
By: Appropriations Committee (Departmental - Budget and Management)

Introduced and read first time: February 21, 1997

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **State Personnel - Personnel Reform - Technical Changes**

3 FOR the purpose of making certain technical changes in certain sections of the State
4 Personnel and Pensions Article of the Annotated Code and in certain uncodified
5 laws; clarifying language; clarifying that the federal Uniformed Services
6 Employment and Reemployment Rights Act controls reemployment of veterans;
7 correcting an inconsistency which prohibited certain personnel actions against
8 special appointees and applicants for special appointments; clarifying that
9 personnel actions may be taken against special appointees and applicants for special
10 appointment for certain reasons; clarifying that certain personnel actions against a
11 management service employee or applicant shall not be made for certain reasons;
12 clarifying that the Secretary of Budget and Management may designate certain
13 employees as special appointees; clarifying that an appointing authority shall give an
14 employee notice of a proposed reassignment within a certain period; clarifying that
15 part-time means an employee who works not less than a certain percentage of the
16 average regular workweek; clarifying that certain leave provisions do not apply to
17 employees of certain institutions of higher education; clarifying that an employee of
18 the Department of Budget and Management may file a grievance; expanding the
19 statutory period to 3 years during which certain State employees may be separated
20 from State employment before membership in the State Employees' Retirement
21 System, the State Police Retirement System, or the Correctional Officers'
22 Retirement System is terminated; providing for the reinstatement of certain
23 employees to certain retirement systems; and generally relating to the State
24 Personnel System.

25 BY repealing and reenacting, with amendments,
26 Article - State Personnel and Pensions
27 Section 2-703, 5-208, 6-405, 7-602, 7-701, 9-101, 12-102, 22-216, 24-207, and
28 25-205
29 Annotated Code of Maryland
30 (1994 Volume and 1996 Supplement)

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

2

1 **Article - State Personnel and Pensions**

2 2-703.

3 (a) A returning veteran who was inducted into the armed forces is eligible for
4 reinstatement under this subtitle if the veteran:

5 (1) performed military service of a nature and length that meet the [criteria
6 for eligibility under 38 U.S.C. § 4301(a);] REQUIREMENTS OF THE UNIFORMED
7 SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994, 38 U.S.C. § 4301
8 ET SEQ., AND ANY SUBSEQUENT FEDERAL LAW GOVERNING REEMPLOYMENT OF A
9 RETURNING VETERAN;

10 (2) received a certificate of satisfactory completion of military service; and

11 (3) except as otherwise provided in § 2-704 of this subtitle, submits an
12 application for reinstatement within 90 days after the veteran is discharged from that
13 military service.

14 (b) A returning veteran who enlisted in the armed forces is eligible for
15 reinstatement under this subtitle if the veteran:

16 (1) performed military service of a nature and length that meet the [criteria
17 for eligibility under 38 U.S.C. § 4304(a);] REQUIREMENTS OF THE UNIFORMED
18 SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994, 38 U.S.C. § 4301
19 ET SEQ., AND ANY SUBSEQUENT FEDERAL LAW GOVERNING REEMPLOYMENT OF A
20 RETURNING VETERAN;

21 (2) was released from service under honorable conditions; and

22 (3) except as otherwise provided in § 2-704 of this subtitle, submits an
23 application for reinstatement within 90 days after the end of the enlistment period.

24 (c) A returning veteran who was called to active military duty in the armed forces
25 is eligible for reinstatement under this subtitle if the veteran:

26 (1) performed military service of a nature and length that meet the [criteria
27 for eligibility under 38 U.S.C. § 4304(b);] REQUIREMENTS OF THE UNIFORMED
28 SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994, 38 U.S.C. § 4301
29 ET SEQ., AND ANY SUBSEQUENT FEDERAL LAW GOVERNING REEMPLOYMENT OF A
30 RETURNING VETERAN;

31 (2) was relieved from active duty under honorable conditions; and

32 (3) except as otherwise provided in § 2-704 of this subtitle, submits an
33 application for reinstatement within 90 days after the veteran is relieved from that duty.

