
By: Appropriations Committee (Departmental - Budget and Management)

Introduced and read first time: February 21, 1997

Assigned to: Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 17, 1997

CHAPTER ____

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; authorizing public institutions of higher
24 education to establish employee leave time for certain employees; requiring public
25 institutions of higher education to provide a certain number of leave days; and
26 generally relating to the State Personnel System.

27 BY repealing and reenacting, with amendments,

2

1 Article - State Personnel and Pensions
2 Section 2-703, 5-208, 6-405, 7-602, 7-701, 9-101, 9-401, 12-102, 22-216, 24-207,
3 and 25-205
4 Annotated Code of Maryland
5 (1994 Volume and 1996 Supplement)

6 BY adding to

7 Article - Education
8 Section 15-108
9 Annotated Code of Maryland
10 (1997 Replacement Volume)

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

13 **Article - State Personnel and Pensions**

14 2-703.

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

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

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

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

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

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

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

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

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

3

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

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

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

9 5-208.

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

12 (b) [All] EXCEPT FOR SPECIAL APPOINTMENTS OR APPLICANTS FOR SPECIAL
13 APPOINTMENT, personnel actions concerning [any] AN employee or applicant for
14 employment in the skilled service or professional service of the State Personnel
15 Management System or comparable position in an independent personnel system in the
16 Executive Branch of State government shall also be made without regard to:

17 (1) [the employee's] political affiliation, belief, or opinion; or

18 (2) any other nonmerit factor.

19 (C) ALL PERSONNEL ACTIONS CONCERNING AN EMPLOYEE OR APPLICANT IN
20 THE MANAGEMENT SERVICE SHALL ALSO BE MADE WITHOUT REGARD TO THE
21 EMPLOYEE'S POLITICAL AFFILIATION, BELIEF, OR OPINION.

22 (D) THE PROTECTIONS OF THIS SECTION ARE IN ADDITION TO WHATEVER
23 LEGAL OR CONSTITUTIONAL PROTECTIONS AN EMPLOYEE OR APPLICANT HAS.

24 6-405.

25 Except as otherwise provided by law, individuals in the following positions in the
26 skilled service, professional service, management service, or executive service are
27 considered special appointments:

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

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

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

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

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

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

4

1 7-602.

2 (a) (1) An appointing authority may reassign any employee within the
3 appointing authority's jurisdiction to another position of equal grade and service for
4 which the employee meets the minimum qualifications within the appointing authority's
5 jurisdiction.

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

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

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

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

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

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

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

23 7-701.

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

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

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

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

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

5

1 9-101.

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

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

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

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

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

14 (i) the total number of employees in the unit; and

15 (ii) the aggregate amounts of annual, personal, and sick leave taken by
16 the employees in the unit;

17 (3) provide for computations in a pay period of:

18 (i) accruals of annual and sick leave; and

19 (ii) deductions for unpaid leave used; and

20 (4) provide for conversions of leave time and holiday time for employees
21 who do not have an 8-hour daily work schedule.

22 9-401.

23 (a) (1) Except as provided in paragraph (2) of this subsection, OR OTHERWISE
24 PROVIDED BY LAW, each employee in the State Personnel Management System, except
25 a temporary employee, is entitled to 6 days, not to exceed 48 hours, of personal leave with
26 pay at the beginning of the first full pay period of the calendar year.

27 (2) For the calendar year in which an employee begins employment, the
28 employee is entitled only to the following personal leave with pay:

29 (i) 6 days, not to exceed 48 hours, if employment begins on or after
30 January 1 and on or before the last day in February;

31 (ii) 5 days, not to exceed 40 hours, if employment begins on or after
32 March 1 and on or before April 30;

33 (iii) 4 days, not to exceed 32 hours, if employment begins on or after
34 May 1 and on or before June 30; or

35 (iv) 3 days, not to exceed 24 hours, if employment begins on or after
36 July 1.

