

HOUSE BILL 956

P1, L6

3lr2730
CF SB 719

By: **Delegates V. Turner, Hucker, and McHale**

Introduced and read first time: February 7, 2013

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **State and Local Government – Economic Aid – Award to Employers**

3 FOR the purpose of prohibiting, except under certain circumstances, a unit of State or
4 local government from granting economic aid to certain employers; requiring an
5 employer that receives certain economic aid to adhere to certain terms of
6 employment for a certain period of time; establishing a certain rebuttable
7 presumption; providing that a certain employer may not be required to adhere
8 to a certain term of employment under certain circumstances; requiring that a
9 unit notify certain employers of certain information; authorizing a certain
10 employee to file a certain action; requiring a court, under certain circumstances,
11 to award certain damages, relief, costs, and fees; prohibiting a certain employer
12 from retaliating against a certain employee; requiring a certain enabling act for
13 certain capital projects to include a certain provision; providing for the
14 construction of certain provisions of this Act; defining certain terms; and
15 generally relating to economic aid granted by State and local governments.

16 BY adding to

17 Article – State Finance and Procurement
18 Section 7–407 and 8–117(h)
19 Annotated Code of Maryland
20 (2009 Replacement Volume and 2012 Supplement)

21 BY adding to

22 Article 24 – Political Subdivisions – Miscellaneous Provisions
23 Section 1–113
24 Annotated Code of Maryland
25 (2011 Replacement Volume and 2012 Supplement)

26 BY adding to

27 Article – Tax – General
28 Section 1–206

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2010 Replacement Volume and 2012 Supplement)

3 BY adding to
4 Article – Tax – Property
5 Section 1–306
6 Annotated Code of Maryland
7 (2012 Replacement Volume)

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

10 **Article – State Finance and Procurement**

11 **7–407.**

12 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
13 MEANINGS INDICATED.

14 (2) (I) “ECONOMIC AID” MEANS A TAX CREDIT, A TAX REBATE,
15 A TAX REDUCTION, A LOAN, A GRANT, OR ANY OTHER AID GIVEN BY A UNIT THAT
16 RESULTS IN A COST OF AT LEAST \$100,000 TO THE UNIT.

17 (II) “ECONOMIC AID” INCLUDES LEASING PUBLIC
18 PROPERTY TO OPERATE A BUSINESS OR ALLOWING THE OPERATION OF A
19 BUSINESS ON PUBLIC PROPERTY IF MORE THAN \$100,000 IN PUBLIC FUNDS WAS
20 EXPENDED TO ACQUIRE, DEVELOP, OR RENOVATE THE PROPERTY.

21 (3) (I) “EMPLOYER” INCLUDES A BUSINESS THAT:

22 1. ENGAGES INDEPENDENT CONTRACTORS TO WORK
23 REGULARLY ON OR OUT OF THE PREMISES OF THE BUSINESS AND WHOSE WORK
24 IS PART OF THE REGULAR ECONOMIC ACTIVITY OF THE BUSINESS; OR

25 2. ENGAGES A TEMPORARY AGENCY OR LABOR
26 CONTRACTOR TO PROVIDE LABOR TO WORK REGULARLY ON THE PREMISES OF
27 THE BUSINESS.

28 (II) “EMPLOYER” DOES NOT INCLUDE:

29 1. A UNIT OR AN INSTRUMENTALITY OF THE STATE,
30 A LOCAL GOVERNMENT, OR A MUNICIPAL CORPORATION;

31 2. A NONPROFIT ORGANIZATION.

1 (4) “EMPLOYEE” MEANS AN INDIVIDUAL WHO IS ENGAGED TO
2 WORK FOR AN EMPLOYER AT THE LOCATION WHERE THE ECONOMIC AID THAT
3 THE EMPLOYER WILL RECEIVE WILL BE USED OR WHERE ECONOMIC AID THAT
4 THE EMPLOYER RECEIVED WAS USED.

5 (5) “UNIT” MEANS:

6 (I) THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION;
7 OR

8 (II) A UNIT OR AN INSTRUMENTALITY OF THE STATE, A
9 COUNTY, OR A MUNICIPAL CORPORATION.

10 (B) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT ANY OTHER
11 PROVISION OF LAW THAT PROVIDES FOR EMPLOYMENT TERMS AND
12 CONDITIONS THAT ARE MORE GENEROUS THAN AN EMPLOYER WHO RECEIVES
13 ECONOMIC AID IS REQUIRED TO PROVIDE UNDER THIS SECTION.

