

# SENATE BILL 1031

P4

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CF HB 1144

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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

Re-referred to: Finance, February 15, 2017

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 3, 2017

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## CHAPTER \_\_\_\_\_

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 each appointing authority to calculate and report  
6 certain payroll information to the Central Payroll Bureau; requiring the Bureau each  
7 appointing authority to provide each employee a notice of certain information and;  
8 requiring the Bureau to provide to each employee a statement, each pay period, that  
9 includes certain information; requiring the Bureau to provide notice of at least a  
10 certain number of pay periods before making certain changes; authorizing requiring  
11 an employee or the employee's exclusive representative to initiate a certain grievance  
12 procedure if the Bureau does not pay the employee appointing authority does not  
13 report certain payroll information in a certain manner; authorizing the grievance to  
14 be initiated up to within a certain number of years days after the failure to pay  
15 occurs; providing for a certain exception; establishing the damages the Bureau an  
16 appointing authority is required to pay under certain circumstances; defining a  
17 certain term; providing that certain employees eligible to file a grievance under this  
18 Act that are barred by a certain time limitation may file the grievance on or before a  
19 certain date for an action that occurred during a certain period of time; providing for  
20 the termination of this Act; and generally relating to the payment of certain wages.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, with amendments,  
 2 Article – State Personnel and Pensions  
 3 Section 2–402 and 12–402  
 4 Annotated Code of Maryland  
 5 (2015 Replacement Volume and 2016 Supplement)

6 BY adding to  
 7 Article – State Personnel and Pensions  
 8 Section 2–406 and 2–407  
 9 Annotated Code of Maryland  
 10 (2015 Replacement Volume and 2016 Supplement)

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

13 **Article – State Personnel and Pensions**

14 2–402.

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

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

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

22 (i) the University System of Maryland;

23 (ii) Morgan State University;

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

25 (iv) Baltimore City Community College.

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

28 **(C) (1) IN THIS SUBSECTION:**

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

31 **(II) “WAGE” INCLUDES:**

- 1                           1.     A BONUS;
- 2                           2.     A COMMISSION;
- 3                           3.     A FRINGE BENEFIT;
- 4                           4.     OVERTIME WAGES;
- 5                           5.     PREMIUM PAY; OR
- 6                           6.     ANY     OTHER     REMUNERATION     PROMISED     FOR
- 7 SERVICE.

8                   (2)    THE CENTRAL PAYROLL BUREAU SHALL:

9                           (I)    ESTABLISH REGULAR PAY PERIODS; AND

10                           (II)   EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS

11 SUBSECTION, PAY EACH EMPLOYEE ~~ALL WAGES DUE~~ AT LEAST ONCE EVERY ~~TWO~~ 2

12 WEEKS OR TWICE EACH MONTH.

13                   (3)    THE CENTRAL PAYROLL BUREAU MAY PAY AN ADMINISTRATIVE,

14 AN EXECUTIVE, OR A PROFESSIONAL EMPLOYEE LESS FREQUENTLY THAN

15 REQUIRED UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION.

16                   (D)    EACH APPOINTING AUTHORITY SHALL ACCURATELY AND TIMELY

17 CALCULATE AND REPORT TO THE CENTRAL PAYROLL BUREAU THE PAYROLL

18 INFORMATION FOR EACH EMPLOYEE.

19    **2-406.**

20                   (A)    ~~THE CENTRAL PAYROLL BUREAU OF THE OFFICE OF THE STATE~~

21 ~~COMPTROLLER~~ EACH APPOINTING AUTHORITY SHALL PROVIDE EACH EMPLOYEE,

22                           ~~(1)~~    AT THE TIME OF HIRING, NOTICE OF:

23                                   ~~(1)~~    THE EMPLOYEE'S RATE OF PAY;

24                                   ~~(2)~~    THE REGULAR PAY PERIODS; AND

25                                   ~~(3)~~    THE EMPLOYEE'S LEAVE BENEFITS; ~~AND.~~

26                   ~~(2)~~ (B)    THE CENTRAL PAYROLL BUREAU OF THE OFFICE OF THE

27 STATE COMPTROLLER SHALL PROVIDE FOR EACH EMPLOYEE, FOR EACH PAY

1 PERIOD, A STATEMENT OF THE GROSS EARNINGS OF THE EMPLOYEE AND ANY  
2 DEDUCTIONS FROM THE GROSS EARNINGS.

3 ~~(B) THE CENTRAL PAYROLL BUREAU SHALL PROVIDE NOTICE OF AT LEAST~~  
4 ~~ONE PAY PERIOD BEFORE A CHANGE IN:~~

5 ~~(1) THE AMOUNT OF WAGES TO BE PAID; OR~~

6 ~~(2) THE DATE ON WHICH WAGES ARE TO BE PAID.~~

7 2-407.

