.
- **Performance Appraisal Process:** Requires annual written performance appraisals to be conducted on or about the employee's anniversary date with a mid-year performance assessment. A manager's evaluation must include an evaluation of the manager by the manager's subordinates.
- **Training and Employee Development:** Requires each supervisor and employee to attend mandatory training by DOP on the methods and procedures required in the performance appraisal process. Directs DOP to provide training to Equal Employment Opportunity Officers and Fair Practice Officers.

- **Grievance Procedures:** Empowers the Secretary of Personnel to mediate grievances before they are referred to the Office of Administrative Hearings and permits agencies to establish a peer review panel which a grievant may elect as the final arbiter in lieu of the customary grievance process.

- **Leave Policies:** Decreases the number of paid State holidays from 14 to 11 and increases the number of personal leave days from 3 to 6. Eliminates Advanced Sick Leave, Extended Sick Leave, and Family and Seasonal Leave and establishes an Employee-to-Employee Leave Donation program and incorporates the federal Family and Medical Leave Act. Establishes an incentive/reward system to encourage employees to reduce sick leave usage. Directs DOP to maintain a central database of leave taken by employees.

- **Disciplinary Process:** Authorizes forfeiture of annual leave as a disciplinary action. Increases from two to five days the time allowed by an appointing authority to investigate and impose a disciplinary suspension. Eliminates the current status of "suspension pending charges for removal."

- **Employee Incentive Program:** Retains the current Innovative Idea Program and Incentive Performance Awards Program and removes the sunset provisions for these programs.

- **Layoff, Termination, and Reinstatement:** Extends reinstatement rights to employees who are terminated because their positions are eliminated and expands the reinstatement period from two to three years. Changes the statutory layoff notice requirement from 90 days to 60 days.

**State Expenditures:** The bill provides opportunities for efficiencies in personnel administration by eliminating duplicative procedures relating to employee classification, recruitment, and testing. As a result, 28 positions (27 FTE's) will be eliminated from the Department of Personnel (DOP). These position eliminations will result in the following reductions in fiscal 1997:

- 42% reduction in DOP's Recruitment Services ($234,920);
- 31% reduction in DOP's Position Classification ($352,381);
- 18% reduction in DOP's Test Development ($126,984); and
- 6% reduction in DOP Data Management ($79,365).

In sum, general fund expenditures would decrease by $793,650 which includes salaries of $578,314, fringe benefits, ongoing operating costs, and reflects the October 1, 1996 effective date. Although there is no contingency language in the budget, DOP advises that these position eliminations are reflected in the Governor's proposed fiscal 1997 budget. Future year expenditures would reduce by more than $1 million and include: (1) full salaries with 3.5% annual increases and 3% employee turnover; and (2) 2% annual increases in ongoing operating expenses.

As a result of these eliminations, the State will incur one-time unemployment costs of about $35,000 in fiscal 1997.

The Department of Public Safety and Correctional Services and the Office of Administrative Hearings (OAH) estimate that they would require additional personnel staff to perform classification, recruitment, and testing services. The Department of Fiscal Services (DFS) advises that the bill would provide agencies with the flexibility to develop a more efficient system for hiring employees and would not force agencies to conform their specific needs to a less effective generic system. At the current time, many agencies perform employee selection activity which is duplicated by DOP. The bill is designed to eliminate these types of inefficiencies. Agencies which do not currently have the staff to perform these functions can still look to DOP for assistance and DOP will have sufficient staff to support their needs. Therefore, there should be no additional staffing requirements at the agency level.

The bill could reduce the number of personnel grievances referred to the Office of Administrative Hearings (OAH) because it empowers the Secretary of Personnel to mediate grievances before they are referred to OAH, includes mandatory management training provisions, and permits agencies to establish peer review panels. It is estimated that OAH's personnel related activity would decrease by 20% in fiscal 1997, 25% in fiscal 1998, and 30% thereafter. OAH's fiscal 1996 budget for personnel related matters was $1.5 million. A 20% reduction in fiscal 1997 would translate to a savings of $300,000. OAH advises that this reduction is reflected in the Governor's fiscal 1997 budget.

It is estimated that DOP will review 1,500 grievances in fiscal 1997. Therefore, DOP will need a staff of approximately five employees to mediate personnel related cases. It is assumed that the two Personnel Administrators who review OAH cases at this time will conduct mediation hearings and that DOP will require three additional Personnel Administrators. The fiscal 1997 cost of these positions will be about $111,400, which includes salaries of about $83,000, fringe benefits, and ongoing operating costs and reflects the October 1, 1996 effective date. Future year expenditures would increase about $150,000 and include (1) full salaries with 3.5% annual increases and 3% employee turnover; and (2) 2% annual increase in ongoing operating expenses.