14 (C) A UNIT MAY NOT GRANT ECONOMIC AID, DIRECTLY OR INDIRECTLY,
15 TO AN EMPLOYER UNLESS THE EMPLOYER, FOR THE LOCATION FOR WHICH THE
16 AID WOULD BE USED, HAS AGREED TO:

17 (1) PAY EACH EMPLOYEE AT LEAST THE MINIMUM HOURLY WAGE
18 THAT WOULD BE PAID TO THE EMPLOYEE IF THE EMPLOYEE WERE ELIGIBLE
19 FOR THE LIVING WAGE UNDER § 18-103 OF THIS ARTICLE, WITH THE TIER
20 BEING DETERMINED ON THE BASIS OF WHERE THE EMPLOYEE RESIDES;

21 (2) PROVIDE REGULAR FULL-TIME EMPLOYMENT OF AT LEAST 30
22 HOURS A WEEK TO ALL EMPLOYEES UNLESS THE EMPLOYER HAS SHOWN BY
23 CLEAR AND CONVINCING EVIDENCE THAT THE USE OF PART-TIME OR
24 TEMPORARY EMPLOYEES IS REQUIRED BY BUSINESS NECESSITY;

25 (3) IF THE EMPLOYER EMPLOYS PART-TIME OR TEMPORARY
26 EMPLOYEES, OFFER ADDITIONAL WORK HOURS TO THE EMPLOYEES AS THE
27 HOURS BECOME AVAILABLE RATHER THAN EMPLOYING ADDITIONAL
28 PART-TIME OR TEMPORARY EMPLOYEES;

29 (4) UNLESS AN EMPLOYEE HAS REQUESTED AND THE EMPLOYER
30 HAS GRANTED A SPLIT-SHIFT SCHEDULE, SCHEDULE EACH EMPLOYEE TO A
31 CONTINUOUS WORKDAY WITH THE EXCEPTION OF REST AND MEAL PERIODS
32 THAT DO NOT EXCEED 1 HOUR IN DURATION;

1 **(5) UNLESS BUSINESS NECESSITY REQUIRES OTHERWISE OR AN**
2 **EMPLOYEE REQUESTS OTHERWISE IN WRITING ON THE EMPLOYEE'S OWN**
3 **INITIATIVE, SCHEDULE EACH EMPLOYEE'S DAYS OFF CONSECUTIVELY DURING A**
4 **WORKWEEK;**

5 **(6) IF AN EMPLOYEE IS SCHEDULED FOR NONCONSECUTIVE DAYS**
6 **OFF, PROVIDE AN ADDITIONAL DAY'S WAGES TO AN EMPLOYEE FOR THE**
7 **WORKWEEK IN WHICH THE EMPLOYEE IS NOT PROVIDED TWO CONSECUTIVE**
8 **DAYS OFF;**

9 **(6) PROVIDE PAID SICK LEAVE THAT ACCRUES AT 50% OF A DAY'S**
10 **WAGES PER MONTH WORKED BY THE EMPLOYEE TO EACH EMPLOYEE; AND**

11 **(7) PROVIDE PAID LEAVE TO EACH EMPLOYEE TO BE USED FOR**
12 **MANDATORY JURY DUTY.**

13 **(D) AN EMPLOYER WHO RECEIVES ECONOMIC AID FROM A UNIT SHALL**
14 **ADHERE TO THE TERMS LISTED IN SUBSECTION (C) OF THIS SECTION FOR THE**
15 **GREATER OF:**

16 **(1) THE TIME PERIOD DURING WHICH THE AID IS RECEIVED; OR**

17 **(2) 5 YEARS.**

18 **(E) THERE IS A REBUTTABLE PRESUMPTION THAT AN EMPLOYER IS**
19 **VIOLATING THE TERM OF EMPLOYMENT AGREED TO UNDER SUBSECTION (C)(2)**
20 **OF THIS SECTION IF MORE THAN 25% OF THE EMPLOYER'S EMPLOYEES AT THE**
21 **LOCATION FOR WHICH THE ECONOMIC AID IS USED ARE PART-TIME OR**
22 **TEMPORARY EMPLOYEES.**

23 **(F) IF THE EMPLOYER HAS ENTERED INTO A COLLECTIVE BARGAINING**
24 **AGREEMENT THAT CONTAINS AN EXPLICIT PROVISION THAT WOULD RESULT IN**
25 **A VIOLATION OF THE TERMS OF EMPLOYMENT AGREED TO UNDER SUBSECTION**
26 **(C) OF THIS SECTION, THE EMPLOYER MAY NOT BE REQUIRED TO ADHERE TO**
27 **THAT TERM OF EMPLOYMENT.**

28 **(G) A UNIT THAT GRANTS ECONOMIC AID TO AN EMPLOYER SHALL**
29 **NOTIFY ALL EMPLOYERS WHO RECEIVE INDIRECTLY THE ECONOMIC AID OF THE**
30 **TERMS OF EMPLOYMENT AGREED TO UNDER SUBSECTION (C) OF THIS SECTION.**

