

Department of Legislative Services  
Maryland General Assembly  
1999 Session

FISCAL NOTE

Senate Bill 140 (The President. *et al.*)  
(Administration)

Judicial Proceedings

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Maryland Human Relations Commission - Hearings - Relief

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This Administration bill clarifies and alters procedures regarding hearings and relief under the Human Relations Commission law, and expands relief for discriminatory employment practices. The bill authorizes an administrative law judge to award compensatory damages to a plaintiff, and attorney fees and witness fees to 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 respondent employs, ranging from \$25,000 for respondents with fewer than 15 employees to \$300,000 for respondents with more than 500 employees.

The bill gives the commission jurisdiction over employers with 1 or more employees. Under current law the Human Relations Commission does not have jurisdiction over employers with less than 15 employees.

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Fiscal Summary

**State Effect:** There would be an indeterminate increase in general fund revenues, which would offset existing litigation expenses.

**Local Effect:** None.

**Small Business Effect:** The Maryland Human Relations Commission has determined that this bill has minimal or no impact on small business (attached). Legislative Services disagrees with this assessment as discussed below.

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## **Fiscal Analysis**

**State Revenues:** There would be an indeterminate increase in general fund revenues to the commission resulting from the attorney and witness fee provisions. 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.

**State Expenditures:** Based on the number of inquiries it receives annually, the Maryland Human Relations Commission (MHRC) anticipates a 20% increase in the number of cases it would have to investigate each year. MHRC advises that this increase in workload can be handled within existing budgeted resources.

A significant number of the cases received by the MHRC are settled prior to a final decision being rendered by the Office of Administrative Hearings (OAH). Based on a 20% increase in the number of cases investigated each year, it is expected that 6 additional cases could be certified to OAH, and that 1 additional case could go to a final decision by OAH as a result of the bill's provisions regarding the jurisdiction of the commission. The additional workload to OAH could be absorbed within existing resources.

**Small Business Effect:** Under current law the MHRC does not have jurisdiction over employers with less than 15 employees. However, in Molesworth v. Brandon (1996), the Maryland Court of Appeals held that an at-will employee of an employer with less than 15 employees has a common law cause of action for wrongful discharge. In effect, small employers are exposed to greater liability than large employers. First, employees of small businesses may assert their claims in State court without first filing a claim with the MHRC, as employees of large businesses are required to do pursuant to the Fair Employment Practices Act. Second, employees of small businesses may recover compensatory damages in the courts while employees of large businesses may not recover compensatory damages in the administrative process. Third, employees of small businesses have a longer statute of limitations under a common law claim.

This bill extends the jurisdiction of the Human Relations Commission from businesses with more than 15 employees to those with more than 1 employee. The bill would require employees of small businesses to file their claims with the MHRC before asserting a claim in State court. Thus, small businesses would be relieved of going to court and paying court costs and filing fees to defend unlawful employment practice lawsuits. This bill would expose all employers to compensatory damages through the administrative process. Thus, small businesses would no longer be disproportionately exposed to compensatory damages. Small businesses would also benefit from a shorter statute of limitations.

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**Information Source(s):** Human Relations Commission, Department of Legislative

Services

**Fiscal Note History:**

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