Department of Legislative Services

Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

Senate Bill 290 (Senator Della)
Finance

State Personnel - Separation from State Service - Employee Rights

This bill requires the Secretary of Budget and Management to apply regulations and procedures governing layoffs to skilled and professional service employees who are separated from State service. Separated employees would be assigned seniority points based on the length of employment for the purpose of determining the order of separations. Employees in the same class with fewer seniority points would be separated before others in the class with more points. Similarly, those in the same class with the same number of points would be separated according to a written evaluation of their knowledge, skills, or abilities. A separated employee would also be able to displace a State employee who has fewer seniority points.

Fiscal Summary

State Effect: Potentially significant reduction in expenditure savings if a substantial number of filled positions are eliminated due to budget action.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The Secretary of Budget and Management must adopt regulations to provide uniform procedures for laying off professional or skilled service employees in the executive branch and reinstating those employees to comparable positions in State government. These procedures, including notification and assignment of seniority points, do not apply to certain disciplinary actions (*e.g.*, suspensions), special appointees, or a termination or separation from employment. An employee is separated from State service when State funds for the position are no longer provided or reduced by the Governor.

At least 60 days before a layoff is effective, the appointing authority must notify the employee. An employee must be laid off if the position is abolished or vacated due to organizational changes, lack of work, or work stoppages. Employees in the same class or category are to be laid off according to the number of seniority points they are assigned.

To determine a layoff, an appointing authority must assign one point for each month of a person's State employment, one point for each month of employment in the principal unit where the layoff will occur, and one point for each month in the job series in which the layoff will occur. If two or more employees in the same class have an equal number of points, the employee with fewer points for total State employment must be laid off first. If two or more employees have the same number of seniority points and an equivalent amount of State employment, the layoff will be determined by a written performance evaluation.

A laid off employee can displace another employee who has the least seniority points in the same class or job series as the employee being laid off or in any other class in which the laid off employee previously worked within the last three years preceding the date of the layoff. The employee with the most seniority points is the first one to be reinstated to the class from which the employee was laid off or from which he or she was separated or to any lower class in the same job series.

Separated employees have the same reinstatement rights as those who are laid off.

State Expenditures: Any savings from potential position reductions could be delayed and reduced because the procedures governing lay offs would consume more time than the procedures for separation under current law. That amount cannot be determined because it is unknown how many employees, if any, will be separated from State service. The procedures required for layoffs, including employee notification and assignment of seniority points, take at least 60 days. A separation can take place much more quickly. Potential savings could decrease as well if higher paid employees exercise seniority rights and displace lower paid employees. State agencies could apply the layoff procedures for separated employees with existing resources unless a significant number of employees are separated.

In fiscal 2002, only five employees in the State Personnel Management System were laid off and none were separated due to budget reductions according to the Department of Budget and Management. However, the Department of Legislative Services notes that in fiscal 1992, when the State was experiencing severe budget difficulties, 269 employees were laid off; 191 employees were laid off in fiscal 1991. Given the State's current fiscal crisis, it is conceivable that employees could be separated or laid off in the future.

The bill would increase competition for existing positions but does not increase the number of positions or the related pay or benefits. However, it could present operational issues for State agencies if an employee whose position no longer exists would be able to "bump" an employee ahead of a laid-off employee (whose position still exists) if that separated employee was in the same class and possessed a greater number of seniority points.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Budget and Management, Department of Legislative Services

Fiscal Note History: First Reader - February 20, 2003
mdf/jr

Analysis by: Ann Marie Maloney

Direct Inquiries to:
(410) 946-5510
(301) 970-5510