

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 119

(Chair, Finance Committee)(By Request - Departmental -
Labor)

Finance

Economic Matters

Labor and Employment - Wage Payment and Collection - Order to Pay Wages

This departmental bill increases the threshold from \$3,000 to \$5,000 for a complaint of unpaid wages to be subject to an order by the Commissioner of Labor and Industry for an employer to pay wages. **The bill takes effect July 1, 2020.**

Fiscal Summary

State Effect: The bill's changes can be handled with existing budgeted resources. The State is not subject to the Wage Payment and Collection Law as an employer.

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

Small Business Effect: The Maryland Department of Labor (MDL) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

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 or twice in each month, 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. MDL'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.

However, for wage complaints amounting to \$3,000 or less, the Commissioner of Labor and Industry uses an expedited process. For these cases, the commissioner must review the complaint and may investigate the claim and may either issue an order requiring the employer to pay or dismiss the claim. Within 30 days after receipt of the order to pay wages, the employer may request an administrative hearing. 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.

Background: Between fiscal 2017 and 2019, the Commissioner of Labor and Industry received an average of 97 claims annually for unpaid wages between \$3,000 and \$5,000.

For claims of unpaid wages over \$3,000, current law requires an action to be brought in court. MDL advises that it typically takes one to two years for these court actions to be resolved and often the employer dissolves the company before a court issues an order. The wage order process for claims of \$3,000 or less is more expedient since, once a determination is made, most claims are paid or referred to the Central Collection Unit within 120 days if there are no appeals.

State Fiscal Effect: MDL anticipates receiving the same number of unpaid wage complaints, but the bill increases the number of complaints subject to the wage order process instead of having to be settled through the District Court. Thus, the bill enables the

Commissioner of Labor and Industry to more quickly resolve claims for unpaid wages. MDL advises that the increased administrative workload for handling more cases internally can be accomplished with existing resources.

The Office of Administrative Hearings (OAH) currently receives appeals of wage orders of \$3,000 or less. Since the volume of these appeals is relatively small, OAH does not expect the bill to significantly increase the number of wage order appeals; thus, OAH can handle any increase in appeals with existing resources.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Maryland Department of Labor; Office of Administrative Hearings; Department of Legislative Services

Fiscal Note History: First Reader - January 14, 2020
mr/mcr Third Reader - February 4, 2020

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Wage Payment and Collection - Order To Pay Wages

BILL NUMBER: SB 119

PREPARED BY: Mischelle Vanreusel for Matt Helminiak, Commissioner of Labor & Industry

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS