HB 1270

Department of Legislative Services

Maryland General Assembly
2000 Session

FISCAL NOTE
Revised

House Bill 1270 (Chairman, Rules and Executive Nominations Committee)
(Departmental - Budget and Management)

Appropriations

State Personnel - Compensation of State Employees

This departmental bill provides for the provisions of the negotiated Memoranda of Understanding (MOUs) between the Governor and the representatives of the State employee bargaining units. The bill makes changes to State personnel rules relating to holiday pay, compensation for unused sick leave, and death benefits for State employees killed in the performance of job duties. The bill also allows the Department of Budget and Management (DBM) to establish minimum and maximum salaries for positions in the Executive Pay Plan (EPP), instead of the current system of grades and steps. The bill takes effect July 1, 2000 but the Sick Leave Incentive Program would not begin payments until calendar 2001.

Fiscal Summary

State Effect: State expenditures (all funds) for the sick leave incentive would depend on the number of participants, offset by productivity and overtime savings, and reduced pension costs. Based on assumptions, State personnel expenditures could increase by $356,700 in FY 2001, but then decrease by $2.2 million in FY 2002 as a result of the pension savings. Overtime expenditures would increase as a result of new holiday pay rules. Personnel expenditures for the EPP would increase depending on the salary ranges set by DBM and any additional changes in pay grade due to the absence of Board of Public Works oversight. Revenues would not be affected.

(in dollars)	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
All Revenues	$0	$0	$0	$0	$0
GF Expenditures	214,000	(1,298,100)	(1,364,100)	(1,433,500)	(1,506,400)
SF Expenditures	71,300	(432,700)	(454,700)	(477,800)	(502,100)
FF Expenditures	71,300	(432,700)	(454,700)	(477,800)	(502,100)
Net Effect	($356,700)	$2,163,400	$2,273,400	$2,389,100	$2,510,600

Note: ( ) = decrease; GF = general funds; FF = federal funds; SF = special funds; - =indeterminate effect
Numbers may not total due to rounding.

Local Effect: None.

Small Business Effect: DBM has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this estimate. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: The bill makes four changes to State personnel rules, relating to holiday pay, compensation for unused sick leave, death benefits for State employees killed in the performance of job duties, and salary ranges for the EPP.

Holiday Pay

Employees, including those in a 24-hour facility, would receive compensation for the number of holiday hours scheduled at the employee's regular rate of pay, and at time and one-half for the number of hours actually worked, if the employee is eligible to receive cash overtime, has holidays prescheduled by the employer, and is required by the employer to work a holiday that was designated as a prescheduled day off for the employee. In other words, such an employee working an unscheduled holiday could receive up to 2.5 times regular pay, depending on the additional hours worked.

Sick Leave Incentive Program

Employees in the State Personnel Management System (SPMS) and the Transportation Service Human Resources Management System (TSHRMS) would be eligible for a sick leave incentive program that allows payment for unused sick leave. The incentive program is as follows:

- Employees could receive payment for up to 40 hours of unused sick leave per calendar year if an employee has used no more than 40 hours of sick leave during the calendar year and has a sick leave balance of at least 240 hours on December 31 of that calendar year;
- Employees could receive payment of up to 56 hours of unused sick leave

per calendar year if an employee has used no more than 24 hours of sick leave during the calendar year and has a sick leave balance of at least 240 hours on December 31 of that calendar year;

- Certain sick leave usage would not count against a member's usage for purposes of the incentive: death in the immediate family, donated sick leave, and sick leave taken under the federal Family and Medical Leave Act;

- Part-time employees would be eligible on a prorated basis;

- Agencies are required to track sick leave usage for the program retroactively to January 1, 2000, and are required to submit reports to the Secretary of Budget and Management at the end of each calendar year on their employees' participation in the program; and

- DBM is required to submit a report by October 15, 2003 that describes the effects of the program on employee use of sick leave, including any estimated overtime savings.

Death Benefits

The death benefit for an employee killed in the performance of duties would increase from $50,000 to $100,000.

Executive Pay Plan (EPP)

- Pay rates in the EPP may be set by minimum and maximum amounts, instead of the current structures of grades and steps or fixed rates;

- The rule prohibiting a new employee from entering the EPP above a Step 2 is eliminated, as is the pay scale for EPP physicians at the Department of Health and Mental Hygiene;

- Pay increases within a grade are no longer restricted to one step (or two steps in exceptional cases); and

- Increases in pay grade, changes from one class in a series to a different class in the same series, new classes or positions, or any other form of pay increase no longer require Board of Public Works' approval if they are made to recruit or retain competent employees or to recognize increased duties and responsibilities. Instead, these actions may be approved by the Secretary of DBM, subject to the approval of the Governor.

