

SENATE BILL 1031

P4

7lr3441
CF HB 1144

By: **Senators Benson, Astle, Conway, Currie, DeGrange, Feldman, Ferguson, Guzzone, Kagan, Kasemeyer, Kelley, King, Klausmeier, Lee, Madaleno, Manno, Mathias, McFadden, Middleton, Miller, Muse, Nathan–Pulliam, Peters, Pinsky, Ramirez, Robinson, Rosapepe, Smith, Young, Zirkin, and Zucker**

Introduced and read first time: February 9, 2017

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Payroll Recovery Act**

3 FOR the purpose of requiring the Central Payroll Bureau of the Office of the State
4 Comptroller to establish certain pay periods and pay certain employees within
5 certain periods of time; requiring the Bureau to provide each employee a notice of
6 certain information and a statement, each pay period, that includes certain
7 information; requiring the Bureau to provide notice of at least a certain number of
8 pay periods before making certain changes; authorizing an employee or the
9 employee's exclusive representative to initiate a certain grievance procedure if the
10 Bureau does not pay the employee in a certain manner; authorizing the grievance to
11 be initiated up to a certain number of years after the failure to pay occurs;
12 establishing the damages the Bureau is required to pay under certain circumstances;
13 providing that certain employees eligible to file a grievance under this Act that are
14 barred by a certain time limitation may file the grievance on or before a certain date;
15 and generally relating to the payment of certain wages.

16 BY repealing and reenacting, with amendments,
17 Article – State Personnel and Pensions
18 Section 2–402 and 12–402
19 Annotated Code of Maryland
20 (2015 Replacement Volume and 2016 Supplement)

21 BY adding to
22 Article – State Personnel and Pensions
23 Section 2–406 and 2–407
24 Annotated Code of Maryland
25 (2015 Replacement Volume and 2016 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – State Personnel and Pensions**

4 2–402.

5 (a) Except as provided in subsection (b) of this section and notwithstanding any
6 other law, the Central Payroll Bureau of the Office of the State Comptroller shall provide
7 for the payment of all wages to:

8 (1) each officer and employee of the State who is paid from funds
9 appropriated by the General Assembly; and

10 (2) whether or not paid from funds appropriated by the General Assembly,
11 each officer and employee of:

12 (i) the University System of Maryland;

13 (ii) Morgan State University;

14 (iii) St. Mary’s College of Maryland; and

15 (iv) Baltimore City Community College.

16 (b) The Central Payroll Bureau shall maintain all supporting payroll records for
17 the payment of wages under this section.

18 **(c) (1) IN THIS SUBSECTION:**

19 **(I) “WAGE” MEANS ALL COMPENSATION THAT IS DUE TO AN**
20 **EMPLOYEE; AND**

21 **(II) “WAGE” INCLUDES:**

22 **1. A BONUS;**

23 **2. A COMMISSION;**

24 **3. A FRINGE BENEFIT;**

25 **4. OVERTIME WAGES;**

26 **5. PREMIUM PAY; OR**

1 **6. ANY OTHER REMUNERATION PROMISED FOR**
2 **SERVICE.**

3 **(2) THE CENTRAL PAYROLL BUREAU SHALL:**

4 **(I) ESTABLISH REGULAR PAY PERIODS; AND**

5 **(II) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**
6 **SUBSECTION, PAY EACH EMPLOYEE ALL WAGES DUE AT LEAST ONCE EVERY TWO**
7 **WEEKS OR TWICE EACH MONTH.**

8 **(3) THE CENTRAL PAYROLL BUREAU MAY PAY AN ADMINISTRATIVE,**
9 **AN EXECUTIVE, OR A PROFESSIONAL EMPLOYEE LESS FREQUENTLY THAN**
10 **REQUIRED UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION.**

