

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE

House Bill 789 (Delegate Petzold, et al.)
Commerce and Government Matters

Fair Employment Practices Act

This bill expands the Fair Employment Practices Act to allow compensatory damages to be imposed when an unlawful intentional employment practice has occurred, and civil penalties to be imposed when there is actual malice. The maximum civil penalty for a respondent, other than a governmental or political entity, can range from \$10,000 to \$50,000, depending upon the number of prior infractions, and the length of time since the unlawful employment practice occurred. However, if the unlawful employment practice is committed by the same person who has been previously adjudged of committing such an act, the civil penalty may be imposed regardless of the amount of time that has passed since the last occurrence. Compensatory damages can range from a maximum of \$50,000 to \$300,000 per claimant, depending upon the number of employees the respondent has. However, under specified conditions, compensatory damages may not be awarded in cases where an unlawful practice involves a reasonable accommodation.

The General Counsel of the Human Relations Commission has the burden of proof to provide evidence that damages to the complainant exist because of the respondent's unlawful employment practice.

Fiscal Summary

State Effect: Potential indeterminate general fund revenue and expenditure increase.

Local Effect: None.

Fiscal Analysis

State Revenues: General fund revenues could increase under the bill's civil penalty provision, which provides a maximum penalty of \$10,000 for first infractions, \$25,000 for second infractions, and \$50,000 for third infractions. Based on the Human Relations Commission's annual history of discrimination claims, it is estimated that there will be approximately five penalties imposed per year. In fiscal 1997 the commission anticipates the penalty for first infractions would be \$6,000, progressing to the maximum of \$10,000 in fiscal 2001. Therefore, the resulting revenue increase for first infractions would be approximately \$30,000 in fiscal 1997, up to \$50,000 in fiscal 2001. The commission has no history of second or third-time infractions. Actual revenues will depend upon the number and amount of penalties imposed.

State Expenditures: The Office of Administrative Hearings estimates that it would require one Administrative Law Judge position and related operating expenses at a cost of \$55,530 in fiscal 1997 to handle a caseload increase of 40 appeals and 8 full hearings that could result under the bill. The estimate reflects the October 1, 1997 effective date of the bill. Out-year expenditures would reflect: (1) full salary with a 3.5% annual increase and 3% employee turnover; and (2) 2% annual increases in ongoing operating expenses.

The Department of Fiscal Services advises that the increase in expenditures is speculative because any increase in workload cannot be reliably assessed until the bill is fully implemented. Therefore, establishing a new permanent position is not warranted at this time. The office will be better able to assess its personnel needs after the first year of implementation.

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

Fiscal Note History: First Reader - March 5, 1996

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