6

1 **(b) Personal leave may be used for any purpose.**

2 12-102.

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

5 (b) This title does not apply to:

6 (1) an employee who is appointed by the Governor whose appointment
7 requires the Governor's approval;

8 (2) an employee in the executive service of the State Personnel Management
9 System;

10 (3) a temporary employee;

11 (4) an attorney in the Office of the Attorney General or the Office of the
12 Public Defender;

13 (5) a State Police officer;

14 [(6) an employee of the Department;]

15 [(7)] (6) an employee who is subject to a collective bargaining agreement
16 that contains another grievance procedure;

17 [(8)] (7) an employee, including a member of a faculty, who is subject to a
18 contract or regulation governing teacher tenure;

19 [(9)] (8) a member of the faculty, an officer, or an administrative employee
20 of Baltimore City Community College;

21 [(10)] (9) a student employee;

22 [(11)] (10) an individual who, as an inmate or patient in an institution, is
23 employed by the State; or

24 [(12)] (11) an administrative law judge in the Office of Administrative
25 Hearings.

26 22-216.

27 Membership ends if the member:

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

29 (i) EXCEPT AS PROVIDED IN SUBSECTION (1)(II) OF THIS SECTION,
30 2 years, if a member of the Employees' Retirement System; [or]

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

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

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

7

1 (3) transfers to the Employees' Pension System or Teachers' Pension
2 System;

3 (4) becomes a retiree; or

4 (5) dies.

5 24-207.

6 Membership ends if the member:

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

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

9 (3) becomes a retiree; or

10 (4) dies.

11 25-205.

12 Membership ends if the member:

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

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

15 (3) becomes a retiree; or

16 (4) dies.

17 **Article - Education**

18 15-108.

19 (A) IN THIS SECTION, "EMPLOYEE LEAVE TIME" MEANS THE FOLLOWING
20 TYPES OF LEAVE:

21 (1) HOLIDAY LEAVE;

22 (2) ANNUAL LEAVE;

23 (3) PERSONAL LEAVE;

24 (4) SICK LEAVE; AND

25 (5) ADMINISTRATIVE AND OTHER RELATED LEAVE.

26 (B) AS PROVIDED IN THIS SECTION, EACH PUBLIC INSTITUTION OF HIGHER
27 EDUCATION IS AUTHORIZED TO ESTABLISH EMPLOYEE LEAVE TIME FOR ITS
28 SKILLED EMPLOYEES, PROFESSIONAL EMPLOYEES, AND EMPLOYEES IN A STATUS
29 THAT IS EQUIVALENT TO SKILLED EMPLOYEES OR PROFESSIONAL EMPLOYEES IN
30 THE STATE PERSONNEL MANAGEMENT SYSTEM, DESCRIBED IN TITLE 6 OF THE
31 STATE PERSONNEL AND PENSIONS ARTICLE.

32 (C) THE NUMBER OF DAYS ESTABLISHED BY A PUBLIC INSTITUTION OF
33 HIGHER EDUCATION AS EMPLOYEE LEAVE TIME SHALL TOTAL AT LEAST THE

1 NUMBER OF DAYS PROVIDED TO EMPLOYEES IN THE STATE PERSONNEL
2 MANAGEMENT SYSTEM UNDER TITLE 9, SUBTITLES 2, 3, 4, AND 5 OF THE STATE
3 PERSONNEL AND PENSIONS ARTICLE.

4 SECTION 2. AND BE IT FURTHER ENACTED, That a State employee member
5 of the State Employees' Retirement System, State Police Retirement System, or
6 Correctional Officers' Retirement System who returned to State service between October
7 1, 1996 and July 1, 1997 and who as a result was separated from State service for a period
8 less than 3 years shall be reinstated in the State Employees' Retirement System, State
9 Police Retirement System, or Correctional Officers' Retirement System, as provided
10 under the provisions of this Act.

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