

HOUSE BILL 813

P4

8lr0765

By: **Delegates G. Clagett, Barkley, DeBoy, Gaines, Proctor, and Wood**

Introduced and read first time: February 6, 2008

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **State Personnel – Employment Categories and Special Appointments**

3 FOR the purpose of limiting the types of positions that may be classified as special
4 appointments in the State Personnel Management System; repealing certain
5 provisions of law that designate certain positions and employees as being in the
6 executive service or management service or as special appointments in the
7 System; altering the classification of certain positions and employees; repealing
8 certain provisions of law specifying that certain employees serve at the pleasure
9 of certain boards and commissions and the State Superintendent of Schools;
10 repealing a certain provision of law relating to the appointment and removal of
11 certain clerical assistants and nonprofessional personnel by the State
12 Superintendent; repealing a certain exception to the designation of certain
13 employees as being in the skilled service or the professional service; repealing a
14 certain requirement that certain employees in certain demonstration sites be in
15 the management service or a special appointment in the System; requiring the
16 human resources management system established by the Secretary of
17 Transportation to include three permanent employment categories; specifying
18 the types of positions included in each permanent employment category; and
19 generally relating to State personnel, employment categories, and special
20 appointments.

21 BY repealing and reenacting, with amendments,
22 Article – State Personnel and Pensions
23 Section 6–405
24 Annotated Code of Maryland
25 (2004 Replacement Volume and 2007 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article 83A – Department of Business and Economic Development
28 Section 2–105(i)
29 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (2003 Replacement Volume and 2007 Supplement)
- 2 BY repealing and reenacting, with amendments,
3 Article – Correctional Services
4 Section 3–215(b), 3–506, 4–204, and 8–206
5 Annotated Code of Maryland
6 (1999 Volume and 2007 Supplement)
- 7 BY repealing and reenacting, with amendments,
8 Article – Education
9 Section 2–104, 2–105, and 24–204(c)
10 Annotated Code of Maryland
11 (2006 Replacement Volume and 2007 Supplement)
- 12 BY repealing
13 Article – Family Law
14 Section 10–119.2(f)
15 Annotated Code of Maryland
16 (2006 Replacement Volume and 2007 Supplement)
- 17 BY repealing and reenacting, with amendments,
18 Article – Family Law
19 Section 10–119.2(g) through (j)
20 Annotated Code of Maryland
21 (2006 Replacement Volume and 2007 Supplement)
- 22 BY repealing and reenacting, with amendments,
23 Article – Financial Institutions
24 Section 10–104
25 Annotated Code of Maryland
26 (2003 Replacement Volume and 2007 Supplement)
- 27 BY repealing and reenacting, with amendments,
28 Article – Health – General
29 Section 19–107 and 19–206
30 Annotated Code of Maryland
31 (2005 Replacement Volume and 2007 Supplement)
- 32 BY repealing and reenacting, with amendments,
33 Article – Health Occupations
34 Section 14–204(d)
35 Annotated Code of Maryland
36 (2005 Replacement Volume and 2007 Supplement)
- 37 BY repealing and reenacting, with amendments,
38 Article – Human Services
39 Section 9–207(b)
40 Annotated Code of Maryland

1 (2007 Volume)

2 BY repealing and reenacting, with amendments,
3 Article – Insurance
4 Section 2–105
5 Annotated Code of Maryland
6 (2003 Replacement Volume and 2007 Supplement)

7 BY repealing and reenacting, with amendments,
8 Article – Labor and Employment
9 Section 2–104(e), (f), and (g)
10 Annotated Code of Maryland
11 (1999 Replacement Volume and 2007 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article – Public Safety
14 Section 3–206
15 Annotated Code of Maryland
16 (2003 Volume and 2007 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Public Utility Companies
19 Section 2–108(d)
20 Annotated Code of Maryland
21 (1998 Volume and 2007 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – State Finance and Procurement
24 Section 3–301(b) and 5A–316
25 Annotated Code of Maryland
26 (2006 Replacement Volume and 2007 Supplement)

27 BY repealing and reenacting, with amendments,
28 Article – Transportation
29 Section 2–103.4(a)
30 Annotated Code of Maryland
31 (2001 Replacement Volume and 2007 Supplement)

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

34 **Article – State Personnel and Pensions**

35 6–405.

