

HOUSE BILL 1144

P4

(71r3428)

ENROLLED BILL

— Appropriations/Finance —

Introduced by **Delegates Jones, Haynes, Anderson, Anderton, Angel, Barkley, B. Barnes, D. Barnes, Branch, Buckel, Carr, Chang, Clippinger, Cullison, Dumais, Ebersole, Fennell, Frick, Glenn, Gutierrez, Healey, Hettleman, Hornberger, C. Howard, Jackson, Korman, Krimm, Lam, Lierman, Luedtke, McCray, A. Miller, Moon, Morales, Patterson, Pena-Melnyk, Platt, Reznik, Rosenberg, Sophocleus, Sydnor, Tarlau, Turner, Valderrama, Valentino-Smith, Waldstreicher, K. Young, and P. Young**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Payroll Recovery Act**

3 FOR the purpose of requiring the Central Payroll Bureau of the Office of the State
4 Comptroller to establish certain pay periods and pay certain employees within
5 certain periods of time; requiring each appointing authority to calculate and report
6 certain payroll information to the Central Payroll Bureau; requiring the Bureau each
7 appointing authority to provide each employee a notice of certain information and;
8 requiring the Bureau to provide to each employee a statement, each pay period, that
9 includes certain information; requiring the Bureau to provide notice of at least a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



~~certain number of pay periods before making certain changes; authorizing~~ *requiring*
 an employee or the employee's exclusive representative to initiate a certain grievance
 procedure if the ~~Bureau does not pay the employee~~ appointing authority does not
report certain payroll information in a certain manner; authorizing the grievance to
 be initiated ~~up to~~ *within* a certain ~~number of years~~ period of time *number of days*
 after the failure to pay occurs; *providing for a certain exception*; establishing the
 damages ~~the Bureau~~ an appointing authority is required to pay under certain
 circumstances; defining a certain term; providing that certain employees eligible to
 file a grievance under this Act that are barred by a certain time limitation may file
 the grievance on or before a certain date for an action that occurred during a certain
period of time; *providing for the termination of this Act*; and generally relating to the
 payment of certain wages.

BY repealing and reenacting, with amendments,

Article – State Personnel and Pensions
 Section 2–402 and 12–402
 Annotated Code of Maryland
 (2015 Replacement Volume and 2016 Supplement)

BY adding to

Article – State Personnel and Pensions
 Section 2–406 and 2–407
 Annotated Code of Maryland
 (2015 Replacement Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

That the Laws of Maryland read as follows:

Article – State Personnel and Pensions

2–402.

(a) Except as provided in subsection (b) of this section and notwithstanding any other law, the Central Payroll Bureau of the Office of the State Comptroller shall provide for the payment of all wages to:

(1) each officer and employee of the State who is paid from funds appropriated by the General Assembly; and

(2) whether or not paid from funds appropriated by the General Assembly, each officer and employee of:

(i) the University System of Maryland;

(ii) Morgan State University;

(iii) St. Mary's College of Maryland; and

1 (iv) Baltimore City Community College.

2 (b) The Central Payroll Bureau shall maintain all supporting payroll records for
3 the payment of wages under this section.

4 (c) (1) IN THIS SUBSECTION:

5 (I) "WAGE" MEANS ALL COMPENSATION THAT IS DUE TO AN
6 EMPLOYEE; AND

7 (II) "WAGE" INCLUDES:

8 1. A BONUS;

9 2. A COMMISSION;

10 3. A FRINGE BENEFIT;

11 4. OVERTIME WAGES;

12 5. PREMIUM PAY; OR

13 6. ANY OTHER REMUNERATION PROMISED FOR
14 SERVICE.

15 (2) THE CENTRAL PAYROLL BUREAU SHALL:

16 (I) ESTABLISH REGULAR PAY PERIODS; AND

17 (II) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS
18 SUBSECTION, PAY EACH EMPLOYEE ~~ALL WAGES DUE~~ AT LEAST ONCE EVERY ~~TWO~~ 2
19 WEEKS OR TWICE EACH MONTH.

20 (3) THE CENTRAL PAYROLL BUREAU MAY PAY AN ADMINISTRATIVE,
21 AN EXECUTIVE, OR A PROFESSIONAL EMPLOYEE LESS FREQUENTLY THAN
22 REQUIRED UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION.

