
March 3, 2020

The Honorable Maggie McIntosh
Chair, House Appropriations Committee
121 House Office Building
Annapolis MD 21401

Re: Letter of Opposition – House Bill 1138 – State Personnel – Employee Compensation – Overtime Pay

Dear Chair McIntosh and Committee Members:

The Maryland Department of Transportation (MDOT) respectfully opposes House Bill 1138 due to its significant fiscal and operational impact.

House Bill 1138 expands the overtime provisions in the State Personnel and Pensions Article by requiring payment for overtime be made (one and one-half times the employees' regular hourly rate) for time worked in excess of 80 hours, up to and including 100 hours in a two-week period. Additionally, for time worked in excess of 100 hours in a two-week period, the payment for overtime must be made at two times the employee's regular hourly rate. The proposed legislation does not base overtime pay on the 40-hour work week, but instead bases overtime pay on an 80-hour pay period.

House Bill 1138 conflicts with the Fair Labor Standards Act (FLSA) which requires that covered employees receive overtime pay for time worked in excess of 40 hours in a work week and that overtime pay must be based on an 80-hour pay period.

It is estimated that the implementation of House Bill 1138 would cost MDOT approximately \$5 million in overtime for Transportation Service employees per year. If the bill applies to the MDOT Maryland Transit Administration (MDOT MTA) union employees, it is estimated that it will cost an additional \$6 million per year. These fiscal estimates are conservative insofar as they were based off a year where the State experienced minimal inclement weather and emergency situations. With respect to the MDOT MTA unions, each union negotiates a collective bargaining agreement (CBA) that establishes the union employee wages, hours, and working conditions. Per the CBAs, all MDOT MTA union employees are paid on a weekly basis. Calculating overtime based on an 80-hour pay period, instead of a 40-hour work week would cause MDOT MTA union employees to receive inaccurate weekly pay checks in violation of the FLSA and Maryland wage laws.

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For the above reasons, the Maryland Department of Transportation respectfully requests an unfavorable report on House Bill 1138.

Respectfully submitted,

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