34 5-208.

35 (a) All personnel actions concerning an employee in the Executive Branch of
36 State government shall be made in accordance with § 2-302 of this article.

37 (b) [All] EXCEPT FOR SPECIAL APPOINTMENTS OR APPLICANTS FOR SPECIAL
38 APPOINTMENT, personnel actions concerning [any] AN employee or applicant for

3
1 employment in the skilled service or professional service of the State Personnel
2 Management System or comparable position in an independent personnel system in the
3 Executive Branch of State government shall also be made without regard to:
4 (1) [the employee's] political affiliation, belief, or opinion; or
5 (2) any other nonmerit factor.
6 (C) ALL PERSONNEL ACTIONS CONCERNING AN EMPLOYEE OR APPLICANT IN
7 THE MANAGEMENT SERVICE SHALL ALSO BE MADE WITHOUT REGARD TO THE
8 EMPLOYEE'S POLITICAL AFFILIATION, BELIEF, OR OPINION.

9 (D) THE PROTECTIONS OF THIS SECTION ARE IN ADDITION TO WHATEVER
10 LEGAL OR CONSTITUTIONAL PROTECTIONS AN EMPLOYEE OR APPLICANT HAS.
11 6-405.

12 Except as otherwise provided by law, individuals in the following positions in the
13 skilled service, professional service, management service, or executive service are
14 considered special appointments:

15 (1) a position to which an individual is directly appointed by the Governor
16 by an appointment that is not provided for by the Maryland Constitution;

17 (2) a position to which an individual is directly appointed by the Board of
18 Public Works;

19 (3) [a position that the Secretary determines performs work involving
20 confidential employee-related or other sensitive matters;] AS DETERMINED BY THE
21 SECRETARY, A POSITION WHICH PERFORMS A SIGNIFICANT POLICY ROLE OR
22 PROVIDES DIRECT SUPPORT TO A MEMBER OF THE EXECUTIVE SERVICE;

23 (4) a position that is assigned to the Government House;

24 (5) a position that is assigned to the Governor's Office; and

25 (6) any other position that is specified by law to be a special appointment.

26 7-602.

27 (a) (1) An appointing authority may reassign any employee within the
28 appointing authority's jurisdiction to another position of equal grade and service for
29 which the employee meets the minimum qualifications within the appointing authority's
30 jurisdiction.

31 (2) Except as otherwise required by law, no employee may be reassigned
32 from one principal unit to another without the employee's consent, unless the Secretary
33 certifies that the reassignment is in the best interests of the State.

34 (b) (1) (i) An employee may apply for a transfer to any vacant position of the
35 same grade in any unit of the Executive Branch for which the employee meets the
36 minimum qualifications.

37 (ii) An employee who applies for a transfer to a position will be
38 considered for the position along with other eligible applicants.

4

1 (2) (i) Unless exigent circumstances exist, the appointing authority shall
2 give an employee notice of a proposed reassignment at least 2 weeks before the effective
3 date of the [transfer] REASSIGNMENT.

4 (ii) An employee may agree to waive the required notice period.

5 (c) (1) An employee may apply for a voluntary demotion to any vacant position
6 of a lower grade in any unit in the Executive Branch for which the employee meets the
7 minimum qualifications.

8 (2) An employee who applies for a voluntary demotion to a position will be
9 considered for the position along with other eligible applicants.

10 7-701.

11 (a) In this title, "part-time employee" means an employee who works AN
12 AVERAGE OF [for at least 16 hours per workweek, for not less than] 50% OR MORE
13 BUT LESS THAN 100% [nor more than 80%] of the regular workweek.

14 (b) An individual who is a full-time employee who is qualified for or desires to be
15 a full-time employee may not be required to accept part-time employment as a condition
16 of continued or new State employment.

17 (c) An individual who is a part-time employee who is qualified for or desires to be
18 a part-time employee may not be required to accept full-time employment as a condition
19 of continued or new State employment.

20 (d) (1) In accordance with regulations adopted by the Secretary, a part-time
21 employee is entitled to receive all employment rights, privileges, and benefits that are
22 normally available to a full-time employee in a similar position with a similar grade and
23 length of service.

