
By: **Chairman, Rules and Executive Nominations Committee**
(Departmental - Budget and Management)

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Committee Report: Favorable with amendments
House action: Adopted
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CHAPTER 179

1 AN ACT concerning

2 **State Personnel - ~~Collective Bargaining - Negotiated Provisions~~**
3 **Compensation of State Employees**

4 FOR the purpose of ~~enacting provisions of the negotiated Memoranda of~~
5 ~~Understanding; increasing the payment for providing that~~ certain employees
6 required to work on certain holidays shall receive certain payment for certain
7 hours worked; establishing a sick leave incentive program for certain State
8 employees; requiring certain participating units of State government to report
9 certain information to the Secretary; allowing certain State employees to receive
10 payment for unused sick leave under certain conditions; determining eligibility
11 for participation in the program; ~~authorizing the collection of certain data for~~
12 ~~the purpose of sick leave monitoring; generally relating to the sick leave~~
13 ~~incentive program~~; increasing the death benefits for survivors of State
14 employees killed in the performance of job duties; altering certain provisions of
15 law governing pay rates in the Executive Pay Plan; requiring certain units to
16 track certain sick leave usage as of a certain date; requiring the Department of
17 Budget and Management to submit a certain report to the Governor and the
18 General Assembly on or before a certain date; and generally ~~complying with~~
19 Section 3-502(c) of the State Personnel and Pensions Article relating to
20 compensation of State employees.

21 BY repealing and reenacting, with amendments,
22 Article - State Personnel and Pensions
23 Section ~~8-104, 8-108, 9-205,~~ and 10-404
24 Annotated Code of Maryland

1 (1997 Replacement Volume and 1999 Supplement)

2 BY adding to

3 Article - State Personnel and Pensions

4 Section 9-1201 through 9-1204, inclusive, to be under the new subtitle "Subtitle

5 12. Sick Leave Incentive Program"

6 Annotated Code of Maryland

7 (1997 Replacement Volume and 1999 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

9 MARYLAND, That the Laws of Maryland read as follows:

10 **Article - State Personnel and Pensions**

11 8-104.

12 (a) (1) Pay rates in the Standard Pay Plan may be set by:

13 (i) a series of pay grades and steps within each grade;

14 (ii) fixed rates; or

15 (iii) minimum and maximum amounts.

16 (2) Pay rates in the Executive Pay Plan may be set by:

17 (i) a series of executive pay grades and steps within each grade;

18 [or]

19 (ii) fixed rates; OR

20 (III) MINIMUM AND MAXIMUM AMOUNTS.

21 (b) In setting or amending a pay rate, the Secretary shall consider:

22 (1) the prevailing pay rates for comparable services in private and public
23 employment;

24 (2) experience;

25 (3) living costs;

26 (4) benefits; and

27 (5) the financial condition and policies of this State.

28 (c) [(1)] A pay rate in either pay plan is subject to any limitations included in
29 the State budget.

1 [(2) The starting pay rate for an employee whose position is in the
 2 Executive Pay Plan may not exceed the pay rate set for the second step of the grade
 3 specified for the position, unless:

4 (i) exceptional circumstances exist; and

5 (ii) the Board of Public Works approves the higher starting pay.

6 (3) The pay rate for a physician in the Department of Health and Mental
 7 Hygiene whose position is in the Executive Pay Plan shall be set in accordance with
 8 the physician-administrator pay schedule.]

9 8-108.

10 (a) This section applies only to the Executive Pay Plan.

11 (b) (1) An increase in a pay rate under this subsection[:

12 (i) may be given only with the approval of the Governor; and

13 (ii)] shall be based on the employee's performance.

14 (2) For or during a fiscal year, the head of a unit may recommend an
 15 increase in an employee's pay rate above the rate for the previous fiscal year [by one
 16 step] in the same grade IN ACCORDANCE WITH GUIDELINES PROMULGATED BY THE
 17 SECRETARY, PROVIDED THAT FUNDS ARE AVAILABLE.

18 [(3) For or during a fiscal year, in recognition of the employee's
 19 exceptional performance, the head of a unit may recommend an increase in an
 20 employee's pay rate above the rate for the previous fiscal year by two steps in the
 21 same grade.

22 (4) Subject to § 2-1246 of the State Government Article, the Secretary
 23 shall notify the Department of Legislative Services, on or before January 1 and July
 24 1 of each year, of any pay adjustments made under this subsection during the
 25 preceding 6 months.]

26 (c) (1) A pay increase under this subsection may be made[:

27 (i)] to recruit or retain competent employees[:] or

28 (ii) for any other reason that the Board of Public Works approves]
 29 TO RECOGNIZE INCREASED DUTIES AND RESPONSIBILITIES.

30 (2) Subject to the approval of [the Board of Public Works,] the Governor,
 31 THE SECRETARY may approve:

32 (i) [a pay increase above the rate for the previous fiscal year of
 33 more than two steps in the same grade;

34 (ii)] a change in pay grade;

1 [(iii)] (II) a change from one class in a series to a different class in
 2 the same series;

3 [(iv)] (III) a new class or position; or

4 [(v)] (IV) another form of pay increase.

