

## Chapter 21

(Senate Bill 85)

AN ACT concerning

### **Maryland Port Commission – Management Personnel Appointments – Operating and Managing Port Facilities**

FOR the purpose of authorizing the Maryland Port Commission to determine the qualifications for appointment and the compensation and benefits for up to a certain number of management personnel positions required to operate and manage State-owned port facilities; establishing that those employees are State employees; recodifying certain provisions of law relating to management personnel employees performing services for certain private operating companies; making conforming and clarifying changes; and generally relating to management personnel and the Maryland Port Commission.

BY repealing and reenacting, with amendments,

Article – Transportation

Section 6–201.2 and 6–204(q)

Annotated Code of Maryland

(2008 Replacement Volume and 2012 Supplement)

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

#### **Article – Transportation**

6–201.2.

**(A) (1) THE COMMISSION MAY APPOINT UP TO A TOTAL OF 12 MANAGEMENT PERSONNEL EMPLOYEES TO OPERATE AND MANAGE ALL STATE-OWNED PORT FACILITIES OR TO PERFORM SERVICES FOR PRIVATE OPERATING COMPANIES CREATED UNDER § 6–204(Q) OF THIS SUBTITLE.**

**(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COMMISSION MAY DETERMINE THE QUALIFICATIONS AND APPOINTMENT, AS WELL AS COMPENSATION AND LEAVE, FOR EMPLOYEES APPOINTED UNDER THIS SUBSECTION.**

**(3) AT LEAST 10 DAYS BEFORE THE EFFECTIVE DATE OF THE CHANGE, THE COMMISSION SHALL SUBMIT TO THE SECRETARY OF BUDGET AND MANAGEMENT EACH CHANGE TO THE SALARIES OF THOSE EMPLOYEES**

THAT INVOLVES INCREASES IN SALARY RANGES OTHER THAN THOSE ASSOCIATED WITH GENERAL SALARY INCREASES APPROVED BY THE GENERAL ASSEMBLY.

**(4) THE SECRETARY OF BUDGET AND MANAGEMENT SHALL:**

**(I) REVIEW THE PROPOSED CHANGES; AND**

**(II) WITHIN 10 DAYS OF RECEIPT OF THE PROPOSED CHANGES, ADVISE THE COMMISSION WHETHER THE CHANGES WOULD HAVE AN ADVERSE EFFECT ON SPECIAL FUND EXPENDITURES.**

**(5) FAILURE OF THE SECRETARY OF BUDGET AND MANAGEMENT TO RESPOND IN A TIMELY MANNER IS DEEMED TO BE A STATEMENT THAT THE CHANGE WILL HAVE NO ADVERSE EFFECT.**

**(6) EMPLOYEES APPOINTED UNDER THIS SUBSECTION ARE STATE EMPLOYEES AND SHALL BE ENTITLED TO PARTICIPATE IN THE RETIREMENT AND PENSION SYSTEMS FOR EMPLOYEES OF THE STATE OF MARYLAND AUTHORIZED UNDER DIVISION II OF THE STATE PERSONNEL AND PENSIONS ARTICLE.**

**(7) THE BUDGET SUBMITTED BY THE GOVERNOR TO THE GENERAL ASSEMBLY SHALL INCLUDE PERSONNEL DETAIL FOR THE MANAGEMENT PERSONNEL POSITIONS UNDER THIS SUBSECTION IN THE FORM AND MANNER PROVIDED FOR AN AGENCY IN THE STATE PERSONNEL MANAGEMENT SYSTEM.**

**(8) SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE COMMISSION SHALL REPORT TO THE GOVERNOR AND THE LEGISLATIVE POLICY COMMITTEE OF THE GENERAL ASSEMBLY ON ACTIONS TAKEN BY THE COMMISSION UNDER THIS SUBSECTION DURING THE PREVIOUS FISCAL YEAR WITH REGARD TO INDIVIDUALS SUBJECT TO THIS SUBSECTION.**

**[(a)] (B) (1) (I)** Subject to approval of the Administration's budget by the General Assembly as provided in § 3-216 of this article and subject to State fiscal procedures, including those governing budgeting, accounting, and auditing, the Commission may adopt regulations establishing procedures for the approval and control of Administration expenditures.

**[(2)] (II)** The Commission shall present regulations proposed under this subsection to the Board of Public Works for approval.

**[(b)] (2)** The Commission may adopt any other regulations necessary to carry out the provisions of this title.

(c) (1) Subject to § 2-1246 of the State Government Article, the Commission shall report by January 15 of each year to the General Assembly on the activities of the Port Commission during the previous year.

(2) The report shall include a review of the port's competitive position during the previous year and any recommendations of the Commission for future changes in legislation, capital funding, or operational flexibility for consideration by the General Assembly.

(3) The report shall also include any substantive changes in its regulations for procurement and personnel.

6-204.

(q) (1) The Administration, with the approval of the Commission, may create private operating companies for the purpose of operating public port facilities.

**[(2)] (i)** The Commission may appoint up to a total of 12 management personnel employees to perform services for all private operating companies created under this subsection.

(ii) Notwithstanding any other provision of law, the Commission may determine the qualifications and appointment, as well as compensation and leave, for employees appointed under this subsection.

(iii) At least 10 days before the effective date of the change, the Commission shall submit to the Secretary of Budget and Management each change to the salaries of these employees that involves increases in salary ranges other than those associated with general salary increases approved by the General Assembly.

(iv) The Secretary of Budget and Management shall:

1. Review the proposed changes; and
2. Within 10 days of receipt of the proposed changes, advise the Commission whether the changes would have an adverse effect on special fund expenditures.

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

(vi) Employees appointed under this subsection are State employees and shall be entitled to participate in the retirement and pension systems for employees of the State of Maryland authorized under Division II of the State Personnel and Pensions Article.

(vii) On or before December 1 of each year, the Commission shall report to the Governor and the Legislative Policy Committee of the General Assembly on actions taken by the Commission under this subsection during the previous fiscal year with regard to individuals subject to this subsection.

(3) The budget submitted by the Governor to the General Assembly shall include personnel detail for the private operating companies in the form and manner provided for an agency in the State Personnel Management System.]

[[4] (2) Other than employees appointed by the Commission under [paragraph (2) of this subsection,] **§ 6-201.2(A) OF THIS SUBTITLE**, employees of a private operating company created under this subsection are not State employees.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

**Approved by the Governor, April 9, 2013.**