36 (a) Except as otherwise provided by law, individuals in the following
37 positions in the skilled service, professional service, management service, or executive
38 service are considered special appointments:

1 (1) a position to which an individual is directly appointed by the
2 Governor by an appointment that is not provided for by the Maryland Constitution;

3 (2) a position to which an individual is directly appointed by the Board
4 of Public Works;

5 (3) [as determined by the Secretary, a position which performs a
6 significant policy role or provides direct support to a member of the executive service;

7 (4)] a position that is assigned to the Government House;

8 [(5)] (4) a position that is assigned to the Governor's Office; and

9 [(6)] (5) any other position that is specified by law to be a special
10 appointment.

11 (b) A position that is a special appointment may be filled with regard to
12 political affiliation, belief, or opinion if the Secretary determines that the position:

13 (1) relates to political interests or concerns so as to warrant that
14 political affiliation be a requirement for the position; and

15 (2) (i) requires the provision of meaningful direct or indirect input
16 into the policy-making process; or

17 (ii) provides access to confidential information and:

18 1. requires substantial intervention or collaboration in
19 the formulation of public policy; or

20 2. requires the provision of direct advice or the
21 rendering of direct services to an appointing authority.

22 **Article 83A - Department of Business and Economic Development**

23 2-105.

24 (i) [(1) Department employees hired after June 30, 1995, shall be in the
25 executive service, management service, or special appointments in the State Personnel
26 Management System.

27 (2) If a position is held by a classified service employee on June 30,
28 1995, the position remains a classified service position or its equivalent in the State
29 Personnel Management System until the position becomes vacant.

- 1 (ii) each social worker;
- 2 (iii) each sociologist;
- 3 (iv) each physician; and
- 4 (v) each psychologist.

5 (3) The Director and each individual appointed under paragraph
6 (2)(I), (IV), OR (V) of this subsection are in the executive service, in the management
7 service, or a special appointment in the State Personnel Management System.

8 8-206.

9 (a) (1) With the approval of the Secretary, the Commission shall appoint
10 an Executive Director.

11 (2) The Executive Director shall perform general administrative
12 functions.

13 (3) The Executive Director serves at the pleasure of the Commission.

14 (b) (1) With the approval of the Secretary, the Commission shall appoint a
15 Deputy Director and any other employees that the Commission considers necessary to
16 perform general administrative and training management functions.

17 (2) The Deputy Director [and other employees] appointed under
18 paragraph (1) of this subsection shall serve at the pleasure of the Commission.

19 (c) With the approval of the Secretary, the Commission shall employ other
20 individuals as necessary to carry out this subtitle.

21 (d) The Executive Director, the Deputy Director, and other employees of the
22 Commission are entitled to receive compensation as established by the Commission in
23 accordance with the State budget.

24 **Article - Education**

25 2-104.

26 (a) The following professional assistants shall be appointed to the
27 Department:

28 (1) No more than three Deputy State Superintendents of Schools;

1 (2) Any assistant State superintendents and directors authorized by
2 the State Board and provided in the State budget; and

3 (3) Any other professional assistants and agents authorized by the
4 State Board and provided in the State budget.

5 (b) (1) From the nominees proposed by the State Superintendent, the
6 State Board shall appoint all professional assistants to the Department[, who shall be
7 in the executive service, management service, or special appointments in the State
8 Personnel Management System].

9 (2) With the advice of the State Superintendent, the State Board shall
10 set the qualifications for each professional position.

11 (3) The State Superintendent may transfer professional assistants
12 within the Department as necessary.

13 (c) [(1) All professional assistants, grade 31 and above, shall serve at the
14 pleasure of the State Board and the State Superintendent.

15 (2) All other professional assistants shall be removed in accordance
16 with procedures set by the State Board.

17 (d)] (1) In addition to the other duties specified in this section, each
18 professional assistant to the Department has the duties assigned to him by the State
19 Superintendent.

20 (2) The Deputy State Superintendent designated by the State
21 Superintendent or by the State Board is the acting State Superintendent when the
22 State Superintendent is absent or disabled.

23 (3) Assistant State superintendents and directors have charge of the
24 various divisions of the Department.

25 2-105.

26 [(a) Unless otherwise provided by law, the State Superintendent shall
27 appoint and remove all clerical assistants and other nonprofessional personnel of the
28 Department in accordance with the provisions of the State Personnel and Pensions
29 Article that govern the skilled service, with the exception of special appointments.

30 (b)] The credential secretary and statistician of the Department are special
31 appointments in the State Personnel Management System.

32 24-204.

1 (c) (1) The secretarial, stenographic, clerical, and custodial employees of
2 the Commission are in the skilled service[, with the exception of special
3 appointments,] in the State Personnel Management System.

