

# HOUSE BILL 161

P1

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CF SB 50

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By: **The Speaker and Delegates Jones, G. Clagett, McIntosh, and Simmons**

Introduced and read first time: January 25, 2007

Assigned to: Appropriations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 17, 2007

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Governor's Appointments Office and Appointing Authorities - Duties**

3 FOR the purpose of prohibiting the Governor's Appointments Office from ~~superseding~~  
4 ~~or interfering with any function~~ directing or overruling certain decisions of  
5 certain appointing authorities in the Executive Branch of State government  
6 ~~and~~, the Secretary of the Department of Budget and Management ~~with respect~~  
7 ~~to the Secretary's functions regarding the State's personnel systems as assigned~~  
8 ~~by law; prohibiting the Governor from delegating to the Appointments Office or~~  
9 ~~any other unit, officer, official, or employee in the Office of the Governor or the~~  
10 ~~Executive Branch any function or duty with respect to the hiring and~~  
11 ~~termination of at will and special appointments in the principal departments of~~  
12 ~~the Executive Branch and other units in the Executive Branch; providing a~~  
13 ~~certain exception~~, or a unit of the Department of Budget and Management;  
14 providing that appointing authorities in the Executive Branch of State  
15 government have certain exclusive powers and duties, ~~including the power to~~  
16 ~~appoint, transfer, reassign, discipline, and terminate employees under their~~  
17 ~~jurisdiction~~; prohibiting an appointing authority from delegating final decisions  
18 on the termination of an employee; defining certain terms; and generally  
19 relating to gubernatorial appointments and appointing authorities in the  
20 Executive Branch of State government.

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**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 BY adding to  
 2 Article – State Government  
 3 Section 8–3A–01 to be under the new subtitle “Subtitle 3A. Appointments in  
 4 State Government”  
 5 Annotated Code of Maryland  
 6 (2004 Replacement Volume and 2006 Supplement)

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

9 **Article – State Government**

10 **SUBTITLE 3A. APPOINTMENTS IN STATE GOVERNMENT.**

11 **8–3A–01.**

12 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
 13 MEANINGS INDICATED.

14 (2) “APPOINTING AUTHORITY” ~~MEANS AN INDIVIDUAL OR UNIT~~  
 15 ~~WITHIN A PRINCIPAL DEPARTMENT OR AN INDIVIDUAL IN ANY OTHER UNIT IN~~  
 16 ~~THE EXECUTIVE BRANCH OF STATE GOVERNMENT THAT HAS THE POWER TO~~  
 17 ~~MAKE APPOINTMENTS AND TERMINATE EMPLOYMENT~~ HAS THE MEANING  
 18 STATED IN § 1–101(B) OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

19 (3) “OFFICE” MEANS THE APPOINTMENTS OFFICE IN THE  
 20 OFFICE OF THE GOVERNOR ~~OR ANY OTHER UNIT, OFFICER, OFFICIAL, OR~~  
 21 ~~EMPLOYEE IN THE OFFICE OF THE GOVERNOR OR THE EXECUTIVE BRANCH~~  
 22 THAT PERFORMS THE FUNCTION OF RECOMMENDING TO THE GOVERNOR THE  
 23 APPOINTMENT OR NOMINATION OF AN INDIVIDUAL TO SERVE AS A MEMBER OF  
 24 A STATE OR LOCAL BOARD, COMMISSION, COUNCIL, COMMITTEE, AUTHORITY,  
 25 TASK FORCE, OR OTHER ENTITY THAT BY LAW REQUIRES THE MEMBERSHIP TO  
 26 BE APPOINTED IN WHOLE OR IN PART BY THE GOVERNOR, WHETHER OR NOT  
 27 THE APPOINTMENT OR NOMINATION IS WITH THE ADVICE AND CONSENT OF THE  
 28 SENATE OR HOUSE OF DELEGATES.

29 ~~(B) (1) THE OFFICE MAY NOT SUPERSEDE OR INTERFERE WITH ANY~~  
 30 ~~FUNCTION ASSIGNED BY LAW TO;~~

1           ~~(I) AN APPOINTING AUTHORITY IN EACH PRINCIPAL~~  
2 ~~DEPARTMENT OR IN ANY OTHER UNIT IN THE EXECUTIVE BRANCH OF STATE~~  
3 ~~GOVERNMENT; OR~~

4           ~~(II) THE SECRETARY OF THE DEPARTMENT OF BUDGET~~  
5 ~~AND MANAGEMENT OR ANY UNIT OF THE DEPARTMENT OF BUDGET AND~~  
6 ~~MANAGEMENT UNDER THE PROVISIONS OF DIVISION I OF THE STATE~~  
7 ~~PERSONNEL AND PENSIONS ARTICLE.~~

8           (B) THE OFFICE MAY NOT DIRECT OR OVERRULE AN APPOINTING  
9 AUTHORITY, THE SECRETARY OF BUDGET AND MANAGEMENT, OR ANY UNIT OF  
10 THE DEPARTMENT OF BUDGET AND MANAGEMENT, ON ANY DECISION TO  
11 APPOINT, PROMOTE, TRANSFER, REASSIGN, DISCIPLINE, OR TERMINATE AN  
12 EMPLOYEE UNDER THE JURISDICTION OF THE APPOINTING AUTHORITY.

