

# HOUSE BILL 1031

L6, D3

1lr1674

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By: **Delegates Healey, Frush, and Holmes**  
Introduced and read first time: February 11, 2011  
Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Local Government Employee Political Activity Protection Act**

3 FOR the purpose of prohibiting certain local governmental entities from taking, or  
4 threatening to take, certain disciplinary actions against an employee for  
5 expressing any political opinion, participating in any political activity, or  
6 refraining from providing any political service; authorizing an employee to bring  
7 and maintain a civil action against a local entity for damages, injunctive relief,  
8 or other civil relief for certain acts of unlawful discipline or threatened  
9 discipline in violation of this Act; establishing where and when an action under  
10 this Act may be commenced; authorizing an award of attorney's fees and costs to  
11 an employee that prevails in a civil action under this Act; defining a certain  
12 term; and generally relating to local government employees and political  
13 activity.

14 BY repealing and reenacting, with amendments,  
15 Article 24 – Political Subdivisions – Miscellaneous Provisions  
16 Section 13–101 and 13–103  
17 Annotated Code of Maryland  
18 (2005 Replacement Volume and 2010 Supplement)

19 BY repealing and reenacting, without amendments,  
20 Article 24 – Political Subdivisions – Miscellaneous Provisions  
21 Section 13–102 and 13–104 through 13–106  
22 Annotated Code of Maryland  
23 (2005 Replacement Volume and 2010 Supplement)

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

26 **Article 24 – Political Subdivisions – Miscellaneous Provisions**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



1 13-101.

2 (A) In this title[, “local] **THE FOLLOWING WORDS HAVE THE MEANINGS**  
3 **INDICATED.**

4 (B) “**LOCAL** entity” means:

5 (1) A county;

6 (2) A municipal corporation;

7 (3) A bicounty or multicounty agency;

8 (4) A county board of education;

9 (5) A public authority;

10 (6) A special taxing district; and

11 (7) Any other public entity whose employees are not covered by §  
12 2-304 of the State Personnel and Pensions Article.

13 (C) “**LOCAL ENTITY**” **INCLUDES AN AGENT, REPRESENTATIVE, OR**  
14 **DESIGNEE OF AN ENTITY SPECIFIED IN SUBSECTION (B) OF THIS SECTION.**

15 13-102.

16 Employment by a local entity does not affect any right or obligation of a citizen  
17 under the Constitution and laws of the United States of America or under the  
18 Constitution and laws of this State.

19 13-103.

20 (A) Except as otherwise provided in this title, an employee of a local entity:

21 (1) May freely participate in any political activity and express any  
22 political opinion; and

23 (2) May not be required to provide any political service.

24 (B) **A LOCAL ENTITY MAY NOT DISCHARGE, DISCIPLINE, OR OTHERWISE**  
25 **PENALIZE OR THREATEN TO DISCHARGE, DISCIPLINE, OR OTHERWISE PENALIZE**  
26 **AN EMPLOYEE FOR AN EMPLOYEE’S EXERCISE OF ANY RIGHT UNDER**  
27 **SUBSECTION (A) OF THIS SECTION.**

1           **(C) (1) IN ADDITION TO ANY APPLICABLE PENALTY UNDER § 13-106**  
2 **OF THIS TITLE, AN EMPLOYEE THAT IS SUBJECTED TO AN ACT PROHIBITED**  
3 **UNDER SUBSECTION (B) OF THIS SECTION MAY BRING AND MAINTAIN A CIVIL**  
4 **ACTION AGAINST THE LOCAL ENTITY FOR DAMAGES, INJUNCTIVE RELIEF, OR**  
5 **OTHER CIVIL RELIEF.**

6           **(2) AN ACTION UNDER THIS SUBSECTION SHALL BE COMMENCED**  
7 **IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE ALLEGED PROHIBITED**  
8 **ACT OCCURRED WITHIN 2 YEARS AFTER THE OCCURRENCE OF THE ALLEGED**  
9 **PROHIBITED ACT.**

10           **(3) IF AN EMPLOYEE PREVAILS IN A CIVIL ACTION UNDER THIS**  
11 **SUBSECTION, THE COURT MAY AWARD THE EMPLOYEE REASONABLE**  
12 **ATTORNEY'S FEES AND COSTS.**

13 13-104.

14           Notwithstanding any other law of this State effective on or before June 30,  
15 1973, or any local law, the restrictions imposed by this title are the only restrictions on  
16 the political activities of an employee of a local entity, except for the restrictions that  
17 are:

18           (1) Imposed on an employee of a board of supervisors of elections by §  
19 2-301 of the Election Law Article; or

20           (2) Provided in or authorized by the Montgomery County Charter and  
21 imposed on:

22                   (i) An officer or employee of the Montgomery County  
23 government who serves in a quasi-judicial capacity; or

24                   (ii) A member of a Montgomery County board or commission  
25 who serves in a quasi-judicial capacity.

26 13-105.

27           An employee of a local entity may not:

28           (1) Engage in political activity while on the job during working hours;  
29 or

30           (2) Advocate the overthrow of the government by unconstitutional or  
31 violent means.

32 13-106.

1           Any person who violates any provision of this title is guilty of a misdemeanor  
2 and, on conviction, is subject to a fine not exceeding \$3,000 or imprisonment not  
3 exceeding 6 months or both.

4           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 October 1, 2011.