

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 817
Finance

(Senator Exum)

Worker Freedom Act of 2006

This bill bars employers from requiring their employees to attend meetings that communicate the employer's opinion regarding religious or political matters. Under the bill, "employer" includes the State, counties, and municipal corporations as well as any other person engaged in business, industry, profession, trade, or enterprise in Maryland. It exempts religious and political organizations under specified circumstances, and protects employees from employer retaliation if they report a violation of the bill's provisions. It further provides for civil damages to employees who bring successful suits against their employers for violating the bill's provisions, including requiring the circuit court to award treble damages, attorney's fees, and other reasonable litigation costs. The bill authorizes the circuit court to award all appropriate relief as well, including reinstatement back pay, and reestablishment of benefits.

Fiscal Summary

State Effect: Minimal. However, to the extent that State agencies violate the bill's provisions, State expenditure could increase as the State would be liable for paying treble damages, attorney's fees, and other costs of litigation to employees who bring successful civil suits against it. No effect on revenues.

Local Effect: Minimal. However, to the extent that county or municipal governments violate the bill's provisions, they would be liable for paying treble damages, attorney's fees, and other costs of litigation to employees who bring successful civil suits against them.

Small Business Effect: Minimal. However, to the extent that small businesses violate the bill's provisions, they would be liable for paying treble damages, attorney's fees, and other costs of litigation to employees who bring successful civil suits against them.

Analysis

Current Law: State employees may freely participate in any political activity and express any political opinion, but may not engage in political activity while on the job or during working hours. This rule does not apply to Department of Legislative Services employees and employees of a local board of election. State employees may not be required to provide any political service, and public officials may not require any State employee to make a political contribution.

A “whistle blower protection” for Executive Branch employees prohibits retaliation against an employee who discloses information relating to a violation of law.

At least two counties (Montgomery and Harford) report that their local ordinances already prohibit them from engaging in the activities barred by this law. However, there are no wide-ranging prohibitions affecting all employers from engaging in the behavior prohibited by this bill.

Additional Comments: The bill authorizes the circuit court to provide employees who prevail in a civil suit with all appropriate relief, including back pay. The Department of Labor, Licensing, and Regulation (DLLR) points out that the Employment Standards unit within the Division of Labor and Industry, which recovers back pay from employers, was not funded in the Governor’s fiscal 2006 allowance. In fiscal 2005, that unit had six authorized positions. Although the fiscal 2006 budget enacted by the General Assembly set aside more than \$317,000 for the unit, the Governor had eliminated the positions in the unit. Therefore, DLLR has been unable to expend the money set aside for this purpose. Accordingly, pending cases have been forwarded to the Attorney General’s office in fiscal 2006. The Budget Reconciliation and Financing Act of 2005 (Chapter 444) codified the unit within the Division of Labor and Industry and mandated an appropriation of at least \$315,000 for the unit in fiscal 2007 and each subsequent fiscal year. Accordingly, the Governor’s proposed fiscal 2007 budget again includes six positions and an appropriation of \$315,000.

The Department of Legislative Services does not expect this bill to result in an increase in civil awards that include back pay, but if it does, DLLR’s Employment Standards unit may require a Grade 9 wage and hour investigator to pursue those awards.

Additional Information

Prior Introductions: None.

Cross File: HB 1468 (Delegate Marriott, *et al.*) – Appropriations and Economic Matters.

Information Source(s): Carroll County; Cecil County; Montgomery County; Prince George’s County; Harford County; St. Mary’s County; Judiciary (Administrative Office of the Courts); Department of Business and Economic Development; Department of Labor, Licensing, and Regulation; Department of Budget and Management; Department of Legislative Services

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