

**Department of Legislative Services**  
Maryland General Assembly  
2006 Session

**FISCAL AND POLICY NOTE**

House Bill 262  
Economic Matters

(Delegate Stern, *et al.*)

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**Employment Discrimination - Country Clubs - Ability of Employees to Sue**

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This bill alters the definition of “employer” under State law governing employment discrimination to include a “country club,” allowing an employee of a country club to file and pursue an employment discrimination complaint before the Human Relations Commission.

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**Fiscal Summary**

**State Effect:** Any anticipated increase in claims as a result of the bill’s inclusion of country club employers under State employment discrimination laws could be handled with the existing resources of the Human Relations Commission.

**Local Effect:** None.

**Small Business Effect:** Potential meaningful.

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**Analysis**

**Current Law:** The term “employer” is defined under State law governing employment discrimination as a person engaged in an industry or business who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of the person. The definition excludes private membership clubs, other than labor organizations, that are exempt from taxation under § 501(c) of the Internal Revenue Code. Section 501(c), in part exempts “[c]lubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of

the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.”

State law sets out numerous unlawful employment practices applicable to employers, employment agencies, labor organizations, and joint labor-management committees, generally prohibiting discrimination in the context of employment based on an individual’s race, color, religion, sex, age, national origin, marital status, sexual orientation, genetic information, or disability.

A person aggrieved by an alleged discriminatory employment practice may file a complaint under oath with the commission within six months of the alleged discriminatory practice. The commission must investigate the complaint and issue findings. If probable cause for believing a discriminatory act has occurred is found, the commission attempts to resolve the complaint by agreement between the two parties. If no agreement is reached, a hearing is conducted.

If a hearing examiner finds that a person has engaged in a discriminatory act under State law, the hearing examiner must issue an order to the respondent to cease and desist from the discriminatory practice and take affirmative action to fulfill the purposes of the law. The remedy for an unlawful employment practice may include reinstatement or hiring of employees with or without back pay or any other appropriate equitable relief. The award of monetary relief representing lost wages is limited to a 36-month period. Earnings during the time period the complainant is to be compensated for, or amounts earnable with due diligence, reduce the amount the complainant may recover.

A denial of a request for reconsideration of a finding of no probable cause by the commission or a dismissal of the complaint by the hearing examiner may be appealed to a circuit court in a county in which either party resides or has a principal place of business. Any lost earnings between the time of the commission’s final determination and the final determination of a circuit court or higher appellate court may not be awarded to the complainant.

### *Federal Law*

Title VII of the Civil Rights Act of 1964 and the Americans with Disabilities Act both have similar definitions of “employer,” exempting nonprofit private membership clubs (exempt from taxation under § 501(c) of the Internal Revenue Code) from prohibitions against employment discrimination.

### *State/Local Laws*

Under State law, a person in Montgomery, Prince George's, and Howard counties who is subject to an act of discrimination prohibited by the county code may file a lawsuit for damages, injunctive relief, or other civil relief. The court, at its discretion, may award attorney's fees. In addition, in Baltimore County, a person employed by an employer with fewer than 15 employees (exempt under State law) may file a lawsuit for an act of discrimination prohibited by the county code for injunctive relief and compensatory damages, but not punitive damages. The court, at its discretion, may award attorney's fees.

Montgomery, Prince George's, Howard, and Baltimore counties all have employment discrimination laws that do not exempt nonprofit private membership clubs.

**Small Business Effect:** Small businesses held liable for employment discrimination may be subject to attorneys' fees and damages such as back pay. The bill would not affect employers with fewer than 15 employees.

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### **Additional Information**

**Prior Introductions:** HB 828 of 2005, an identical bill, received an unfavorable report from the House Health and Government Operations Committee.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - February 28, 2006  
mam/jr

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