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FISCAL IMPACT STATEMENT

LS 6036

BILL NUMBER: HB 1034

NOTE PREPARED: Jan 29, 2008

BILL AMENDED: Jan 17, 2008

SUBJECT: Age Discrimination.

FIRST AUTHOR: Rep. Smith V

FIRST SPONSOR: Sen. Kruse

BILL STATUS: As Passed House

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill provides that the public policy of the state is to provide its citizens equal access and opportunity regardless of whether an individual is at least 40 years of age and to eliminate separation or segregation on the basis that the individual is at least 40 years of age. The bill also transfers jurisdiction over age discrimination proceedings from the Commissioner of Labor to the Civil Rights Commission. The bill 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 provides that an age discrimination claim properly filed with the Department of Labor will be adjudicated by the Department of Labor. 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.

(Revised) *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.

The Commission estimates that this bill will cause an increase in the number of age discrimination cases filed at the state level rather than the federal level. The number of additional staff needed to investigate these cases is indeterminable. The number of new staff will ultimately depend on the number of cases initiated at the Commission that would not have been initiated at all, or that would have been initiated at the federal level. Therefore, the overall increase in personnel and administrative costs to the Commission is indeterminable.

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 to the January 14, 2008 state vacant positions report, there were 3 personnel vacancies within the Commission with a value of approximately \$78,286. According to the Commission, none of the personnel vacancies are for the position of case investigator. The Commission also reported a reversion of \$152,817 for 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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