

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 205

Appropriations

(Delegate Solomon)

Finance

Employment Standards – Firefighters – Payment of Wages and Payroll Information

This bill requires a governmental unit that employs a firefighter to pay overtime wages for each hour over 168 hours that a firefighter works during a 28-day work period. A county or municipality must provide a firefighter (1) at the time of hiring and at the time of any change of the firefighter's rate of pay, notice of the firefighter's rate of pay, the regular pay periods, and the firefighter's overtime rates of pay and (2) for each pay period, a statement of the hours worked, gross earnings, and deductions. The bill specifies the grievance process if a county or municipality fails to pay wages due or provide the required information. In specified circumstances, a firefighter is entitled to wages and damages.

Fiscal Summary

State Effect: Special fund expenditures for the Transportation Trust Fund (TTF) are likely not materially affected. The Maryland Department of Labor (MD Labor) and the Office of Administrative Hearings (OAH) can handle enforcement of the bill with existing resources, as discussed below. Revenues are not affected.

Local Effect: Local government expenditures likely increase, potentially significantly in some jurisdictions, beginning in FY 2026 to pay additional overtime wages to firefighters or hire more firefighters.

Small Business Effect: None.

Analysis

Bill Summary: In calculating overtime hours for a firefighter, the employer must include all regularly scheduled hours and if the firefighter used earned or accrued leave during all

or part of the regularly scheduled hours, may not be required to include earned or accrued leave in excess of 42 hours per week. A governmental unit may not be determined to have violated the overtime pay requirements if it pays overtime wages using an average of no more than 42 hours per week and a work period of between 7 and 28 days or is a party to a firefighter collective bargaining agreement that defines a shift as 42 hours per week.

The bill applies prospectively and may not be applied or interpreted to have any effect on or application to any collective bargaining agreements in effect before October 1, 2025.

Current Law: Under Maryland's Wage and Hour Law, an employer is required to pay an overtime wage of at least 1.5 times the usual hourly wage for each hour over 40 hours that an employee works during one work week. However, the definition of "employer" in the Maryland's Wage and Hour Law generally does not include units of government except for specific provisions, like the minimum wage requirement. Thus, a unit of government is not subject to overtime provisions under Maryland's Wage and Hour Law. For additional related information, see the **Appendix – Maryland Wage and Hour Law**.

Maryland's Wage Payment and Collection Law regulates the payment of wages by employers in the State. Unless otherwise specified, the definition of "employer" in the State's Wage Payment and Collection Law does not include units of government. Under Maryland's Wage Payment and Collection Law, an employer must give to each employee at the time of hiring, written notice of the employee's rate of pay, the regular paydays that the employer sets, and leave benefits, and for each pay period, a written statement on the physical pay stub or the online pay statement that includes:

- the employer's name registered with the State, address, and telephone number;
- the date of payment and the beginning and ending dates of the pay period;
- the number of hours worked during the pay period, unless the employee is exempt from federal and State overtime requirements;
- the rates of pay;
- the gross and net pay earned during the pay period;
- the amount and name of all deductions;
- a list of additional bases of pay, including bonuses, commissions on sales, or other bases; and
- the applicable piece rates of pay and the number of pieces completed at each piece rate for each employee paid at a piece rate.

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.

Federal Fair Labor Standards Act

Under Section 7(k) of the federal Fair Labor Standards Act (FLSA), employees engaged in fire protection or law enforcement may be paid overtime on a “work period” basis. The regulations establish the maximum allowable non-overtime hours as 212 hours per 28-day period for firefighters. Under certain prescribed conditions, a State or local government agency may give compensatory time, at a rate of not less than 1.5 hours for each overtime hour worked, in lieu of cash overtime compensation. Employees engaged in police and fire protection work may accrue up to 480 hours of compensatory time. When the state law differs from the federal FLSA, an employer must comply with the standard most protective to employees.

State Expenditures: The Maryland Aviation Administration (MAA) within the Maryland Department of Transportation employs firefighters at the Baltimore/Washington International Thurgood Marshall Airport. These firefighters are scheduled to work seven 24-hour shifts in a 28-day period, totaling 168 hours in a 28-day period. Since firefighters are not scheduled to work more than 168 hours in a 28-day period, the bill has no immediate fiscal effect. To the extent that there are unscheduled absences, and firefighters are required to work more than 168 hours in a 28-day period, TTF expenditures may increase. However, MAA advises that it currently pays overtime when firefighters work more than 24 hours in a shift, so the bill does not substantially change existing practice.

Under current law, MD Labor investigates and enforces complaints regarding overtime pay. Under the bill, a firefighter employed by a county or municipality, or the firefighter’s exclusive representative, may file a grievance under any applicable grievance procedure or collective bargaining agreement if the county or municipality does not provide specified payroll information or wages due. This grievance process enables a firefighter to recover wages from failure to pay overtime wages, so some firefighters may opt to file grievances under this process instead of having MD Labor enforce overtime pay. However, to the extent that MD Labor receives additional complaints, MD Labor can likely investigate those complaints with existing resources.

