

SB0353/507571/1

BY: Finance Committee

AMENDMENTS TO SENATE BILL 353
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Independent Personnel Systems in Executive Branch” and substitute “Department of Transportation’s Human Resources Management System”; strike beginning with “expanding” in line 4 down through “misconduct” in line 11 and substitute “requiring certain regulations to provide that, except for certain suspensions, an appointing authority or a designated representative may impose any disciplinary action against an employee in the Department of Transportation’s Human Resources Management System no later than a certain number of days after acquiring certain knowledge; requiring certain regulations to provide that, except for certain suspensions, an appointing authority or a designated representative may suspend an employee in the Human Resources Management System no later than a certain number of working days following the close of a certain shift; making certain stylistic and conforming changes; and generally relating to disciplinary actions against employees in the Department of Transportation’s Human Resources Management System”; and strike in their entirety lines 12 through 16, inclusive, and substitute:

“BY repealing and reenacting, with amendments,

Article – Transportation

Section 2-103.4(d)

Annotated Code of Maryland

(2001 Replacement Volume and 2007 Supplement)”.

AMENDMENT NO. 2

On pages 1 and 2, strike in their entirety the lines beginning with line 19 on page 1 through line 22 on page 2, inclusive, and substitute:

(Over)

“Article – Transportation

2–103.4.

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

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

(3) The regulations shall provide that before taking any disciplinary action related to employee misconduct, an appointing authority or A designated representative shall:

(i) Investigate the alleged misconduct;

(ii) Meet with the employee;

(iii) Consider any mitigating circumstances;

(iv) Determine the appropriate disciplinary action, if any, to be imposed; and

(v) Give the employee a written notice of the disciplinary action to be taken and the employee’s appeal rights.

(4) THE REGULATIONS SHALL PROVIDE THAT, EXCEPT AS PROVIDED UNDER PARAGRAPHS (5) AND (6) OF THIS SUBSECTION, AN APPOINTING AUTHORITY OR A DESIGNATED REPRESENTATIVE MAY IMPOSE ANY

DISCIPLINARY ACTION NO LATER THAN 30 DAYS AFTER THE APPOINTING AUTHORITY OR DESIGNATED REPRESENTATIVE ACQUIRES KNOWLEDGE OF THE MISCONDUCT FOR WHICH THE DISCIPLINARY ACTION IS IMPOSED.

(5) (I) THE REGULATIONS SHALL PROVIDE THAT, EXCEPT FOR A SUSPENSION UNDER PARAGRAPH (6) OF THIS SUBSECTION, AN APPOINTING AUTHORITY OR A DESIGNATED REPRESENTATIVE MAY SUSPEND AN EMPLOYEE WITHOUT PAY NO LATER THAN 5 WORKING DAYS FOLLOWING THE CLOSE OF THE EMPLOYEE'S NEXT SHIFT AFTER THE APPOINTING AUTHORITY OR DESIGNATED REPRESENTATIVE ACQUIRES KNOWLEDGE OF THE MISCONDUCT FOR WHICH THE SUSPENSION IS IMPOSED.

(II) SATURDAYS, SUNDAYS, LEGAL HOLIDAYS, AND EMPLOYEE LEAVE DAYS ARE EXCLUDED IN CALCULATING THE 5 WORKING DAY PERIOD UNDER THIS PARAGRAPH.

[(4)] (6) (i) The regulations shall provide that [the] AN appointing authority or A designated representative may suspend an employee, with or without pay, pending the filing of charges for termination.

(ii) If an employee is suspended without pay, the appointing authority or designated representative shall provide to the Secretary the charges for termination within 30 calendar days after the first day of the suspension period.

(iii) If the appointing authority or designated representative files the charges for termination after the 30-day period described in subparagraph (ii) of this paragraph, the employee shall be placed on leave with pay until the Secretary receives the charges.

[(5)] (7) The regulations shall provide that an appointing authority or a designated representative and an employee may agree to the holding in abeyance

(Over)

of a disciplinary action for a period not to exceed 18 months in order to permit an employee to improve conduct or performance.

[(6)] (8) Subject to the provisions of paragraph [(7)] (9) of this subsection, the employee grievance procedures shall include, at a minimum, the following sequence of levels of appeal:

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

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

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

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

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

[(8)] (10) (i) During any stage of a complaint, grievance, or other administrative or legal action that concerns State employment by a full-time or part-

time executive service, career service, or commission plan employee of the Department, or by a temporary or contractual employee of the Department, the employee may not be subjected to coercion, discrimination, interference, reprisal, or restraint by or initiated on behalf of the Department solely as a result of that employee's pursuit of a grievance, complaint, or other administrative or legal action that concerns State employment.

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

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