

23-109

(a) An inspection station or any of its employees may not issue an inspection certificate OR A PROOF OF INSPECTION CERTIFICATE for a vehicle without having inspected its equipment.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 1994.

May 26, 1994

The Honorable Casper R. Taylor, Jr.
Speaker of the House of Delegates
State House
Annapolis, Maryland 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed House Bill 1281.

House Bill 1281 would authorize a State employee to name the Department of Personnel as an adverse party in an employee grievance. The bill also includes an uncodified section intended to "clarify that the Department of Personnel may be a party in a grievance when the Department's action or lack of action is the subject of the dispute".

Under current law, an employee may only name the employee's appointing authority or department in a grievance action pertaining to (1) a personnel policy or regulation adopted by the Secretary of Personnel, or (2) any other policy or regulation over which management has control. Thus, while decisions by the Department of Personnel are grievable, an employee's appointing authority must be named as a respondent in such grievances. This has led to concerns that in certain cases, such as reclassification decisions where the appointing authority does not agree with the decision made by the Department of Personnel, it is the Department of Personnel, not the appointing authority, who should defend that decision in a grievance. House Bill 1281 is an attempt to address this concern.

I agree that under certain circumstances, the Department of Personnel should represent itself in grievances before the Office of Administrative Hearings. However, House Bill 1281 is a poorly crafted effort to achieve this goal and I believe the bill will create more problems than it will solve. In short, the legislation is ambiguous, overly broad and could be construed to apply retroactively.

House Bill 1281 is ambiguous because it does not address how or when the Department of Personnel is to be made a party in a grievance. Presently, State personnel law sets out a three step grievance procedure in which parties are encouraged to resolve grievances at the lowest level possible. The bill does not address how the Department of Personnel would fit into this statutory scheme and does not define the decision making authority of the Department relative to the appointing authority, when both are named in a grievance.

In addition, the uncodified language in House Bill 1281 is so broad that the Department of Personnel conceivably could be made a party in almost every employer-employee