

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 852

(Delegate Barkley, *et al.*)

Appropriations

Finance

**Courts - Action for Violation of Collective Bargaining Agreement or Breach of
Duty of Fair Representation - Limitations Period**

This bill specifies a period of limitations for filing an action for injunctive relief or damages for (1) a violation of a collective bargaining agreement covering an employee of the State or a political subdivision of the State or (2) a breach by an exclusive representative of the duty of fair representation owed to an employee of the State or a political subdivision of the State. Under the bill, such an action must be commenced within six months after the later of (1) the date on which the claim accrued or (2) the date on which the complainant knew or should reasonably have known of the breach.

The bill applies prospectively to causes of action arising on or after the bill's October 1, 2017 effective date.

Fiscal Summary

State Effect: The bill is procedural and can be implemented with existing budgeted State resources. The shorter statute of limitations under the bill may reduce the number of relevant actions filed against the State, which may reduce damages awarded against the State.

Local Effect: The bill is procedural and can be implemented with existing budgeted local resources. The shorter statute of limitations under the bill may reduce the number of relevant actions filed against local governments, which may reduce damages awarded against local governments.

Small Business Effect: None.

Analysis

Current Law: Under § 5-101 of the Courts and Judicial Proceedings Article, a civil action must be filed within three years from the date it accrues unless another statutory provision specifies a different period of time within which an action can be commenced.

Background: In *Lewis v. Baltimore Convention Ctr.*, 231 Md. App. 144 (2016), a class of employees of the Baltimore Convention Center appealed a circuit court's dismissal of its complaint concerning (1) Baltimore City's breach of contract with their union by failure to pay overtime wages; (2) the union's breach of its duty of fair representation; and (3) the union's tortious interference with the contract. The Court of Special Appeals affirmed the circuit court's dismissal of the complaint, holding that the class's complaints were barred by limitations.

With respect to the breach of contract claim, the court disagreed with the class's argument that the standard civil statute of limitations under § 5-101 applied to their complaint, noting that at the time their complaint accrued, the Baltimore City Charter required that contract claims against Baltimore City be filed within one year from the date on which the claim arose or within one year after the completion of the contract giving rise to the claim, whichever is later. The court also noted that (1) a contract claim accrues when the party knows or should have known of the facts giving rise to the claim; (2) the overtime pay terms that were the basis of the claim had existed for almost a decade; and (3) the class made efforts to address its unhappiness with those terms in 2008.

The court did agree that the general three-year statute of limitations applied to the duty of fair representation claim, but that based on the timeline of events, that claim was also barred by limitations. In its discussion, the court referred to the shorter statute of limitations for labor disputes under federal law (six months under 29 U.S.C. § 160(b)).

Finally, the court determined that the circuit court properly dismissed the tortious interference with contract claim because under State law, a party to a contract cannot interfere tortuously with a contract to which it is a party.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Association of Counties; Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - February 16, 2017
fn/kdm
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