

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 496
Finance

(Senator Hayes, *et al.*)

Appropriations

Payroll Recovery Act - Sunset Repeal

This bill repeals the June 30, 2019, termination provision of Chapter 783 of 2017 (the Payroll Recovery Act), which generally requires the Central Payroll Bureau (CPB) to establish regular pay periods and pay each employee as specified, and allows a State employee or the employee's exclusive representative to initiate a grievance under the State's grievance procedures under specified circumstances. **The bill takes effect June 1, 2019.**

Fiscal Summary

State Effect: The Office of Administrative Hearings (OAH) can continue to hear contested grievances as specified in Chapter 783 of 2017 with existing resources. State agencies can likely handle paying any damages awarded to State employees with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Chapter 783 of 2017 requires CPB to establish regular pay periods and pay each employee at least once every two weeks or twice each month, except an administrative, executive, or professional employee may be paid less frequently. Each appointing authority must accurately and timely calculate and report to CPB the payroll information for each employee. Each appointing authority must provide each employee – at the time of hiring – notice of the employee's rate of pay, regular pay periods, and the

employee's leave benefits; for each pay period, CPB must provide a statement of the employee's gross earnings and any deductions. "Wage" means all compensation that is due to an employee; it includes a bonus, commission, fringe benefit, overtime wages, premium pay, or any other remuneration promised for service.

If an appointing authority does not report payroll information as specified, the employee or the employee's exclusive representative may initiate a grievance under the State's grievance procedure within 20 days after the failure to pay occurred. If the failure to pay is not known to, or discovered by, the employee within 20 days after the failure to pay occurs, a grievance may be initiated no later than six months after the date on which the failure to pay occurred. An employee is entitled to wages and damages if a grievance is initiated, unless the wage is withheld due to a bona fide dispute.

A decision maker at step two or three of the grievance procedure must order the payment of damages on a finding that wages were withheld in violation of the law. An employee who is eligible to file a grievance under Chapter 783 for an action that occurred from March 16, 2016, through June 30, 2017, may do so without regard to any statutory time limitation if the grievance is initiated by July 31, 2017.

The provisions of Chapter 783 terminate June 30, 2019.

Background: The Payroll Recovery Act was introduced in response to implementation issues surrounding the State's fully automated Workday Timekeeping System. Payroll issues arose for correctional officers at the Department of Public Safety and Correctional Services (DPSCS) who, without access to computers, experienced considerable human error in entering time manually, resulting in pay errors. In DPSCS's central region, there were 31 complaints, which resulted in 20 employees receiving damages totaling \$68,221. In mid-2017, biometric time clocks were installed at all correctional facilities, which resolved the majority of the payroll issues. The Department of Budget and Management advises that, though payroll errors may still occur on occasion, they are not widespread.

OAH advises that fewer than 10 contested grievances arising from the Payroll Recovery Act have been adjudicated, resulting in just one award of less than \$600. The remainder of the cases have likely been resolved administratively.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office; Judiciary (Administrative Office of the Courts); University System of Maryland; Department of Budget and Management; Maryland Department of Transportation; Office of Administrative Hearings; Department of Legislative Services

Fiscal Note History: First Reader - February 21, 2019
mag/mcr Third Reader - March 16, 2019

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