

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1143
Economic Matters

(Delegate Lierman, *et al.*)

Finance

Maryland Pay Stub Transparency Act of 2017

This bill expands the contents of the initial wage notice that an employer must provide to employees and modifies the timeframe for doing so. An employer must provide an employee within 30 days after the first date of employment, instead of at the time of hiring, written notice of the information required under current law, plus the basis of how the employee is paid, whether the employee's wages would be subject to a tip credit, allowances claimed, and contact information of the employer. On written request of an employee, an employer must provide an explanation in writing of how the employee's wages were calculated for one or more pay periods.

Fiscal Summary

State Effect: General fund expenditures increase by \$97,500 in FY 2018 and by \$45,500 annually beginning in FY 2019 for the Department of Labor, Licensing, and Regulation (DLLR) to conduct outreach and make changes to the complaint tracking database. Imposition of existing penalty provisions is not expected to materially affect State finances.

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	97,500	45,500	45,500	45,500	45,500
Net Effect	(\$97,500)	(\$45,500)	(\$45,500)	(\$45,500)	(\$45,500)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None. The bill does not apply to local governments as employers.

Small Business Effect: Minimal. Small businesses must provide written notice of specified information to employees within 30 days after the employee's first date of employment and provide a written explanation of how an employee's wages were calculated if requested by the employee.

Analysis

Current Law: Maryland's Wage Payment and Collection Law regulates the payment of wages by employers in the State. The law requires employers to pay workers the wage promised; establish regular paydays; pay wages when due; pay employees in a specified manner; pay employees at least once every two weeks, with exceptions; furnish employees with a statement of gross earnings; advise employees of their rate of pay and designated payday; and pay employees all wages due on termination of employment. DLLR's Division of Labor and Industry enforces the State's Wage Payment and Collection Law. Unless otherwise specified, the definition of "employer" in the State's Wage Payment and Collection Law does not include units of government.

At the time of hiring, an employer must provide a new employee with notice of the employee's rate of pay, regular paydays, and leave benefits. For each pay period, an employer must provide each employee with a statement of the employee's gross earnings and deductions. An employer must provide notice of any change in a payday or wage at least one pay period in advance, but an employer is not prohibited from increasing an employee's wages without advance notice.

Whenever it is determined that the State's Wage Payment and Collection Law has been violated, the commissioner may (1) try to resolve the violation informally through mediation; (2) ask the Office of the Attorney General to bring an action on behalf of the employee; or (3) bring an action on behalf of the employee in the county where the violation allegedly occurred.

In wage complaints amounting to \$3,000 or less, the Commissioner of Labor and Industry may review and investigate the complaint and may either issue an order requiring the employer to pay, or dismiss, the claim. Under specified circumstances, the commissioner may proceed in District Court to enforce payment of the order.

For wage complaints over \$3,000, an employee entitled to wages from an employer may – after two weeks have elapsed – bring an action against the employer in a court of competent jurisdiction to recover the unpaid wages.

If a court determines that an employer withheld an employee's wage unlawfully, and not as a result of a bona fide dispute, the court may award the employee up to three times the amount of wages owed, counsel fees, and other costs.

Employers who violate the State's Wage Payment and Collection Law are guilty of a misdemeanor and may be fined up to \$1,000.

State Expenditures: The bill creates additional employer wage notification requirements and requires employers to provide a written explanation on how an employee's wages were calculated if requested. DLLR estimates it could receive as many as 25 complaints annually alleging violations that would need to be investigated and processed by the division; therefore, DLLR estimates that it needs an additional wage and hour investigator. However, the bill's wage notification requirements may facilitate rapid resolution of wage and hour investigations and lead to less confusion over an employee's wages by requiring an employer to provide a written explanation of how the employee's wages were calculated if requested. Thus, the Department of Legislative Services (DLS) assumes that DLLR can implement the bill with existing staff.

DLLR advises that it must develop employer notification materials and conduct outreach efforts to inform employers of the new requirements. Additionally, changes must be made in the database used by the Employment Standards Service and Worker Classification Protection units. DLS concurs. Thus, general fund expenditures increase for DLLR by \$97,450 in fiscal 2018, which accounts for the bill's October 1, 2017 effective date. This estimate includes \$97,000 to make changes to DLLR's complaint tracking database and \$450 for outreach materials. Future year expenditures reflect ongoing maintenance and modifications to the database and ongoing outreach materials.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 5, 2017
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