Current Law: Employees at 24-hour facilities receive regular pay for holidays worked, whether they are scheduled or unscheduled. State employees currently accrue 15 sick leave days per year. There is no statutory provision for cashing out unused sick leave at this time. The death benefit for an employee killed in the performance of duties is $50,000. The EPP consists of grades and steps on fixed rates.

Background: These provisions (except the EPP provisions) were negotiated between the Governor and the representatives of the executive branch's bargaining units and are included in the MOUs between the parties. The holiday pay provisions are designed to encourage agencies to improve holiday scheduling procedures and to make it less likely that an employee is called in to work an unscheduled holiday.

Chapter 347 of 1996 (personnel reform) established an incentive program to encourage employees to reduce sick leave usage. The program offered employees who had perfect attendance with an award of up to three days of unused personal leave or with the option of converting three days of unused personal leave to either annual or sick leave. This program was at the discretion of the appointing authority and sunsetted on July 1, 1997. Relatively few agencies participated and the stringent attendance requirements resulted in relatively small payments by the agencies that did participate.

Language in the 1998 *Joint Chairmen's Report* required DBM to address the State's sick leave policy to determine if changes could be made to encourage employees to use sick leave only in appropriate circumstances. The committees were concerned that the State's sick leave policy encourages, among some State employees, a level of absenteeism that is higher than necessary, leading to increased overtime costs, particularly at public safety institutions. The committees recommended that DBM consider compensating employees annually for some portion of unused sick leave days, as part of collective bargaining negotiations.

After surveying State agencies regarding sick leave usage, DBM found that the average number of sick days used per employee for calendar 1997 was 10.42 days, or approximately 4% of a work year. This usage compares to 9.34 days in calendar 1996 and 8.5 days in calendar 1995.

As part of the previous MOUs (in effect January 1, 1999), the employees agreed to sick leave regulations that allow an employer to require documentation of sick leave use if an employee consistently maintains a zero (or near zero) sick leave balance or the employee has six or more occurrences of undocumented sick leave use within a 12-month period. The employer may then take disciplinary action against an employee for, among other reasons, failing to provide appropriate documentation when properly required to do so.

Language in the 1999 *Joint Chairman's Report* required DBM to study the EPP.

State Expenditures: The fiscal impact of each of the changes would be as follows:

Holiday Pay

DBM advises that there will be net minimal fiscal effect as a result of the changes to holiday pay, because agencies will improve their holiday work scheduling. Legislative Services advises that a 24-hour facility could, in an individual situation such as a widespread illness, experience additional costs as a result of calling in large numbers of employees at the higher pay rate.

Sick Leave Incentive Program

The incentive program could increase State costs by approximately $356,700 in fiscal 2001, but could result in reduced expenditures of $2.2 million in fiscal 2002 and thereafter based on the following assumptions.

Under the bill, employees will have an incentive to cash out either five or seven sick leave days, depending on how many sick leave days they used that calendar year. Approximately 56,500 employees would be subject to the bill, with an average hourly rate of $18.40 per hour.

To take advantage of the incentive, an employee must maintain a sick leave balance of 240 hours (30 days). DBM advises that its computer system does not currently track sick leave balances and so it cannot precisely estimate the number of employees eligible for the incentive. Moreover, of those employees with more than 240 hours, it cannot be precisely estimated how many would participate in the incentive, although it is assumed that a large percentage of these employees would participate. For illustrative purposes, if 20% of the 56,500 employees cash out five sick leave days and another 5% of employees cash out seven days, the cost to the State would be approximately $11.2 million (based on the average wage noted above).

As part of the collective bargaining negotiations, the representatives of the bargaining units agreed that the covered employees would reduce sick leave usage by 10% in fiscal 2001, versus fiscal 2000 usage. There is no guarantee, however, that employees will actually use 10% less sick leave. Moreover, a reduction in sick leave usage does not in and of itself reduce State costs, because these employees will receive their salary whether or not they show up for work. If sick leave were to be reduced by 10%, however, the State would reap gains from increased productivity and reduced personnel expenditures. Productivity gains are difficult to quantify and may take the form of improved government services rather than expenditure savings.

Reduced personnel expenditures could come from the reduced need for contractual or temporary employees and reduction in overtime usage. The exact amount of such savings cannot be precisely estimated at this time. Assuming a 10% reduction in sick leave usage results in a 5% decrease in corresponding temporary and contractual employment (at the same salary level), these costs could decrease by $4.3 million. It is not known what percentage of overtime expenditures is the result of employees being called in because other employees are sick, but it is likely that this effect is significant. Assuming a 10% reduction in overtime payments, State overtime expenditures could decrease by $6.5 million. The net fiscal impact for the State in fiscal 2001 would therefore be a net cost of $356,700, based on the assumptions above.

