
By: Prince George's County and Montgomery County Delegations

Introduced and read first time: February 1, 1996

Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland-National Capital Park and Planning Commission - Employee Disputes -**
3 **Office of Administrative Hearings**
4 **PG/MC 44-96**

5 FOR the purpose of authorizing employees of the Maryland-National Capital Park and
6 Planning Commission to appeal certain decisions concerning employee disputes
7 arising under the merit system to the Office of Administrative Hearings;
8 establishing a procedure for the appeal; requiring the Office of Administrative
9 Hearings to hold a de novo hearing; establishing that the decision of the Office of
10 Administrative Hearings shall be the final administrative decision; providing for an
11 appeal of the decision of the Office of Administrative Hearings; and generally
12 relating to employee disputes at the Maryland-National Capital Park and Planning
13 Commission.

14 BY repealing and reenacting, with amendments,
15 Article 28 - Maryland-National Capital Park and Planning Commission
16 Section 2-112
17 Annotated Code of Maryland
18 (1993 Replacement Volume and 1995 Supplement)

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

21 **Article 28 - Maryland-National Capital Park and Planning Commission**

22 2-112.

23 (a) The Commission shall put into effect a merit system adopted pursuant to this
24 section. In it shall be included all employees of the Commission, except:

25 (1) The commissioners;

26 (2) All appointed officials as provided in § 2-106 of this title; and

27 (3) In Prince George's County:

28 (i) The deputy chief of park police as provided in § 5-114(b) of this
29 article; and

1 (ii) Any director as provided in § 7-111(c) of this article.

2 (b) For the purpose of making and adopting the rules and regulations necessary to
3 carry out the provisions of this section, there is created the merit system board of the
4 Maryland-National Capital Park and Planning Commission. The board consists of three
5 members to be appointed by the Commission, all of whom shall be residents of the
6 Maryland-Washington Regional District, but no more than two members may be from
7 any one county. Nothing contained in this section shall require that appointments be
8 made for the purpose of rotating majority membership on the board between residents of
9 those portions of Montgomery County and Prince George's County lying within the
10 district. Members of the board shall be appointed for a term of four years. Vacancies on
11 the board shall be filled in the same manner as for the making of original appointments.
12 One member of the board shall be named by the Commission as chairman and shall serve
13 at the pleasure of the Commission. All members of the board shall continue to serve until
14 their successor is duly appointed. All appointees shall be knowledgeable and experienced
15 in personnel matters. No appointee may be a park and planning commission member or
16 appointed official or employee of the park and planning commission. Board members may
17 be reappointed for new terms if they are qualified under the provisions of this section.

18 (c) The board shall prepare and recommend a compensation plan, a classification
19 plan, and comprehensive rules and regulations governing operation of the merit system
20 for Commission employees. The board shall submit its recommendations to the
21 Commission for adoption. The Commission may adopt, disapprove, or modify the board's
22 recommendations, but if the Commission does not act on any merit board
23 recommendation within 90 calendar days of the date of filing of the recommendation with
24 the Commission, the recommendation shall be considered approved. Amendments to
25 adopted plans, rules, or regulations shall follow the same procedure as for adoption. All
26 compensation plans, classification plans, rules, and regulations promulgated previously
27 shall continue in existence and remain in full force and effect unless and until they are
28 modified or amended.

29 (D) (1) AN EMPLOYEE WHO IS AGGRIEVED BY A DECISION OF THE
30 COMMISSION OR MERIT BOARD CONCERNING ANY EMPLOYEE DISPUTE ARISING
31 UNDER THE MERIT SYSTEM, INCLUDING EMPLOYEE GRIEVANCES, DISCIPLINARY
32 ACTIONS, SEPARATIONS, AND TERMINATIONS, MAY APPEAL THE DECISION TO THE
33 OFFICE OF ADMINISTRATIVE HEARINGS.

34 (2) BEFORE FILING AN APPEAL WITH THE OFFICE OF ADMINISTRATIVE
35 HEARINGS, THE EMPLOYEE SHALL COMPLY WITH ALL PROCEDURES FOR HANDLING
36 EMPLOYEE DISPUTES SPECIFIED BY THE COMMISSION.

37 (3) AN EMPLOYEE WHO IS AGGRIEVED SHALL FILE AN APPEAL WITH
38 THE OFFICE OF ADMINISTRATIVE HEARINGS IN WRITING WITHIN 15 BUSINESS DAYS
39 AFTER THE DATE OF THE DECISION OF THE COMMISSION OR MERIT BOARD.

40 (4) THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL HOLD A DE
41 NOVO HEARING ON THE DISPUTE IN ACCORDANCE WITH ITS RULES OF PROCEDURE
42 AND TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

43 (5) (I) IF THE HEARING CONCERNS A TERMINATION, SUSPENSION, OR
44 OTHER ADVERSE ACTION THAT AFFECTS THE PAY OR STATUS OF THE EMPLOYEE,

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1 THE COMMISSION SHALL HAVE THE BURDEN OF PROVING ITS CASE BY A
2 PREPONDERANCE OF THE EVIDENCE.

3 (II) EXCEPT FOR THE DISPUTES SPECIFIED IN SUBPARAGRAPH (I)
4 OF THIS PARAGRAPH, THE EMPLOYEE SHALL HAVE THE BURDEN OF PROVING THE
5 EMPLOYEE'S CASE BY A PREPONDERANCE OF THE EVIDENCE.

6 (6) THE DECISION OF THE OFFICE OF ADMINISTRATIVE HEARINGS
7 SHALL BE THE FINAL ADMINISTRATIVE DECISION AND MAY BE APPEALED TO A
8 CIRCUIT COURT IN ACCORDANCE WITH § 10-222 OF THE STATE GOVERNMENT
9 ARTICLE.

10 [(d)] (E) The Commission may make available to the board its records, facilities,
11 employees and those experts, assistants, and clerks as are necessary to carry out its duties.

12 [(e)] (F) As authorized by the Commission budget for each fiscal year, the
13 Commission shall set the compensation of the members of the merit system board.

14 [(f)] (G) Misfeasance, malfeasance, and nonfeasance in office shall be cause for
15 removal of a merit board member upon proper notice and due consideration by the
16 Maryland-National Capital Park and Planning Commission.

17 [(g)] (H) (1) If the board determines that the testimony of a witness is essential
18 for the proper consideration of a case before it, the board may subpoena the witness to
19 appear at any proceeding the board conducts in accordance with this section.

20 (2) If a person fails to comply with a subpoena issued by the board under
21 this subsection, the board may petition a court of competent jurisdiction to compel
22 compliance with the subpoena.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 1996.