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FISCAL IMPACT STATEMENT

LS 6036

BILL NUMBER: HB 1034

NOTE PREPARED: Nov 1, 2007

BILL AMENDED:

SUBJECT: Age Discrimination.

FIRST AUTHOR: Rep. Smith V

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill transfers jurisdiction over age discrimination proceedings from the Commissioner of Labor to the Civil Rights Commission. This bill also prohibits certain actions by an employer, a labor organization, or an employment agency relating to discrimination against an individual at least 40 years of age. The bill establishes procedures for filing an age discrimination complaint. The bill also provides specific remedies for an age discrimination violation for a complaint filed with the Commission or a circuit court. The bill repeals provisions concerning the jurisdiction of the Commissioner of Labor over age discrimination cases.

Effective Date: July 1, 2008.

Explanation of State Expenditures: *Department of Labor:* This bill transfers jurisdiction over age discrimination proceedings from the Department of Labor to the Indiana Civil Rights Commission. The Department of Labor reports that the majority of age discrimination cases are filed at the federal level. Generally, it is estimated that fewer than ten cases of age discrimination are filed with the state each year. While the transfer may cause a slight reduction in the administrative workload of the Department of Labor, it is not expected to decrease the Department's personnel costs.

Civil Rights Commission: Transferring jurisdiction over age discrimination proceedings from the Department of Labor to the Civil Rights Commission could increase the number of age discrimination cases filed at the state level. One reason for an increase is that the Commission would be able to award more reparations than the Department of Labor. If the Commissioner of the Department of Labor finds that an employer has discriminated against an employee because of the employee's age, the only redress available to the Commissioner is to issue a finding of fact. The Civil Rights Commission, on the other hand, can fully

investigate discrimination claims, award back wages, and institute administrative changes within an offending entity.

Charges are filed at the federal level by Indiana residents alleging age discrimination under the federal Age Discrimination in Employment Act. It is not known whether persons choosing to file at the federal level would instead choose to file at the state level if the jurisdiction is changed from the Department of Labor to the Civil Rights Commission.

The Civil Rights Commission reports that transferring the jurisdiction over age discrimination cases from the Department will not require the hiring of additional staff. The bill, however, could increase the Commission's administrative costs. The extent of these costs will depend on the number of cases initiated at the Commission.

Any funds and resources required by the Commission could be supplied through a variety of sources, including: (1) existing resources not currently being used to capacity; (2) funds that, otherwise, would be reverted; or (3) new appropriations. As of October 8, 2007, there were 13 personnel vacancies within the Commission with a value of approximately \$386,230. The Commission reverted \$271,568 in FY 2007. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions. The bill does not contain an appropriation.

Explanation of State Revenues: The federal government may reimburse the state for some age discrimination cases pursued by the Indiana Civil Rights Commission.

The bill also allows actions under this act to be filed with a circuit court. If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil filing fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: This provision would affect local civil rights entities if it encourages complainants to file at the state level as opposed to the local level. Currently, an age discrimination complainant may file with a local civil rights commission, with the state Department of Labor, or at the federal level.

Explanation of Local Revenues: If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected: Indiana Civil Rights Commission; Department of Labor.

Local Agencies Affected: Local civil rights commissions.

Information Sources: U.S. Equal Employment Opportunity Commission, Reports Library.

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