

Chapter 617

(House Bill 1184)

AN ACT concerning

Department of Transportation – Employee Grievance Procedures – Streamlined Process

FOR the purpose of altering a certain provision of law concerning regulations adopted by the Secretary of Transportation governing grievance procedures for employees under the Department of Transportation; authorizing an aggrieved employee to appeal certain decisions to the Office of Administrative Hearings or to a certain other party; repealing certain provisions regarding the administration of certain disciplinary appeals by the Secretary of Budget and Management; repealing provisions that entitled certain employees in the Department to certain appeal procedures available to certain other State employees; requiring the Secretary of Transportation to establish certain appeal procedures for disciplinary action through regulations and policy; and generally relating to regulations concerning disciplinary action appeals for personnel in the Department of Transportation.

BY repealing and reenacting, without amendments,
Article – Transportation
Section 2–103.4(a)
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Transportation
Section 2–103.4(d)
Annotated Code of Maryland
(2008 Replacement Volume and 2010 Supplement)

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

Article – Transportation

2–103.4.

(a) Without regard to the laws of this State relating to other State employees, the Secretary of Transportation may establish a human resources management system for employees of the Department and its units. Any human resources management system that the Secretary establishes under this section shall:

- (1) Be based on merit;
- (2) Include fair and equitable procedures for appointment, hiring, promotion, layoff, removal, termination, redress of grievances, and reinstatement of employees; and
- (3) Permit employees to participate in the pension and retirement systems for employees of the State of Maryland authorized under Division II of the State Personnel and Pensions Article or any other pension and retirement systems authorized by law.

(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 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) (i) The regulations shall provide that the appointing authority or 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) The regulations shall provide that an appointing authority or a designated representative and an employee may agree to the holding in abeyance of a disciplinary action for a period not to exceed 18 months in order to permit an employee to improve conduct or performance.

(6) [Subject to the provisions of paragraph (7) of this subsection, the] **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; **AND**

(iii) If the dispute is still unresolved, the [appeal shall be referred] **AGGRIEVED EMPLOYEE MAY APPEAL** to the Office of Administrative Hearings or a mutually agreed upon third party arbiter [who] **THAT** 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) [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] **THE SECRETARY SHALL ESTABLISH APPEAL PROCEDURES FOR DISCIPLINARY ACTIONS THROUGH REGULATIONS AND POLICY.**

(8) (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.

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

Approved by the Governor, May 19, 2011.