31 **(H) (1) AN EMPLOYEE OF AN EMPLOYER WHO IS VIOLATING THE**
32 **TERMS OF EMPLOYMENT AGREED TO BY THE EMPLOYER AND WHO RECEIVED**
33 **ECONOMIC AID FROM A UNIT MAY FILE AN ACTION IN A COURT OF COMPETENT**

1 JURISDICTION TO ENFORCE THE TERMS TO WHICH THE EMPLOYER HAS
2 AGREED.

3 (2) IF A COURT FINDS IN AN ACTION FILED UNDER PARAGRAPH
4 (1) OF THIS SUBSECTION THAT AN EMPLOYER HAS VIOLATED THIS SECTION,
5 THE COURT SHALL AWARD THE EMPLOYEE:

6 (I) ANY DAMAGES THAT RESULTED FROM THE VIOLATION;

7 (II) ANY EQUITABLE RELIEF THE COURT DEEMS IS
8 NECESSARY; AND

9 (III) REASONABLE COSTS AND ATTORNEY'S FEES.

10 (J) AN EMPLOYER MAY NOT RETALIATE AGAINST AN EMPLOYEE WHO:

11 (1) FILES AN ACTION UNDER SUBSECTION (H) OF THIS SECTION
12 OR OTHERWISE ALLEGES THAT THE EMPLOYER IS VIOLATING THIS SUBTITLE;
13 OR

14 (2) ATTEMPTS TO RECEIVE THE TERMS AND CONDITIONS OF
15 EMPLOYMENT THAT THE EMPLOYER WHO IS RECEIVING OR HAS RECEIVED
16 ECONOMIC AID IS REQUIRED TO PROVIDE TO THE EMPLOYEE.

17 8-117.

18 (H) AN ENABLING ACT OF THE GENERAL ASSEMBLY OF MARYLAND FOR
19 A CAPITAL PROJECT THAT QUALIFIES AS ECONOMIC AID UNDER § 7-407 OF THIS
20 ARTICLE SHALL INCLUDE THE FOLLOWING PARAGRAPH:

21 "IF APPLICABLE, THE GRANTEE SHALL COMPLY WITH THE PROVISIONS OF
22 § 7-407 OF THE STATE FINANCE AND PROCUREMENT ARTICLE."

23 Article 24 – Political Subdivisions

24 1-113.

25 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
26 MEANINGS INDICATED.

27 (2) "ECONOMIC AID" HAS THE MEANING STATED IN § 7-407 OF
28 THE STATE FINANCE AND PROCUREMENT ARTICLE.

1 **(3) “EMPLOYER” HAS THE MEANING STATED IN § 7-407 OF THE**
2 **STATE FINANCE AND PROCUREMENT ARTICLE.**

3 **(4) “LOCAL GOVERNMENT” MEANS:**

4 **(I) A COUNTY OR MUNICIPAL CORPORATION; OR**

5 **(II) A UNIT OR AN INSTRUMENTALITY OF THE COUNTY OR**
6 **MUNICIPAL GOVERNMENT.**

7 **(B) A LOCAL GOVERNMENT MAY NOT GRANT ECONOMIC AID, DIRECTLY**
8 **OR INDIRECTLY, TO AN EMPLOYER UNLESS THE REQUIREMENTS OF § 7-407 OF**
9 **THE STATE FINANCE AND PROCUREMENT ARTICLE ARE MET.**

10 **(C) AN EMPLOYER THAT RECEIVES ECONOMIC AID FROM A LOCAL**
11 **GOVERNMENT SHALL COMPLY WITH THE REQUIREMENTS OF § 7-407 OF THE**
12 **STATE FINANCE AND PROCUREMENT ARTICLE.**

13 **Article – Tax – General**

14 **1-206.**

15 **(A) IN THIS SECTION, “EMPLOYER” HAS THE MEANING STATED IN §**
16 **7-407 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

17 **(B) A TAX CREDIT, TAX REBATE, OR TAX REDUCTION MAY NOT BE**
18 **GRANTED, DIRECTLY OR INDIRECTLY, TO AN EMPLOYER UNLESS THE**
19 **EMPLOYER MEETS, IF APPLICABLE, THE REQUIREMENTS OF § 7-407 OF THE**
20 **STATE FINANCE AND PROCUREMENT ARTICLE.**

21 **Article – Tax – Property**

22 **1-306.**

23 **(A) IN THIS SECTION, “EMPLOYER” HAS THE MEANING STATED IN §**
24 **7-407 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

25 **(B) A TAX CREDIT, TAX REBATE, OR TAX REDUCTION MAY NOT BE**
26 **GRANTED, DIRECTLY OR INDIRECTLY, TO AN EMPLOYER UNLESS THE**
27 **EMPLOYER MEETS, IF APPLICABLE, THE REQUIREMENTS OF § 7-407 OF THE**
28 **STATE FINANCE AND PROCUREMENT ARTICLE.**

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2013.