23 (D) EACH APPOINTING AUTHORITY SHALL ACCURATELY AND TIMELY
24 CALCULATE AND REPORT TO THE CENTRAL PAYROLL BUREAU THE PAYROLL
25 INFORMATION FOR EACH EMPLOYEE.

26 2-406.

1 (A) ~~THE CENTRAL PAYROLL BUREAU OF THE OFFICE OF THE STATE~~
 2 ~~COMPTROLLER~~ EACH APPOINTING AUTHORITY SHALL PROVIDE EACH EMPLOYEE,

3 ~~(I)~~ AT THE TIME OF HIRING, NOTICE OF:

4 ~~(I)~~ (1) THE EMPLOYEE'S RATE OF PAY;

5 ~~(II)~~ (2) THE REGULAR PAY PERIODS; AND

6 ~~(III)~~ (3) THE EMPLOYEE'S LEAVE BENEFITS; ~~AND.~~

7 ~~(2)~~ (B) THE CENTRAL PAYROLL BUREAU OF THE OFFICE OF THE
 8 STATE COMPTROLLER SHALL PROVIDE FOR EACH EMPLOYEE, FOR EACH PAY
 9 PERIOD, A STATEMENT OF THE GROSS EARNINGS OF THE EMPLOYEE AND ANY
 10 DEDUCTIONS FROM THE GROSS EARNINGS.

11 ~~(B) THE CENTRAL PAYROLL BUREAU SHALL PROVIDE NOTICE OF AT LEAST~~
 12 ~~ONE PAY PERIOD BEFORE A CHANGE IN:~~

13 ~~(1) THE AMOUNT OF WAGES TO BE PAID; OR~~

14 ~~(2) THE DATE ON WHICH WAGES ARE TO BE PAID.~~

15 2-407.

16 (A) ~~IF THE CENTRAL PAYROLL BUREAU OF THE OFFICE OF THE STATE~~
 17 ~~COMPTROLLER DOES NOT PAY AN EMPLOYEE~~ AN APPOINTING AUTHORITY DOES
 18 NOT REPORT PAYROLL INFORMATION IN ACCORDANCE WITH § 2-402 OF THIS
 19 SUBTITLE, THE EMPLOYEE OR THE EMPLOYEE'S EXCLUSIVE REPRESENTATIVE MAY
 20 INITIATE A GRIEVANCE AT STEP TWO OF UNDER THE GRIEVANCE PROCEDURE
 21 ESTABLISHED UNDER § 12-204 TITLE 12, SUBTITLE 2 OF THIS ARTICLE.

22 (B) (1) ~~NOTWITHSTANDING~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF
 23 THIS SUBSECTION, AND NOTWITHSTANDING § 12-203(B) § 12-203 OF THIS ARTICLE,
 24 A GRIEVANCE UNDER SUBSECTION (A) OF THIS SECTION MAY SHALL BE INITIATED
 25 UP TO 2 YEARS NO LATER THAN 6 MONTHS AFTER THE DATE ON WHICH WITHIN 20
 26 DAYS AFTER THE FAILURE TO PAY OCCURRED.

27 (2) IF THE FAILURE TO PAY IS NOT KNOWN TO, OR DISCOVERED BY,
 28 THE EMPLOYEE WITHIN 20 DAYS AFTER THE FAILURE TO PAY OCCURS, A GRIEVANCE
 29 UNDER SUBSECTION (A) OF THIS SECTION MAY BE INITIATED NO LATER THAN 6
 30 MONTHS AFTER THE DATE ON WHICH THE FAILURE TO PAY OCCURRED.

1 (C) (1) ~~SUBJECT TO PARAGRAPH (2)~~ PARAGRAPHS (2) AND (3) OF THIS
 2 SUBSECTION, IN AN ACTION UNDER IF A GRIEVANCE IS INITIATED IN ACCORDANCE
 3 WITH SUBSECTION (A) OF THIS SECTION, AN EMPLOYEE IS ENTITLED TO WAGES AND
 4 DAMAGES IN THE AMOUNT OF 30% OF THE WAGE THAT THE CENTRAL PAYROLL
 5 BUREAU FAILED TO PAY UNLESS THE WAGE IS WITHHELD AS A RESULT OF A BONA
 6 FIDE DISPUTE.