5 (3) Subject to § 2-1246 of the State Government Article, the Secretary
 6 shall submit to the Department of Legislative Services a copy of documentation for
 7 any specific recruitment, retention, or other issue that warranted a pay increase
 8 under this subsection.

9 9-205.

10 (a) (1) Except as otherwise provided in [paragraph (2)] PARAGRAPHS (2)
 11 AND (3) of this subsection or in any other law, an employee, who because of the nature
 12 of the employee's duties, is required to work on any part of an employee holiday shall
 13 receive compensatory time for that work.

14 (2) AN EMPLOYEE, INCLUDING AN EMPLOYEE IN A 24-HOUR FACILITY,
 15 SHALL RECEIVE PAYMENT FOR THE NUMBER OF HOLIDAY HOURS SCHEDULED, AT
 16 THE EMPLOYEE'S REGULAR HOURLY RATE OF PAY, AND TIME AND ONE-HALF
 17 PAYMENT FOR THE NUMBER OF HOURS ACTUALLY WORKED, IF THE EMPLOYEE:

18 (I) IS ELIGIBLE TO RECEIVE CASH OVERTIME;

19 (II) HAS HOLIDAYS PRESCHEDULED BY THE EMPLOYER; AND

20 (III) IS REQUIRED BY THE EMPLOYER TO WORK A HOLIDAY THAT
 21 WAS ~~NOT~~ DESIGNATED AS A PRESCHEDULED HOLIDAY FOR THE EMPLOYEE.

22 [(2)] (3) An employee who is included in the Executive Pay Plan at a pay
 23 grade of (ES) 6 or above may receive compensatory time for work on an employee
 24 holiday only if the employee works 5 or more hours on the holiday. The employee shall
 25 receive 1 day of compensatory time for each employee holiday on which the employee
 26 works 5 hours or more.

27 (b) An employee must use any compensatory time accrued under this section
 28 within 1 year after having accrued that time.

29 SUBTITLE 12. SICK LEAVE INCENTIVE PROGRAM.

30 9-1201.

31 EXCEPT AS OTHERWISE PROVIDED, THIS SUBTITLE APPLIES TO EMPLOYEES IN
 32 THE STATE PERSONNEL MANAGEMENT SYSTEM AND EMPLOYEES IN THE
 33 TRANSPORTATION SERVICE HUMAN RESOURCES MANAGEMENT SYSTEM.

1 9-1202.

2 (A) THERE IS A SICK LEAVE INCENTIVE PROGRAM FOR STATE EMPLOYEES
3 THAT ALLOWS FOR THE PAYMENT FOR UNUSED SICK LEAVE.

4 (B) THE SECRETARY SHALL ADOPT REGULATIONS TO ADMINISTER THE
5 PROGRAM.

6 (C) A UNIT THAT PARTICIPATES IN THIS PROGRAM SHALL SUBMIT TO THE
7 SECRETARY AT THE END OF EACH CALENDAR YEAR A REPORT THAT INCLUDES:

8 (1) THE NUMBER OF EMPLOYEES RECEIVING PAYMENT FOR UNUSED
9 SICK LEAVE;

10 (2) THE TOTAL PAYMENT RECEIVED BY EMPLOYEES;

11 (3) THE NUMBER OF UNUSED SICK LEAVE HOURS EXCHANGED FOR
12 PAYMENT;

13 (4) THE TOTAL SICK LEAVE HOURS USED DURING THE CALENDAR YEAR;
14 AND

15 (5) ANY ESTIMATED OVERTIME SAVINGS AS A RESULT OF THIS
16 PROGRAM.

17 9-1203.

18 (A) THE SICK LEAVE INCENTIVE PROGRAM CONSISTS OF THE FOLLOWING
19 TWO INCENTIVES:

20 (1) PAYMENT FOR UP TO 40 HOURS OF UNUSED SICK LEAVE PER
21 CALENDAR YEAR IF AN EMPLOYEE HAS USED NO MORE THAN 40 HOURS OF SICK
22 LEAVE DURING THE CALENDAR YEAR AND HAS A SICK LEAVE BALANCE OF AT LEAST
23 240 HOURS ON DECEMBER 31 OF THAT CALENDAR YEAR; AND

24 (2) PAYMENT FOR UP TO 56 HOURS OF UNUSED SICK LEAVE PER
25 CALENDAR YEAR IF AN EMPLOYEE HAS USED NO MORE THAN 24 HOURS OF SICK
26 LEAVE DURING THE CALENDAR YEAR AND HAS A SICK LEAVE BALANCE OF AT LEAST
27 240 HOURS ON DECEMBER 31 OF THAT CALENDAR YEAR.

28 (B) TO BE ELIGIBLE FOR THE PROGRAM, AN EMPLOYEE SHALL MAINTAIN A
29 SICK LEAVE BALANCE OF AT LEAST 240 HOURS AFTER PAYMENT IS RECEIVED FOR
30 LEAVE.

