

Department of Legislative Services
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 966 (Senator Gladden)
Judicial Proceedings

Civil Rights - Employment Discrimination - Employment Status

This bill prohibits discrimination in employment based on employment status. Employment status means the status of an applicant as employed or unemployed at the time of the application.

Fiscal Summary

State Effect: General fund expenditures increase by \$172,500 in FY 2013 for the Maryland Commission on Civil Rights (MCCR) to hire one attorney and two investigators to handle an expected increase in complaints under the bill. Future year expenditures reflect annualization and inflation. The Judiciary can handle any increase in cases with existing budgeted resources. Revenues are not affected.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	172,500	214,700	228,900	239,400	250,400
Net Effect	(\$172,500)	(\$214,700)	(\$228,900)	(\$239,400)	(\$250,400)

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

Local Effect: The circuit courts can handle any increase in cases with existing budgeted resources.

Small Business Effect: Potential meaningful. Small businesses may experience increased legal costs to the extent that more individuals allege discrimination based on employment status.

Analysis

Current Law: Discrimination in employment based on an individual's race, color, religion, national origin, sex, age, marital status, sexual orientation, or disability is prohibited. This includes discrimination by employers, employment agencies, labor organizations, and training programs.

Individuals alleging employment discrimination may file a complaint with MCCR. A complaint must be filed within six months from the date the alleged violation occurred. On a finding of an unlawful employment practice, administrative remedies may include enjoining the respondent from engaging in the discriminatory act, the reinstatement or hiring of employees with or without back pay, compensatory damages, and any other appropriate equitable relief.

A civil cause of action is also available in employment discrimination complaints. A complainant or respondent may elect to have the claims asserted in the complaint determined in a civil action brought by MCCR on the complainant's behalf if (1) a complaint has been filed with MCCR; (2) the commission finds the respondent has engaged in, or is engaging in, an unlawful employment practice; and (3) the parties have failed to reach an agreement for the remedy and elimination of the unlawful employment practice. The same remedies specified above may be awarded by the court on a finding that an unlawful employment practice has occurred.

A complainant may also file a private civil action if (1) the complainant initially filed a timely complaint or an administrative charge under federal, State, or local law alleging an unlawful employment practice; (2) at least 180 days have elapsed since the filing of this complaint or charge; and (3) the civil action is filed within two years after the alleged unlawful employment practice occurred. In addition to the remedies specified above, the court may award punitive damages if (1) the respondent is not a governmental unit or political subdivision; and (2) the court finds that the respondent has engaged or is engaging in an unlawful employment practice with actual malice. The filing of a private cause of action automatically terminates any proceeding before MCCR based on the underlying administrative complaint and any amendment to the complaint.

Background: New Jersey enacted a law in 2011 prohibiting the practice of excluding unemployed individuals in advertisements for job vacancies. Similar legislation has been introduced in other states, including New York, Michigan, and Illinois, and at the federal level.

State Expenditures: MCCR advises that it anticipates a significant increase in complaints stemming from this legislation. Legislative Services concurs with this assumption. Accordingly, general fund expenditures increase by \$172,481 in fiscal 2013,

which accounts for the bill's October 1, 2012 effective date. This estimate reflects the cost of hiring two full-time investigators and one full-time attorney to handle the increased complaints. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	3
Salaries and Fringe Benefits	\$152,613
Operating Expenses	19,868
Total FY 2013 State Expenditures	\$172,481

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses. In addition, litigation expenses will increase to the extent that complainants or respondents elect to have the claims asserted determined in a civil action brought by MCCR.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Commission on Civil Rights; Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Department of Legislative Services;

Fiscal Note History: First Reader - March 18, 2012
ncs/kdm

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