
By: Montgomery County and Prince George's County Delegations

Introduced and read first time: January 31, 1997

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 **MC/PG 11-97**

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 1996 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;

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

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

2 (4) In Montgomery County, any position excluded under § 7-111(c) of this
3 article.

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

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

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

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

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

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

4 (5) (I) IF THE HEARING CONCERNS A TERMINATION, SUSPENSION, OR
5 OTHER ADVERSE ACTION THAT AFFECTS THE PAY OR STATUS OF THE EMPLOYEE,
6 THE COMMISSION SHALL HAVE THE BURDEN OF PROVING ITS CASE BY A
7 PREPONDERANCE OF THE EVIDENCE.

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

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

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

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

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

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

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

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 1997.