

**Department of Legislative Services**  
Maryland General Assembly  
2000 Session

**FISCAL NOTE**

House Bill 208 (Chairman, Commerce and Government Matters Committee)  
(Departmental - Human Relations Commission)

Commerce and Government Matters

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**Maryland Human Relations Commission - Hearings - Relief**

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This departmental 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 the respondent employer employs, ranging from \$25,000 for respondents with fewer than 15 employees to \$300,000 for defendants with more than 500 employees.

In addition, the bill allows a plaintiff, respondent, or aggrieved person to file a civil action in circuit court instead of having the complaint heard by an administrative law judge.

The bill gives the commission jurisdiction over employers with one or more employees. Under current law, the commission does not have jurisdiction over employers with fewer than 15 employees.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in general fund revenues for FY 2001 as a result of the attorneys' and expert witness fee award provisions. No effect on expenditures.

**Local Effect:** Any increase in circuit court cases could be handled with existing budgetary resources.

**Small Business Effect:** The Maryland Human Relations Commission (MHRC) 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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## Analysis

**Current Law:** The MHRC has jurisdiction over employers with more than 15 employees. Complainants must have their complaint heard by an administrative judge, and no compensatory damages, attorneys' fees, or expert witness fees may be awarded. Employees who work for an employer with fewer than 15 employees may only file a civil claim in State court and may be awarded compensatory damages.

**Background:** A substantially similar bill, SB 140 of 1999 was referred to summer study by the Judicial Proceedings Committee. That committee held a hearing on the measure on November 16, 1999. This bill incorporates all the elements of SB 140, but also adds the provision that a plaintiff, respondent, or aggrieved person may file a civil action in circuit court instead of having the complaint heard by an administrative law judge.

**State Revenues:** General fund revenues could increase minimally in fiscal 2001 as a result of attorneys' and expert witness fee awards to the MHRC. 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.

The MHRC has approximately 40 employment discrimination cases annually in which the commission finds probable cause that discrimination occurred. Of these, approximately ten cases are litigated, either at the Office of Administrative Hearings (OAH) or in State circuit court. Hearings or trials generally last approximately three days. The MHRC budgets approximately \$50,000 annually for expert witness fees. Witness fees range from \$500 - \$2,000 an hour, and the MHRC must pay travel and accommodation expenses for out-of-state witnesses.

**State Expenditures:** Any increase in the number of cases the MHRC may have to investigate as a result of the bill's provisions can be handled with existing budgeted resources. The MHRC estimates that the number of cases that are litigated under the bill's provisions will be split equally between administrative hearings and the circuit court.

**Small Business Effect:** Under current law, an employer who has fewer than 15 employees is exposed to greater financial liability in an employment discrimination case than those employers who fall under the MHRC jurisdiction. A small business employee may assert a claim 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. Small

businesses may be held liable for compensatory damages in the State court, whereas large employers cannot be subject to compensatory damages in the administrative process. In addition, small business employees have a longer statute of limitations under a common law claim.

The bill's requirements level the playing field for both large and small businesses. Regardless of the size of the employer, an employee may: (1) assert an employment discrimination claim in either State court or with the MHRC; and (2) be awarded compensatory damages. In addition, the statute of limitations is the same for any business.

Small businesses held liable for employment discrimination may be subject to compensatory damages and attorneys' and expert witness fees. Compensatory damages for noneconomic damages such as emotional pain, suffering, inconvenience, and mental anguish are capped at \$300,000 if the claim is heard in the OAH. Damages in State court are limited by the cap on noneconomic damages, which is currently \$575,000 for claims arising between October 1, 1999 and September 30, 2000.

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### **Additional Information**

**Prior Introductions:** A similar bill, SB 140, was introduced in 1999 and provided for compensatory damages and attorneys' fees. It was referred to interim study by Judicial Proceedings. Similar bills were introduced during the 1995 - 1998 sessions.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - February 7, 2000  
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