

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 678

(Senator Della)

Finance

Appropriations

**Labor and Employment - Retaliatory Action for Testifying on Pending
Legislation - Prohibition**

This bill specifies that the State or any unit of State government, a county or any unit of county government, or a municipal corporation is prohibited from terminating, disciplining, discriminating against, or in any way penalizing an employee who takes authorized leave to testify on legislation that is under consideration by the General Assembly.

Fiscal Summary

State Effect: The bill would not directly impact State government finances.

Local Effect: The bill would not directly impact local government finances.

Small Business Effect: None.

Analysis

Bill Summary: If any unit of government described in this bill penalizes an employee for using authorized leave to testify on legislation, the employee may bring an action against the employing unit, provided that the action is filed within three years. If a court decides that a unit of government has penalized an employee for testifying, the court must require that the unit of government reinstate the employee with no loss of pay or benefits, and pay reasonable attorney's fees and other costs of the action incurred by the employee. Additionally, a unit of government may not terminate, discipline, discriminate against, or in any way penalize an employee who has filed an action against the unit of government.

Current Law: Personnel actions concerning an employee in the skilled and professional services of the State Personnel Management System, or a comparable position in an independent personnel system within the Executive Branch of State government, must be made without regard to political affiliation, belief, opinion, or any other nonmerit factor. Special appointments and applicants for special appointments are exempt.

State Fiscal Effect: While there is no direct impact on State finances associated with the implementation of this bill, if retaliatory action is taken against an employee, the State could be liable to pay reasonable attorney's fees and other costs of the court action incurred by the employee. While it is unknown what these costs would be, as it would depend on the number of retaliatory actions taken against an employee and the costs incurred by the individual regarding the action, it is expected that the number of cases for which this bill would apply would be minimal.

Local Fiscal Effect: While there is no direct impact on county or municipal finances associated with the implementation of this bill, if retaliatory action is taken against an employee the county or municipal government could be liable to pay reasonable attorney's fees and other costs of the court action incurred by the employee. While it is unknown what these costs would be, as it would depend on the number of retaliatory actions taken against an employee and the costs incurred by the individual regarding the action, it is expected that the number of cases for which this bill would apply would be minimal.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery County, Prince George's County, Caroline County, Calvert County, Howard County, Judiciary (Administrative Office of the Courts), Department of Budget and Management, Baltimore City, Department of Legislative Services

Fiscal Note History: First Reader - March 2, 2005
n/rhh

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