

HOUSE BILL 1184

R2, P4

11r2784

By: **Delegates Zucker, Gaines, Clagett, Guzzone, Haynes, Jones, Proctor, and Washington**

Introduced and read first time: February 17, 2011

Assigned to: Rules and Executive Nominations

Re-referred to: Appropriations, February 28, 2011

Committee Report: Favorable

House action: Adopted

Read second time: March 22, 2011

CHAPTER _____

1 AN ACT concerning

2 **Department of Transportation – Employee Grievance Procedures –**
3 **Streamlined Process**

4 FOR the purpose of altering a certain provision of law concerning regulations adopted
5 by the Secretary of Transportation governing grievance procedures for
6 employees under the Department of Transportation; authorizing an aggrieved
7 employee to appeal certain decisions to the Office of Administrative Hearings or
8 to a certain other party; repealing certain provisions regarding the
9 administration of certain disciplinary appeals by the Secretary of Budget and
10 Management; repealing provisions that entitled certain employees in the
11 Department to certain appeal procedures available to certain other State
12 employees; requiring the Secretary of Transportation to establish certain appeal
13 procedures for disciplinary action through regulations and policy; and generally
14 relating to regulations concerning disciplinary action appeals for personnel in
15 the Department of Transportation.

16 BY repealing and reenacting, without amendments,
17 Article – Transportation
18 Section 2–103.4(a)
19 Annotated Code of Maryland
20 (2008 Replacement Volume and 2010 Supplement)

21 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Transportation
2 Section 2–103.4(d)
3 Annotated Code of Maryland
4 (2008 Replacement Volume and 2010 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article – Transportation**

8 2–103.4.

9 (a) Without regard to the laws of this State relating to other State
10 employees, the Secretary of Transportation may establish a human resources
11 management system for employees of the Department and its units. Any human
12 resources management system that the Secretary establishes under this section shall:

13 (1) Be based on merit;

14 (2) Include fair and equitable procedures for appointment, hiring,
15 promotion, layoff, removal, termination, redress of grievances, and reinstatement of
16 employees; and

17 (3) Permit employees to participate in the pension and retirement
18 systems for employees of the State of Maryland authorized under Division II of the
19 State Personnel and Pensions Article or any other pension and retirement systems
20 authorized by law.

21 (d) (1) The Secretary shall adopt regulations to govern the human
22 resources management system established under this section.

23 (2) The regulations shall address procedures for leave, appointment,
24 hiring, promotion, layoff, removal, termination, redress of grievances, and
25 reinstatement of employees and shall be presented to the Joint Committee on
26 Administrative, Executive, and Legislative Review under Title 10, Subtitle 1 of the
27 State Government Article.

28 (3) The regulations shall provide that before taking any disciplinary
29 action related to employee misconduct, an appointing authority or designated
30 representative shall:

31 (i) Investigate the alleged misconduct;

32 (ii) Meet with the employee;

33 (iii) Consider any mitigating circumstances;

1 (iv) Determine the appropriate disciplinary action, if any, to be
2 imposed; and

3 (v) Give the employee a written notice of the disciplinary action
4 to be taken and the employee's appeal rights.

5 (4) (i) The regulations shall provide that the appointing authority
6 or designated representative may suspend an employee, with or without pay, pending
7 the filing of charges for termination.

8 (ii) If an employee is suspended without pay, the appointing
9 authority or designated representative shall provide to the Secretary the charges for
10 termination within 30 calendar days after the first day of the suspension period.

11 (iii) If the appointing authority or designated representative files
12 the charges for termination after the 30-day period described in subparagraph (ii) of
13 this paragraph, the employee shall be placed on leave with pay until the Secretary
14 receives the charges.

15 (5) The regulations shall provide that an appointing authority or a
16 designated representative and an employee may agree to the holding in abeyance of a
17 disciplinary action for a period not to exceed 18 months in order to permit an employee
18 to improve conduct or performance.

19 (6) [Subject to the provisions of paragraph (7) of this subsection, the]
20 **THE** employee grievance procedures shall include, at a minimum, the following
21 sequence of levels of appeal:

22 (i) Initially an aggrieved employee shall present any grievance
23 to the appointing authority or a designated representative, who shall render a written
24 decision;

25 (ii) Any appeal shall be presented to the Secretary or a
26 designated representative, who shall render a written decision; **AND**

27 (iii) If the dispute is still unresolved, the [appeal shall be
28 referred] **AGGRIEVED EMPLOYEE MAY APPEAL** to the Office of Administrative
29 Hearings or a mutually agreed upon third party arbiter [who] **THAT** may not hear
30 grievances relating to classification, salary, or fiscal matters[]; and

31 (iv) For disciplinary actions only, either party may appeal any
32 decision of the Office of Administrative Hearings or a third party arbiter to the
33 Secretary of Budget and Management or that Secretary's designee].

34 (7) [These regulations shall include procedures that ensure that all
35 employees of the Department covered by this section and all employees hired after

1 June 1, 1992 shall be entitled to the same levels of appeal provided for in the State
 2 employees' grievance procedures contained in Title 12 of the State Personnel and
 3 Pensions Article. Any disciplinary action taken against such employees by the
 4 Department shall include the same levels of appeal contained in Division I of the State
 5 Personnel and Pensions Article and its implementing regulations] **THE SECRETARY**
 6 **SHALL ESTABLISH APPEAL PROCEDURES FOR DISCIPLINARY ACTIONS THROUGH**
 7 **REGULATIONS AND POLICY.**

8 (8) (i) During any stage of a complaint, grievance, or other
 9 administrative or legal action that concerns State employment by a full-time or
 10 part-time executive service, career service, or commission plan employee of the
 11 Department, or by a temporary or contractual employee of the Department, the
 12 employee may not be subjected to coercion, discrimination, interference, reprisal, or
 13 restraint by or initiated on behalf of the Department solely as a result of that
 14 employee's pursuit of a grievance, complaint, or other administrative or legal action
 15 that concerns State employment.

16 (ii) An employee of the Department may not intentionally take
 17 or assist in taking an act of coercion, discrimination, interference, reprisal, or restraint
 18 against another employee solely as a result of that employee's pursuit of a grievance,
 19 complaint, or other administrative or legal action that concerns State employment.

20 (iii) An employee who violates the provisions of this paragraph is
 21 subject to disciplinary action, including termination of employment.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 23 October 1, 2011.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.