Under current law, OAH has authority to conduct hearings involving grievances and disciplinary appeals of specified State employees, and additionally hears contested cases regarding wage payments referred by MD Labor. Thus, to the extent that firefighters employed by the State file overtime wage grievances, OAH can handle an increase in cases with existing resources. Additionally, OAH notes that it needs to train administrative law judges on substantive aspects of the bill, which it can do with existing resources.

Local Expenditures: The bill has no effect on local jurisdictions that do not employ firefighters, like Charles, Dorchester, and Garrett counties. Prince George’s County notes

that there is no fiscal impact for the county as it currently pays firefighters overtime wages in accordance with the requirements of the bill.

However, if local jurisdictions employ firefighters, depending on how overtime for firefighters is currently calculated, overtime expenditures likely increase, potentially significantly. Federal law generally requires governments to pay firefighters overtime wages after 212 hours are worked in a 28-day period, and under the bill, local jurisdictions must pay overtime wages after 168 hours are worked in a 28-day period.

The Maryland Municipal League notes that only a handful of municipalities have paid firefighters as employees, but for those municipalities that do employ firefighters, expenditures may increase depending on how municipalities currently calculate overtime. A few local jurisdictions, such as Frederick, Howard, and Montgomery counties and Baltimore City, estimate their personnel costs increasing by millions of dollars as a result of paying additional overtime wages or hiring more firefighters to cover shifts. Expenditures may increase further if grievances are filed and damages are awarded. Baltimore City expects to implement rolling closures of four or five fire companies as a result of these increased costs.

Additionally, local jurisdictions with firefighters must comply with the bill's payroll reporting requirements. Montgomery County estimates expenditures of approximately \$70,000 for programming costs in fiscal 2026 to comply with the payroll reporting requirements. However, the Maryland Municipal League reports the payroll reporting requirement can likely be handled with existing resources for municipalities.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 1117 and HB 900 of 2024.

Designated Cross File: SB 124 (Senator Kramer) - Finance.

Information Source(s): Anne Arundel, Charles, Dorchester, Garrett, Howard, Montgomery, and Prince George's counties; Baltimore City; Maryland Association of Counties; cities of College Park, Frostburg, and Rockville; Maryland Municipal League; Maryland Department of Labor; Department of State Police; Maryland Department of Transportation; Office of Administrative Hearings; U.S. Department of Labor; Department of Legislative Services

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Appendix – Maryland Wage and Hour Law

The Maryland Wage and Hour Law is the State complement to the federal Fair Labor Standards Act, which specifies minimum wage and overtime requirements for employers and employees in the State. State law specifies that an employee must be paid the greater of the federal minimum wage (which is currently \$7.25 per hour) or \$15.00 per hour. However, an employer may pay 85% of the State minimum wage rate to employees younger than age 18.

The Maryland Wage and Hour Law and minimum wage requirements do not apply to certain categories of employees, including those defined as administrative, executive, or professional; certain seasonal employees; part-time employees younger than age 16; salesmen and those who work on commission; an employer's immediate family; drive-in theater employees; employees training in a special education program in a public school; employees of an establishment that sells food and drink for on-premises consumption and has an annual gross income of \$400,000 or less; employees employed by an employer who is engaged in canning, freezing, packing, or first processing of perishable or seasonal fresh fruits, vegetables, poultry, or seafood; certain farm workers; specified minor league baseball players; and covered employees under the Secure Maryland Wage Act.

Generally, the employer of a tipped employee is allowed a tip credit that can be applied against the direct wages paid by the employer. The employee can be paid tipping wages so long as the wages plus the tips received equal at least the minimum wage, the employee retains all tips, and the employee customarily receives more than \$30.00 a month in tips. The tip credit is equal to the State minimum wage, less \$3.63. Thus, the wage paid by employers to tipped employees is \$3.63 as long as their wages plus tips equal the minimum wage.

Under Maryland's Wage and Hour Law, an employer is required to pay an overtime wage of at least 1.5 times the usual hourly wage for each hour over 40 hours that an employee works during one work week. This requirement does not apply to an employer that is subject to federal rail laws; a nonprofit concert promoter, legitimate theater, music festival, music pavilion, or theatrical show; or specified amusement or recreational establishments. It also does not apply to an employee for whom the U.S. Secretary of Transportation sets qualifications and maximum hours of service under federal law; a mechanic, parts person, or salesperson, under certain conditions; a driver employed by a taxicab operator; or specified air carrier employees under certain conditions. Also, specific exemptions apply for farm work, bowling establishments, and infirmaries.

If an employer pays less than the wages required, the employee may bring an action against the employer to recover (1) the difference between the wage paid to the employee and the wage required; (2) an additional amount equal to the difference as liquidated damages; and (3) legal fees. The court must award these differences in wages, damages, and counsel fees if the court determines that an employee is entitled to recovery. However, if an employer shows to the satisfaction of the court that the employer acted in good faith and reasonably believed that the wages paid to the employee were not less than the required wages, then the court must award liquidated damages of an amount less than the difference in wages or no liquidated damages.

A person who pays or agrees to pay less than the required wages is guilty of a misdemeanor and on conviction is subject to a fine of up to \$1,000.