

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1726

(Delegate Niemann)

Appropriations

Budget and Taxation

Office of Administrative Hearings - Disciplinary Appeals - Additional Actions

This bill authorizes the Office of Administrative Hearings (OAH) to order the repayment of benefits to State employees who have won disciplinary action appeals.

Fiscal Summary

State Effect: Potential increase in State expenditures from awarding back benefits to an employee who has won a disciplinary action appeal. Revenues would not be affected.

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 15 days of receiving the notice of the appointing authority's action. The head of the principal unit must issue a written decision within 15 days of receiving the appeal. 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.

Within 30 days after receiving the appeal, OAH must schedule a hearing. 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. In its *Annual Personnel Report*, the Department of Budget and Management (DBM) states that of the 401 disciplinary action appeals made in fiscal 2005, 214 were resolved at DBM and 187 were forwarded to OAH. DBM advises that there have been 51 overturned terminations since 2001.

State Fiscal Effect: The fiscal effect of the bill depends upon the number of disciplinary actions appealed to OAH, the final administrative decision, and any award OAH makes to the employee, none of which can be reliably quantified at this time. DBM advises that it assumes that benefits would include health, prescription, and dental insurance coverage, as well as annual and personal leave. Based on the average employee's fiscal 2005 salary of \$42,746, the cost of benefits for an employee is estimated at \$19,313 annually or \$743 bi-weekly.

For illustrative purposes only, assuming that filing appeals by employees and issuing decisions by the State follows the maximum time prescribed by law and that the hearing by OAH takes place within 30 days of receiving the appeal, the appeals process could last 145 days or 20.7 weeks. Thus, if OAH awards back benefits to an employee, it could cost the State \$7,690 for each award. To the extent that the length of the appeals process or the value of benefits awarded to an employee deviates from these assumptions, expenditures would adjust accordingly.

Additional Information

Prior Introductions: None.

Cross File: SB 1080 (Senator Kelley) – Finance.

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

Fiscal Note History: First Reader - April 6, 2006
ncs/ljm

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