

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 784

(Senator Gladden)

Finance

Appropriations

**State Personnel - Disciplinary Actions - Costs of Appeals to the Office of
Administrative Hearings**

This bill provides that any costs incurred by the Office of Administrative Hearings (OAH) related to an appeal of a disciplinary action to OAH are to be paid by the principal unit that employs the appellant.

The bill takes effect July 1, 2007.

Fiscal Summary

State Effect: Requiring that principal units employing an appellant pay costs associated with disciplinary action appeals forwarded to OAH, rather than the Department of Budget and Management (DBM), would have no net effect on State finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: An employee in the skilled or professional services or the employee's representative may file with the head of the principal unit a written appeal of a disciplinary action, within a specified time frame. Within 10 days after receiving a decision of a disciplinary action appeal to the principal unit, the employee or his/her representative may appeal the decision in writing to the Secretary of Budget and Management. Within 30 days after receiving an appeal, the Secretary or designee must

(1) mediate a settlement between the employee and the unit or refer the appeal to OAH; and (2) advise the employee in writing of the Secretary's action.

Unless otherwise provided, OAH may (1) uphold the disciplinary action; (2) rescind or modify the disciplinary action taken and restore to the employee any lost time, compensation, status, or benefits; or (3) order the reinstatement of the position that the employee held at dismissal, full back pay, or both. Within 45 days following the close of the hearing record, OAH must issue a written decision to the parties. The decision of OAH is the final administrative decision.

Background: Generally, a disciplinary action is a corrective action initiated against an employee by an employer; it can range from a written reprimand to termination. A grievance, on the other hand, is a dispute initiated by an employee regarding the employer's interpretation and application of a personnel policy or regulation. Chapter 402 of 2005 provided that any costs incurred by OAH associated with appealing an employee grievance to OAH are to be paid by the principal unit employing the grievant. Chapter 402 takes effect July 1, 2006.

In its *Annual Personnel Report*, DBM states that, of the 401 disciplinary action appeals made in fiscal 2005, 214 were resolved at DBM and 187 were forwarded to OAH. OAH currently bills DBM for the costs of all employee grievance cases.

State Fiscal Effect: In fiscal 2005, 187 disciplinary action appeals were forwarded to OAH, at a cost of \$2,465 each, totaling \$460,955. It is estimated that, for fiscal 2006, each case forwarded to OAH would cost \$1,730. The bill requires the principal unit employing the appellant to pay the costs incurred by OAH, rather than charging DBM. Future costs associated with appealing a decision to OAH depend on the number of appeals filed, the number of appeals settled through mediation at DBM, and the cost per appeal, none of which can be reliably quantified at this time.

OAH advises that it would need to hire a fiscal accounts technician to accommodate the work generated by the bill. However, given that only 187 disciplinary actions were forwarded to OAH in fiscal 2005, the Department of Legislative Services (DLS) assumes that any expenditure associated with processing of payments from different agencies would be absorbable within existing resources and with existing personnel. DLS further advises that, to the extent the number of appeals forwarded to OAH increases in the future, OAH may require one additional part-time support staff to handle the processing of appeal-related costs.

Additional Information

Prior Introductions: None.

Cross File: HB 1032 (Delegate F. Turner, *et al.*) – Appropriations.

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

Fiscal Note History: First Reader - March 1, 2006
mll/ljm Revised - Senate Third Reader - March 24, 2006

Analysis by: Joshua A. Watters

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