
By: **Senator Della**

Introduced and read first time: February 4, 2005

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Transportation - Personnel - Disciplinary Action**

3 FOR the purpose of requiring that certain regulations adopted by the Secretary of
4 Transportation to govern the Department of Transportation's human resources
5 management system provide that an appointing authority or a designated
6 representative of the Department shall initiate certain steps before taking any
7 disciplinary action related to employee misconduct; requiring the regulations to
8 authorize the appointing authority or designated representative to suspend an
9 employee, with or without pay, under certain circumstances; providing that the
10 regulations shall require the appointing authority or designated representative
11 to inform the Secretary of Transportation of certain charges within a certain
12 amount of time if the employee is suspended without pay; providing that the
13 regulations shall require that an employee be placed on leave with pay for a
14 certain period of time under certain circumstances; providing that the
15 regulations shall establish that an appointing authority or a designated
16 representative and an employee may agree to the holding in abeyance of a
17 disciplinary action for a certain period of time under certain circumstances; and
18 generally relating to disciplinary action for Department of Transportation
19 personnel.

20 BY repealing and reenacting, without amendments,
21 Article - Transportation
22 Section 2-103.4(a)
23 Annotated Code of Maryland
24 (2001 Replacement Volume and 2004 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article - Transportation
27 Section 2-103.4(d)
28 Annotated Code of Maryland
29 (2001 Replacement Volume and 2004 Supplement)

30 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
31 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Transportation

2 2-103.4.

3 (a) Without regard to the laws of this State relating to other State employees,
4 the Secretary of Transportation may establish a human resources management
5 system for employees of the Department and its units. Any human resources
6 management system that the Secretary establishes under this section shall:

7 (1) Be based on merit;

8 (2) Include fair and equitable procedures for appointment, hiring,
9 promotion, layoff, removal, termination, redress of grievances, and reinstatement of
10 employees; and

11 (3) Permit employees to participate in the pension and retirement
12 systems for employees of the State of Maryland authorized under Division II of the
13 State Personnel and Pensions Article or any other pension and retirement systems
14 authorized by law.

15 (d) (1) The Secretary shall adopt regulations to govern the human resources
16 management system established under this section.

17 (2) The regulations shall address procedures for leave, appointment,
18 hiring, promotion, layoff, removal, termination, redress of grievances, and
19 reinstatement of employees and shall be presented to the Joint Committee on
20 Administrative, Executive, and Legislative Review under Title 10, Subtitle 1 of the
21 State Government Article.

22 (3) THE REGULATIONS SHALL PROVIDE THAT BEFORE TAKING ANY
23 DISCIPLINARY ACTION RELATED TO EMPLOYEE MISCONDUCT, AN APPOINTING
24 AUTHORITY OR DESIGNATED REPRESENTATIVE SHALL:

25 (I) INVESTIGATE THE ALLEGED MISCONDUCT;

26 (II) MEET WITH THE EMPLOYEE;

27 (III) CONSIDER ANY MITIGATING CIRCUMSTANCES;

28 (IV) DETERMINE THE APPROPRIATE DISCIPLINARY ACTION, IF ANY,
29 TO BE IMPOSED; AND

30 (V) GIVE THE EMPLOYEE A WRITTEN NOTICE OF THE
31 DISCIPLINARY ACTION TO BE TAKEN AND THE EMPLOYEE'S APPEAL RIGHTS.

32 (4) (I) THE REGULATIONS SHALL PROVIDE THAT THE APPOINTING
33 AUTHORITY OR DESIGNATED REPRESENTATIVE MAY SUSPEND AN EMPLOYEE, WITH
34 OR WITHOUT PAY, PENDING THE FILING OF CHARGES FOR REMOVAL.

35 (II) IF AN EMPLOYEE IS SUSPENDED WITHOUT PAY, THE
36 APPOINTING AUTHORITY OR DESIGNATED REPRESENTATIVE SHALL PROVIDE TO

1 THE SECRETARY THE CHARGES FOR REMOVAL WITHIN 14 CALENDAR DAYS AFTER
2 THE FIRST DAY OF THE SUSPENSION PERIOD.

3 (III) IF THE APPOINTING AUTHORITY OR DESIGNATED
4 REPRESENTATIVE FILES THE CHARGES FOR REMOVAL AFTER THE 14-DAY PERIOD
5 DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE EMPLOYEE SHALL BE
6 PLACED ON LEAVE WITH PAY UNTIL THE SECRETARY RECEIVES THE CHARGES.

7 (5) THE REGULATIONS SHALL PROVIDE THAT AN APPOINTING
8 AUTHORITY OR A DESIGNATED REPRESENTATIVE AND AN EMPLOYEE MAY AGREE TO
9 THE HOLDING IN ABEYANCE OF A DISCIPLINARY ACTION FOR A PERIOD NOT TO
10 EXCEED 18 MONTHS IN ORDER TO PERMIT AN EMPLOYEE TO IMPROVE CONDUCT OR
11 PERFORMANCE.

12 [(3)] (6) Subject to the provisions of paragraph [(4)](7) of this
13 subsection, the employee grievance procedures shall include, at a minimum, the
14 following sequence of levels of appeal:

15 (i) Initially an aggrieved employee shall present any grievance to
16 the appointing authority or a designated representative, who shall render a written
17 decision;

18 (ii) Any appeal shall be presented to the Secretary or a designated
19 representative, who shall render a written decision;

20 (iii) If the dispute is still unresolved, the appeal shall be referred to
21 the Office of Administrative Hearings or a mutually agreed upon third party arbiter
22 who may not hear grievances relating to classification, salary, or fiscal matters; and

23 (iv) For disciplinary actions only, either party may appeal any
24 decision of the Office of Administrative Hearings or a third party arbiter to the
25 Secretary of Budget and Management or that Secretary's designee.

26 [(4)] (7) These regulations shall include procedures that ensure that all
27 employees of the Department covered by this section and all employees hired after
28 June 1, 1992 shall be entitled to the same levels of appeal provided for in the State
29 employees' grievance procedures contained in Title 12 of the State Personnel and
30 Pensions Article. Any disciplinary action taken against such employees by the
31 Department shall include the same levels of appeal contained in Division I of the
32 State Personnel and Pensions Article and its implementing regulations.

33 [(5)] (8) (i) During any stage of a complaint, grievance, or other
34 administrative or legal action that concerns State employment by a full-time or
35 part-time executive service, career service, or commission plan employee of the
36 Department, or by a temporary or contractual employee of the Department, the
37 employee may not be subjected to coercion, discrimination, interference, reprisal, or
38 restraint by or initiated on behalf of the Department solely as a result of that
39 employee's pursuit of a grievance, complaint, or other administrative or legal action
40 that concerns State employment.

1 (ii) An employee of the Department may not intentionally take or
2 assist in taking an act of coercion, discrimination, interference, reprisal, or restraint
3 against another employee solely as a result of that employee's pursuit of a grievance,
4 complaint, or other administrative or legal action that concerns State employment.

5 (iii) An employee who violates the provisions of this paragraph is
6 subject to disciplinary action, including termination of employment.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2005.