24 (2) Benefits shall be prorated in proportion to the number of hours
25 employed.

26 9-101.

27 (a) [(1)] This section applies to all employees in the State Personnel
28 Management System[.] AND

29 [(2) Except as otherwise provided by law, this section applies to all
30 employees of a State institution of higher education, including the University of Maryland
31 System and Morgan State University, but] does not apply to any [other] unit with an
32 independent personnel system.

33 (b) Subject to the requirements of this title, the Secretary shall adopt regulations,
34 policies, and guidelines that:

35 (1) govern all aspects of leave and the keeping of time records for all
36 employees subject to this section;

37 (2) require each unit subject to the regulations to submit to the Secretary an
38 annual report that includes:

5

- 1 (i) the total number of employees in the unit; and
- 2 (ii) the aggregate amounts of annual, personal, and sick leave taken by
3 the employees in the unit;
- 4 (3) provide for computations in a pay period of:
 - 5 (i) accruals of annual and sick leave; and
 - 6 (ii) deductions for unpaid leave used; and
- 7 (4) provide for conversions of leave time and holiday time for employees
8 who do not have an 8-hour daily work schedule.

9 12-102.

10 (a) Except as otherwise provided by law, this title applies to all employees in the
11 State Personnel Management System within the Executive Branch.

12 (b) This title does not apply to:

- 13 (1) an employee who is appointed by the Governor whose appointment
14 requires the Governor's approval;
- 15 (2) an employee in the executive service of the State Personnel Management
16 System;
- 17 (3) a temporary employee;
- 18 (4) an attorney in the Office of the Attorney General or the Office of the
19 Public Defender;
- 20 (5) a State Police officer;
- 21 [(6) an employee of the Department;]
- 22 [(7)] (6) an employee who is subject to a collective bargaining agreement
23 that contains another grievance procedure;
- 24 [(8)] (7) an employee, including a member of a faculty, who is subject to a
25 contract or regulation governing teacher tenure;
- 26 [(9)] (8) a member of the faculty, an officer, or an administrative employee
27 of Baltimore City Community College;
- 28 [(10)] (9) a student employee;
- 29 [(11)] (10) an individual who, as an inmate or patient in an institution, is
30 employed by the State; or
- 31 [(12)] (11) an administrative law judge in the Office of Administrative
32 Hearings.

6

1 22-216.

2 Membership ends if the member:

3 (1) is separated from employment for more than:

4 (i) EXCEPT AS PROVIDED IN SUBSECTION (1)(II) OF THIS SECTION,
5 2 years, if a member of the Employees' Retirement System; [or]

6 (II) 3 YEARS, IF A STATE EMPLOYEE AND A MEMBER OF THE
7 EMPLOYEES' RETIREMENT SYSTEM; OR

8 [(ii)] (III) 5 years, if a member of the Teachers' Retirement System;

9 (2) withdraws the member's accumulated contributions;

10 (3) transfers to the Employees' Pension System or Teachers' Pension
11 System;

12 (4) becomes a retiree; or

13 (5) dies.

14 24-207.

15 Membership ends if the member:

16 (1) is separated from employment for more than [2] (3) years;

17 (2) withdraws the member's accumulated contributions;

18 (3) becomes a retiree; or

19 (4) dies.

20 25-205.

21 Membership ends if the member:

22 (1) is separated from employment for more than [2] 3 years;

23 (2) withdraws the member's accumulated contributions;

24 (3) becomes a retiree; or

25 (4) dies.

26 SECTION 2. AND BE IT FURTHER ENACTED, That a State employee member
27 of the State Employees' Retirement System, State Police Retirement System, or
28 Correctional Officers' Retirement System who returned to State service between October
29 1, 1996 and July 1, 1997 and who as a result was separated from State service for a period
30 less than 3 years shall be reinstated in the State Employees' Retirement System, State
31 Police Retirement System, or Correctional Officers' Retirement System, as provided
32 under the provisions of this Act.

33 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 July 1, 1997.

