

SENATE BILL 119

Unofficial Copy
P4
SB 692/99 - FIN

2000 Regular Session
0lr1129

By: **Senators Kelley, Mitchell, Blount, McFadden, Exum, Hughes, Hooper,
and Teitelbaum**

Introduced and read first time: January 17, 2000

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **State Personnel - Grievance Procedures - Award of Attorney's Fees**

3 FOR the purpose of providing that a grievant who prevails in a certain grievance
4 proceeding is entitled to reimbursement for certain attorney's fees from the unit
5 that employs the grievant under certain circumstances involving certain
6 decisions by circuit courts and administrative law judges; providing for the
7 application of this Act; providing for the termination of this Act; and generally
8 relating to the remedies available to grievants who prevail in grievance
9 proceedings.

10 BY repealing and reenacting, with amendments,
11 Article - State Personnel and Pensions
12 Section 12-402
13 Annotated Code of Maryland
14 (1997 Replacement Volume and 1999 Supplement)

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

17 **Article - State Personnel and Pensions**

18 12-402.

19 (a) Except as provided [in subsection (b)] SUBSECTIONS (B) AND (C) of this
20 section, the remedies available to a grievant under this title are limited to the
21 restoration of the rights, pay, status, or benefits that the grievant otherwise would
22 have had if the contested policy, procedure, or regulation had been applied
23 appropriately as determined by the final decision maker.

24 (b) (1) A decision maker at Step Two or Step Three of the grievance
25 procedure may order an appointing authority to grant back pay.

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

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

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

5 (C) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE TO A GRIEVANT
6 UNDER THIS TITLE, A GRIEVANT WHO PREVAILS IN A GRIEVANCE PROCEEDING
7 SHALL BE ENTITLED TO REIMBURSEMENT FROM THE UNIT THAT EMPLOYS THE
8 GRIEVANT FOR REASONABLE ATTORNEY'S FEES INCURRED BY THE GRIEVANT IN
9 CONNECTION WITH THE GRIEVANCE PROCEEDING IF:

10 (1) AN INITIAL DECISION BY AN ADMINISTRATIVE LAW JUDGE WAS
11 APPEALED BY THE GRIEVANT TO A CIRCUIT COURT;

12 (2) A DECISION WAS MADE BY THE CIRCUIT COURT TO REMAND THE
13 CASE TO THE ADMINISTRATIVE LAW JUDGE TO DETERMINE THE CASE ON ITS
14 MERITS;

15 (3) A DECISION WAS MADE IN FAVOR OF THE GRIEVANT BY THE
16 ADMINISTRATIVE LAW JUDGE ON THE REMANDED CASE AND THAT DECISION WAS
17 APPEALED TO THE CIRCUIT COURT; AND

18 (4) A FINAL DECISION WAS MADE IN FAVOR OF THE GRIEVANT BY THE
19 CIRCUIT COURT ON THE ADMINISTRATIVE LAW JUDGE'S DECISION ON THE
20 REMANDED CASE.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
22 construed retroactively and shall be applied to and interpreted to affect any grievant
23 who is the prevailing party under a final decision issued on or before February 28,
24 1997 in any grievance proceeding brought under Title 12 of the State Personnel and
25 Pensions Article.

26 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
27 effect July 1, 2000. It shall remain effective for a period of 1 year and, at the end of
28 June 30, 2001, with no further action required by the General Assembly, this Act shall
29 be abrogated and of no further force and effect.