The bill requires DOP to provide mandatory training for supervisors and employees in the performance appraisal process and training to Equal Employment Opportunity Officers and Fair Practice Officers on their expanded role in personnel matters. DOP estimates the total cost of training for 10,000 managers at $269,100 in fiscal 1997. DOP advises that the Governor's fiscal 1997 budget includes an appropriation of $158,560 for training and $33,000 for additional communication and supplies. However, there is no contingency language in the budget.

Full implementation of the personnel reform will require extensive training over the next two years and a moderate level of training into the future. The savings outlined above and the effectiveness of the reform will not be realized unless all employees are sufficiently trained. It is assumed that DOP will hold seminars throughout the State to introduce all employees to the personnel performance appraisal process and will provide more in-depth training to approximately 10,000 managers. DFS estimates the total cost of this training at $500,000 in fiscal 1997 and $350,000 in fiscal 1998. Thereafter, the State will need to maintain an adequate level of training for new employees and managers at a cost of about $200,000 annually.

The bill eliminates the advanced sick leave and extended sick leave programs. During calendar 1995, State employees used 214,738 hours of advanced sick leave and 133,582 hours of extended sick leave. The bill replaces these programs with an Employee-to-Employee Leave Donation Program which includes a provision to automatically transfer any forfeited employee leave to the program. In calendar 1995, State employees forfeited 99,952 hours of leave. In addition, the current leave bank has a balance of 32,056 hours. It would appear that the State's leave expenses could decrease by over 200,000 hours in fiscal 1997, which is equivalent to approximately $3 million. However, the bill could encourage more employees to donate leave because the program provides income security to those who participate. Therefore, it is very difficult to estimate the fiscal implications of this change.

The bill permits employees to accrue up to 50 days of annual leave. Under current law, an employee may accrue only 45 days of annual leave. Annual leave is paid out when an employee leaves State service. In fiscal 1997, 171 employees left State service with 45 days of accrued annual leave. It is estimated that the State would pay out an additional $157,000 annually to employees who leave State service with additional accrued annual leave.

The bill establishes an incentive reward program to encourage employees to reduce leave usage. The program would reward employees who have perfect attendance with a cash award of up to three days of unused personal leave or the option of converting three days of unused personal leave to either annual or sick leave. This program is at the discretion of the appointing authority and includes a sunset provision of July 1, 1997. The cost of this program depends on future decisions made by employees and their appointing authority which cannot be reliably predicted. For illustrative purposes only, if 1% of the workforce is paid for three days of unused personal leave, expenditures would increase by approximately $180,000.

Additionally, the bill provides that the Secretary of Personnel must develop a system to track employee leave. DOP estimates that it will need $10,000 in additional computer expenses in fiscal 1997 to implement this program and advises that this figure is included in the Governor's fiscal 1997 budget. However, there is no contingency language in the budget.

The bill eliminates the sunset provision for the Innovative Idea Program and the Incentive Performance Awards program. As a result, State expenditures will be maintained for these programs. In fiscal 1995, the State paid out $26,889 in monetary awards related to these programs. This figure is down significantly from fiscal 1994 when the State paid out $82,588.

The bill establishes a Legislative Joint Committee on Fair Practices to oversee matters relating to equal opportunity in employment and procurement practices. The committee is to be comprised of three members from the Senate and three members from the House. It is assumed that task force members would be eligible for expense reimbursements according to the standard State travel regulations. Expense reimbursements would depend upon the time, location, and frequency of the task force's meetings. It is expected that these reimbursements and any staffing expenses could be handled with existing resources of the Legislative Branch.

**Recap of the Bill's Impact on Fiscal 1997 Expenditures**

| | Estimated Impact | Included in Governor's Budget | Difference |
|---|---|---|---|
| Elimination of 28 Positions | ($793,650) | ($793,650) | |
| Unemployment Costs | $35,000 | | $35,000 |
| Reduction at OAH | ($300,000) | ($300,000) | |
| Mediation at DOP | $111,400 | | $111,400 |
| Training | $500,000 | $191,560 | $308,440 |
| Payout of Additional Annual Leave | $157,300 | | $157,300 |
| Database for Employee Leave | $10,000 | $10,000 | |
| Total | ($279,950) | ($892,090) | $612,140 |

**Additional Comments:** Although the effective date of the bill is October 1, 1996, DFS has assumed that the leave provisions included in this bill will take effect on January 1, 1997.

**Information Source(s):** Department of Personnel, Office of Administrative Hearings, Department of Public Safety and Correctional Services, Public Service Commission, Department of Health and Mental Hygiene, Department of Budget and Fiscal Planning, Department of Fiscal Services

**Fiscal Note History:** First Reader - February 19, 1996
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