Department of Legislative Services

Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 895 (Senator Stone)
Finance

Public Safety - Fire Fighters' Bill of Rights

This bill provides for rights of a fire fighter relating to the investigation and discipline of fire fighters in the State. The bill's provisions are similar to related provisions of the Law Enforcement Officers' Bill of Rights.

Fiscal Summary

State Effect: Potential operational impact on State agencies employing the limited number of State employees affected under the bill. In addition, any future impacts arising from decisions of hearing boards cannot be reliably predicted.

Local Effect: Potential increase in local government expenditures, varying by jurisdiction. Revenues are not affected. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill's provisions supersede any inconsistent provisions of any other State or local law that conflicts with its provisions to the extent of the conflict. A jurisdiction may enter into a collective bargaining agreement or pass a local law that provides greater protection to a fire fighter but may not provide lesser protection than provided under the bill. Binding arbitration, when authorized by a collective bargaining agreement or local law, is not prohibited. These provisions do not limit the authority of the head of a fire, rescue, or emergency services department to regulate the competent and efficient operation and management of such a department by any reasonable means

including transfer and reassignment if that action is not punitive in nature and the department head determines it to be in the best interests of the internal management of the department.

Current Law: The Law Enforcement Officers' Bill of Rights was enacted in 1974 to guarantee police officers specified procedural safeguards in any investigation that could lead to disciplinary action. It extends to police officers of specified State and local agencies, but does not extend to any correctional officers in the State.

Background: There are about 125 State employees in the State Personnel Management System and the Maryland Department of Transportation who are covered under the bill. Most of these employees are covered by collective bargaining under Title 3 of the State Personnel and Pensions Article. According to the Department of Budget and Management (DBM), this bill is a significant departure from the current Memorandum of Understanding.

State Fiscal Effect: DBM reports that this bill would have an operational impact by expanding processes for disciplinary actions for the 125 State employees already covered by provisions of the State Personnel and Pensions Article.

In any case, the extent to which the bill's requirements provide greater protections and additional (or lengthier) processes than are currently provided to any affected State employees under State law and/or collective bargaining agreements may result in an operational impact on DBM. However, any such impact cannot be reliably estimated without actual experience under the bill. In addition, any future impacts arising from decisions of hearing boards cannot be reliably predicted.

Local Fiscal Effect: Montgomery County reports that investigatory and disciplinary processes are covered in a collective bargaining agreement with the International Association of Fire Fighters, Local 1664. The Montgomery County Fire and Rescue Squad has over 1,000 employees and there are "numerous" investigations and disciplinary actions taken each year under the agreement, ranging from minor issues to major investigations. The county believes that this bill will lead to a relatively large fiscal impact stemming from overtime pay related to additional hearings.

Frederick County reports that, while the county currently allows employees to request an appeal hearing subsequent to a disciplinary action, this bill would require a preliminary hearing prior to the actual appeal hearing. In so doing, county overtime costs relating to such actions would increase.

Charles County reports the likelihood of additional overtime costs and administrative leave costs resulting from the bill. Currently, Charles County is not operating under a

collective bargaining agreement with its emergency medical services personnel. The county also believes that the bill would lead to legal review and advice on a case-by-case basis and lead to more court challenges and litigation.

Accordingly, the extent to which the bill's requirements provide greater protections and additional (or lengthier) processes than are currently provided to any affected local employees under local laws and/or collective bargaining agreements may result in some operational impact on units of local government. For some jurisdictions, the new procedures may incur additional overtime costs for hearings. However, any such impact cannot be reliably estimated without actual experience under the bill. In addition, any future impacts arising from decisions of hearing boards cannot be reliably predicted.

Additional Information

Prior Introductions: None.

Cross File: HB 1035 (Delegate Schuler, *et al.*) - Appropriations.

Information Source(s): Charles County, Frederick County, Montgomery County, Somerset County, City of Bowie, Department of Budget and Management, Judiciary (Administrative Office of the Courts), Department of State Police, Office of Administrative Hearings, Department of Legislative Services

Fiscal Note History: First Reader - March 3, 2009
ncs/hlb

Analysis by: Guy G. Cherry

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