13           ~~(2) THE OFFICE, DIRECTLY OR INDIRECTLY, MAY NOT~~  
14 ~~OVERRULE, IGNORE, OR OTHERWISE BE INVOLVED WITH ANY DECISIONS MADE~~  
15 ~~BY:~~

16           ~~(I) AN APPOINTING AUTHORITY IN EACH PRINCIPAL~~  
17 ~~DEPARTMENT OR IN ANY OTHER UNIT IN THE EXECUTIVE BRANCH OF STATE~~  
18 ~~GOVERNMENT; OR~~

19           ~~(II) THE SECRETARY OF THE DEPARTMENT OF BUDGET~~  
20 ~~AND MANAGEMENT REGARDING ANY FUNCTION ASSIGNED BY LAW TO THE~~  
21 ~~SECRETARY OF THAT DEPARTMENT UNDER THE PROVISIONS OF DIVISION I OF~~  
22 ~~THE STATE PERSONNEL AND PENSIONS ARTICLE.~~

23           ~~(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS~~  
24 ~~SUBSECTION, THE GOVERNOR MAY NOT DELEGATE TO THE OFFICE OR ANY~~  
25 ~~OTHER OFFICE, UNIT, OR INDIVIDUAL IN THE OFFICE OF THE GOVERNOR OR~~  
26 ~~THE EXECUTIVE BRANCH OF STATE GOVERNMENT ANY AUTHORITY OR DUTY~~  
27 ~~REGARDING THE TERMINATION OF ANY EMPLOYEE, INCLUDING MANAGEMENT~~  
28 ~~SERVICE AND SPECIAL APPOINTMENTS EMPLOYEES, WHO ARE IN THE~~  
29 ~~PRINCIPAL DEPARTMENTS OR IN ANY OTHER UNIT IN THE EXECUTIVE BRANCH~~  
30 ~~OF STATE GOVERNMENT.~~

31           ~~(2) THE GOVERNOR MAY DELEGATE TO AN INDIVIDUAL IN THE~~  
32 ~~OFFICE OF THE GOVERNOR OR THE EXECUTIVE BRANCH OF STATE~~

~~GOVERNMENT ANY AUTHORITY OR DUTY REGARDING THE TERMINATION OF AT  
WILL EMPLOYEES, INCLUDING SPECIAL APPOINTMENTS, WHO ARE:~~

~~(I) IN THE EXECUTIVE PAY PLAN;~~

~~(II) DIRECTLY APPOINTED BY THE GOVERNOR BY AN  
APPOINTMENT THAT IS NOT PROVIDED FOR BY THE MARYLAND CONSTITUTION;~~

~~(III) APPOINTED BY OR WHO ARE ON THE STAFF OF THE  
GOVERNOR OR LIEUTENANT GOVERNOR; OR~~

~~(IV) EMPLOYEES ASSIGNED TO THE GOVERNMENT HOUSE  
OR THE OFFICE OF THE GOVERNOR.~~

~~(D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN  
APPOINTING AUTHORITY EXCLUSIVELY HAS THE POWERS SET FORTH IN  
SUBSECTION (E) OF THIS SECTION.~~

~~(E)~~ (C) ONLY AN APPOINTING AUTHORITY MAY:

~~(1) APPOINT, PROMOTE, TRANSFER, REASSIGN, DISCIPLINE, AND  
TERMINATE EMPLOYEES UNDER THE JURISDICTION OF THE APPOINTING  
AUTHORITY; AND~~

~~(2) DELEGATE IN WRITING THE AUTHORITY TO ACT ON THE  
APPOINTING AUTHORITY'S BEHALF, BUT ONLY TO ANY OTHER AN EMPLOYEE OR  
OFFICER UNDER THE JURISDICTION OF THE APPOINTING AUTHORITY.~~

~~(F)~~ (D) AN APPOINTING AUTHORITY MAY NOT DELEGATE THE  
AUTHORITY TO MAKE THE FINAL DECISION ON THE TERMINATION OF AN  
EMPLOYEE.

~~(G)~~ (E) AN APPOINTING AUTHORITY SHALL NOTIFY THE SECRETARY  
OF BUDGET AND MANAGEMENT OF ANY DELEGATION OF AUTHORITY  
AUTHORIZED UNDER THIS SECTION BY PROVIDING THE SECRETARY A COPY OF  
THE DELEGATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
June 1, 2007.