

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1161
Appropriations

(Delegate Jones, *et al.*)

State Personnel - Special Appointments in the Skilled and Professional Services

This bill requires the Chief Executive Officer of Maryland Correctional Enterprises and the Secretary of Human Resources to transfer, by July 1, 2017, any special appointment positions in the skilled or professional service to the appropriate skilled or professional service employment category of the State Personnel Management System (SPMS). Staff in the skilled and professional service of the Child Support Enforcement Administration (CSEA) may not be considered special appointments. Generally, within the Office of the Attorney General (OAG), attorneys and positions that provide direct support to the Attorney General or other specified positions may not be determined to be special appointments and no longer serve at the pleasure of the Attorney General. The Department of Budget and Management (DBM) must identify which State skilled or professional service positions have been designated as special appointments under State law and determine whether there is reasonable justification for designating positions as special appointments. DBM must report its findings to specified committees of the General Assembly by December 1, 2017.

The bill takes effect June 1, 2017.

Fiscal Summary

State Effect: DBM can report findings on special appointments with existing budgeted resources. Requiring specified personnel at Maryland Correctional Enterprises (MCE), CSEA, and OAG to be reclassified to merit positions has no material fiscal effect on State expenditures as discussed below. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: SPMS has four major employment categories designated in statute:

1. executive service, which consists of chief administrators of principal units or comparable positions, including deputy secretaries or assistant secretaries;
2. management service, which consists of positions that involve direct responsibility for the oversight and management of personnel and financial resources and that require the exercise of discretion and independent judgment;
3. professional service, which consists of positions that require advanced knowledge in a field of science or learning and that normally require a professional license, advanced degree, or both; and
4. skilled service, which consists of all other positions.

Classification of skilled, professional, management, and executive service positions in SPMS is the responsibility of the Secretary of Budget and Management. The Secretary must likewise establish the standards and procedures used to classify positions in the skilled, professional, management, and executive services and provide advice and guidance on their use.

The head of a principal unit may classify positions in the unit, in accordance with the Secretary's established standards and procedures, if the Secretary chooses to delegate the classification authority. If the Secretary delegates the classification authority to the head of a principal unit, that person must prepare a position classification plan for the Secretary's approval and classify all positions in accordance with the approved plan. The Secretary must conduct a position classification audit at least once every three years, but only if the classification activity was delegated to the head of a principal unit. The Secretary may conduct operational audits of classification practices and records in principal units once every three years.

A temporary employee is not classified in the skilled, professional, management, or executive service in SPMS.

Special appointments within SPMS are employees who:

- are appointed directly by the Governor to a position that is not provided for in the State Constitution;
- are appointed directly by the Board of Public Works;

- as determined by the Secretary of Budget and Management, perform a significant policy role or provide direct support to a member of the executive service;
- are assigned to the Government House (the Governor's residence);
- are assigned to the Governor's Office; or
- are in positions specified by law to be special appointments.

Collective bargaining laws do not apply to special appointments. Special appointments are the only positions in the Executive Branch that may be filled with regard to political affiliation, but most are not. Positions that may be filled with regard to political affiliation must be so designated and disclosed to the appointee.

Background: The State Employee's Rights and Protections Act of 2007 required the Department of Legislative Services, with the assistance of DBM, the Maryland Department of Transportation, and State employee labor unions, to study at-will employment and make recommendations for legislative and administrative changes to the State's personnel systems. The Department of Legislative Services completed the study in December 2008 and issued a report. Chapter 690 of 2009 implemented many of the recommendations of the report. It repealed the automatic at-will status of a number of groups of employees throughout State government, including the then Department of Business and Economic Development (now the Department of Commerce), the Maryland State Department of Education, and several health-related commissions. In addition, the measure limits the number of special appointment positions in OAG that may be filled with regard to political affiliation, belief, or opinion. Special appointment and at-will positions in the executive and management services affected by Chapter 690 of 2009 remain at-will until they become vacant.

State Expenditures: The bill requires specified personnel at MCE and CSEA to be reclassified by July 1, 2017. It also establishes that certain positions with OAG are no longer considered special appointments and do not serve at the pleasure of the Attorney General. However, current at-will employees cannot be converted to skilled or professional service positions if they were not hired in that manner. Thus, positions can only be converted to another status upon vacancy. While this has an operational impact from employees gaining merit protected status and being included in collective bargaining, there is no material fiscal impact because the positions affected by the bill already receive the same fringe benefits as merit employees and the State does not pay employees' union dues. Additionally, the Department of Public Safety and Correctional Service advises that the bill negatively affects MCE's flexibility to quickly adjust to unforeseen personnel changes.

Additional Information

Prior Introductions: None.

Cross File: SB 921 (Senator Benson) - Finance.

Information Source(s): Department of Budget and Management; Department of Human Resources; Department of Public Safety and Correctional Services; Office of the Attorney General; Department of Legislative Services

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