

**Department of Legislative Services**  
 Maryland General Assembly  
 2019 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

Senate Bill 329  
 Finance

(Senator Smith, *et al.*)

**Maryland Wage Payment and Collection Law - Awards of Certain Fees and Costs and Prohibition Against Retaliation**

This bill authorizes the court to award the Attorney General reasonable counsel fees and other costs if a court finds, in a case brought by either the Attorney General or the Commissioner of Labor and Industry, that an employer withheld the wage of an employee in violation of the State’s Wage Payment and Collection Law. If an employee brings an action against the employer to recover unpaid wages and the court finds that the employer unlawfully withheld wages, the court may award the employee reasonable counsel fees and other costs, regardless of whether the employer withheld the wages as part of a bona fide dispute. Additionally, the bill prohibits an employer from taking adverse action as specified in the bill against an employee who takes specified actions related to the State’s Wage Payment and Collection Law.

**Fiscal Summary**

**State Effect:** General fund expenditures increase by \$226,200 in FY 2020 for the Department of Labor, Licensing, and Regulation (DLLR). Out-year expenditures reflect annualization and the elimination of one-time start-up costs. General fund revenues increase minimally for the court awarding the Attorney General legal fees and from additional fines imposed on employers. The State is not subject to the Wage Payment and Collection Law as an employer.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
GF Revenue	-	-	-	-	-
GF Expenditure	\$226,200	\$222,000	\$228,900	\$236,300	\$244,000
Net Effect	(\$226,200)	(\$222,000)	(\$228,900)	(\$236,300)	(\$244,000)

*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. The bill is not anticipated to materially affect the circuit courts.

**Small Business Effect:** Minimal.

## 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.

The commissioner may investigate a violation of the Wage Payment and Collection Law only upon receipt of a written complaint by an employee. 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 Revenues:** DLLR anticipates investigating more violations of the State's Wage Payment and Collection Law under the bill, particularly for adverse actions taken against employees, which are not prohibited under current law, so general fund revenues may increase minimally due to additional fines assessed against violators of the law. Additionally, general fund revenues increase, likely minimally, to the extent the Office of the Attorney General is awarded reasonable counsel fees and other costs.

**State Expenditures:** The Division of Labor and Industry anticipates receiving as many as 100 claims per year alleging adverse action violations. DLLR cannot absorb the additional workload within existing resources and requires additional staffing to respond to the increase in inquiries and complaints prompted by the bill. The regular staff needed to respond to and manage the additional workload created by the bill includes an assistant Attorney General and two civil rights officers (each of whom could handle 50 cases a year). Additionally, changes must be made to the complaint tracking database used by the Employment Standards Service and Wage and Hour units.

Thus, general fund expenditures increase for DLLR by \$266,178 in fiscal 2020, which accounts for the bill's October 1, 2019 effective date. This estimate reflects the cost of hiring two civil rights officers and one assistant Attorney General to investigate complaints and enforce the new requirements. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Regular Positions	3.0
Regular Salaries and Fringe Benefits	\$155,132
One-time Start-up Costs	59,570
Operating Expenses	<u>11,476</u>
<b>Total FY 2020 State Expenditures</b>	<b>\$226,178</b>

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

The bill is not expected to materially affect the workload of the District Court.

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### **Additional Information**

**Prior Introductions:** A similar bill, SB 726 of 2017, received a hearing in the Senate Finance Committee, but no other action was taken. Additionally, similar bills were introduced in the 2014 and 2016 sessions.

**Cross File:** HB 972 (Delegate Shetty, *et al.*) - Economic Matters.

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

**Fiscal Note History:** First Reader - February 19, 2019  
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Analysis by: Heather N. Ruby

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