

Department of Legislative Services

Maryland General Assembly

2001 Session

FISCAL NOTE

Senate Bill 104

(Senator Kelley, *et al.*)

Judicial Proceedings

Maryland Human Relations Commission - Hearings - Relief

This 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 or appropriate equitable relief. In a civil action, the court may award preventive relief, including a restraining order and any other appropriate relief, including monetary damages, to the prevailing plaintiff. The court may also award, attorney fees and witness fees to the commission. The court may assess a civil penalty against a respondent of up to \$50,000 for the first violation and up to \$100,000 for subsequent violations. 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 \$50,000 for respondents with between 15 and 100 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.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues for FY 2002 as a result of the civil penalty, and 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: Meaningful.

Analysis

Current Law: Under the Fair Employment Practices Act, MHRC has jurisdiction over employers with 15 employees or more. 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.

State Revenues: General fund revenues could increase minimally in fiscal 2002 due to attorneys' and expert witness fee awards to MHRC and to the bill's penalty 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 expert witnesses, including traveling and lodging expenses.

MHRC has approximately 20 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. MHRC budgets approximately \$50,000 annually for expert witness fees. Witness fees range from \$500 - \$2,000 an hour, and MHRC must pay travel and accommodation expenses for out-of-state witnesses.

State Expenditures: Any increase in the number of cases MHRC may have to investigate as a result of the bill's provisions can be handled with existing budgeted resources. 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: Small businesses held liable for employment discrimination may be subject to compensatory damages and, in court cases, attorneys' and expert witness fees and civil penalties. Compensatory damages for noneconomic damages such as emotional pain, suffering, inconvenience, and mental anguish are capped at \$300,000, if the claim is heard at OAH. Damages in State court are limited by the cap on noneconomic damages, which is currently \$590,000 for claims arising between October 1, 2000 and September 30, 2001.

Additional Information

Prior Introductions: A substantially similar bill, HB 208, was introduced in the 2000 session and received an unfavorable report from the House Commerce and Government Matters Committee. Similar bills, SB 140 and HB 786, were introduced in the 1999 session and were referred to interim study by the Senate Judicial Proceedings Committee. 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

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