4 (2) All other employees of the Commission are in the executive service,
5 management service, or are special appointments in the State Personnel Management
6 System.

7 (3) Notwithstanding § 4–201 of the State Personnel and Pensions
8 Article, the Commission shall fix the compensation of the executive service,
9 management service, and special appointment employees:

10 (i) Upon the recommendation of the President; and

11 (ii) When possible, in accordance with the State pay plan.

12 (4) (i) At least 45 days before the effective date of the change, the
13 President shall submit to the Secretary of Budget and Management each change to the
14 Commission's salary plan that involves increases or decreases in salary ranges other
15 than those associated with routine reclassifications and promotions or general salary
16 increases approved by the General Assembly.

17 (ii) The Secretary of Budget and Management shall:

18 1. Review the proposed changes; and

19 2. At least 15 days before the effective date of the
20 proposed changes, advise the Commission whether the changes would have an adverse
21 effect on comparable State jobs.

22 (iii) Failure of the Secretary of Budget and Management to
23 respond in a timely manner is deemed to be a statement that the change will have no
24 adverse effect.

25 (5) The budget submitted by the Governor to the General Assembly
26 shall include personnel detail for the Commission in such form and manner as
27 provided for any agency in the State Personnel Management System.

28 **Article – Family Law**

29 10–119.2.

30 [(f) (1) Notwithstanding any other provision of law, all employees hired in
31 a demonstration site after its designation as a demonstration site shall be in the
32 management service or special appointments in the State Personnel Management
33 System.

1 (2) The decision of the Commission shall be by a majority of the
2 quorum present and voting.

3 (b) The Commission shall meet at least six times each year, at the times and
4 places that it determines.

5 (c) Each member of the Commission is entitled to:

6 (1) Compensation in accordance with the State budget; and

7 (2) Reimbursement for expenses under the Standard State Travel
8 Regulations, as provided in the State budget.

9 (d) (1) The Commission may employ a staff in accordance with the State
10 budget.

11 (2) [(i) Staff hired after September 30, 1999, are in the executive
12 service, management service, or are special appointments in the State Personnel
13 Management System.

14 (ii) The Commission, in consultation with the Secretary, shall
15 determine the appropriate job classifications and grades for all staff.

16 19–206.

17 (a) A majority of the full authorized membership of the Commission is a
18 quorum. However, the Commission may not act on any matter unless at least 4
19 members in attendance concur.

20 (b) The Commission shall meet at least 6 times a year, at the times and
21 places that it determines.

22 (c) Each member of the Commission is entitled to:

23 (1) Compensation in accordance with the State budget; and

24 (2) Reimbursement for expenses under the Standard State Travel
25 Regulations, as provided in the State budget.

26 (d) (1) The Commission may employ a staff in accordance with the State
27 budget.

28 (2) [(i) Staff hired after September 30, 1999, are in the executive
29 service, management service, or are special appointments in the State Personnel
30 Management System.

1 (ii)] The Commission, in consultation with the Secretary, shall
2 determine the appropriate job classifications and grades for all staff.

3 (3) The Deputy Director and each principal section chief of the
4 Commission serve at the pleasure of the Commission.

5 (4) The Commission, in consultation with the Secretary, may
6 determine the appropriate job classifications and, subject to the State budget, the
7 compensation for the Executive Director, Deputy Director, and each principal section
8 chief of the Commission.

9 Article - Health Occupations

10 14-204.

11 (d) (1) The Secretary may employ a staff for the Board in accordance with
12 the State budget. The Secretary may designate one of the staff as an executive
13 director.

14 (2) [Staff hired after September 30, 1992, are in the executive service,
15 management service, or are special appointments in the State Personnel Management
16 System.

17 (3)] The Secretary shall determine the appropriate job classifications
18 and grades for all staff.

19 Article - Human Services

20 9-207.

21 (b) (1) (i) The Secretary shall appoint:

22 1. any assistant secretary;

23 2. any director of an institution;

24 3. the superintendent of the youth centers; and

25 4. the managing director, deputy director, and director
26 of detention at the Baltimore City Juvenile Justice Center.

27 (ii) An employee of the Department specified in subparagraph
28 (i) of this paragraph:

29 1. is in the executive service or management service of
30 the State Personnel Management System; and

Article – Labor and Employment

2–104.

(e) (1) Subject to the approval of the Governor, the Commissioner may appoint a Chief Mediator [who shall be a special appointment in the State Personnel Management System].

(2) The Chief Mediator:

(i) is entitled to the salary provided in the State budget; but

(ii) may not receive additional compensation for serving on a board of arbitration.