8 (A) ~~IF THE CENTRAL PAYROLL BUREAU OF THE OFFICE OF THE STATE~~  
9 ~~COMPTROLLER DOES NOT PAY AN EMPLOYEE~~ AN APPOINTING AUTHORITY DOES  
10 NOT REPORT PAYROLL INFORMATION IN ACCORDANCE WITH § 2-402 OF THIS  
11 SUBTITLE, THE EMPLOYEE OR THE EMPLOYEE'S EXCLUSIVE REPRESENTATIVE MAY  
12 INITIATE A GRIEVANCE ~~AT STEP TWO OF~~ UNDER THE GRIEVANCE PROCEDURE  
13 ESTABLISHED UNDER ~~§ 12-204~~ TITLE 12, SUBTITLE 2 OF THIS ARTICLE.

14 (B) (1) ~~NOTWITHSTANDING EXCEPT AS PROVIDED IN PARAGRAPH (2) OF~~  
15 ~~THIS SUBSECTION, AND NOTWITHSTANDING § 12-203(B) § 12-203~~ OF THIS ARTICLE,  
16 A GRIEVANCE UNDER SUBSECTION (A) OF THIS SECTION ~~MAY~~ SHALL BE INITIATED  
17 ~~UP TO 2 YEARS AFTER THE DATE ON WHICH~~ WITHIN 20 DAYS AFTER THE FAILURE TO  
18 PAY OCCURRED.

19 (2) IF THE FAILURE TO PAY IS NOT KNOWN TO, OR DISCOVERED BY,  
20 THE EMPLOYEE WITHIN 20 DAYS AFTER THE FAILURE TO PAY OCCURS, A GRIEVANCE  
21 UNDER SUBSECTION (A) OF THIS SECTION MAY BE INITIATED NO LATER THAN 6  
22 MONTHS AFTER THE DATE ON WHICH THE FAILURE TO PAY OCCURRED.

23 (C) (1) ~~SUBJECT TO PARAGRAPH (2)~~ PARAGRAPHS (2) AND (3) OF THIS  
24 SUBSECTION, ~~IN AN ACTION UNDER~~ IF A GRIEVANCE IS INITIATED IN ACCORDANCE  
25 WITH SUBSECTION (A) OF THIS SECTION, AN EMPLOYEE IS ENTITLED TO WAGES AND  
26 DAMAGES ~~IN THE AMOUNT OF 30% OF THE WAGE THAT THE CENTRAL PAYROLL~~  
27 ~~BUREAU FAILED TO PAY~~ UNLESS THE WAGE IS WITHHELD AS A RESULT OF A BONA  
28 FIDE DISPUTE.

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

30 ~~(I) SHALL BE CALCULATED FOR EACH REGULAR PAY PERIOD~~  
31 ~~FOR WHICH THE WAGE IS NOT PAID; AND~~

32 ~~(II) MAY NOT EXCEED THREE TIMES THE AMOUNT OF WAGE DUE~~  
33 ~~FOR A PAY PERIOD.~~

1           **(2) IF THE GRIEVANCE WAS FILED:**

2                   **(I) IN THE FIRST 3 BUSINESS DAYS OF A PAY PERIOD, THEN**  
3 **DAMAGES SHALL START IN THE FOLLOWING REGULAR PAY PERIOD; OR**

4                   **(II) AFTER THE THIRD BUSINESS DAY OF A PAY PERIOD, THEN**  
5 **THE DAMAGES SHALL START IN THE SECOND REGULAR PAY PERIOD FOLLOWING THE**  
6 **PAY PERIOD IN WHICH THE EMPLOYEE WAS NOT PAID THE EMPLOYEE'S FULL WAGE.**

7           **(3) THE DAMAGES UNDER PARAGRAPH (1) OF THIS SUBSECTION:**

8                   **(I) MAY NOT BEGIN UNTIL AT LEAST 1 REGULAR PAY PERIOD**  
9 **HAS ELAPSED SINCE THE EMPLOYEE WAS NOT PAID THE EMPLOYEE'S FULL WAGE**  
10 **DUE FOR A PAY PERIOD;**

11                   **(II) SHALL INCREASE PER PAY PERIOD BY 30% OF THE WAGE**  
12 **THAT THE APPOINTING AUTHORITY FAILED TO REPORT;**

13                   **(III) SHALL CONTINUE UNTIL THE PAY PERIOD WHEN THE**  
14 **APPOINTING AUTHORITY REPORTS THE MISSING WAGES AND DAMAGES, IF ANY, TO**  
15 **THE CENTRAL PAYROLL BUREAU; AND**

16                   **(IV) MAY NOT EXCEED 3 TIMES THE AMOUNT OF WAGE DUE THAT**  
17 **THE APPOINTING AUTHORITY FAILED TO REPORT FOR A PAY PERIOD.**

18 12-402.

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

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

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

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

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

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

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

6 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any other  
7 provision of law, on or before July 31, 2017, an employee that is eligible to file a grievance  
8 under this Act and is barred by any time limitation under the State Personnel and Pensions  
9 Article may initiate a grievance established by this Act ~~on or before July 31, 2017~~ for an  
10 action that occurred on or after March 16, 2016, but before July 1, 2017.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
12 1, 2017. It shall remain effective for a period of 2 years and, at the end of June 30, 2019,  
13 with no further action required by the General Assembly, this Act shall be abrogated and  
14 of no further force and effect.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.