

Department of Legislative Services
 Maryland General Assembly
 2011 Session

FISCAL AND POLICY NOTE

House Bill 1184
 Appropriations

(Delegate Zucker, *et al.*)

Finance

Department of Transportation - Employee Grievance Procedures - Streamlined Process

This bill alters the appeals process for Maryland Department of Transportation (MDOT) employee grievance disputes. When an unresolved dispute exists, the bill authorizes aggrieved employees to submit an appeal to the Office of Administrative Hearings (OAH). The bill deletes provisions authorizing appeals for disciplinary actions to the Secretary of Budget and Management or that Secretary’s designee and requiring MDOT employees to be given the same levels of appeal provided to other State employees. Instead, the bill gives the Secretary of Transportation broad authority to establish appeal procedures for disciplinary actions through regulations and policy.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures increase by \$54,700 in FY 2012 for a contractual position. Future year expenditures reflect annualization and inflation. Revenues are not affected.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	54,700	63,000	65,700	68,500	71,400
Net Effect	(\$54,700)	(\$63,000)	(\$65,700)	(\$68,500)	(\$71,400)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The Secretary of Transportation may establish a human resources management system; however, it must (1) be based on merit; (2) include fair and equitable procedures for appointment, hiring, promotion, layoff, removal, termination, redress of grievances, and reinstatement of employees; and (3) permit employees to participate in specified pension and retirement systems.

The Secretary of Transportation must adopt regulations to govern the human resources management system, including regulations that authorize the suspension of an employee, with or without pay, pending the filing of charges for termination. Employee grievance procedures must include, at a minimum, the follow sequence of levels of appeal:

- initially, an aggrieved employee must present any grievance to the appointing authority or a designated representative, who must render a written decision;
- any appeal must be presented to the Secretary of Transportation or a designated representative, who must render a written decision;
- if a dispute remains unresolved, the appeal must be referred to OAH or a mutually agreed upon third-party arbiter who may not hear grievances relating to classification, salary, or fiscal matters; and
- for disciplinary actions only, either party may appeal any decision made by OAH or the third-party arbiter to the Secretary of Budget and Management or that Secretary's designee.

MDOT regulations must also include procedures to ensure that MDOT employees are entitled to the same levels of appeal that are provided to other State employees. Any disciplinary action taken against MDOT employees by MDOT must include the same levels of appeal that are provided to other State employees.

The Administrative Procedure Act provides a standard framework of fair and appropriate procedures for agencies that are responsible for both administration and adjudication of their respective laws. Among other things, it establishes procedures to resolve contested agency actions through an impartial administrative hearing. Boards, commissions, and agency heads can conduct contested case hearings or delegate the authority to OAH or – with the Chief Administrative Law Judge's approval – to a person outside OAH.

Background: MDOT is responsible for statewide transportation planning and the development, operation, and maintenance of key elements of the transportation system. Currently, there are 8,963 regular positions and 138 contractual positions at MDOT. While most Executive Branch employees are members of the State Personnel

Management System, MDOT employees are members of the independent Transportation Service Human Resources System.

The Department of Budget and Management (DBM) advises that the bill will enhance the overall efficiency of MDOT's employee grievance process, streamline procedures, and afford quicker administrative outcomes.

State Expenditures: TTF expenditures increase by \$54,664 in fiscal 2012, which accounts for the bill's October 1, 2011 effective date. This estimate reflects the cost of hiring a contractual settlement officer to facilitate settlement conferences for disciplinary action appeals. It includes a salary, fringe benefits, training, one-time start-up costs, and ongoing operating expenses.

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Salary and Fringe Benefits	\$46,529
Start-up Costs and Operating Expenses	<u>8,135</u>
Total FY 2012 MDOT Expenditures	\$54,664

Future year expenditures reflect a full salary with 4.4% annual increases and 7.2% employee turnover as well as 1% annual increases in ongoing operating expenses. Future year expenditures increase further to the extent the employee dispute workload remains constant and MDOT converts the contractual settlement officer to a permanent position. Alternatively, if the workload is lighter than anticipated, the contractual position could be reduced to part-time status or eliminated, thereby reducing expenditures in future years.

The bill enhances operational efficiencies within OAH and DBM by streamlining the dispute process. Hiring a settlement officer may result in early resolution of more disputes and, thus, fewer OAH hearings. To the extent the bill results in fewer hearings, OAH's workload decreases. Because the bill eliminates DBM's responsibility for MDOT employee disciplinary appeals, DBM's workload is expected to decrease, effectively permitting DBM to address other priorities.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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mc/lgc

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