

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 751

(Senator Lam)

Finance

Appropriations

**Governor's Appointments Office, Appointing Authorities, and the Secretary of
Budget and Management – Duties and Reports**

This bill prohibits an appointing authority from delegating the authority to make the final decision on the appointment of a State employee, and it establishes new requirements for a specified personnel report and for special appointment job position descriptions. The Governor's Appointments Office must submit an annual report to the Joint Committee on Fair Practices and State Personnel Oversight on the office's activities regarding employees who are under the jurisdiction of an appointing authority. The Office of the Attorney General (OAG) must operate or provide for a hotline or an email address to receive and record information about alleged violations of the bill. **The bill takes effect July 1, 2019.**

Fiscal Summary

State Effect: The bill's requirements can be handled with existing resources. The Department of Budget and Management (DBM) can manually print and send descriptions of special appointment positions with the annual personnel report using existing resources. No effect on revenues.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The Appointments Office must submit a specified report by December 31, 2019, and by each December 31 annually thereafter, and the report must include:

- the number of referrals or requests made from any appointing authority to the office regarding employee appointments, promotions, reassignments, disciplinary actions, or terminations;
- the reasons for the referrals or requests specified above, categorized by appointing authority;
- the type of information provided by the office to an appointing authority as a result of a referral or request made, compiled by type and number of instances using specified categories;
- the written policy of the office on providing information to an appointing authority regarding an employee appointment, promotion, reassignment, disciplinary action, or termination, as specified;
- the number of applicants and employees required to complete a form from the office that collects personal information and the type of forms that are required to be submitted;
- the number of applicants and employees that are required to communicate with the office regarding a personnel decision; and
- a statement that the office is in compliance with the bill's requirements.

OAG may contact a complainant to gather additional information on alleged violations under the bill. By December 1 annually, OAG must submit a report to the Joint Committee on Fair Practices and State Personnel Oversight on, in aggregated or anonymous form, the number of complaints received each year, and the report may include a response from the Appointments Office to each complaint.

The personnel report that the Secretary of Budget and Management must submit to the Governor and the General Assembly must also be submitted to the Joint Committee on Fair Practices and State Personnel Oversight. The personnel report must include specified information regarding special appointment positions.

For special appointments, the written position description must include a notice that the special appointment position is an at-will position that is not afforded the merit protections of other positions in the skilled and professional services, and the position description must be provided to a successful applicant for review before accepting appointment to the position.

Current Law/Background: The Appointments Office performs the function of recommending to the Governor the appointment or nomination of an individual to serve as a member of a State or local board or any other entity that, by law, requires the membership to be appointed in whole or in part by the Governor, whether or not the appointment or nomination is with the advice and consent of the Senate or the House of Delegates. Pursuant to the State Government Article, Title 8, Subtitle 3A, the Appointments Office may not

direct or overrule, or otherwise take any action regarding the decision of an appointing authority, the Secretary of Budget and Management, or any unit of DBM, to appoint, promote, transfer, reassign, discipline, or terminate an employee under the jurisdiction of the appointing authority. Statutory language also sets forth provisions relating to the delegation of authority. An appointing authority may not delegate the authority to make the final decision on the termination of an employee.

The Joint Committee on Fair Practices and State Personnel Oversight has oversight over specified matters, including employment policies and personnel systems in the Executive Branch of State government. The purposes of the joint committee are to (1) review reports; (2) evaluate the effectiveness of programs, policies, and practices; and (3) identify areas of concern and, as appropriate, recommend corrective measures to the Governor and the General Assembly.

Each employee in the skilled service, professional service, and management service, including special appointments in each classification of each of those services, must be provided with a written position description which describes the essential duties and responsibilities the employee is expected to perform and the standards for satisfactory performance on a form approved by the Secretary of Budget and Management. A successful applicant must be provided with a position description for review before accepting the position.

DBM must submit to the Governor and the General Assembly an annual personnel report covering all units of the Executive Branch, including units with an independent personnel system. The personnel report, among other requirements, must provide information on the total number of positions designated as special appointments. Special appointments within the State Personnel Management System 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.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General; Governor's Office; Department of Budget and Management; Department of Legislative Services

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