There would also, however, be a reduction in State pension costs under the bill. Currently, employees cannot receive cash payments for unused sick leave but they do receive pension service credit at retirement for such unused leave. The additional leave cannot qualify them for retirement eligibility; but once an employee is eligible for retirement, the extra leave can increase the member's years of service.

The State Retirement Agency advises that the amount of such unused sick leave credit at retirement ranges from zero to one year or more. The maximum accrual for an employee retiring after 30 years who never used a day of sick leave would be 1.7 years of additional credit, resulting in a 6% increase in pension benefits. The State's actuary advises that for the relevant pension systems -- Employees' Retirement System, Employees' Pension System, Law Enforcement Officers' Pension System, and State Police Retirement System -- an average of an additional five months of service for unused sick leave is currently factored into the actuarial assumptions. This is a weighted average reflecting employees who will retire with no sick leave and those who will retire with a year or more. It is assumed that this sick leave credit at retirement will decrease by one-third, or from five months to three and one-third months, because some employees will opt to cash out sick leave rather than accruing it until retirement.

This bill has not been presented to the State's actuary for a formal valuation. Informally, the State's actuary advises that if the incentive program resulted in a one-third reduction in accrued sick leave at retirement, then State pension liabilities for the affected systems would decrease by $37.3 million. This reduction in liabilities would be amortized over 19 years (from fiscal 2002 through fiscal 2020). The first-year gain to the State in fiscal 2002 would be $2.5 million, increasing 5% per year thereafter based on actuarial assumptions.

The net fiscal impact of the sick leave incentive, based on the noted assumptions, would be as follows:

	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Cashout cost	(11,219,794)	(11,724,685)	(12,252,296)	(12,803,649)	(13,379,813)
Productivity savings	4,330,445	4,525,315	4,728,955	4,941,757	5,164,137
Overtime savings	6,532,624	6,826,592	7,133,789	7,454,809	7,790,276
Pension savings	0	2,536,200	2,663,000	2,796,200	2,936,000
Net (Cost)/Savings	**($356,725)**	**$2,163,422**	**$2,273,447**	**$2,389,118**	**$2,510,599**

*Numbers may not total due to rounding.

Future year personnel costs are assumed to grow at 4.5% per year. It is assumed that the additional costs and savings will be 60% general fund, 20% special fund, and 20% federal fund.

Death Benefits

DBM states that one State employee is killed on the job approximately every two years. State costs would therefore increase minimally.

Executive Pay Plan

State personnel expenditures could increase depending on: (1) the minimum and maximum salary ranges set by DBM; (2) any increased changes in pay grade that would no longer require the Board of Public Works' approval; and (3) the transfer of non-executive employees out of the EPP to the standard pay plan.

Based on DBM's proposed salary ranges, the maximum level of each EPP grade would increase by approximately 2% versus the budgeted fiscal 2001 EPP schedule (not including the fiscal 2001 COLA). Employees remaining in the EPP, however, would not necessarily receive any increase upon conversion of the EPP to salary ranges. All future salary determinations would be performance-based only. To the extent, however, that the maximum salary at each grade is slightly higher, future costs could increase for those employees at the top of their grade.

The elimination of approval by the Board of Public Works for changes in pay grade and large increases within a grade could increase personnel expenditures if the Governor provides greater salary increases or changes in grade than would be provided under the current approval process. Such increases, however, would still be subject to review during the budget process.

DBM advises that as part of restructuring the EPP, it intends to transfer approximately 350 of the current 550 employees in the EPP (including Transportation's EPP) from the EPP to the Standard Pay Plan, by adding four grades to the top of the standard plan. These employees are management service employees. DBM intends to limit the EPP to executive level employees, i.e., cabinet secretaries, assistant and deputy secretaries, and agency heads. While this transfer does not require statutory authority, DBM advises that such a transfer will take place if the legislation is enacted; if the legislation is not enacted, DBM may opt not to carry out the transfer at this time.

DBM advises that the transfer of the approximately 350 employees to the Standard Pay Plan will cost approximately $425,000 (of which approximately $250,000 is estimated to be general funds) in order to hold employees harmless when they are transferred to the Standard Pay Plan. Agencies would be required to absorb these costs from their existing budgets.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Budget and Management; State Retirement Agency; Milliman & Robertson, Inc.; Department of Legislative Services

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Analysis by: Matthew D. Riven

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510