11 **2-406.**

12 **(A) THE CENTRAL PAYROLL BUREAU OF THE OFFICE OF THE STATE**
13 **COMPTROLLER SHALL PROVIDE EACH EMPLOYEE:**

14 **(1) AT THE TIME OF HIRING, NOTICE OF:**

15 **(I) THE EMPLOYEE'S RATE OF PAY;**

16 **(II) THE REGULAR PAY PERIODS; AND**

17 **(III) THE EMPLOYEE'S LEAVE BENEFITS; AND**

18 **(2) FOR EACH PAY PERIOD, A STATEMENT OF THE GROSS EARNINGS**
19 **OF THE EMPLOYEE AND ANY DEDUCTIONS FROM THE GROSS EARNINGS.**

20 **(B) THE CENTRAL PAYROLL BUREAU SHALL PROVIDE NOTICE OF AT LEAST**
21 **ONE PAY PERIOD BEFORE A CHANGE IN:**

22 **(1) THE AMOUNT OF WAGES TO BE PAID; OR**

23 **(2) THE DATE ON WHICH WAGES ARE TO BE PAID.**

24 **2-407.**

25 **(A) IF THE CENTRAL PAYROLL BUREAU OF THE OFFICE OF THE STATE**
26 **COMPTROLLER DOES NOT PAY AN EMPLOYEE IN ACCORDANCE WITH § 2-402 OF**
27 **THIS SUBTITLE, THE EMPLOYEE OR THE EMPLOYEE'S EXCLUSIVE REPRESENTATIVE**

1 MAY INITIATE A GRIEVANCE AT STEP TWO OF THE GRIEVANCE PROCEDURE
2 ESTABLISHED UNDER § 12-204 OF THIS ARTICLE.

3 (B) NOTWITHSTANDING § 12-203(B) OF THIS ARTICLE, A GRIEVANCE
4 UNDER SUBSECTION (A) OF THIS SECTION MAY BE INITIATED UP TO 2 YEARS AFTER
5 THE DATE ON WHICH THE FAILURE TO PAY OCCURRED.

6 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IN AN ACTION
7 UNDER SUBSECTION (A) OF THIS SECTION AN EMPLOYEE IS ENTITLED TO DAMAGES
8 IN THE AMOUNT OF 30% OF THE WAGE THAT THE CENTRAL PAYROLL BUREAU
9 FAILED TO PAY UNLESS THE WAGE IS WITHHELD AS A RESULT OF A BONA FIDE
10 DISPUTE.

11 (2) THE DAMAGES UNDER PARAGRAPH (1) OF THIS SUBSECTION:

12 (I) SHALL BE CALCULATED FOR EACH REGULAR PAY PERIOD
13 FOR WHICH THE WAGE IS NOT PAID; AND

14 (II) MAY NOT EXCEED THREE TIMES THE AMOUNT OF WAGE DUE
15 FOR A PAY PERIOD.

16 12-402.

17 (a) Except as provided in subsection (b) of this section, the remedies available to
18 a grievant under this title are limited to the restoration of the rights, pay, status, or benefits
19 that the grievant otherwise would have had if the contested policy, procedure, or regulation
20 had been applied appropriately as determined by the final decision maker.

21 (b) (1) A decision maker at Step Two or Step Three of the grievance procedure:

22 (I) may order an appointing authority to grant back pay; AND

23 (II) ON A FINDING THAT WAGES WERE WITHHELD IN VIOLATION
24 OF §§ 2-402 AND 2-407 OF THIS ARTICLE, SHALL ORDER THE PAYMENT OF DAMAGES
25 IN ACCORDANCE WITH § 2-407(C) OF THIS ARTICLE.

26 (2) (i) In a reclassification grievance back pay may be awarded for a
27 period not exceeding 1 year before the grievance procedure was initiated.

28 (ii) A back pay order under this paragraph is in the discretion of the
29 Secretary and the Office of Administrative Hearings.

30 (3) Subject to the limitations in Title 14, Subtitle 2 of this article, an
31 appointing authority shall carry out a back pay order OR DAMAGES ORDER issued under
32 this subsection.

1 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any other
2 provision of law, an employee that is eligible to file a grievance under this Act and is barred
3 by any time limitation under the State Personnel and Pensions Article may initiate a
4 grievance established by this Act on or before July 31, 2017.

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
6 1, 2017.