7 ~~(2) THE DAMAGES UNDER PARAGRAPH (1) OF THIS SUBSECTION:~~

8 ~~(I) SHALL BE CALCULATED FOR EACH REGULAR PAY PERIOD~~
 9 ~~FOR WHICH THE WAGE IS NOT PAID; AND~~

10 ~~(II) MAY NOT EXCEED THREE TIMES THE AMOUNT OF WAGE DUE~~
 11 ~~FOR A PAY PERIOD.~~

12 (2) IF THE GRIEVANCE WAS FILED:

13 (I) IN THE FIRST 3 BUSINESS DAYS OF A PAY PERIOD, THEN
 14 DAMAGES SHALL START IN THE FOLLOWING REGULAR PAY PERIOD; OR

15 (II) AFTER THE THIRD BUSINESS DAY OF A PAY PERIOD, THEN
 16 THE DAMAGES SHALL START IN THE SECOND REGULAR PAY PERIOD FOLLOWING THE
 17 PAY PERIOD IN WHICH THE EMPLOYEE WAS NOT PAID THE EMPLOYEE'S FULL WAGE.

18 (3) THE DAMAGES UNDER PARAGRAPH (1) OF THIS SUBSECTION:

19 (I) MAY NOT BEGIN UNTIL AT LEAST ~~ONE~~ 1 REGULAR PAY
 20 PERIOD HAS ELAPSED SINCE THE EMPLOYEE WAS NOT PAID THE EMPLOYEE'S FULL
 21 WAGE DUE FOR A PAY PERIOD;

22 (II) SHALL INCREASE PER PAY PERIOD BY 30% OF THE WAGE
 23 THAT THE APPOINTING AUTHORITY FAILED TO REPORT;

24 (III) SHALL CONTINUE UNTIL THE PAY PERIOD WHEN THE
 25 APPOINTING AUTHORITY REPORTS THE MISSING WAGES AND DAMAGES, IF ANY, TO
 26 THE CENTRAL PAYROLL BUREAU; AND

27 (IV) MAY NOT EXCEED ~~THREE~~ 3 TIMES THE AMOUNT OF WAGE
 28 DUE THAT THE APPOINTING AUTHORITY FAILED TO REPORT FOR A PAY PERIOD.

29 12-402.

30 (a) Except as provided in subsection (b) of this section, the remedies available to
 31 a grievant under this title are limited to the restoration of the rights, pay, status, or benefits

1 that the grievant otherwise would have had if the contested policy, procedure, or regulation
2 had been applied appropriately as determined by the final decision maker.

3 (b) (1) A decision maker at Step Two or Step Three of the grievance procedure:

4 (I) may order an appointing authority to grant back pay; AND

5 (II) ON A FINDING THAT WAGES WERE WITHHELD IN VIOLATION
6 OF §§ 2-402 AND 2-407 OF THIS ARTICLE, SHALL ORDER THE PAYMENT OF DAMAGES
7 IN ACCORDANCE WITH § 2-407(C) OF THIS ARTICLE.

8 (2) (i) In a reclassification grievance back pay may be awarded for a
9 period not exceeding 1 year before the grievance procedure was initiated.

10 (ii) A back pay order under this paragraph is in the discretion of the
11 Secretary and the Office of Administrative Hearings.

12 (3) Subject to the limitations in Title 14, Subtitle 2 of this article, an
13 appointing authority shall carry out a back pay order **OR DAMAGES ORDER** issued under
14 this subsection.

15 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any other
16 provision of law, on or before July 31, 2017, an employee that is eligible to file a grievance
17 under this Act and is barred by any time limitation under the State Personnel and Pensions
18 Article may initiate a grievance established by this Act ~~on or before July 31, 2017~~ for an
19 action that occurred on or after ~~January 1, 2016~~ March 16, 2016, but before July 1, 2017.

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
21 1, 2017. It shall remain effective for a period of 2 years and, at the end of June 30, 2019,
22 with no further action required by the General Assembly, this Act shall be abrogated and of
23 no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.