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By: **Delegates Vallario, Bohanan, Brown, Carter, Gutierrez, Hutchins,  
O'Donnell, Simmons, Wood, and Zirkin**

Introduced and read first time: February 7, 2003

Assigned to: Appropriations

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A BILL ENTITLED

1 AN ACT concerning

2 **State Government - State Officers or State Employees - Application for Lost**  
3 **Pay and Attorney's Fees**

4 FOR the purpose of requiring the Board of Public Works to reimburse certain State  
5 officers or State employees who have applied for lost back pay and reasonable  
6 attorney's fees after having been investigated for or charged with criminal  
7 charges under certain circumstances, if the investigation has concluded and  
8 criminal charges have not been filed against the officer or employee or if final  
9 disposition of all of the charges did not result in a plea of nolo contendere, a  
10 guilty plea, or a finding of guilt; repealing a requirement that the Attorney  
11 General or the Attorney General's designee make certain determinations;  
12 providing for the application of this Act; and generally relating to an application  
13 by certain State officers or State employees for lost back pay and reasonable  
14 attorney's fees under certain circumstances.

15 BY repealing and reenacting, with amendments,  
16 Article - State Government  
17 Section 12-314 and 12-315  
18 Annotated Code of Maryland  
19 (1999 Replacement Volume and 2002 Supplement)

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

22 **Article - State Government**

23 12-314.

24 Subject to the limitations in this Part III of this subtitle, the Board of Public  
25 Works [may] SHALL approve reimbursement of a State officer or State employee or  
26 otherwise pay for LOST WAGES AND reasonable counsel fees that the officer or  
27 employee incurred:

1 (1) in connection with a criminal investigation into conduct as an officer  
2 or employee if the investigation has concluded and criminal charges have not been  
3 filed against the officer or employee; or

4 (2) in defending against criminal charges that related to conduct as an  
5 officer or employee if final disposition of all of the charges does not result in a plea of  
6 nolo contendere, a guilty plea, or a finding of guilt.

7 12-315.

8 (a) The Board of Public Works may not provide reimbursement or payment  
9 under this Part III of this subtitle unless:

10 (1) the State officer or State employee submits to the Board a written  
11 application for reimbursement; and

12 (2) the Attorney General certifies that:

13 (i) the applicant retained counsel; AND

14 (ii) the applicant gave the Attorney General written notice  
15 promptly after counsel was retained[; and

16 (iii) after review of the evidence and other information, the Attorney  
17 General or a designee appointed under this section made the following  
18 determinations:

19 1. in connection with the matter under criminal  
20 investigation, the applicant discharged the public responsibilities in good faith, did  
21 not engage in unlawful conduct, and was reasonable in retaining counsel and  
22 incurring the counsel fees for which reimbursement is sought; or

23 2. in connection with the matter that was the subject of  
24 criminal charges, the applicant discharged the public responsibilities in good faith  
25 and incurred reasonable counsel fees].

26 (b) Notwithstanding subsection (a)(2)(ii) of this section, the Board of Public  
27 Works may approve reimbursement to an applicant who fails to give the Attorney  
28 General notice promptly after counsel is retained if the Board determines that the  
29 failure is for good cause.

30 (c) If the Attorney General believes that it would be inappropriate for the  
31 Attorney General to make the determinations under subsection (a)(2)(iii) of this  
32 section, the Attorney General or the Board of Public Works may designate other  
33 counsel to carry out that duty.

34 (d) The determinations of the Attorney General or designee under this section  
35 are not subject to judicial review.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
2 construed to apply retroactively and shall be applied to and interpreted to affect any  
3 application for payment for lost wages and attorney's fees described in this Act filed  
4 on or after September 25, 2000.

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 2003.