

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 353

(Senator Della)

Finance

Appropriations

**State Personnel - Department of Transportation's Human Resources
Management System - Disciplinary Actions**

This bill requires that an appointing authority in the Maryland Department of Transportation that suspends an employee without pay do so no later than five workdays following the appointing authority's acquiring knowledge of the misconduct. Any other disciplinary action must be imposed within 30 days of acquiring knowledge of the misconduct.

Fiscal Summary

State Effect: The changes are procedural in nature and not expected to materially affect State finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The majority of Executive Branch employees are members of the State Personnel Management System, though certain exempted agencies may operate independent personnel systems. The largest of these personnel systems is the Transportation Service Human Resources System.

Transportation Service Human Resources System

An appointing authority is authorized to take the following actions in disciplining a Career Service employee: • official reprimand; • loss of leave; • suspension without pay; • involuntary demotion; • promotional probation; • termination under charges from a Career Service position; or • disqualification from future employment in the Transportation Service.

An employee may be terminated for • poor job performance; • insubordination; • negligence; • extortion; • misconduct; • unauthorized absence; • excessive force; • theft; • criminal activity; or • other violations enumerated in regulation.

Before taking any disciplinary action related to employee misconduct, an appointing authority must • investigate; • meet with the employee; • consider any mitigating circumstances; and • give the employee written notice of the disciplinary action and appeal procedures. An appointing authority may suspend an employee, with or without pay, pending the filing of charges for termination. If suspended without pay, the appointing authority must present the charges to the Secretary within 30 days. If not presented within this timeframe, the employee must be placed on leave with pay until the Secretary receives the charges. An appointing authority may agree to hold a disciplinary action in abeyance for up to 18 months in order to permit an employee to improve conduct or performance.

Background: Under the State Personnel Management System, an appointing authority may suspend an employee without pay no later than five work days after the alleged infraction occurs. The Transportation Service Human Resources System has no such timeframe.

Under the State Personnel Management System, an appointing authority must impose any disciplinary action within 30 days of acquiring knowledge of the misconduct. The Transportation Service Human Resources System requires charges to be presented to the Secretary within 30 calendar days of suspension if an employee is suspended without pay. If this timeframe is not met, the employee must be placed on leave with pay until the Secretary receives the charges.

Additional Comments: Although the effect cannot be quantified, MDOT advises that the proposed change to disciplinary timelines would compromise the department's investigative capabilities, increasing the probability that the department would lose cases appealed to the Office of Administrative Hearings. Losses could result in greater amounts of back pay awarded to terminated employees, potentially offset by the

department suspending fewer employees with pay due to the shortened disciplinary period.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Morgan State University, Office of Administrative Hearings, University System of Maryland, Maryland Department of Transportation, Department of Budget and Management, Department of Legislative Services

Fiscal Note History: First Reader - February 20, 2008
mam/ljm Revised - Senate Third Reader - March 21, 2008

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