

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 551

(Senator Kelley, *et al.*)

Finance

Economic Matters

Maryland Wage and Hour Law - Prohibited Acts of Employers - Adverse Action

This bill specifies that an employer may not take adverse action against an employee who files a complaint against the employer for a violation of the State's Wage and Hour Law.

Fiscal Summary

State Effect: None. The District Court can likely handle any potential increase in litigation with existing resources.

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The bill specifies that an employee is protected against adverse action for a complaint that is either written or expressed orally and includes any claim or assertion of right by an employee regarding the payment of wages under the Maryland Wage and Hour Law. The complaint may be expressed to the employer or employee's supervisor or the Commissioner of Labor and Industry.

Adverse actions prohibited by the bill include (1) discharge; (2) demotion; (3) threatening an employee with discharge or demotion; or (4) any other retaliatory action that results in a change to the terms or conditions of employment that would dissuade a reasonable employee from making a complaint or otherwise participating in an action related to the State's Wage and Hour Law.

The bill prohibits the conviction of an employer for a violation unless the evidence demonstrates that the employer had knowledge of the relevant complaint, testimony, or action for which the prosecution for retaliation is sought.

Current Law: The Maryland Wage and Hour Law is the State complement to the federal Fair Labor Standards Act of 1938. State law sets minimum wage standards that provide a maintenance level consistent with the needs of the population. Under the Maryland Wage and Hour Law, employers are generally required to pay each employee at least \$7.25 per hour (the current federal minimum wage). Exceptions exist for training wages and disabled employees of a sheltered workshop. A person who violates the Maryland Wage and Hour Law is guilty of a misdemeanor and is subject to a fine of up to \$1,000.

If an employer pays an employee less than the required wage, the employee may bring an action against the employer to recover the difference. At an employee's request, the Commissioner of Labor and Industry may take an assignment of the claim in trust, ask the Attorney General to bring an action, and consolidate two or more claims against an employer. If an employee is entitled to a recovery, the court may direct the employer to pay reasonable counsel fees and other costs but is not required to do so.

An employer may not hinder or delay an enforcement effort by the commissioner or discharge an employee because the employee (1) filed a complaint for recovery of wages or for a similar violation of the Wage and Hour Law; or (2) has testified in a related action.

The definition of employer in the State's Wage Payment and Collection and Wage and Hour laws does not include units of government.

Additional Information

Prior Introductions: None.

Cross File: HB 1130 (Delegate Hucker, *et al.*) - Economic Matters.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Budget and Management; Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History: First Reader - March 2, 2011
ncs/mcr Revised - Senate Third Reader - March 31, 2011

Analysis by: Michael T. Vorgetts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510