31 (C) (1) FOR THE PURPOSE OF DETERMINING ELIGIBILITY FOR THE
32 PROGRAM, THE FOLLOWING USE OF LEAVE DOES NOT QUALIFY AS SICK LEAVE
33 USAGE:

34 (I) SICK LEAVE THAT IS USED FOR A DEATH IN THE IMMEDIATE
35 FAMILY;

1 (II) SICK LEAVE THAT IS DONATED TO ANOTHER EMPLOYEE IN
2 ACCORDANCE WITH THE PROVISIONS OF THE EMPLOYEE TO EMPLOYEE LEAVE
3 DONATION PROGRAM;

4 (III) SICK LEAVE THAT IS DONATED TO THE STATE EMPLOYEES'
5 LEAVE BANK; AND

6 (IV) SICK LEAVE THAT IS TAKEN IN ACCORDANCE WITH THE
7 FAMILY AND MEDICAL LEAVE ACT.

8 (2) LEAVE USED FOR THE ~~PURPOSES~~ PURPOSE STATED IN SUBSECTION
9 ~~(C)(1)(IV) OF THIS SECTION~~ PARAGRAPH (1)(IV) OF THIS SUBSECTION SHALL NOT BE
10 USED TO DETERMINE AN EMPLOYEE'S LEAVE BALANCE UNDER SUBSECTION (B) OF
11 THIS SECTION.

12 9-1204.

13 THE PAYMENT, SICK LEAVE USAGE RATE, AND SICK LEAVE BALANCE FOR A
14 PART-TIME EMPLOYEE WILL BE PRORATED BASED ON THE EMPLOYEE'S
15 PERCENTAGE OF EMPLOYMENT.

16 10-404.

17 (a) (1) In this section the following words have the meanings indicated.

18 (2) "Child" means any natural, adopted, or posthumous child, or
19 stepchild, or the decedent who is:

20 (i) 18 years of age or under; or

21 (ii) over 18 years of age and incapable of self-support because of a
22 physical or mental disability.

23 (3) "Stepchild" means any child of the surviving spouse who was living
24 with or dependent for support on the decedent at the time of death.

25 (b) (1) Except as provided in paragraph (2) of this subsection, this section
26 applies to all employees in:

27 (i) the State Personnel Management System; and

28 (ii) any other authorized personnel system established for a unit of
29 State government.

30 (2) This section does not apply to an employee covered by the provisions
31 of Article 41, § 4-1002 of the Code.

32 (c) (1) (i) As provided in this section, a death benefit in the amount of
33 [\$50,000] \$100,000 shall be paid to the surviving spouse, children, or dependent
34 parents of any employee subject to this section who is killed in the performance of
35 duties on or after [July 1, 1992] JULY 1, 2000.

1 (ii) A death benefit may not be paid under this section if an
2 employee is killed as a result of the employee's negligence.

3 (2) A death benefit under this section shall be in addition to any:

4 (i) workers' compensation benefits; and

5 (ii) proceeds of any form of life insurance, regardless of who paid
6 the premiums on the insurance.

7 (d) (1) On notification by the head of the unit that employed the decedent,
8 the Secretary shall determine whether a death benefit will be paid under this section.

9 (2) If the Secretary determines that a death benefit is payable, payment
10 shall be made:

11 (i) to the surviving spouse;

12 (ii) if there is no surviving spouse, to the surviving children, in
13 equal shares; or

14 (iii) if there is no surviving spouse or children, to the surviving
15 parent or parents, if the parent was a dependent as defined in § 152 of the Internal
16 Revenue Code.

17 (e) A death benefit under this section shall be paid out of funds which the
18 Governor may appropriate for that purpose in the State budget.

19 (f) A decision of the Secretary under this section:

20 (1) is the final administrative decision; and

21 (2) is not subject to appeal under Title 10, Subtitle 2 of the State
22 Government Article.

23 SECTION 2. AND BE IT FURTHER ENACTED, That, for the purpose of the
24 Sick Leave Incentive Program, ~~administrative tracking of participating units shall~~
25 track sick leave usage ~~shall begin on~~ as of January 1, 2000 and eligible employees
26 shall not receive payment for unused sick leave until calendar year 2001.

27 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of
28 Budget and Management shall submit a report to the Governor and, subject to §
29 2-1246 of the State Government Article, to the General Assembly by October 15,
30 2003, that describes the effects of the Sick Leave Incentive Program on employee use
31 of sick leave, including the number of employees who participated in the Program, the
32 number of unused sick leave hours exchanged for payment, the total sick leave hours
33 used during the calendar year, the total payment received by employees, any
34 estimated overtime savings as a result of the Program, and any estimated reduction
35 in use of sick leave as a result of the Program.

1 SECTION 4. AND BE IT FURTHER ENACTED, That ~~the provisions of~~ this Act
2 shall take effect July 1, 2000.