(f) (1) The Commissioner shall appoint:

(i) safety inspectors who are qualified and trained in occupational safety; and

(ii) safety inspectors who are qualified technically to inspect amusement rides and amusement attractions, elevators, and worker and material hoists on construction projects and who shall be responsible for those inspections.

(2) Each safety inspector:

(i) is entitled to the salary provided in the State budget; and

(ii) is subject to the provisions of the State Personnel and Pensions Article that govern skilled service employees[, with the exception of special appointments].

(g) (1) Subject to the approval of the Governor and the Secretary, the Commissioner may employ, in accordance with the State budget, other staff needed to perform the duties of the Commissioner.

(2) Except as provided in this section or otherwise by law, all other staff is in the skilled service or professional service[, with the exception of special appointments,] in the State Personnel Management System.

Article – Public Safety

3–206.

(a) (1) With the approval of the Secretary, the Commission shall appoint an executive director.

1 (ii) Hearing examiners are a separate organizational unit and
2 shall report directly to the Commission.

3 (6) The Commission shall hire personal staff members for each
4 commissioner as required to provide advice, draft proposed orders and rulings, and
5 perform other personal staff functions.

6 (7) Subject to § 3–104 of this article, the Commission may delegate to
7 a commissioner or personnel the authority to perform an administrative function
8 necessary to carry out a duty of the Commission.

9 (8) (i) Except as provided in subparagraph (ii) of this paragraph or
10 otherwise by law, all personnel of the Commission are subject to the provisions of the
11 State Personnel and Pensions Article.

12 (ii) The following are in the executive service, management
13 service, or are special appointments in the State Personnel Management System:

- 14 1. each commissioner of the Commission;
- 15 2. the Executive Director;
- 16 3. the General Counsel and each assistant general
17 counsel;
- 18 4. the Executive Secretary;
- 19 5. [the commissioners' personal staff members;
- 20 6.] the chief hearing examiner; and
- 21 [7.] 6. each license hearing officer.

22 **Article – State Finance and Procurement**

23 3–301.

24 (b) [(1)] All employees and personnel of the Central Collection Unit shall[:

25 (i) except for assistant Attorneys General assigned to the
26 Central Collection Unit, be in the management service or special appointments in the
27 State Personnel Management System who are appointed by and serve at the pleasure
28 of the Secretary and are not subject to Title 11, Subtitle 2 of the State Personnel and
29 Pensions Article; and

30 (ii)] receive such compensation as provided in the State budget.

1 management system for employees of the Department and its units. Any human
2 resources management system that the Secretary establishes under this section shall:

3 (1) Be based on merit;

4 (2) **INCLUDE THE FOLLOWING THREE PERMANENT EMPLOYMENT**
5 **CATEGORIES:**

6 (I) **THE CAREER SERVICE THAT, EXCEPT AS OTHERWISE**
7 **PROVIDED BY LAW, INCLUDES ALL POSITIONS IN THE DEPARTMENT IN WHICH**
8 **INDIVIDUALS ARE COMPETITIVELY SELECTED AND, AFTER A PROBATION**
9 **PERIOD IS SERVED, MAY ONLY BE DISMISSED FOR CAUSE;**

10 (II) **THE EXECUTIVE SERVICE THAT INCLUDES POSITIONS IN**
11 **WHICH INDIVIDUALS:**

12 1. **SERVE AT THE PLEASURE OF THE APPOINTING**
13 **AUTHORITY; AND**

14 2. **STAFF A SIGNIFICANT POLICY ROLE; OR**

15 (III) **THE COMMISSION PLAN SERVICE THAT INCLUDES**
16 **POSITIONS IN WHICH INDIVIDUALS:**

17 1. **SERVE AT THE PLEASURE OF THE APPOINTING**
18 **AUTHORITY; AND**

19 2. **ARE ENGAGED IN A MARKETING OR SALES**
20 **ACTIVITY WHOSE COMPENSATION METHOD IS BASED ON PRIVATE SECTOR**
21 **PRACTICES FOR SALES AND MARKETING POSITIONS;**

22 [(2)] (3) Include fair and equitable procedures for appointment,
23 hiring, promotion, layoff, removal, termination, redress of grievances, and
24 reinstatement of employees; and

25 [(3)] (4) Permit employees to participate in the pension and
26 retirement systems for employees of the State of Maryland authorized under Division
27 II of the State Personnel and Pensions Article or any other pension and retirement
28 systems authorized by law.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 July 1, 2008.